



For Immediate Release
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United States Supreme Court Upholds Dismissal of the Pork Industry’s Efforts to Strike Down California’s Proposition 12

On May 11, the United States Supreme Court upheld an order affirming the dismissal of certain pork producers’ [complaint](#) that Proposition 12 – requiring all eggs and pork sold in California to be produced from cage free hens and crate free gestational sows – allegedly violated the Constitution’s Dormant Commerce Clause. Justice Neil Gorsuch, writing for the majority, [held](#) that petitioners the National Pork Producers Council and the American Farm Bureau Federation, who represent the largest pork processing companies in the United States, failed to plausibly allege that the law imposed an undue burden on interstate commerce.

In support of California, Fairmark Partners, LLP submitted an [amicus brief](#) on behalf of small and independent farming businesses, state farmers unions, and farm advocacy organizations, arguing that Proposition 12 promoted diversity in a production model that had become homogenized by a heavily consolidated pork processing market. Rather than seeking judicial intervention in protecting their market share, the brief argued, major pork processors should simply comply with consumer demand, given that Proposition 12 was popularly enacted by a two-thirds majority of voters.

In his opinion, Justice Gorsuch relied in part on Fairmark’s amicus brief, noting that “a number of smaller out-of-state pork producers have . . . hail[ed] the “opportunities” Proposition 12 affords them to compete with vertically integrated firms with “concentrated market power” that are wedded to their existing processing practices.”

“We’re pleased that the Court recognized that the Dormant Commerce Clause does not exist to protect giant meatpackers’ industrial production practices,” said Rucha A. Desai of Fairmark Partners, LLP, the author of the amicus brief. “These demand-driven, reasonable regulations for animal welfare and the public health can foster market competition from independent farmers using new, sustainable methods.”

“We are proud to have organized a brief to SCOTUS in this case, uplifting the voices of small, independent farmers and ranchers nationwide who support California’s Prop 12,” said Sherri Dugger, executive director, Socially Responsible Agriculture Project.” It’s clear that hearing directly from U.S. farmers—who are ready to meet the demand for more humanely raised pork—made a huge difference in this case. We’ll continue to ensure those at the highest level of power understand that Big Ag front groups do not speak for farmers nor rural communities.”

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