

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

PEOPLE OF THE STATE OF NEW YORK, by  
LETITIA JAMES, Attorney General of the  
State of New York,

Petitioners,

- against -

HILLANDALE FARMS CORPORATION,  
HILLANDALE FARMS EAST, INC.,  
HILLANDALE FARMS OF PA, INC.,  
HILLANDALE FARMS CONN, LLC,  
HILLANDALE FARMS OF DELAWARE, INC.,  
and HILLANDALE-GETTYSBURG, L.P.,

Respondents.

Index No. \_\_\_\_\_

IAS Part \_\_\_\_\_

Assigned to Justice \_\_\_\_\_

**VERIFIED PETITION**

The People of the State of New York (“the People”), by their attorney, Letitia James, Attorney General of the State of New York (NYAG), bring this special proceeding pursuant to General Business Law § 396-r and Executive Law § 63(12) against Respondents Hillandale Farms Corporation, Hillandale Farms East, Inc., Hillandale Farms of PA, Inc., Hillandale Farms Conn, LLC, Hillandale Farms of Delaware, Inc., and Hillandale-Gettysburg, L.P. (collectively, “Hillandale”).

The NYAG, on behalf of the People, alleges upon information and belief:

**PRELIMINARY STATEMENT**

1. Hillandale, one of the nation’s largest producers and wholesale suppliers of eggs, has during the coronavirus pandemic illegally gouged the prices it charges for the sale of eggs to retail grocery chains, U.S. military commissaries, food wholesalers, and other businesses in New York State.

2. During the coronavirus pandemic Hillandale has increased its prices for eggs to levels double, triple, and even quadruple the prices it charged for the same products in January 2020.

3. Hillandale has increased the prices of eggs in New York not to offset any increased costs – which it acknowledges have not affected its prices – but simply to line its own pockets and profit off New Yorkers during a time of crisis.

4. Hillandale’s conduct has wrought great damage upon consumers in New York. Hillandale has sold over four million cartons of price-gouged eggs in New York, causing harm to hundreds of thousands, if not millions, of New York consumers who have been forced during the pandemic crisis to pay sharply increased prices for eggs purchased at retail.

5. The NYAG brings this action after conducting an extensive investigation into the pricing practices of retail grocery stores, wholesale food distributors, and egg producers such as Hillandale to determine the parties responsible for causing New York consumers to be charged excessive prices for the sale of eggs during the coronavirus pandemic.

6. The NYAG brings this petition pursuant to General Business Law § 396-r and Executive Law § 63(12) for an order (a) permanently enjoining Hillandale from engaging in the illegal price-gouging alleged herein; (b) requiring it to provide an accounting; (c) ordering it to pay restitution to aggrieved consumers, damages, disgorgement of profits, a civil penalty, and costs; and (d) providing for such other and further relief as the Court deems just and proper.

## PARTIES AND JURISDICTION

7. Petitioners are the People of the State of New York.

8. The NYAG brings this special proceeding on behalf of the People pursuant to (a) General Business Law § 396-r, which prohibits businesses from charging excessive prices for vital and necessary consumer goods during periods of abnormal market disruption and provides for the NYAG to seek restitution and civil penalties for such conduct, and (b) Executive Law § 63(12), which authorizes the NYAG to seek injunctive relief, restitution, damages, disgorgement, civil penalties, and costs when any entity has engaged in repeated fraudulent or illegal acts or has otherwise demonstrated persistent fraud or illegality in conducting its business.

9. Respondent Hillandale Farms Corporation is a corporation for profit organized under the law of Ohio. It is located in Kent, Ohio.

10. Respondent Hillandale Farms East, Inc. is a business corporation organized under the law of Pennsylvania. It is located at P.O. Box 217, Codorus, Pennsylvania 17311.

11. Respondent Hillandale Farms of PA, Inc. is a corporation organized under the law of Pennsylvania. It is located at 3<sup>rd</sup> Street and Crooked Run Road, North Versailles, Pennsylvania 15137.

12. Respondent Hillandale Farms Conn, LLC is a limited liability corporation organized under the law of Delaware. It is located at 17 Schwartz Road, Bozrah, Connecticut 06334.

13. Respondent Hillandale Farms of Delaware, Inc. is a corporation organized under the law of Delaware. Its registered agent is located at 149 Sydell Drive, Hartly, Delaware 19953.

