

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

The Honorable Aimée Marie Sutton
Trial Date: October 24, 2022

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

TYSON FOODS, INC., ET AL.,

Defendants.

NO. 21-2-14174-5 SEA

CONSENT DECREE AGAINST
MAR-JAC POULTRY, INC.;
MAR-JAC POULTRY AL, LLC;
MAR-JAC AL/MS, INC.; MAR-JAC
POULTRY MS, LLC; MAR-JAC
POULTRY, LLC; AND MAR-JAC
HOLDINGS, INC.

[CLERK’S ACTION REQUIRED]

I. SETTLEMENT SUMMARY

- 1.1 Plaintiff: State of Washington
- 1.2 Defendants: Mar-Jac Poultry, Inc.; Mar-Jac Poultry AL, LLC; Mar-Jac AL/MS, Inc.; Mar-Jac Poultry MS, LLC; Mar-Jac Poultry, LLC; and Mar-Jac Holdings, Inc.¹ (collectively “the Mar-Jac Defendants”).
- 1.3 Settlement Amount: \$725,000.00
- 1.4 Attorneys for Plaintiff: Travis A. Kennedy and Brooke Howlett Lovrovich
Assistant Attorneys General
- 1.5 Attorneys for Defendants: Callie A. Castillo and Larry S. Gangnes
Lane Powell

¹ Mar-Jac Holdings, Inc. was incorrectly identified in the Complaint as Mar-Jac Holdings, LLC.

David C. Newman and Wm. Parker Sanders
Smith, Gambrell and Russell, LLP
Edward C. Konieczny
Edward C. Konieczny LLC

II. INTRODUCTION

2.1 Plaintiff, State of Washington, by and through its Attorney General, in its law enforcement capacity and as *parens patriae* on behalf of Persons in the State of Washington, commenced an antitrust action on October 25, 2021, for an injunction, restitution, civil penalties, and other relief pursuant to Chapter 19.86 RCW, the Unfair Business Practices-Consumer Protection Act (“CPA”), against the Mar-Jac Defendants, eighteen other broiler producers, and Agri Stats.

2.2 Plaintiff alleges price-fixing and other anticompetitive conduct by various entities, including the Mar-Jac Defendants, in its First Amended Complaint filed in the Action (“Complaint”). The Complaint alleges that the Mar-Jac Defendants and their co-conspirators conspired to restrain production, rig bids, manipulate price indices, and exchange highly sensitive competitive information with one another in violation of the CPA. The Complaint alleges that, through both unlawful agreements and unfair methods of competition, the Mar-Jac Defendants and their co-conspirators fixed, raised, stabilized, and maintained prices of broiler chicken throughout the United States, including in Washington. The Mar-Jac Defendants deny these allegations and specifically deny that they engaged in any wrongdoing.

2.3 Plaintiff and the Mar-Jac Defendants have engaged in arms’ length negotiations and reached an agreement to settle all Plaintiff’s claims against the Mar-Jac Defendants in the Action and to the entry of this Consent Decree (“Consent Decree”) without trial or adjudication on any issues of fact or law.

1 2.4 Plaintiff and the Mar-Jac Defendants have determined that this Consent Decree
2 and the amount of the Settlement Fund, as defined *infra*, are reasonable in light of Plaintiff's
3 claims, the Mar-Jac Defendants' defenses, the risk and expense of continuing protracted
4 litigation, and the extent of each party's investigation, discovery, and preparation for trial.

5 2.5 The Mar-Jac Defendants do not admit the allegations contained in the Complaint
6 or any liability or violation of law, and believe they have valid defenses to all claims that have
7 been or could be asserted by Plaintiff against them. Notwithstanding their defenses, the Mar-Jac
8 Defendants agree to entry of this Consent Decree to: (a) avoid the expense, inconvenience, and
9 distraction of burdensome and protracted litigation; (b) obtain the releases, orders, and final
10 judgment contemplated by this Consent Decree; and (c) put to rest and terminate with finality
11 all claims Plaintiff has or could have asserted against the Mar-Jac Defendants that relate in any
12 way to or arise out of the allegations in the Complaint, as more particularly set forth below.
13 Neither the Complaint nor anything in this Consent Decree constitutes evidence of or admission
14 of wrongdoing by the Mar-Jac Defendants regarding the existence or non-existence of any issue,
15 fact, liability, wrongdoing, or violation of any law alleged by the Plaintiff.

