

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

No. 1:20-CV-01966-RM-MEH

UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION LOCAL 464A,
THE TRUSTEES OF WELFARE AND PENSION FUNDS OF
LOCAL 464A – PENSION FUND,
THE TRUSTEES OF RETIREMENT PLAN FOR OFFICERS,
BUSINESS REPRESENTATIVES AND OFFICE
EMPLOYEES OF LOCAL 464A,
THE TRUSTEES OF LOCAL 464A FINAST FULL TIME
EMPLOYEES PENSION PLAN,
THE TRUSTEES OF LOCAL 464A WELFARE AND
PENSION BUILDING INC., and
THE TRUSTEES OF NEW YORK-NEW JERSEY
AMALGAMATED PENSION PLAN FOR ACME
EMPLOYEES, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

PILGRIM'S PRIDE CORPORATION,
JAYSON J. PENN,
WILLIAM W. LOVETTE, and
FABIO SANDRI,

Defendants.

**DEFENDANT JAYSON PENN'S
MOTION TO DISMISS LEAD PLAINTIFF'S CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT**

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Defendant Jayson Penn joins the motions to dismiss filed by Defendants Pilgrim’s Pride Corporation (“the Company” or “Pilgrim’s”) and Fabio Sandri, and by Defendant William Lovette.¹ Penn further submits this motion to dismiss Plaintiff’s Amended Complaint (“AC”) under 12(b)(6), and submits this incorporated memorandum of law in support.²

PRELIMINARY STATEMENT

Plaintiff’s attempt to manufacture a securities claim based on years-old conduct fails against all Defendants—but especially Penn. The AC alleges no underlying wrongdoing by Penn during the proposed 2017–2020 Class Period. And it alleges no wrongful conduct by *any* Pilgrim’s employee during Penn’s 2019–2020 tenure as CEO. Instead, Plaintiff seeks to drag Penn into this putative class action based on nothing more than a handful of statements in press releases and earnings calls he made as CEO—allegations that account for fewer than two dozen of the AC’s 292 numbered paragraphs. But even on those paltry allegations, Plaintiff fails to plead any particularized facts to show Penn’s statements were false when made. And Plaintiff’s attempt to plead scienter for Penn—based on statements he made some *four to seven years after* the underlying misconduct—comes nowhere close to satisfying Plaintiff’s burden under the PSLRA. The claims against Penn must be dismissed.

¹ The Court granted Penn’s Unopposed Motion for Leave to Incorporate by Reference Defendants’ Motions to Dismiss (Dkt. 59) on July 16, 2021. *See* 7/16/2021 Order (Dkt. 61). Penn refers to the Pilgrim’s Pride Corporation and Fabio Sandri’s Motion to Dismiss Plaintiff’s Amended Class Action Complaint and Incorporated Memorandum of Law as the “Company Mot.” and William W. Lovette’s Motion to Dismiss the Amended Complaint and Incorporated Memorandum of Law as the “Lovette Mot.”

² On July 13, 2021, all parties met and conferred, consistent with Civil Practice Standard IV.N.2.a., in an effort to resolve the issues identified in this motion. Parties were unable to come to any resolution.

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