

## 'Humanely raised' label under fire

By [JENNY HOPKINSON](#) | 10/29/13 10:05 AM EDT

*With help from Tarini Parti, Helena Bottemiller Evich and Bill Tomson*

**'HUMANELY RAISED' LABEL UNDER FIRE:** In a lawsuit filed last week in a Florida federal court, plaintiff Wendy Roy argues that Perdue Farms following of the National Chicken Council's humane handling guidelines for poultry are not good enough for the company to use "Humanely Raised" labeling on some of its Harvestland brand products. But the judge ruled yesterday that Roy needs to better show that the complaint meets minimum requirements under the Class Action Fairness Act or risk being dismissed for lack of subject matter jurisdiction.

Roy brought suit against Perdue Farms, Oct. 24, alleging that the company is misleading consumers. "The NCC guidelines essentially codify industry norms, are designed to maximize efficiency and profit and do not ensure humane treatment. Indeed chickens produced pursuant to those guidelines are systematically subjected to extreme pain and duress," according to the complaint. In particular, Perdue's Harvestland brand follows industry practice of shackling chickens upside down by their legs to convey through processing facilities and are then electrically shocked to render them unconscious, among other things, as allowed under the NCC guidelines, Roy charges

**And while many poultry producers follow the guidelines,** Roy said she has targeted Perdue because "no other mass chicken producer makes claims on their chicken packaging for the uniqueness of its chicken based on the company's adherence to the NCC Guidelines. Only Perdue misrepresents to consumers that its chickens are raised differently, and more humanely, than competitors' chickens in this manner.

**However, Roy's complaint might not be granted class status.** "While plaintiff's complaint adequately alleges an amount in controversy exceeding \$5 million, it does not adequately allege minimal diversity," which requires that a members of a class be citizens of a state that is different from that the defendant and comprise at least 100 members, says U.S. Magistrate Judge Karla Spaulding for the U.S. District Court for the Middle District of Florida, who gives Roy until Nov. 12 to answer a number of questions. The complaint, in case you missed it, is available here: <http://politico.pro/1am8Y23>. The order is available here: <http://politico.pro/1dHfAJr>.