16 2.6 The Mar-Jac Defendants recognize and state that they enter into this
17 Consent Decree voluntarily and that, other than the promises contained herein, no promises or
18 threats have been made by the Attorney General's Office or any member, officer, agent or
19 representative thereof to induce the Mar-Jac Defendants to enter into this Consent Decree.

20 2.7 Plaintiff and the Mar-Jac Defendants waive any right they may have to appeal
21 from this Consent Decree and from any Order adopting it, provided that no substantive changes
22 are made to the Consent Decree after it has been presented by the parties to the Court for
23 approval.

24 2.8 Plaintiff and the Mar-Jac Defendants acknowledge that they have not completed
25 full discovery in this matter and may hereafter discover facts different from, or in addition to,
26 those that they knew or believed to be true at the time they entered into this Consent Decree.

1 Nevertheless, Plaintiff and the Mar-Jac Defendants agree that this Consent Decree shall be
2 effective and remain effective notwithstanding such different or additional facts, and they also
3 waive any right they may have to seek modification of this Consent Decree or any Order adopting
4 it based upon discovery of such different or additional facts.

5 **NOW, THEREFORE**, there being no just reason for delay for resolving the claims
6 alleged in Plaintiff's Complaint against the Mar-Jac Defendants, and before the taking of any
7 testimony, and without trial or adjudication of any issue of any fact or law herein, and upon
8 consent of the parties hereto, it is hereby **ORDERED, ADJUDGED, AND DECREED** as
9 follows:

10 **III. JURISDICTION AND SCOPE**

11 3.1 Jurisdiction: Solely for the limited purpose of effectuating this Consent Decree,
12 the Court has jurisdiction over the parties and the subject matter herein, as well as the
13 implementation, enforcement, and performance of the terms included in this Consent Decree.
14 The Attorney General has authority to bring this Action under the CPA. Until this Consent
15 Decree is entered by the Court, the Mar-Jac Defendants preserve all defenses, including, but not
16 limited to, personal jurisdiction and venue defenses.

17 3.2 Review: Plaintiff and the Mar-Jac Defendants have read and understand this
18 Consent Decree and enter into it voluntarily, each having been advised by their undersigned
19 counsel of the meaning and effect of each provision of this Consent Decree.

20 3.3 Signatures: This Consent Decree may be executed in counterparts by Plaintiff and
21 the Mar-Jac Defendants, and a signature page sent via electronic mail shall be deemed an original
22 signature for purposes of executing this Consent Decree.

23 **IV. DEFINITIONS**

24 **THE COURT ORDERS** that the following definitions shall be used in interpreting the
25 terms of this Consent Decree:
26

1 4.1 “Broiler Chicken” shall refer to chickens raised for meat consumption to be
2 slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including
3 fresh or frozen, raw or cooked, whole or in parts, or as a meat ingredient in a value-added
4 product. This term excludes chicken grown, processed and sold according to halal, kosher,
5 free-range, or organic standards.

6 4.2 “Illinois litigation” refers to *In re Broiler Chicken Antitrust Litigation*,
7 No. 1:16-cv-06837 (N.D. Ill.).

8 4.3 “Mar-Jac Defendants” shall refer to Mar-Jac Poultry, Inc.; Mar-Jac Poultry AL,
9 LLC; Mar-Jac AL/MS, Inc.; Mar-Jac Poultry MS, LLC; Mar-Jac Poultry, LLC; and Mar-Jac
10 Holdings, Inc.

11 4.4 “Effective Date” shall mean the date this Consent Decree is entered by the Court.

12 4.5 “Person” or “Persons” shall mean, consistent with RCW 19.86.010(1), natural
13 persons, corporations, trusts, unincorporated associations, and partnerships.

14 4.6 “Plaintiff” shall mean the State of Washington (“State”), acting as *parens patriae*
15 on behalf of Persons residing in the State, and the Attorney General acting on behalf of the State.

16 4.7 “The Settlement Fund” shall be \$725,000 to be paid in accordance with
17 Paragraph 6.1.

18 4.8 “This Action” refers to *Washington v. Tyson, et al.*, No. 21-2-14174-5 SEA
19 (King. Cnty. Sup. Ct.).

