

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

ROGER PARKER, on his own behalf and
on behalf of all others similarly situated,

Plaintiff,

v.

PERDUE FARMS, INC. and PERDUE
FOODS, LLC,

Defendants.

CIVIL ACTION NO.

CLASS ACTION COMPLAINT

1. Plaintiff Roger Parker, on behalf of himself and all others similarly situated, brings this action against Defendants Perdue Farms, Inc. and Perdue Foods, LLC (collectively, “Perdue”) for damages and other appropriate relief related to their misclassification of Parker as an “independent contractor.” Despite inducing chicken farmers (known in the industry as “growers”) to contract to raise chickens with Perdue through promises of independence, Perdue treated Parker and all of its growers as controlled employees under both federal and Georgia law. As an employee, Parker was entitled to various federal and state wages, benefits, and other payments that Perdue did not provide, even though Perdue knew that Parker should have been classified as an employee based on the level of control Perdue exercised over Parker’s chicken growing operation. Perdue treats all of its growers across the country in the same fashion, using the same restrictive contracts and guidelines with all of them to dictate nearly every aspect of how they run their farms.

2. Through this and other conduct described herein, Perdue violated various state and federal laws regarding the wages and benefits that it was obligated to offer its growers as

employees, and also defrauded its growers, breached the contracts it entered into with its growers, and unjustly enriched itself at its growers' expense.

3. Perdue also terminated Parker's grower contract due to Parker contacting the U.S. Department of Agriculture ("USDA") about a potential violation by Perdue of the Packers & Stockyards Act ("PSA"). After Perdue became aware that Parker had contacted the USDA, his Perdue supervisor told him he should not have talked to the government and made clear that Perdue was angry with him for having done so. Perdue subsequently retaliated against Parker by, among other things, denying routine lines of credit while requiring him to make expensive and burdensome upgrades to his farm and, ultimately, terminating his contract by refusing to deliver him flocks. Because these actions were taken not because of Parker's performance as a grower but because he reported a potential violation of law to the appropriate authorities, Perdue's retaliation against Parker violated the PSA's prohibition against unfair, discriminatory, and unduly prejudicial treatment of farmers. Thus, Parker brings a claim under the PSA on behalf of himself for this wrongful conduct.

PARTIES

4. Plaintiff Roger Parker is a resident of Abbeville, South Carolina who worked under contract as a grower for Defendants Perdue Farms, Inc. and Perdue Foods, LLC in Milledgeville, Georgia.

5. Defendant Perdue Farms, Inc. is a Delaware corporation with its principal place of business in Salisbury, Maryland.

6. Defendant Perdue Foods, LLC is a limited liability company with its principal place of business in Salisbury, Maryland. Perdue Foods, LLC is a wholly owned subsidiary of Perdue Farms, Inc.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 because Plaintiff's federal wage claims and PSA claim arise under federal law. The Court has supplemental jurisdiction over Parker's state-law claims under 28 U.S.C. § 1367, because they arise out of the same transactions and occurrences as Parker's federal claims.

8. Moreover, the Court has jurisdiction over this class action under 28 U.S.C. § 1332(d) (the Class Action Fairness Act), because the amount in controversy is greater than \$5,000,000, and some members of the class (including Parker) are citizens of a different state than Perdue.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c), because Defendants transact business in, are found in, and/or have agents in this judicial district, and because some of the actions giving rise to this Complaint took place within this district.

10. The Court has personal jurisdiction over both Perdue entities. Defendants have transacted business and maintained substantial contacts in this judicial district, and much of the conduct underlying this controversy took place in this jurisdiction.

FACTUAL BACKGROUND

11. "Broilers" are chickens raised for meat consumption. Modern broilers are generally slaughtered when they are about six weeks old.

12. After the 1950s, the U.S. broiler industry began to shift away from individual farmers raising chickens and selling them to live poultry dealers or poultry processors. Between 1950 and 1960, the percentage of independent poultry farmers relative to contract farmers (farmers under exclusive contracts with a single chicken processing company) dropped from 95% to 5%.

During this time, large companies known as “integrators” began to combine the various stages of production, a process known as vertical integration.

13. Several decades ago, these contract growers were actually independent—they relied on their skills and knowledge to grow the most high-quality birds they could while managing their own input costs and growing conditions. When they delivered a premium product to the poultry processor they were rewarded with higher prices or bonuses. In sum, growers were fairly compensated for the skill, expertise, and labor they provided. Today, growers working for Perdue have a very different relationship.

14. Perdue is the third largest broiler chicken company in the country. Perdue is highly vertically integrated, with its employees overseeing almost every aspect of the process. As discussed further below, this includes, among other things, growing the chicken feed, hatching the chicks, veterinary care, transportation, slaughtering, marketing, and selling of the final product.

15. While Perdue now directly owns almost all of its broiler supply chain, it has generally not purchased the farms where its chicks are raised to full weight. Instead, Perdue outsources the process of raising birds to broiler growers that Perdue calls “independent farmers”—but in truth, the growers are anything but independent.

16. Perdue’s growers raise chickens that Perdue owns from shortly after hatching for about six weeks until they are large enough to slaughter. Perdue recruits growers by promising them independence and financial success. In recruitment materials, Perdue promises “independence” and claims: “As a poultry farm owner, you’ll never punch a time clock, and you’ll have the satisfaction of leading your own business[.]”

17. But Perdue refuses to grant growers the independence they were promised or the compensation they are entitled to.

18. In reality, Perdue controls virtually every aspect of growers' operations. There is no "independence" for growers under contract with Perdue, despite the growers shouldering most of the financial risk—including the large investment necessary to build barns (to Perdue's specifications), and the risk of loss if a flock is lost due to a power outage or disease. Indeed, this financial risk—and Perdue's unwillingness to compensate growers with the wages and benefits to which employees are entitled—is why Perdue falsely classifies its growers as "independent." In reality, however, Perdue's growers are employees entirely under the control of Perdue. Perdue knows the level of control it exercises over growers entitles them to treatment under the law as employees, but it does not treat them as such in order to boost its profits.

19. Perdue requires growers to work exclusively for Perdue. After the contract is signed, Perdue uses onerous guidelines to take this exclusivity to extreme lengths: for example, preventing growers and their "family members" from even *visiting* a farm associated with a different integrator.

20. By misclassifying growers, Perdue offloads enormous capital costs and financial risks onto them. Instead of being responsible for the cost of constructing chicken houses, upgrading equipment, managing waste, and potentially losing chickens to natural disasters or other unexpected circumstances, Perdue forces growers to bear these costs by deceptively classifying growers as independent contractors while meticulously controlling virtually every moment and every aspect of their work.

21. Indeed, this offloading of the responsibility to incur financial liabilities and large, ongoing debt payments is not only a primary financial reason Perdue misclassifies its growers as "independent contractors"—Perdue also uses the investments it repeatedly obligates its growers to make to trap growers into continuing to work for Perdue even after they discover that they were

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