

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STAMPEDE MEAT, INC.,

Plaintiff,

v.

MICHELLE LUJAN GRISHAM, in her official  
capacity as GOVERNOR OF THE STATE OF  
NEW MEXICO, HECTOR BALDERAS, in his  
official capacity as the ATTORNEY GENERAL  
FOR THE STATE OF NEW MEXICO, BILLY  
J. JIMENEZ, in his official capacity as the  
ACTING CABINET SECRETARY OF THE  
NEW MEXICO DEPARTMENT OF HEALTH,  
JAMES C. KENNEY, in his official capacity as  
the CABINET SECRETARY OF THE  
NEW MEXICO ENVIRONMENT  
DEPARTMENT, THE NEW MEXICO  
ENVIRONMENT DEPARTMENT and THE  
NEW MEXICO DEPARTMENT OF HEALTH,

Defendants.

Case No.: \_\_\_\_\_

**VERIFIED COMPLAINT AND APPLICATION FOR  
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, Stampede Meat, Inc., (“Stampede Meat” or the “Company”), and in conjunction with its Emergency Request for Hearing, files this Verified Complaint against Defendants Michelle Lujan Grisham, in her official capacity as Governor of the State of New Mexico, Hector Balderas, in his official capacity as the Attorney General for the State of New Mexico, Billy J. Jimenez, in his official capacity as Acting Cabinet Secretary of the New Mexico Department of Health, James C. Kenney, in his official capacity as the Cabinet Secretary of the New Mexico Environment Department, the New Mexico Environment Department and the New Mexico Department of Health (collectively, “Defendants”), and states as follows:

## INTRODUCTION

1. Stampede Meat is one of the United States’ largest manufacturer of portion-controlled proteins (including beef, chicken, turkey and pork) and meals (which include vegetables, soups and alternative proteins). Stampede Meat takes seriously its critical role in helping feed the nation during the coronavirus (“COVID-19”) pandemic. From the outset of the pandemic, however, Stampede Meat has focused not just on providing critical food resources to the nation—it has also prioritized the health and safety of Stampede Meat’s significant workforce. Indeed, Stampede Meat developed and implemented a COVID-19 response plan well before any governmental body required it to do so, and Stampede Meat has repeatedly updated its plan to ensure it fully complies with—and in many instances exceeds—all applicable federal, state and local COVID-19 guidelines. In fact, the New Mexico Department of Health, including Defendant Jimenez personally, and the New Mexico Occupational Safety and Health Administration (“New Mexico OSHA”) *approved* Stampede Meat’s COVID-19 plan in early May 2020. Throughout the pandemic, Stampede Meat has deftly balanced its role as a vital piece of critical national infrastructure with its commitment to the safety and wellbeing of its employees and local community.

2. The State of New Mexico has consistently shared the view of the Federal Government that Stampede Meat is critical to the Nation’s response to this pandemic, repeatedly designating Stampede Meat an “Essential Business.” Yet three days ago, the Defendants sought to immediately close Stampede Meat for fourteen days pursuant to a recently issued public health order purportedly requiring closure of certain businesses experiencing four or more positive COVID-19 tests in a fourteen day period—which for Stampede Meat represents less than 1% of its Sunland Park workforce. The Defendants seem to have based this determination on an unsupported (and unstated) assertion that Stampede Meat is a “business that poses a significant

health risk, as determined by the Department of Health.” Despite repeated inquiries, Defendants have failed to provide the basis of that determination. Additionally, even when the United States Department of Agriculture (“USDA”) offered to speak with the Department of Health about lending testing resources to Stampede Meat to enable it to more efficiently and effectively identify potentially infected employees, while still remaining operational to address the nation’s food supply, the Department of Health, through Defendant Jimenez, declined.

3. Defendants’ action is preempted by an Executive Order signed by the President on April 28, 2020, prohibiting state authorities from directing meat and poultry processing facilities—like Stampede Meat—to close when that facility is in compliance with applicable federal guidelines, as is Stampede Meat. The Stampede Meat Closure Order also violates the U.S. Constitution and New Mexico Constitution because it has been issued in an arbitrary and capricious manner, absent due process.