20 V. INJUNCTION AND CERTIFICATION

21 5.1 For a period of five (5) years, the Mar-Jac Defendants will not engage in any
22 conduct, including price-fixing, bid-rigging, market allocation, coordinating output or supply, or
23 manipulating pricing indices, with other Broiler Chicken producers in the United States with
24 respect to the sale of any Broiler Chicken products in Washington or that has an effect in
25 Washington, which constitute horizontal conduct that are *per se* violations of Section 1 of the
26

1 Sherman Act (which for purposes of this Action, the parties understand to be the same standard
2 as that under RCW 19.86.030).

3 5.2 The Mar-Jac Defendants shall certify to Plaintiff within ninety (90) days of entry
4 of this Consent Decree, and recertify on or around the first, second, third, fourth, and fifth
5 anniversaries of the entry of this Consent Decree, that they have established an antitrust
6 compliance program for the purpose of compliance with federal and state antitrust laws,
7 including the Sherman Act and RCW 19.86.030. Such program shall provide relevant
8 compliance education regarding the legal standards imposed by the antitrust laws, the remedies
9 that might be applied in the event of violations, and their employees' obligations in the event
10 they observe violations of the antitrust laws.

11 5.3 Nothing in this Consent Decree shall be interpreted as limiting in any way the
12 Mar-Jac Defendants' obligations to comply in the fullest with federal and state antitrust laws as
13 they currently exist or may be amended in the future.

14 VI. MONETARY RELIEF

15 6.1 Within sixty (60) days of the Effective Date, the Mar-Jac Defendants shall pay to
16 the State of Washington \$725,000 ("Settlement Amount") by wire transfer to the State or to such
17 other recipient as Plaintiff shall designate. Plaintiff will provide to the Mar-Jac Defendants bank
18 account information sufficient to facilitate the wire transfer no less than twenty (20) business
19 days prior to the deadline for payment.

20 6.2 Pursuant to RCW 19.86.080, a portion of the Settlement Fund, the amount to be
21 determined solely by the Attorney General, shall be deposited without prior court approval into
22 the Attorney General's antitrust revolving fund. The Attorney General shall use the funds for
23 recovery of the costs and attorneys' fees incurred in investigating this matter, future monitoring
24 and enforcement of the Consent Decree and CPA, compensation for Washington consumers
25 harmed by the conduct alleged in the Complaint, or for any other lawful purpose in the discharge
26 of the Attorney General's duties at the sole discretion of the Attorney General.

1 6.3 Plaintiff is in possession of a copy of the agreement dated February 25, 2020 (the
2 “Defendants’ Agreement”) entered into by certain defendants in one or more putative class
3 action or direct action lawsuits which have been consolidated for pretrial purposes in the Illinois
4 litigation. The defined terms in the Defendants’ Agreement shall have the same meaning when
5 used in this Consent Decree. Both Plaintiff and the Mar-Jac Defendants acknowledge that this
6 Consent Decree does not constitute a Qualified Settlement under the Defendants’ Agreement. If,
7 however, at any time Plaintiff enters into a Qualified Settlement with any party to Defendants’
8 Agreement, then this settlement with the Mar-Jac Defendants will be converted into, deemed,
9 and construed to be a Qualified Settlement, and the terms attached to this Consent Decree as
10 Attachment 1 shall apply. Plaintiff and the Mar-Jac Defendants reserve all rights to challenge
11 the validity and applicability of the Defendants’ Agreement at any time, for any reason, and in
12 any forum, including during the course of this Action. Nothing in this Consent Decree is or shall
13 be construed as an admission that the Defendants’ Agreement applies to this Consent Decree or
14 the claims released by this Consent Decree. This Paragraph 6.3 is intended solely to protect the
15 Mar-Jac Defendants and the other parties to the Defendants’ Agreement in the event Plaintiff
16 enters into a Qualified Settlement with any party to the Defendants’ Agreement.

17 6.4 Plaintiff shall look solely to the Settlement Fund for settlement and satisfaction
18 of their claims against the Mar-Jac Defendants, and shall have no other recovery of costs, fees,
19 attorney’s fees, damages, restitution, fines, penalties, or other relief against the Mar-Jac
20 Defendants.

21 6.5 No part of the Settlement Amount paid by the Mar-Jac Defendants shall
22 constitute, nor shall it be construed as, or treated as constituting, payment for treble or multiple
23 damages, fines, penalties, forfeitures, or punitive recoveries.