14. Respondent Hillandale-Gettysburg, L.P. is a limited partnership organized under the law of Pennsylvania. It is located at 3910 Oxford Road, Gettysburg, Pennsylvania 17325.

15. Hillandale Farms of PA, Hillandale Farms Conn, Hillandale Farms of Delaware, and Hillandale-Gettysburg, L.P. each sell eggs to purchasers in New York for gouged prices in violation of GBL 396-r.

16. On information and belief, Hillandale Farms Corp. and/or Hillandale Farms East, Inc. own and control Hillandale Farms of PA, Hillandale Farms Conn, Hillandale Farms of Delaware, and/or Hillandale Gettysburg and are also directly involved in Hillandale's sale to purchasers in New York at gouged prices in violation of GBL 396-r.

## **FACTS**

### **A. Hillandale's Business**

17. Hillandale advertises itself as "one of the nation's leading suppliers of shell eggs to retailers and distributors throughout the United States" and was recently ranked as the fourth-largest egg producer in the United States.

18. Hillandale sells eggs to several of New York's largest retail grocery store chains, including Stop & Shop, Western Beef, BJ's Wholesale Club, and Associated Supermarkets. Hillandale sells eggs to other wholesale food distributors and to several U.S. military facilities, including the commissary stores at the U.S.

Military Academy at West Point; Fort Hamilton, in Brooklyn; and Fort Drum, near Watertown.

19. Hillandale describes itself as a “vertically integrated supplier . . . directly involved in every aspect of egg production and distribution.” It produces eggs at factory farms in Pennsylvania, Connecticut, Maine, and Iowa and delivers eggs directly to its customers in New York using its own fleet of trucks.

20. Hillandale ships eggs into New York “FOB destination,” meaning that ownership of its eggs does not transfer to its customers until the eggs arrive at the customers’ facilities inside the state.

**B. Eggs Are Vital and Necessary Consumer Goods**

21. Eggs are an essential staple in the kitchens of a vast majority of U.S. kitchens. The U.S. Department of Agriculture has described eggs as “among the most nutritious foods on earth.” As reported by the American Heart Association, “eggs are an efficient, rich source of protein and vitamins” and are linked to promoting healthy metabolism, liver function, and fetal brain development.

22. Due largely to their nutritional value and their versatility in cooking, eggs are a fundamental food staple in 93% of U.S. households. Government forecasts showed in 2019 that residents of the United States consume about 279 eggs per year per person, amounting to the highest rate of egg consumption in this country in nearly fifty years.

**C. Abnormal Market Disruption Resulting from COVID-19**

23. The coronavirus pandemic has severely disrupted markets in New York and nationwide.

24. The United States was declared to be in a state of public health emergency related to the coronavirus pandemic on January 31, 2020, when the U.S. Health and Human Services Secretary declared, “As a result of confirmed cases of 2019 Novel Coronavirus . . . I, Alex M. Azar II . . . do hereby determine that a public health emergency exists and has existed since January 27, 2020, nationwide.”

25. On March 7, 2020 Governor Andrew M. Cuomo declared a disaster emergency for the State of New York, and on March 13, 2020, the President of the United States declared the country to be under a state of emergency as well.

26. The coronavirus pandemic has caused sickness and death on a massive scale. In New York State, 418,225 individuals have been diagnosed with COVID-19, and 25,179 people have died of the disease as of August 5, 2020. Nationwide, 4,748,806 individuals have been diagnosed with COVID-19, and 156,311 have died of the disease.

27. The coronavirus has caused extensive disruption to the New York economy and the broader United States economy and has resulted in an abnormal disruption in the market for food staples such as eggs.

28. Demand for food staples increased dramatically by March 2020, partly due to panic-buying by consumers afraid that that food stocks in grocery stores would be depleted. It has been reported that in the week of March 16, 2020, egg sales increased 86% over the same week during 2019.

29. The abnormal disruption in the market for eggs has also been reflected in wholesale prices as egg producers such as Hillandale have raised their prices to

unprecedented levels. Nationwide, wholesale egg prices reached “record levels,” such that egg producers have charged prices during the coronavirus pandemic three times their prices from the previous year.

30. These price increases are not the result of increases in the costs of egg production.

31. Instead, egg producers such as Hillandale have raised prices simply to take advantage of increased consumer demand during the abnormal disruption of the egg market.

