

# Hog farmers win nuisance suit

By ROD SWOBODA

**H**OG farmers won an unprecedented victory in a recently settled four-year legal battle over the spreading of manure. The verdict came in late January when a Polk County jury sided with a Madison County farm family that raising livestock in accordance with all rules and regulations does not pose a nuisance to neighbors.

Defendants Tim and Glenna Camp,

## Key Points

- Farmer wins nuisance lawsuit, a four-year legal battle over spreading of manure.
- Neighbor said family's health problems were caused by smell of manure.
- Jury did not believe doctor's assessment and denied any recovery of damages.

owners of a 300-head hog farm near Winterset, were accused of nuisance by neighbors and plaintiffs Wayne, Barb

and Briana Tetzlaff.

The Tetzlaffs moved from Des Moines to rural Madison County in 1999 when they purchased a 10-acre parcel of land near the Camps. In 2003, the Tetzlaffs filed a lawsuit claiming the Camps' spreading of livestock manure on nearby fields was a nuisance and asked the court that it be halted. The Tetzlaffs also claimed the smell of hog manure caused human health problems. No monetary damages were awarded.

The case was moved from Madison

County to Polk County because of pre-trial publicity.

To support their claims, the Tetzlaffs hired Kaye Kilburn, a California medical doctor, who says there is an association between low-level exposure to hydrogen sulfide (a gas created by decomposing manure) and neurological problems in patients exposed to hog manure. Kilburn testified that smelling hog manure can cause brain damage.

## Landmark legal decision

The jury, all Polk County residents, said in the verdict that no nuisance existed and the Camps had been operating their farm in compliance with all rules and regulations. The jury didn't find any credibility in the medical claims of the plaintiffs, didn't believe the doctor's testimony and denied recovery for damages.

"The Camps are glad the jury found they are entitled to continue with their way of life," says Brian Rickert, lead attorney for the Camps. The case is believed to be the first in Iowa where a jury found that a hog farmer wasn't liable for nuisance. The case is also one of the first where plaintiffs sought damages for health problems they claim were caused by smelling hog manure.

"The Camps did nothing wrong. This is simply an example of what can happen when someone moves from the city to the country, doesn't understand what goes on in the country and then seeks to prevent farmers from being farmers," says Rickert.

"The ruling on the medical claims is important for pork producers, as extending liability to cover unproven and unsubstantiated medical claims would be financially devastating and could destroy farming as we know it," he adds.

## Important for producers

The Camp ruling is also important because the Polk County jury was made up of urban residents who were asked to analyze rural issues. "This ruling is a major victory for pork producers in Iowa," says Rickert.

When originally filed in 2003, the suit sent shockwaves through Iowa's hog industry because the Camps' 300-head hog operation was relatively small. What concerned hog producers most was the Tetzlaffs' claim that manure caused severe medical problems for them and their daughter.

Paul Lasley, a rural sociology professor at Iowa State University, says the battle between farmers and rural nonfarmers is playing out all across the country. He adds, "Newcomers to farm country should recognize they live among farms and not in a suburb. Farmers should recognize that they have nonfarming neighbors and do their best to minimize noise and odors. This case shows the need for increased communication and 'neighboring.'"

The Tetzlaffs and Camps reached an agreement after the trial that there would be no appeal. Terms of the agreement are confidential, says Rickert. The Tetzlaffs agreed not to appeal the verdict and the Camps agreed not to pursue a counterclaim that would have required the Tetzlaffs to pay the Camps' legal fees. The lawsuit cost the Camps \$300,000 in legal fees and lost income.

**50 YEARS OLD AND SHE STILL STARTS ON THE FIRST TRY.  
IT'S NOT MAGIC. IT'S NAPA.**



At NAPA, we have over 310,000 parts. Parts that are built to stand up to the tough demands of your business. From heavy-duty batteries to tools to filters to fluids, if it carries the NAPA name, you know it not only meets the manufacturer's specs, it often exceeds them. It's no wonder people who count on their parts count on NAPA.

800-LET-NAPA / www.NAPAonline.com



**Get The Good Stuff.®**