24 6.6 Plaintiff shall be solely responsible for the maintenance and administration of the
25 Settlement Fund, including any related fees, costs, and expenses. The Mar-Jac Defendants shall
26 have no responsibility or liability for, and no rights in, nor authority over, the allocation of the

1 Settlement Fund. In no circumstances shall this Consent Decree be construed to require the
2 Mar-Jac Defendants to pay more or less than the Settlement Amount set forth in Paragraph 6.1
3 above.

4 6.7 The parties shall be responsible for all of their own fees and costs incurred in
5 connection with the investigation, prosecution, defense, and settlement of this Action prior to
6 the entry of this Consent Decree.

7 VII. COOPERATION PROVISIONS

8 7.1. The Mar-Jac Defendants will use reasonable efforts to cooperate with Plaintiff
9 by:

10 7.1.1. Producing to Plaintiff unredacted copies of all non-privileged documents
11 produced by the Mar-Jac Defendants in discovery or under court orders in the
12 Illinois litigation, including any future productions in that litigation.

13 7.1.2. Producing to Plaintiff unredacted copies of all transcripts of depositions taken,
14 and their exhibits, of the Mar-Jac Defendants or their employees in the Illinois
15 litigation to the extent not already provided, including any future depositions in that
16 litigation.

17 7.1.3. Producing to Plaintiff unredacted copies of all the Mar-Jac Defendants' written
18 discovery responses, including their Initial Disclosures, Responses to Requests for
19 Production, Interrogatories, and Requests for Admission from the Illinois litigation
20 to the extent not already provided, including any future responses served in that
21 litigation.

22 7.1.4. Using reasonable efforts to produce a reasonable number of officers or employees
23 (not including experts and not to exceed four (4) individuals) to testify at trial—
24 either in person (including remote testimony if permitted), by deposition, or
25 affidavit, as reasonably practicable—as are reasonably required by the Plaintiff,
26

1 provided that the Plaintiff provides notice to the Mar-Jac Defendants of its intent to
2 call such witnesses at least sixty (60) days before trial.

3 7.1.5. Using reasonable efforts to provide affidavits on behalf of a reasonable number
4 of officers or employees (not to exceed four (4) individuals) as necessary for the
5 purpose of authenticating a reasonable number of business records (not to exceed
6 one hundred (100) records) produced by the Mar-Jac Defendants, where it is
7 reasonably practicable to do so in good faith, no later than sixty (60) days before
8 trial, as reasonably required by the Plaintiff for trial. In addition to the maximum of
9 one hundred (100) records, if pursuant to an agreement with the plaintiffs in the
10 Illinois litigation, the Mar-Jac Defendants provide affidavits concerning the
11 authenticity of Mar-Jac business records, the Mar-Jac Defendants also will use
12 reasonable efforts, not later than sixty (60) days before trial, as reasonably requested
13 by the Plaintiff for trial, to provide the Plaintiff with affidavits making the same
14 statements concerning the authenticity of the same records as provided to the
15 plaintiffs in the Illinois litigation.

16 7.2. Plaintiff shall only seek the Mar-Jac Defendants' cooperation as provided in
17 Paragraph 7.1 and its sub-paragraphs after making a good faith effort to review and utilize
18 evidence and testimony already available to Plaintiff.

19 7.3. Material produced by the Mar-Jac Defendants under this Consent Decree shall be
20 treated in accordance with any protective order in this Action. To the extent that any document
21 to be produced pursuant to this Consent Decree is subject to a protective order in the Illinois
22 litigation, such production will be subject to the provisions of the Illinois protective order.

23 7.4. Plaintiff will not provide any non-public information or records to any Person,
24 political subdivision of the State, or any other party in connection with the Action, to support
25 any suit, action, complaint, arbitration, mediation, or other grievance against any of the Mar-Jac
26 Defendants, based on, or relating in any way to, the allegations or claims of the Complaint.

1 Nothing in this Paragraph shall be construed to inhibit Plaintiff's ability to communicate with
2 other states' attorneys general, except with respect to the exchange of non-public records
3 provided by the Mar-Jac Defendants pursuant to Paragraph 7.1.

4 7.5. Plaintiff and the Mar-Jac Defendants shall use reasonable efforts to effectuate this
5 Consent Decree, including cooperating in seeking any court approvals.