**D. Hillandale Has Unconscionably Increased Egg Prices During the Coronavirus Pandemic**

32. Hillandale has taken advantage of the market disruption resulting from the coronavirus pandemic by dramatically increasing the prices it charges its customers for the wholesale purchase of eggs.

33. Hillandale began gouging its prices on eggs during March 2020.

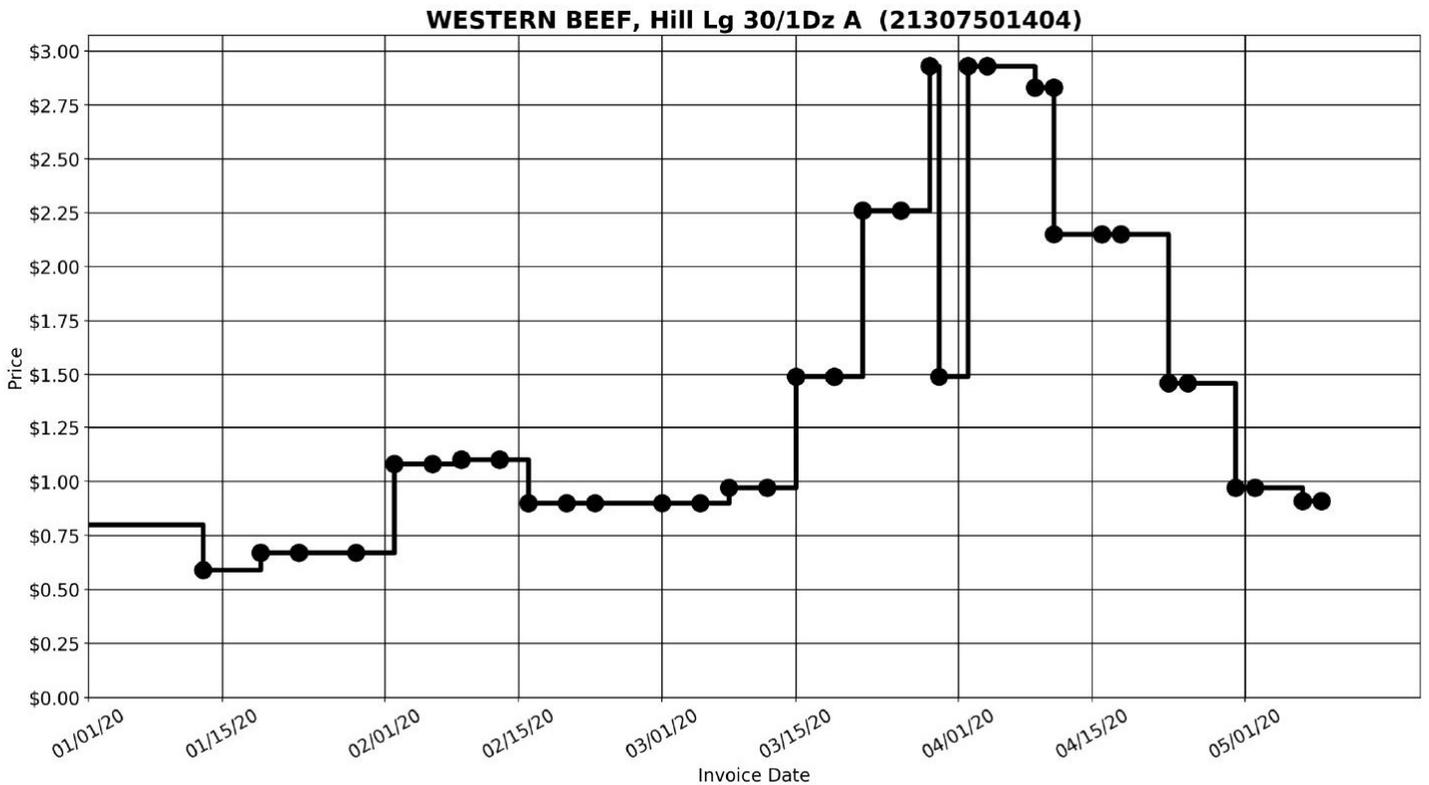
34. For example, between January 1, 2020 and March 12, 2020, Hillandale sold large white eggs to Western Beef at prices ranging from \$0.59 to \$1.10 per dozen.

