

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

**MICHAEL DIAZ, JEAN-NICHOLE
DIAZ, and DIAZ FAMILY FARMS,
LLC, on their own behalf and on behalf
of all others similarly situated,**

Plaintiffs,

v.

AMICK FARMS, LLC,

Defendant.

Civil Action No. 5:22-cv-01246-SAL

**COMPLAINT
(JURY TRIAL DEMANDED)**

Plaintiffs Michael Diaz ,Jean-Nichole Diaz, and Diaz Family Farms, LLC, on their own behalf and on behalf of all others similarly situated (“Plaintiffs”), bring this action against Defendant Amick Farms, LLC (“Defendant”) and allege the following:

Plaintiffs are seeking damages and other appropriate relief related to Defendant’s misclassification of Plaintiffs as “independent contractors.” Despite inducing Plaintiffs with promises of independence, Defendant treated Plaintiffs as controlled employees under both federal and South Carolina law. As employees, Plaintiffs were entitled to various federal and state benefits that Defendant did not provide, even though Defendant knew that Plaintiffs should have been classified as employees based on the level of control Defendant exercised over Plaintiffs’ chicken growing operation. Through this and other conduct described herein, Defendant violated various state and federal laws regarding the wages and benefits that it was obligated to offer employees such as Plaintiffs.

1. Because Plaintiffs' employment relationship with Defendant is typical of Defendant's relationship with all of its growers, Plaintiffs also request that this action be certified as a class action.

PARTIES

2. Plaintiff Michael Diaz is a resident of Swansea, South Carolina, Calhoun County.

3. Plaintiff Jean-Nichole Diaz is a resident of Swansea, South Carolina, Calhoun County.

4. Plaintiff Diaz Family Farms, LLC, is a limited liability company with its principal place of business in Swansea, South Carolina.

5. Defendant Amick Farms, LLC is a limited liability company with its principal place of business in Batesburg-Leesville, South Carolina.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331 because Plaintiffs' federal wage and ERISA claims arise under federal law.

7. This Court has supplemental jurisdiction over the Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367, because they arise out of the same transaction or occurrence as Plaintiffs' federal claims. This Court also has jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1332(d), which provides federal district courts with original jurisdiction over civil actions in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs, and is a class action in which any member of a class of plaintiffs is a citizen of a state different from any defendant.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c), because Defendant transacts business in, is found in, and/or has agents in this judicial district, and because some of the actions giving rise to this complaint took place within this district.

9. The Court has personal jurisdiction over Defendant. Defendant has transacted business and maintained substantial contacts in this judicial district.

FACTUAL BACKGROUND

10. “Broilers” are chickens raised for meat consumption. Modern broilers are generally slaughtered when they are about six weeks old.

11. In the 1950s, the U.S. broiler industry began to shift away from individual farmers raising, slaughtering, and selling chickens to the current system in which nearly all broilers are raised by farmers on contract with large-scale sellers. Between 1950 and 1960, the percentage of independent poultry farmers relative to contract farmers dropped from 95% to 5%. During this time, large companies known as “integrators” began to combine the various stages of production, a process known as vertical integration.

12. Decades ago, contract growers were actually independent—they relied on their skills and knowledge to grow the highest quality bird they could while managing their own input costs and growing conditions. When they delivered a premium product to the poultry processor they were rewarded with bonuses. Now, contract growers have a very different relationship with the integrator they grow for.

13. Today, the broiler industry is almost entirely vertically integrated. Poultry companies now control nearly every step of broiler production, including growing the chicken feed, hatching the chicks, veterinary care, transportation, slaughtering, and selling the final product.

14. As poultry companies integrated vertically, independent sellers were edged out of market and the industry became highly consolidated. In 1950, over 1.6 million farms were selling chickens. Each farm on average sold about 355 chickens. In 2007, there were only about 27,000 growing operations, each selling an average of just over 329,000 chickens per farm. Today, Defendant is one of only about 30 poultry integrators that operate in the United States.

15. While Defendant directly owns almost all of its broiler supply chain, it has notably not sought to purchase the farms used to raise chickens. Instead, Defendant outsources the process of raising chickens to what they call “broiler growers” or “independent farmers.” These “growers” raise Defendant’ chickens from shortly after hatching for about six weeks until they are large enough to harvest.

16. Defendant recruits growers by promising them that as growers they will run their own farm, acting “entirely as an independent contractor” with the possibility of significant compensation if chickens reach a desired size.

17. By using contract growers instead of owning their own farms, Defendant has offloaded enormous capital costs and financial risks onto its growers. Instead of being responsible for the cost of constructing chicken houses, upgrading equipment, managing waste, and potentially losing chickens to natural disasters or other unexpected circumstances, Defendant forces growers to bear these costs by deceptively classifying growers as independent contractors.

18. But Defendant refuses to grant growers the independence they were promised or the compensation they are entitled to.

19. In reality, Defendant controls virtually every aspect of a grower’s operations. There is no real “independence” for supposedly independent growers despite them shouldering most of the financial risk. Instead, Defendant intentionally misclassifies growers as independent

contractors when in reality growers are employees who Defendant entirely controls. Because of Defendant's intentional misclassification of all of its growers, they do not receive the compensation that would be owed to them as employees.

20. Put differently, Defendant has devised a scheme to saddle growers with risk and debt, while at the same time directing and controlling every aspect of the chicken growing process and refusing to compensate growers in the manner that federal and state law require.

21. Growers are a key part of Defendant's business; without growers, Defendant would not be able to function.

22. To begin working as a grower, farmers must make large investments in barns and equipment, and then ultimately must make upgrades.

23. A farmer must build "grow out" houses that will hold thousands of chickens. These houses are expensive to construct and maintain, often requiring that prospective growers take out large loans to finance them.

24. After the houses are built, integrators such as Defendant often force growers to pay for costly, highly specific facility or equipment changes. Defendant will threaten to sever grower contracts—which growers rely on to repay their significant loans—if a grower does not make the costly changes to the integrator's exact specifications. If a grower loses their contract, they are generally unable to use houses for any other purpose and thus are never able to recoup their investment.

25. Defendant's growers are not required to have experience as chicken growers when they obtain their first contract with the integrator. Defendant trains growers and monitors whether growers are following Defendant's guidelines.

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