6 **VIII. RELEASE, DISCHARGE, AND COVENANT NOT TO SUE**

7 8.1 Upon the entry of this Consent Decree by the Court, and in consideration of
8 payment of the Settlement Fund, and for other good and valuable consideration, the Mar-Jac
9 Defendants, Marshall Durbin Food Corporation², and all of their respective past and present,
10 direct and indirect, wholly and partially owned, parent companies, subsidiaries, and affiliates;
11 the predecessors, successors and assigns of any of the above; and each and all of the present and
12 former principals, partners, officers, directors, supervisors, employees, representatives, insurers,
13 attorneys, heirs, executors, administrators, and assigns of each of the foregoing shall be and
14 hereby are completely released and forever discharged from any and all claims, damages, fines,
15 penalties, liabilities, restitution, expenses (including costs, attorneys' fees, and interest),
16 demands, actions, judgments, suits, and causes of action arising from, or relating in any way in
17 whole or in part to, the allegations or claims of the Complaint and any amendments thereto, that
18 Plaintiff, whether acting on its own behalf or as *parens patriae*, ever had, now has, or hereafter
19 can, shall, or may have.

20 8.2 Plaintiff covenants that it will not hereafter commence, assert, or solicit any
21 claims against the Mar-Jac Defendants on behalf of the State, or any Person, state agency, or
22 other party, in any suit, action, complaint, arbitration, mediation, litigation or other grievance
23

24 ² Paragraph 137 of the First Amended Complaint alleges that Mar-Jac Poultry, Inc. announced
25 on January 24, 2014, that "it had acquired the assets of Marshall-Durbin" and that Mar-Jac
26 Poultry, Inc. stated that "its management team 'expects a smooth transition with no disruption
of operations.'" The Mar-Jac Defendants deny those allegations, as stated, and any suggestion
that they are responsible for the conduct of Marshall Durbin Food Corporation.

1 based on, or relating to, the allegations or claims in this Action, with the exception that Plaintiff
2 may enforce this Consent Decree as provided in Section 10.3.

3 8.3 The release, discharge, and covenant not to sue set forth in Paragraphs 8.1 and
4 8.2, above, include only the claims pled in the Complaint, any amendments thereto, and any
5 claims relating to or arising from the acts, omissions, or conduct at issue in the Complaint,
6 whether expressly pled or not. The release, discharge, and covenant not to sue does not include
7 any claims solely arising out of product liability or breach of contract claims in the ordinary
8 course of business (except to the extent any alleged breach of contract arises from or relates to
9 an alleged antitrust violation), or any other claims not related to the underlying Complaint. The
10 release, discharge, and covenant not to sue does not include any claims against any Defendants
11 or co-conspirators in this Action other than the Mar-Jac Defendants.

12 **IX. NO EFFECT IF THIS CONSENT DECREE IS NOT ENTERED**

13 9.1 In the event that this Consent Decree is not approved and entered by the Court,
14 then this Consent Decree shall be of no force or effect. The Mar-Jac Defendants and Plaintiff
15 expressly reserve all of their rights and defenses, including, but not limited to, personal
16 jurisdiction and venue defenses, if this Consent Decree does not become final.

17 **X. ENFORCEMENT AND RETENTION OF JURISDICTION**

18 10.1 Jurisdiction is retained by this Court for five (5) years for the purpose of enabling
19 any of the parties to this Consent Decree to apply to this Court at any time for such further orders
20 and directions as may be necessary or appropriate for the interpretation, construction or
21 implementation of any of the provisions of this Consent Decree, for the enforcement of
22 compliance, and for the punishment of any violations.

23 10.2 In any contempt of court proceeding initiated to enforce this Consent Decree due
24 to a violation of its terms, Plaintiff and the Mar-Jac Defendants may seek, and the Court shall
25 have the authority to grant, all remedies available in such a proceeding.

1 10.3 Nothing herein precludes Plaintiff from enforcing the provisions of this Consent
2 Decree, or from pursuing any law enforcement action with respect to the acts or practices of the
3 Mar-Jac Defendants not covered by this Consent Decree or any acts or practices conducted after
4 the Effective Date.

5 10.4 Nothing in this Consent Decree shall be construed to limit or bar any other
6 governmental entity (other than Plaintiff, its officials, and state agencies) from pursuing other
7 available remedies, if any, against the Mar-Jac Defendants.

