

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FRUITS-GIDDINGS S.A. DE C.V.; GIDDINGS
BERRIES CHILE S.A.; AND GIDDINGS
BERRIES PERÚ S.A.C.,

Plaintiffs,

v.

ALWAYS FRESH FARMS, LLC; WAYNE
GIDDINGS; AND MATTHEW GIDDINGS

Defendants.

CASE NO. 8:20-cv-02875

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs Fruits-Giddings S.A. de C.V., Giddings Berries Chile S.A., and Giddings Berries Perú S.A.C. (collectively herein, “Plaintiffs”), for their complaint against Defendants Always Fresh Farms, LLC, Wayne Giddings, and Matthew Giddings,¹ allege as follows:

NATURE OF THE ACTION

1. This is an action for damages caused by Defendant Always Fresh Farms, LLC’s mishandling of hundreds of millions of dollars’ worth of fruit that it was entrusted to sell on behalf of Plaintiffs, representing virtually all of Plaintiffs’ supply of produce to the North American export market during their 2019-2020 season.

2. Consumers in the United States enjoy year-round availability of fresh berries, including blueberries, blackberries, raspberries, and strawberries, because of a robust trade in

¹ There is no familial relationship between Plaintiffs and Messrs. Giddings of Always Fresh Farms, LLC.

these commodities from Mexico and South America during the months when domestic production is low (the fall through early spring). Foreign producers and suppliers sell their fruit in the United States directly to buyers, through the use of brokers, through “growers’ agents” or other “commission merchants” as those terms are defined under the Perishable Agricultural Commodities Act and its regulations (the “PACA”), or through any combination of those methods.

3. In this case, defendant Always Fresh Farms, LLC and its principals, Wayne and Matthew Giddings, induced Plaintiffs to supply their fruit on an exclusive basis to Always Fresh Farms, LLC as their sales agent with material misrepresentations about (among other things) their systems and operational capacity to handle Plaintiffs’ volume of export fruit and their transparency in providing customer, sales, and other financial information.

4. Once the season was underway, Plaintiffs were kept in the dark on material information that was fundamental to the parties’ relationship. With prices yielding tremendous losses to Plaintiffs, Matthew Giddings induced Plaintiffs to continue working with Always Fresh Farms, LLC with false promises that the company would absorb the difference between Fruits-Giddings, S.A. de C.V.’s returns and competitive grower prices in Mexico and would communicate openly with Fruits-Giddings, S.A. de C.V. “to make sure we are higher th[a]n the field.”

5. Always Fresh’s mishandling of Plaintiffs’ fruit, its related acts and omissions, its negligence, and its breach of the parties’ agreements, constituted “unfair practices” PACA. Defendants also are liable to Plaintiffs under the Florida Deceptive and Unfair Trade Practices

Act (“FDUTPA”), which broadly prohibits unfair or deceptive acts or practices in the conduct of any trade or commerce.

6. As a result of Defendants’ actions in breach of their legal responsibilities to Plaintiffs, Plaintiffs have suffered damages exceeding \$25,000,000, for which they are entitled to full recovery.

THE PARTIES

7. Plaintiff Fruits-Giddings S.A. de C.V. (“Giddings Mexico”) is a Mexican corporation with its principal place of business located in Mexico.

8. Plaintiff Giddings Berries Chile S.A. (“Giddings Chile”) is a Chilean corporation with its principal place of business located in Chile.

9. Plaintiff Giddings Berries Perú S.A.C. (“Giddings Peru”) is a Peruvian corporation with its principal place of business located in Peru.

10. Plaintiff Giddings Mexico, Giddings Chile, and Giddings Peru are related business entities that are part of a larger consortium known as “Grupo Giddings.”

11. Giddings Mexico supplies high-quality, conventional and organic fresh blueberries, strawberries, blackberries, and raspberries for the North American export market (United States and Canada) from Mexico.

12. Giddings Chile and Giddings Peru supply high-quality, conventional and organic blueberries for the North American export market (United States and Canada) from Chile and Peru, respectively.

13. Plaintiffs each supply their produce from a combination of farms they own and third-party farms with which they contract in their respective home countries.

14. Always Fresh Farms, LLC (“Always Fresh”) is a Florida limited liability company with its principal place of business in Winter Haven, Florida. The members of Always Fresh, and Wayne Giddings and Matthew Giddings, are citizens of Florida.

15. At all times relevant hereto, Always Fresh has operated its business under a valid United States Department of Agriculture (“USDA”) PACA License, which the USDA has identified as License No. 20010241. The principals listed on Always Fresh’s PACA License are Matthew Giddings and Wayne Giddings.

16. At all times relevant hereto, Always Fresh was engaged in the business of receiving perishable agricultural commodities in interstate or foreign commerce for sale, on commission, for or on behalf of another and is therefore a “commission merchant” as defined in PACA. *See* 7 U.S.C. § 499a(b)(5).

17. At all times relevant hereto, Always Fresh was engaged in the business of purchasing and/or selling produce in wholesale or jobbing quantities and is therefore a “dealer” of produce as defined in PACA. *See* 7 U.S.C. § 499a(b)(6).

18. Wayne Giddings is a citizen of Florida and at all relevant times was Manager, President, and an owner of Always Fresh.

19. Matthew Giddings is a citizen of Florida and at all relevant times was Chief Operating Officer, Chief Commercial Officer, and an owner of Always Fresh.

JURISDICTION AND VENUE

20. The Court has subject matter jurisdiction over this action under 7 U.S.C. § 499e(b)(2) and 28 U.S.C. § 1331.

21. The Court has subject matter jurisdiction over this action under 28 U.S.C. § 1337 because PACA is an “Act of Congress regulating commerce” and several of Plaintiffs’ claims herein arise under 7 U.S.C. § 499e(b)(2), 7 U.S.C. § 499p, and 7 C.F.R. § 46 *et seq.*

22. The Court also has subject matter jurisdiction over this action under 28 U.S.C. § 1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of any claims for the recovery of exemplary damages, pre or post-judgment interest, costs, or attorneys’ fees.

23. The Court has supplemental jurisdiction over Plaintiffs’ other claims pursuant to 28 U.S.C. § 1367(a).

24. The Court has personal jurisdiction as to Defendants, each of whom is a Florida citizen whose acts and omissions giving rise to Plaintiffs’ claims occurred within Florida.

25. Venue in this district is proper under 28 U.S.C. § 1391(b) because a substantial part of the acts or omissions giving rise to Plaintiffs’ claims occurred in this district and a substantial part of the property that is the subject of this action is or was situated within this district.

FACTUAL ALLEGATIONS

I. The Parties Discuss Legal Integration and a Marketing Arrangement

26. Plaintiffs have historically marketed their fruit in the United States and Canada through sales agents who are paid on commission.

27. For many years before the 2019-2020 export season, which generally runs between late August and late April, Plaintiffs contracted with another entity to market and sell their fruit throughout the United States and Canada.

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