UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ERBERT & GERBERT'S, INC.,

Plaintiff,

v.

JBS USA FOOD COMPANY HOLDINGS, TYSON FOODS, INC., CARGILL, INC., and NATIONAL BEEF PACKING COMPANY,

Defendants.

Case No. 0:20-cv-1414

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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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 beef that purchased beef other than directly from defendant or co-conspirator in the United States from at least January 1, 2015 until the present (Class Period). Plaintiff brings this action for injunctive relief under Section 1 of the Sherman Act, and for treble damages under the antitrust laws, unfair competition laws, consumer protection laws, and unjust enrichment common laws of the several states against defendants, and demand a trial by jury.

I. NATURE OF ACTION

1. This is an antitrust class action for injuries sustained to the business and property of Plaintiff and the members of the Plaintiff Class from Defendants' violations of Section 1 of the Sherman Act, and for treble damages under the antitrust laws, unfair competition laws, consumer protection laws, and unjust enrichment common laws of several states.

2. From at least as early as 2015 through the present, the Defendants entered into a combination, contract or conspiracy to fix, maintain and raise the price of Beef to supracompetitive levels. They engaged in their scheme using mechanisms that included suppressing throughput of fed cattle[1] thereby creating artificial Beef supply restraints. The conspiracy to suppress the throughput of fed cattle led to Beef prices paid by Plaintiff and commercial and institutional indirect purchaser class members being higher than they otherwise would have been in a competitive market.

3. Beef is meat from full-grown cattle that is approximately 2 years old. "Boxed beef" is a combination of cuts subject to USDA grading. Price is the primary competitive factor. "Beef"

[1] Fed cattle are steers and heifers raised and fed for the production and sale of high-quality beef products. Fed-cattle does not include culled cows, which are primary used for dairy production, and then at the end of their dairy producing life, are slaughtered for lower quality ground beef.

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for purposes of this complaint is defined as "boxed beef" and case ready cuts, and does not include ground beef from culled cows.

4. The four Defendant families are the largest meatpacking companies in the world.

5. Defendants' scheme succeeded, in part, due to the structure of the Beef industry. The Defendants purchase fed cattle from farmers, process it into Beef, and sell the Beef downstream. Slaughter and packing are essential parts of the Beef supply chain.

6. The Defendants account for over 80% of the Beef supplied to the wholesale market, thus collectively controlling a crucial component of the distribution chain. The meatpacking industry, therefore, is highly concentrated. This high industry concentration affords the Defendants market power with respect to both upstream fed cattle purchases and downstream Beef sales. As the "big four" players in this highly concentrated industry, the Defendants interact frequently at industry events and trade association meetings, and their respective executives are well-acquainted. The market is therefore highly conducive to collusion. Plaintiffs in several other actions have alleged the existence of a confidential informant. On information and belief on the basis of the allegations found in related actions, Plaintiff makes the following and all subsequent allegations relating to the confidential witness: the existence of the Defendants' conspiracy is confirmed by at least one confidential witness account. A confidential witness previously employed by a Packing Defendant ("Witness 1"), has confirmed that each of the Defendants expressly agreed to reduce their respective purchase and slaughter volumes, which would have the effect of artificially raising the price of Beef. Witness 1's account is corroborated by transactional data and slaughter volume records reported by Defendants and published by the United States Department of Agriculture ("USDA"), as well as Defendants' public calls for industry-wide slaughter and capacity reductions.

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