8 10.5 Neither the existence of this Consent Decree nor anything contained herein shall
9 be deemed or construed to be an admission by the Mar-Jac Defendants or evidence of any
10 wrongdoing or violation of law by the Mar-Jac Defendants, or the truth of any of the claims or
11 allegations contained in the Complaint. Pursuant to Washington Rule of Evidence 408, neither
12 this Consent Decree, nor any of its terms or provisions, nor any of the negotiations, documents,
13 discussions, or proceedings connected with it, nor any other action taken to carry out this Consent
14 Decree by Plaintiff or the Mar-Jac Defendants shall be used, directly or indirectly, referred to,
15 or offered as evidence or received in evidence, in any pending or future civil, criminal, or
16 administrative action or proceeding, except a proceeding to enforce this Consent Decree, or to
17 defend against the assertion of a released claim, or as necessary to effect Paragraph 6.3.

18 10.6 This Consent Decree shall be construed and interpreted to effectuate the intent of
19 the parties, which is to provide for a complete and final resolution of Plaintiff's claims that were
20 asserted, or could have been asserted, with respect to the Mar-Jac Defendants as provided in this
21 Consent Decree.

22 10.7 Under no circumstances shall this Consent Decree or the names of the State of
23 Washington or the Office of the Attorney General, Antitrust Division, or any of its employees
24 or representatives be used by the Mar-Jac Defendants' agents or employees in connection with
25 the promotion of any product or service or an endorsement or approval of the Mar-Jac
26 Defendants' past or future practices.

1 10.8 This Consent Decree shall be governed by and interpreted according to the
2 substantive laws of the State of Washington without regard to its choice of law or conflict of
3 laws principles.

4 10.9 Plaintiff and the Mar-Jac Defendants agree that this Consent Decree constitutes
5 the entire, complete, and integrated agreement between Plaintiff and the Mar-Jac Defendants
6 pertaining to the settlement of the Action against the Mar-Jac Defendants, and supersedes all
7 prior and contemporaneous undertakings of Plaintiff and the Mar-Jac Defendants in connection
8 therewith. This Consent Decree may not be modified or amended except in writing executed by
9 Plaintiff and Mar-Jac Defendants, and, if required by law, approved by the Court.

10 10.10 Neither Plaintiff nor the Mar-Jac Defendants shall be considered the drafter of
11 this Consent Decree or any of its provisions for the purpose of any statute, case law or rule of
12 interpretation of construction that would or might cause any provision to be construed against
13 the drafter of this Consent Decree.

14 10.11 Solely for the purpose of determining or securing compliance with this
15 Consent Decree, the Mar-Jac Defendants authorize their attorneys to accept electronic service of
16 a motion by Plaintiff to enforce or interpret this Consent Decree.

17 10.12 This Consent Decree shall expire five (5) years from the date it is executed. Such
18 expiration shall in no way affect the validity of Plaintiff's release of claims against the Mar-Jac
19 Defendants.

20 10.13 Plaintiff and the Mar-Jac Defendants agree and represent that any persons signing
21 this Consent Decree are authorized to execute this Consent Decree on each party's respective
22 behalf.

23 10.14 This Consent Decree shall be binding upon, and inure to the benefit of, the
24 successors and assigns of Plaintiff and the Mar-Jac Defendants. Without limiting the generality
25 of the foregoing, each and every covenant and agreement made herein by Plaintiff shall be
26 binding upon all Persons it represents.

1 10.15 Except as provided herein with respect to Paragraph 6.3 of this Consent Decree,
2 this Consent Decree shall not benefit any third party other than the Mar-Jac Defendants, and
3 shall not be construed to provide any rights to third parties other than the Mar-Jac Defendants.
4 If this Consent Decree converts to a Qualified Settlement as defined by the Defendants'
5 Agreement and in accordance with the terms of Paragraph 6.3 of this Consent Decree, then the
6 other parties to the Defendants' Agreement shall be deemed third-party beneficiaries of this
7 Consent Decree.

8 **XI. APPROVAL AND ORDER**

9 This Consent Decree is approved and hereby entered pursuant to RCW 19.86.080. This
10 Action in all other respects is hereby dismissed with prejudice with respect to the Mar-Jac
11 Defendants without award of fees, costs, or expenses to any party.