35. Hillandale then raised its prices on eggs sold to Western Beef as the coronavirus pandemic grew into a full-blown crisis. On March 15, 2020 – two days after the U.S. President declared a “National Emergency Concerning the Novel Coronavirus Disease” – Hillandale raised its prices for large white eggs from \$1.10 per dozen to \$1.49. On March 22 Hillandale raised the price it charged Western

Beef for large white eggs even more sharply – to \$2.26. A week later, on March 29, it raised its price yet again, to \$2.93.

36. Hillandale’s \$2.93 price for a dozen large white eggs at the end of March was almost five times the \$0.59 price it charged Western Beef for the same product in January.

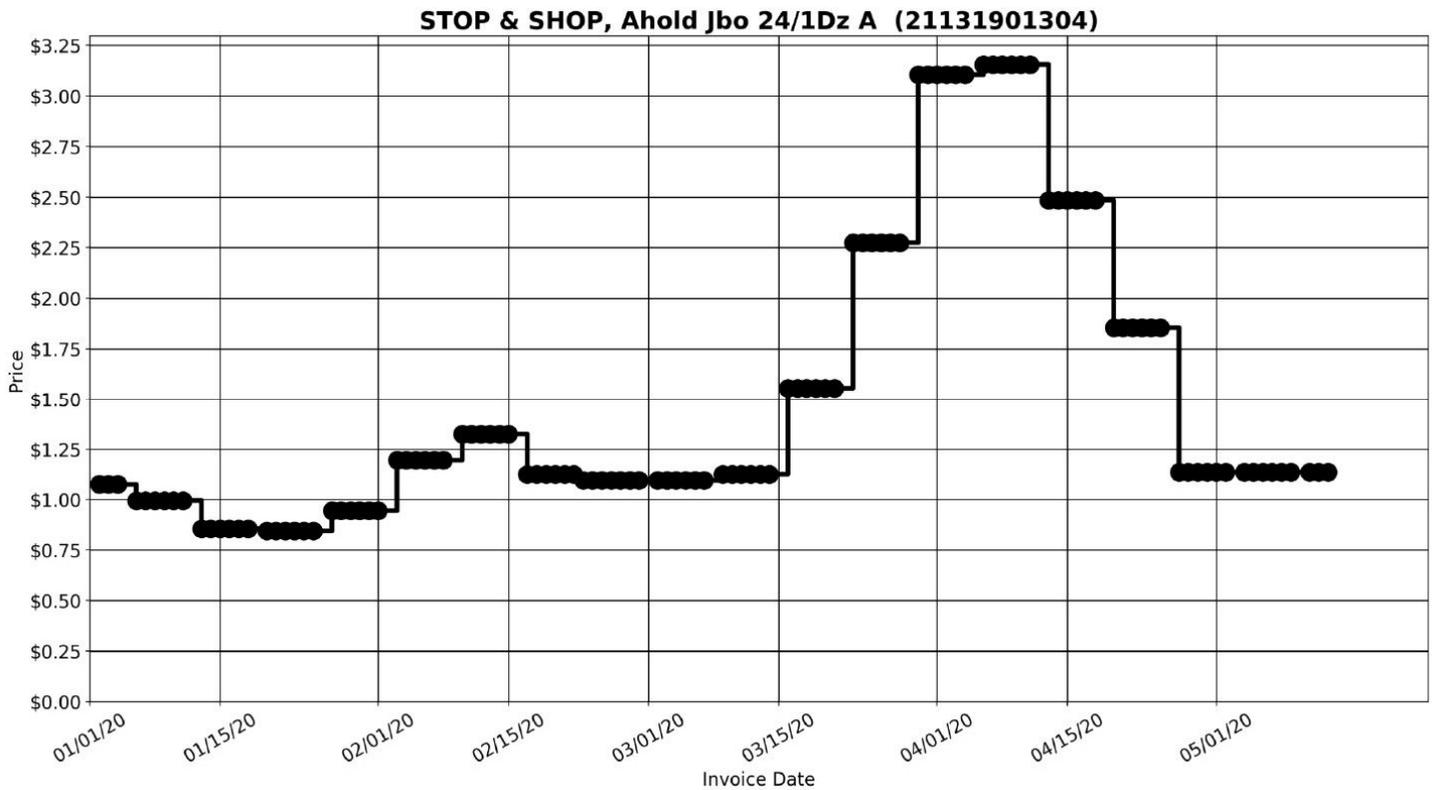
37. A graph showing the prices Hillandale has charged Western Beef for large white eggs is shown below.



