

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SANDEE'S CATERING,

Plaintiff,

v.

AGRI STATS, INC., BUTTERBALL LLC,
CARGILL, INC., CARGILL MEAT
SOLUTIONS CORPORATION, COOPER
FARMS, INC., FARBEST FOODS, INC.,
FOSTER FARMS, LLC, FOSTER POULTRY
FARMS, THE HILLSHIRE BRANDS
COMPANY, HORMEL FOODS
CORPORATION, HORMEL FOODS, LLC,
HOUSE OF RAEFORD FARMS, INC.,
KRAFT HEINZ FOODS COMPANY, KRAFT
FOODS GROUP BRANDS LLC, PERDUE
FARMS, INC., PERDUE FOODS LLC,
TYSON FOODS, INC., TYSON FRESH
MEATS, INC. AND TYSON PREPARED
FOODS, INC.,

Defendants.

No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

	<u>Page</u>
I. NATURE OF ACTION	1
II. JURISDICTION AND VENUE	13
III. PARTIES	14
A. Plaintiff	14
B. Defendants	15
C. Co-Conspirators	19
IV. FACTUAL ALLEGATIONS	20
A. Agri Stats’ information exchange services began in the broiler industry, where it has been used to facilitate widespread collusion.	20
B. Defendants entered into an agreement to exchange information through Agri Stats regarding their production and sales of turkey.	23
C. Defendants possess market power in the market for turkey and turkey is the type of product for which information exchange is particularly likely to have anticompetitive effects.	27
1. Defendants have market power in the market for turkey.	27
2. There are high barriers to entry in the market for turkey for meat consumption.	28
3. The defendants have market power in the market for turkey for meat consumption.	29
D. The market for turkey is the type of market where the information exchanges orchestrated by Agri Stats are likely to harm competition.	30
1. The turkey market features few sellers.	31
2. Turkey is a fungible market.	31
3. The turkey market features price-based competition.	31
4. Demand for turkey is relatively inelastic.	32
5. The turkey market features a trend towards price uniformity.	32

E. Industry-wide production cuts during the Conspiracy Period were facilitated through the information exchange conducted through Agri Stats.32

F. Abnormal pricing during the Class Period demonstrates the anticompetitive effects of the exchange of turkey information conducted through the Agri Stats sales reports.33

1. The average turkey wholesale price experienced an unprecedented increase beginning in 2009.33

2. Beginning in 2009, defendants’ revenues radically diverged from their costs.34

3. During the conspiracy period, prices rose but production failed to rise to match demand, indicating an anticompetitive restraint on supply in the market for turkey facilitated by the information exchange through Agri Stats.36

4. During the conspiracy period, prices of turkey radically diverged from the costs of underlying feed.37

5. A regression model demonstrates the anticompetitive effects on the price of turkey caused by the information exchange conducted through Agri Stats.....38

G. Defendants actively concealed the extent of their information exchange and plaintiff did not and could not have discovered defendants’ anticompetitive conduct.39

H. Defendants had numerous opportunities to collude.....41

V. CLASS ACTION ALLEGATIONS42

VI. ANTITRUST INJURY46

VII. CAUSES OF ACTION.....47

VIII. REQUEST FOR RELIEF79

IX. JURY TRIAL DEMANDED81

Plaintiff brings this action on behalf of itself individually and on behalf of a plaintiff class consisting of all commercial and institutional indirect purchasers of turkey that purchased turkey other than directly from a defendant or co-conspirator in the United States beginning at least as early as January 1, 2010 through January 1, 2017 (Class Period).¹ Plaintiff brings this action for damages, injunctive relief, and other relief pursuant to various federal and state antitrust laws and state unfair competition laws and unjust enrichment laws. Plaintiff demands a trial by jury.

I. NATURE OF ACTION

1. The turkey integrator defendants are the leading suppliers of turkey in an industry with approximately \$5 billion in annual commerce. The turkey industry is highly concentrated, with a small number of large producers in the United States controlling supply. Defendants and their co-conspirators collectively control approximately 80 percent of the wholesale turkey market in the United States. The turkey integrator defendants are Butterball LLC (Butterball); Cargill Inc. and Cargill Meat Solutions Corporation, (together and separately, Cargill); Cooper Farms, Inc. (Cooper Farms); Farbest Foods, Inc., (Farbest); Foster Farms LLC and Foster Poultry Farms (together and separately, Foster Farms); Hormel Foods Corporation and Hormel Foods LLC (together and separately, Hormel); House of Raeford Farms, Inc., (House of Raeford); Kraft Heinz Foods Company and Kraft Foods Group Brands LLC (together and separately, Kraft Foods), Perdue Farms, Inc. and Perdue Foods LLC (together and separately, Perdue); Tyson Foods, Inc., The Hillshire Brands Company, Tyson Fresh Meats, Inc. and Tyson Prepared Foods, Inc. (together and separately, Tyson).

¹ For purposes of this complaint, turkey includes turkey meat purchased fresh or frozen, and either uncooked or cooked.

2. Defendant Agri Stats is a company that provides secretive information exchange services to companies in a variety of agricultural sectors, including pork, chicken, and turkey.

3. The turkey integrator defendants each entered into an agreement from at least 2010 to January 1, 2017, to exchange sensitive information through Agri Stats regarding their production and sales of turkey.

4. Agri Stats reports are far different from lawful industry reports. Agri Stats gathers detailed financial and production data from each of the turkey integrators, standardizes this information, and produces customized reports and graphs for the co-conspirators. On a monthly basis, Agri Stats provides the turkey integrators with current and forward-looking sensitive information (such as profits, costs, prices and slaughter information).

5. The United States Supreme Court has long recognized that “exchanges of current price information, of course, have the greatest potential for generating anticompetitive effects.”² Agri Stats’ sales reports prove the truth of that maxim. Agri Stats prepared monthly reports for defendants regarding their sales of turkey that identified, on a specific product by product level, the prices and returns that each defendant was obtaining on their sales of turkey. These reports, unavailable to anybody besides Agri Stats subscribers, allowed the integrator defendants to easily identify potential opportunities where their prices for turkey products were significantly lower than their competitors.

6. Turkey is the relevant product market and the geographic market is the continental United States. Defendants collectively possess market power in the market for turkey. Defendants and co-conspirators collectively possessed approximately 80 percent of the overall market share for turkeys during the Class Period.

² *United States v. U.S. Gypsum Co.*, 438 U.S. 422, 443 (1978).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.