

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

OLEAN WHOLESALE GROCERY  
COOPERATIVE, INC., *et al.*,

Plaintiffs,

v.

AGRI STATS, INC., *et al.*,

Defendants.

No. 19-cv-08318

Hon. Virginia M. Kendall  
Hon. Gabriel A. Fuentes

SANDEE'S BAKERY,

Plaintiff,

v.

AGRI STATS, INC., *et al.*,

Defendants.

No. 20-cv-02295

Hon. Virginia M. Kendall  
Hon. Gabriel A. Fuentes

**DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR PROTECTIVE ORDER  
BARRING DISCOVERY BEYOND THE SCOPE OF  
THE CLAIM AT ISSUE IN THIS CASE**

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## I. INTRODUCTION

This case has a single rule of reason claim alleging anticompetitive information sharing through Agri Stats.<sup>1</sup> Plaintiffs, however, are using the discovery process to dramatically expand the scope of this matter through discovery requests that are far afield from the Agri Stats service at issue or its supposed anticompetitive effects.

Acting as if this Court did not dismiss their *per se* claim, Plaintiffs now trawl for any information in an obvious effort to resurrect it or find new claims. For example, Plaintiffs request from Defendants for a *thirteen*-year period and *regardless of subject matter*: “all telephone records” including those for headquarters, administrative offices, farms, processing facilities and sales offices; diaries, calendars, notebooks and “to-do lists” for all document custodians; and all documents (including “agendas, minutes or notes”) of *every* industry meeting or trade association event relating to turkeys. And Plaintiffs are serving similarly broad subpoenas on nonparties, including sweeping requests to the major telephone carriers.

Plaintiffs assert that the challenged discovery is relevant to the information sharing claim. Not so. The text of the requests—which Plaintiffs do not quote—are untethered to the rule of reason claim. Tellingly, none of the challenged discovery requests at issue even mention Agri Stats (except for one request seeking “all documents and communications” relating to information services *other than* Agri Stats). Moreover, Plaintiffs’ contrived, post-hoc assertions that the challenged discovery is relevant to “the nature of the information exchanged,” “market definition,” “anticompetitive effects,” and “agreement” are belied by the fact that Plaintiffs propounded

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<sup>1</sup> “Plaintiffs allege that the Turkey Defendants entered into an agreement between 2010 and 2017 to exchange competitively sensitive information—namely, production and sales data. They exchanged this data with one another through Agri Stats.” Dkt. No. 173, *Olean Wholesale Grocery Coop., Inc. v. Agri Stats, Inc. et al.*, No. 19-cv-08318 (N.D. Ill.), Motion to Dismiss Order at 2 (citation omitted). “Plaintiffs have only adequately alleged a Sherman Act violation under a rule of reason analysis.” *Id.* at 18.

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