38. Hillandale has increased the prices it charged to Stop & Shop similarly. It sold Stop & Shop jumbo white eggs for prices between \$0.845 and \$1.325 per dozen from January 1, 2020 through March 14, 2020. During the pandemic emergency Hillandale subsequently increased the prices it charged Stop & Shop for the same product – to \$2.275 on March 23, \$3.105 on March 30, and

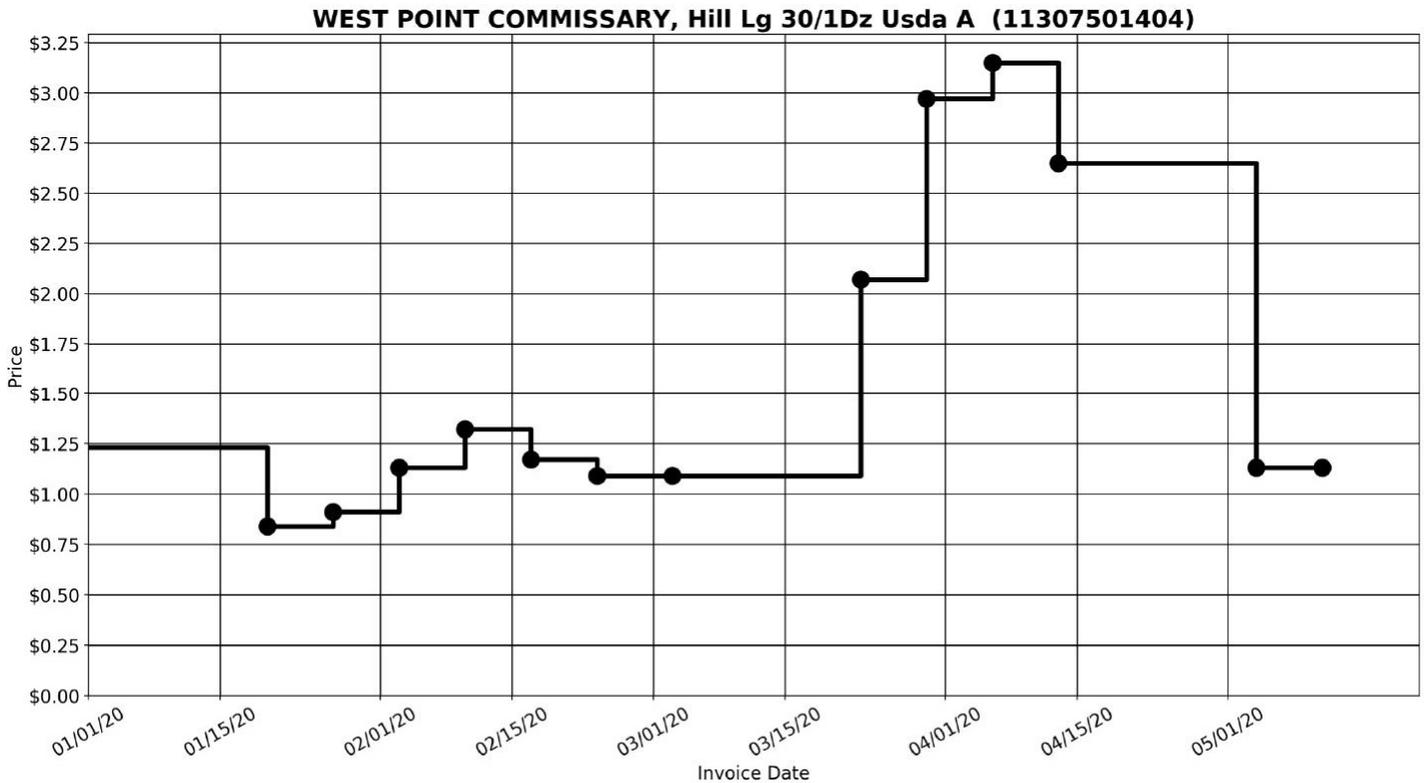
\$3.155 on April 6 – or almost quadruple the \$0.845 price Hillandale charged in January.

