

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT
TEXARKANA DIVISION

JUSTIN GARNER

PLAINTIFF

vs.

Case No _____

JBS LIVE PORK, LLC

DEFENDANT

COMPLAINT

COMES NOW, the Plaintiff, by and through his counsel, and for his Complaint states as follows:

PARTIES, JURISDICTION AND VENUE

1. Justin Garner is an adult resident and citizen of Howard County, Arkansas.
2. JBS USA Food Company is one of the world's largest beef and pork processing companies and a wholly owned subsidiary of JBS USA Food Company Holdings. JBS is one of the world's largest food companies with operations in 15 countries, including the U.S. It is the second largest pork producer in the world, with operations in the United States, Brazil, the United Kingdom and Australia. Defendant JBS Live Pork, LLC is a subsidiary of JBS USA Food Company. JBS Live Pork, LLC ("JBS") is a Delaware limited liability company, which is a subsidiary of JBS USA Food Company. JBS's principal place of business is 151 N. Main Street, Wichita, Kansas 67202. JBS is a citizen of Delaware and Kansas. JBS is registered to do business in Arkansas and its agent for service of process is the Corporation Service Company, 300 South Spring Street, Suite 900, Little Rock, Arkansas 72201.
3. The Court has jurisdiction over this lawsuit under 28 U.S.C. § 1332(a)(1) because Garner and JBS are citizens of different U.S. states, and the amount in controversy exceeds \$75,000, excluding interest and costs. Venue is proper in this district under 28 U.S.C. § 1391(b)(2)

because a substantial part of the events or omissions giving rise to Garner’s claims occurred in this district.

4. Garner has standing under Article III of the U.S. Constitution because he has suffered a concrete, monetary harm caused by JBS’s conduct described herein.

JBS’ contracting procedures with individual farmers

5. JBS employs vertical integration to supply pork to the marketplace.

6. Hog farming has changed drastically over the last 30 years. Instead of thousands of independent family farms, hogs are now “being raised in concentrated animal feeding operations (CAFOs) — huge barns holding thousands of animals.”¹

7. “The auction houses (where the bidding of multiple buyers formerly ensured farmers a fair price) have been replaced by contracts, under which farmers raise animals for a large pork company according to strict specifications, and for prices they have little say in determining.”²

8. Farmers who wish to produce pigs for JBS must use concentrated animal feeding operations (factory farms) which comply with JBS’ various requirements.

9. JBS requires farmers to enter into adhesion contracts which subject the farmers to strict specifications that benefit JBS.

10. Recent litigation involving JBS reveals that the pork industry is horizontally concentrated because only a few companies buy, slaughter and process the majority of hogs.³

¹ *FoodPrint*, October 30, 2020. <https://foodprint.org/issues/communities-organizing-against-big-pork/>

² *Id.*

³ *In Re Pork Antitrust Litigation*, 2019 WL 3752497, 2019 U.S. Dist. LEXIS 133165 (D.C. Minn., Aug. 8, 2019).

11. JBS and three other companies control an almost 70 percent of the U.S. pork industry.⁴ The largest pork integrators, like JBS, “do not produce their own pigs but instead enter into contracts with independent farmers who raise the pigs until they are ready to be slaughtered.”⁵

12. “Because most of the hogs produced in the U.S. are sold under a multi-year contract, it is difficult for any potential competitor to find pigs to purchase.”⁶

13. “In 2015, JBS acquired Cargill’s pork business, combining the third-and fourth-largest pork producers into the second-largest producer.”⁷

14. In 2018, several antitrust class actions against JBS and other pork producers were consolidated for pretrial purposes. The plaintiffs in those cases alleged that the JBS and others “conspired or colluded to artificially raise, fix, or maintain prices in the pork market in violation of federal antitrust laws.”⁸

15. Plaintiffs alleged that JBS had conspired in restraint of trade, the purpose of which was to suppress competition and to allow it and other pork producers to charge supra-competitive prices for pork products in violation of state and federal laws.⁹

16. Among other things, plaintiffs alleged that part of JBS’ scheme was that “JBS undertook an unspecified reduction in the number of sows it produced despite increased consumer demand.”¹⁰

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* (internal quotations omitted).

⁷ *In re Pork Antitrust Litig.*, 495 F. Supp. 3d 753, (D.C. Minn. October 16, 2020).

⁸ *In re Pork Antitrust Litig.*, 2019 U.S. Dist. LEXIS 20038, 2019 WL 480518 (D. Minn., Feb. 7, 2019)

⁹ <http://porkcommercialcase.com/>

¹⁰ 495 F. Supp. 3d 753 (D.C. Minn. October 16, 2020).

17. The plaintiffs also alleged that JBS decreased overall production which led to increased prices for their products.¹¹

18. Last year, while denying liability, JBS agreed to pay \$12,750,000 to settle those claims.¹²

19. JBS' arrangement with farmers like the Plaintiff involves contracts which are extremely favorable to JBS. Farmers are provided with term contracts, drafted by JBS, through which the farmers are paid a set price for animals which they ship during the contract period. JBS establishes the requirements for the physical facilities of the farming operation and farmers like the Plaintiff are saddled with providing the labor and expense of owning and operating the facility and must assume total responsibility for the financing, maintenance and insurance of the farm. The farmers are also fully responsible for the livestock and the enormous waste produced by the animals. JBS dictates the requirements for the farm's day-to-day operation, the conditions for animals' care, feeding and medications and the transportation of the animals while the farmers are merely paid a set sum, determined by JBS, for marketable animals that are ultimately shipped to another location.

20. Under this business model, independent farmers are essentially converted into contract employees who merely perform work for JBS. Despite bearing the entire investment costs

¹¹ *In Re Pork Antitrust Litigation*, 2019 WL 3752497, 2019 U.S. Dist. LEXIS 133165 (D.C. Minn., Aug. 8, 2019).

¹² <http://porkcommercialcase.com/>. Also, just last month, JBS confirmed that it had approved a \$52.5 million settlement in a lawsuit in which the company was accused of conspiring to fix beef prices. <https://www.meatpoultry.com/articles/26147-jbs-usa-agrees-to-525-million-settlement-in-price-fixing-lawsuit>.

of a farming facility, the farmers are only paid a set cost per pig as established by JBS. Meanwhile, JBS retains control over the production processes and *the amount* of production.

21. Even under perfect conditions, many farmers are barely able to generate enough revenue under these term contracts to pay their expenses. In this case, JBS unilaterally terminated Garner's contract two years before the end of the contract term and refused to pay him for the animals it removed.

JBS' dealings with Justin Garner

22. In late 2017, Garner was working as a deputy-sheriff for the Howard County Sheriff's office and also operated a family farm.

23. In late 2017, Garner considering the purchase of an existing hog farm facility in Howard County, Arkansas. The facility, which was being used to produce pigs for JBS, was located on a forty-acre tract of property.

24. The facility had no value as a hog farm unless JBS agreed to give Garner a production contract.

25. JBS advised Garner that it would provide him a contract if he purchased the subject hog farm.

26. In November, 2017, JBS supplied Garner with a Letter of Intent as evidence of its commitment to provide him a production contract for a five-year term. **Exhibit 1.**

27. Garner, and his lender, relied on this Letter of Intent in connection with Garner's efforts to secure the financing necessary to buy the facility.

28. Garner relied on JBS' representations and purchased the hog farm facility.

29. After he borrowed money and purchased the farm, JBS entered into a Sow Production Agreement ("contract") with him in March, 2018. **Exhibit 2.**

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