## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

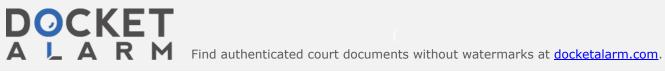
IN RE CATTLE ANTITRUST LITIGATION	Case No. 19-cv-1222-JRT-HB	
This document relates to:		
ALL CASES		
KENNETH PETERSON, et al.,	Case No. 19-cv-1129-JRT-HB	
Plaintiffs,		
v.		
JBS S.A., et al.,  Defendants.		
IN RE DPP BEEF LITIGATION	Case No. 20-cv-1319-JRT-HB	
This document relates to:		
ALL CASES		
ERBERT & GERBERT'S, INC.,	Case No. 20-cv-1414-JRT-HB	
Plaintiff,		
v.		
CARGILL, INC., et al.,		
Defendants.		

### NATIONAL BEEF PACKING COMPANY, LLC'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO DISMISS THE AMENDED CLASS ACTION COMPLAINTS



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#### INTRODUCTION

Plaintiffs' amended class action complaints (the "Amended Complaints") rest on a supposition that this Court will not be able to pick National Beef Packing Company, LLC ("National Beef") out of a herd of "Defendants." Though they contend that "Defendants" participated in a multi-faceted, years-long conspiracy to reduce industry slaughter rates, suppress the prices paid for fed cattle, and raise the prices charged for boxed beef, Plaintiffs have not pled any facts, taken as true, that would constitute direct or circumstantial evidence that National Beef participated in such a conspiracy. To the contrary, the Amended Complaints concede that National Beef did not participate *at all* in the activities that provide the foundation for Plaintiffs' claims. For example, during the alleged conspiracy period National Beef:

- Did **not** close any plant;
- Did **not** reduce its slaughter volumes in total or in parallel;
- Did **not** import cattle;
- Did **not** boycott any feedlots; and
- Did not participate at all, much less engage in anticompetitive activity in, the broiler chicken or pork industries.

These facts are wholly inconsistent with Plaintiffs' conspiracy claim, and they have not pled any other facts that would—directly or indirectly—link National Beef to any anticompetitive conduct. Merely including National Beef among a group of "Defendants" that allegedly engaged in anticompetitive acts does not, and cannot, make it so. For this reason, and for the reasons set forth in Defendants' Joint Motions to Dismiss all four



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