

Winston Scores Another Massive Summary Judgment Victory in Sprawling Broiler Chickens Price-Fixing Case for Client Claxton Poultry Farms

JUNE 30, 2023

On June 30, 2023, we delivered Norman W. Fries, Inc. d/b/a Claxton Poultry Farms (Claxton) another resounding victory in a Northern District of Illinois antitrust class action when Judge Thomas Durkin granted Claxton's motion for summary judgment.

The plaintiffs—chicken purchasers, including grocery stores, distributors, restaurants, and end-user consumers—brought several class action and direct-action lawsuits dating back to 2016, alleging that the largest U.S. chicken producers conspired to fix the price of chicken by reducing supply and manipulating a price index called the “Georgia Dock.” Plaintiffs alleged this conspiracy violated Section 1 of the Sherman Act, which prohibits agreements in restraint of trade, and caused them to suffer over US\$22B in damages.

After years of discovery, approximately 300 depositions, and the production of multiple millions of documents, we filed a motion for summary judgment citing scores of documentary and testimonial evidence demonstrating that, throughout the alleged conspiracy period, Claxton improved its production capacity and steadily increased its output. The motion also pointed to evidence showing that Claxton's submissions to the Georgia Dock price index were made unilaterally. This evidence, the motion concluded, simply would not allow a reasonable jury to find that Claxton participated in a conspiracy to reduce the supply of chicken or manipulate the Georgia Dock.

Judge Durkin agreed and granted our motion in full. Although the court found that there was a triable issue of fact concerning the existence of a price-fixing conspiracy within the chicken industry—and thus denied the summary judgment motions of 11 of Claxton's co-defendants—the court held, as a matter of law, that if there was a conspiracy, Claxton played no part in it.

IMPACT

This ruling concludes a years-long litigation and insulates it from plaintiffs' US\$22B damages claim. It further exonerates Claxton, coming less than a year after we successfully defeated criminal indictments brought against Claxton and two of its employees in the District of Colorado. On July 7, 2022, after a five-week trial, a jury acquitted both employees of price-fixing charges, confirming that neither engaged in any wrongdoing. Shortly thereafter, on September 15, 2022, the U.S. DOJ dismissed similar charges against Claxton, with prejudice. We continue to defend Claxton against related civil allegations of bid rigging.

(In re Broiler Chickens Civil Antitrust Litigation (Case No. 1:16-cv-08637, U.S. District Court for the Northern District of Illinois); **U.S. v. Penn, et al.** (Case No. 20-cr-00152, U.S. District Court for the District of Colorado); and **U.S. v. Norman W. Fries, Inc., et al.** (Case No. 1:21-cr-00168, U.S. District Court for the District of Colorado))

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