12 **IT IS SO ORDERED.**

13 DATED this ____ day of May 2022.

14
15
16 THE HONORABLE AIMÉE MARIE SUTTON

17 Presented by:

18 ROBERT W. FERGUSON
19 Attorney General

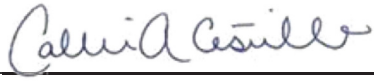
20 

s/

Travis A. Kennedy, WSBA No. 47742
Brooke Howlett Lovrovich, WSBA No. 47899
OFFICE OF THE ATTORNEY GENERAL
ANTITRUST DIVISION
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206.464.7744
travis.kennedy@atg.wa.gov
brooke.lovrovich@atg.wa.gov

25 *Attorneys for Plaintiff State of Washington*

1 Agreed to, Approved for Entry, and Notice of Presentation Waived:

2
3 s/ 

4 Larry S. Gangnes, WSBA No. 08118
5 Callie A. Castillo, WSBA No. 38214
6 Aaron Schaer, WSBA No. 52122
7 LANE POWELL PC
8 1420 Fifth Avenue, Suite 4200
9 P.O. Box 91302
10 Seattle, WA 98111-9402
11 206.223.7000
12 gangnesl@lanepowell.com
13 castilloc@lanepowell.com
14 schaera@lanepowell.com

15 Edward C. Konieczny, Georgia Bar No. 428039
16 EDWARD C. KONIECZNY LLC
17 1105 W. Peachtree Street NE, Suite 1000
18 Atlanta, GA 30309
19 404.380.1430
20 ed@koniecznylaw.com
21 Admitted *Pro Hac Vice*

22 David C. Newman, Georgia Bar No. 541148
23 Wm. Parker Sanders, Georgia Bar No. 626020
24 SMITH, GAMBRELL & RUSSELL, LLC
25 1105 W. Peachtree Street NE, Suite 1000
26 Atlanta, GA 30309
404.815.3500
dnewman@sgrlaw.com
Admitted *Pro Hac Vice*

*Attorneys for Defendants Mar-Jac Poultry,
Inc.; Mar-Jac Poultry AL, LLC; Mar-Jac
AL/MS, Inc.; Mar-Jac Poultry MS, LLC;
Mar-Jac Poultry, LLC; and Mar-Jac
Holdings, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Agreed to, Approved for Entry, and Notice of Presentation Waived:

MAR-JAC POULTRY, INC.; MAR-JAC
POULTRY AL, LLC; MAR-JAC AL/MS,
INC.; MAR-JAC POULTRY MS, LLC;
MAR-JAC POULTRY, LLC; AND
MAR-JAC HOLDINGS, INC.


Signature

Firas Barziiji
Printed Name

Authorized Representative
Title

1 **ATTACHMENT 1**

2
3 If the contingency described in Paragraph 6.3 of the Consent Decree occurs, the
4 following terms shall apply and the defined terms in the Defendants' Agreement shall have the
5 same meaning when used below:

6 Plaintiff agrees that notwithstanding anything to the contrary contained in this
7 Consent Decree, Plaintiff shall reduce the dollar amount collectable from the
8 parties to the Defendants' Agreement pursuant to any Final Judgment by a
9 percentage equal to the Sharing Percentage of the Mar-Jac Defendants, calculated
10 pursuant to Section 4 and Exhibits A and B of the Defendants' Agreement (as
11 illustrated by the Appendix to the Defendants' Agreement) as if the Mar-Jac
12 Defendants had not settled, had been found liable on the claim, and were a
13 Sharing Party with respect to the Final Judgment. Plaintiff agrees that this
14 undertaking is also for the benefit of any defendant that is a party to the
15 Defendants' Agreement and that this undertaking may be enforced by any party
16 or all of such parties to the Defendants' Agreement as third-party beneficiaries
17 hereof. Any ambiguity in this Paragraph or Paragraph 6.3 to this Consent Decree
18 or inconsistency between this Consent Decree and the Defendants' Agreement,
19 shall be resolved in favor of the Defendants' Agreement, including, without
20 limitation, Sections 6.D.1 and 6.D.2 thereof. Plaintiff further represents and
21 warrants that it has not reached any agreement to provide any portion of the
22 Settlement Fund to any person or entity that is not explicitly identified as a
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

releaser in this Consent Decree, except for proceeds received by Plaintiff's attorneys for payment of attorneys' fees.