39. A graph showing the prices Hillandale has charged Stop & Shop for jumbo white eggs is shown below.



40. Hillandale has charged similar prices to the U.S. Military Academy at West Point. During January and February 2020 Hillandale charged West Point \$0.84 to \$1.32 per carton of a dozen large white eggs. Starting in late March Hillandale’s prices skyrocketed – to \$2.07 on March 23, \$2.97 on March 30, and then \$3.15 on April 6, *id.*, a price almost quadruple the \$0.84 price it charged West Point in January.

41. A graph showing the prices Hillandale has charged West Point for large white eggs is shown below.



42. Hillandale increased its prices similarly to its other customers as well, including BJ's Wholesale Club, Associated Supermarkets, and U.S. military commissaries including those at Fort Hamilton and Fort Drum.

43. Hillandale continued gouging prices as to most of its customers until at least late April 2020.

44. On information and belief, during the coronavirus pandemic Hillandale has raised its prices for eggs sold to levels exceeding any prices Hillandale has previously charged in its history.

**E. Hillandale Has Increased Prices Not Due to Increased Costs but Only to Take Advantage of Increased Consumer Demand**

45. Hillandale has raised its prices not in response to increased costs but simply to take advantage of increases in consumer demand resulting from the

coronavirus pandemic. Hillandale has stated that its pricing “has nothing to do with cost and or overhead.” Instead, Hillandale states that its pricing “is solely Market based.”

46. The “market” that Hillandale purports to follow for setting its prices is a set of “index” prices reported by Urner Barry, a market research firm focused on agricultural commodities. Urner Barry prepares its index prices by communicating with egg producers such as Hillandale through phone calls, email, and instant messaging to gather information including both “bona fide trades” and “market participant assessments” about the direction of the egg market. Urner Barry uses this information to create its daily price indices for eggs. Producers such as Hillandale then use Urner Barry’s indices as benchmarks for setting their egg prices for sale.

47. In other words, Urner Barry’s indices work like a feedback loop: Egg producers such as Hillandale tell Urner Barry their “assessments” of egg prices; Urner Barry then repeats back to the egg industry their collective assessment, distilled into indexed prices; and egg producers such as Hillandale then use Urner Barry’s indexed prices as benchmarks to price their eggs.

48. The function of Urner Barry’s pricing report during the coronavirus pandemic has been to allow producers such as Hillandale to capitalize on increased consumer demand during a crisis. As an Urner Barry representative has stated, “People see a sharp increase in prices and assume they’re being gouged, but it’s just

a function of the market[]’ . . . ‘Egg prices are up because demand is up sharply. Suppliers are seeing four, five, six times the level of demand as before . . . .’

49. Urner Barry has reported that the coronavirus pandemic consumers have shown “explosive demand” for eggs, stating, “It’s like ahead of a major snowstorm, when people are not sure if they’ll be able to go out again, other than this is happening on a national scale.”

50. Hillandale informed the NYAG that its customers have “agreed to” Hillandale’s pricing practices.

51. To the extent that any such agreements with its customers purport to allow Hillandale to charge unconscionably excessive prices for eggs during an abnormal market disruption, such provisions are illegal, in violation of public policy, and unenforceable under New York law.

**F. Hillandale Has Sold over Four Million Cartons of Eggs at Gouged Prices, Resulting in Injury to Hundreds of Thousands of New York Consumers**

52. Hillandale’s price-gouging has resulted in injury to scores of New York consumers.

53. Hillandale has gouged prices on the eggs it sells to grocery stores and to wholesale distributors, and the grocery stores and wholesale distributors generally pass those price increases on to consumers, as shown by the hundreds of complaints that consumers have submitted to the NYAG complaining about egg prices at grocery stores.

54. During the coronavirus pandemic Hillandale gouged prices on the sale of in excess of four million packages of eggs (such as cartons of 6, 12, 18, or 24 eggs) sold into New York State, generating total revenues of approximately \$8,000,000.

55. On information and belief, at least \$4,000,000 of this amount represents revenues Hillandale illegally obtained through price-gouging.

56. Each time one of these over four million packages of eggs was sold at retail for an inflated price, Hillandale's price-gouging caused injury to a consumer.

57. On information and belief, considering that Hillandale has sold over four million cartons of eggs in New York at gouged prices, Hillandale has injured hundreds of thousands, if not millions, of New Yorkers through its price-gouging practices.