4. Stampede Meat, its workforce, and the nation will suffer irreparable harm absent an order freezing the *status quo ante*. Further, Stampede Meat is likely to succeed on the merits of its claim for a declaratory judgment and the balance of the equities favors a restraining order in this case; one preventing Defendants from closing Stampede Meat’s operations, even as it will allow time for Stampede Meat to address any concerns Defendants may have regarding the safety of its operations and compliance with applicable COVID-19 guidance. Stampede Meat has already attempted—repeatedly—to work with the Defendants to address any legitimate concerns. It has been met with silence aside from this most recent direction to fully shut down operations—direction that ignores the express orders of the President of the United States and the Secretary of Agriculture—or risk civil and criminal penalties.

## **PARTIES**

5. Plaintiff Stampede Meat, Inc., a Delaware corporation with its principal place of business in Bridgeview, Illinois, is one of the United States' largest manufacturer of portion-controlled proteins (including beef, chicken, turkey and pork) and meals (which include vegetables, soups and alternative proteins). Stampede Meat specializes in custom-made, center-of-the-plate beef, pork and chicken products for the needs of restaurants, hospitality, retail, supermarket, casino, home delivery, and other industries. Its customers include Costco, Wal-Mart, Firehouse Subs, Applebee's, Panda Express, International House of Pancakes, Denny's, Schwan's Foods and other major restaurants and food retailers throughout New Mexico and the country. In many instances Stampede is the exclusive supplier of these products, leaving the aforementioned customers without a supply source in the event of a shut down. Stampede Meat serves its customers through four production facilities, including one in Sunland Park, New Mexico – which Stampede Meat opened in December 2018. That facility has an annual capacity of **100 million pounds of meat**. Nationwide, Stampede Meat's team consists of approximately 1600 employees and temporary workers. Stampede Meat's Sunland Park workforce varies depending on production needs. During the past two weeks, between 550-575 team members worked at Stampede Meat's Sunland Park facility.

6. Defendant Michelle Lujan Grisham is the Governor of the State of New Mexico and is named in her official capacity. Defendant Lujan Grisham may be served at the New Mexico State Capital, 490 Old Santa Fe Trail, Room 400, Santa Fe, New Mexico 87501.

7. Defendant Hector Balderas is the Attorney General for the State of New Mexico and is named in his official capacity. Defendant Balderas may be served at 408 Galisteo Street, Santa Fe, New Mexico 87501.

8. Defendant Billy J. Jimenez is the Acting Cabinet Secretary of the New Mexico Department of Health and is named in his official capacity. He may be served at 1190 S. St. Francis Drive, Santa Fe, New Mexico 87505.

9. Defendant James C. Kenney is the Cabinet Secretary of the New Mexico Environment Department and is named in his official capacity. He may be served at 1190 St. Francis Drive, Santa Fe, New Mexico 87505.

10. Defendant New Mexico Environment Department may be served at 1190 S. St. Francis Drive, Santa Fe, New Mexico 87505

11. Defendant New Mexico Department of Health may be served at 1190 S. St. Francis Drive, Santa Fe, New Mexico 87505.

### **JURISDICTION AND VENUE**

12. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because Stampede Meat's claims arise under the Constitution and laws of the United States of America.

13. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because all defendants are residents of the State of New Mexico and a substantial part of the events or omissions giving rise to the claims occurred in the District of New Mexico.

### **FACTUAL BACKGROUND**

#### **A. Stampede Meat is an Essential Business Providing Food Supplies to the Nation**

14. Stampede Meat is part of the nation's critical food supply chain and has a responsibility during the ongoing pandemic to continue providing meat, poultry, turkey, pork, alternative proteins and other food to Americans in New Mexico and throughout the country. Pursuant to the U.S. Cybersecurity & Infrastructure Security Agency ("CISA") guidance, Stampede Meat is an essential business, and its workforce is part of the "Critical Infrastructure

# 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.