**FIRST CAUSE OF ACTION BY THE PEOPLE AGAINST  
HILLANDALE PURSUANT TO GENERAL BUSINESSES LAW 396-r:**

**PRICE-GOUGING**

58. The People repeat and re-allege paragraphs 1 through 577 as if fully set forth herein.

59. General Business Law Section 396-r(2), which prohibits price-gouging, states as follows:

During any abnormal disruption of the market for consumer goods . . . vital and necessary for the health, safety and welfare of consumers, no party within the chain of distribution of such consumer goods . . . shall sell or offer to sell any such goods . . . for an amount which represents an unconscionably excessive price. . . .

GBL 396-r(2) (prior to amendment of statute June 6, 2020).

60. Since at least January 31, 2020, New York and the United States generally have experienced abnormal disruptions of the market due to the coronavirus pandemic.

61. Eggs are vital and necessary consumer goods.

62. Hillandale has sold eggs during this period of abnormal market disruption at unconscionably excessive prices.

63. Hillandale has charged amounts for the sale of eggs representing a gross disparity from the price at which the same products were sold immediately prior to the onset of the abnormal disruption of the market.

64. Hillandale's prices are not the result of costs not within its control imposed upon them for the goods sold.

65. As a supplier, wholesaler, and/or distributor of eggs, Hillandale is a party within the chain of distribution for eggs.

66. Eggs sold by Hillandale have been present in New York State prior to their sale by Hillandale.

67. Accordingly, Hillandale has engaged in price-gouging in violation of GBL 396-r.

**SECOND CAUSE OF ACTION BY THE PEOPLE AGAINST  
HILLANDALE PURSUANT TO EXECUTIVE LAW § 63(12):**

**REPEATED AND PERSISTENT ILLEGAL ACTS  
IN THE FORM OF PRICE-GOUGING**

68. The People repeat and re-allege paragraphs 1 through 67 as if fully set forth herein.

69. Executive Law Section 63(12), which prohibits repeated and persistent illegal acts by business, states as follows:

Whenever any person shall engage in repeated . . . illegal acts or otherwise demonstrate persistent . . . illegality in the carrying on, conducting or transaction of business, the attorney general may apply . . . to the supreme court of the state of New York, on notice of five days, for an order enjoining the continuance of such business activity or of any . . . illegal acts, directing restitution . . . , and the court may award the relief applied for or so much thereof as it may deem proper. . . .

Exec. L. § 63(12).

70. Hillandale has engaged in price-gouging in violation of GBL 396-r.

71. Price-gouging is an illegal act under New York law.

72. Hillandale has engaged in price-gouging on a repeated and/or persistent basis.

73. Accordingly, Hillandale has engaged in repeated and persistent illegal acts in violation of Executive Law § 63(12).

### **PRAYER FOR RELIEF**

WHEREFORE, the People of the State of New York respectfully request that the Court issue an order and judgment:

a. Permanently enjoining Respondents; their agents, trustees, employees, successors, heirs, and assigns, and any other person under their direction or control, whether acting individually or in concert with others, or through any corporate or other entity or device through which one or more of them may now or hereafter act or conduct business, from engaging in the illegal practices alleged herein;

b. Ordering Respondents to provide an accounting to the NYAG of all its sales in New York of eggs from November 1, 2019 to the present date, including for

each transaction the date of sale, unit price, quantity, total amount sold, invoice number, purchase order number, name and address of each purchaser, and other information as needed for the NYAG to determine in detail the extent, nature, and duration of Respondents' price-gouging;

c. Ordering Respondents to pay full restitution and damages to the NYAG equal to the amounts charged by Respondents for each egg product from the onset of its price-gouging for that product to the present, minus the prices charged for the same products during the thirty-day period prior to the onset of price-gouging for that product;

d. Ordering Respondents to disgorge all profits from the illegal practices alleged herein;

e. Ordering Respondents to pay a civil penalty of \$25,000;

f. Awarding to the NYAG, pursuant to New York Civil Practice Law and Rules § 8303(a)(6), costs in the amount of \$2,000 against each Respondent; and

g. Granting such other and further relief as the Court deems just and proper.

Dated: August 11, 2020

Respectfully submitted,

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Petitioners

By: 

John P. Figura  
Assistant Attorney General  
Bureau of Consumer Frauds and Protection  
28 Liberty Street  
New York, New York 10005

Jane M. Azia  
Bureau Chief

Laura J. Levine  
Deputy Bureau Chief