

Peanut farmers advance in price-fixing lawsuit against Big Shell

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A \$57 million class action suit alleges that three shelling companies—who together dominate 80 percent of the peanut industry—conspired to depress prices.

In recent years, the biggest companies in tuna, chicken, and beef have all been accused of colluding with their competitors, orchestrating alleged schemes to enrich themselves at the expense of producers and consumers. Now, meet the latest entrant in the price-fixing annals: Big Peanut.

Earlier this month, a Virginia federal judge certified a class action lawsuit against America's three largest peanut shellers, ruling that five farmers and their businesses made a “plausible” argument that the companies that control their market conspired to depress crop prices by 18 percent.

Almost 12,000 peanut farmers across a handful of Southeastern states—primarily Georgia, but also Florida, Alabama, and others—who sold to those companies between 2014 and 2019 will have the opportunity to seek their share of no less than \$57 million in lost earnings. Two of the defendants, Olam Peanut Shelling and the Birdsong Corporation, have reached preliminary settlements. A third, the Golden Peanut Company, a subsidiary of processing giant ADM, is still fighting the charges.

The lawsuit centers around a particular kind of nut called the runner, which represents about 80 percent of the three million tons of peanuts that American farmers harvest every year.

The conspiracy “has been devastating to many farmers,” the plaintiffs said, in a court filing. They claim the low prices led “numerous farmers to borrow from generations of equity built up in their land” to stay afloat, and that smaller farmers have been “run out of business.”

Despite having settled, Olam “continues to deny the allegations,” a spokesperson told The Counter. (Birdsong and Golden Peanut did not respond to media inquires.)

The lawsuit centers around a particular kind of nut called the runner, which represents about 80 percent of the three million tons of peanuts that American farmers harvest every year. Runner peanuts are excellent for roasting, but the overwhelming majority aren't eaten

that way. Typically, they're sold raw to shelling companies, who process them to be ground into peanut butter and other snacks.

(The peanuts eaten at ballparks are called Virginias, and they're only about 14 percent of the nation's peanut crop.)

| In 1970, there were 92 peanut shelling companies in the U.S. There are just 14 today.

Runners are typically planted in April or May, after the last frost of the year. When they're ready for harvest in the fall, farmers pull the bunchy plants out of the ground, and quickly truck them over the local buying points. These middlemen businesses clean and grade the crops, and have exclusive contracts to sell them to shellers—companies like Birdsong, Golden, and Olam Peanut Shelling.

Once inside the shelling plant, the nuts roll through a series of destoners, shakers, aspirators, separators and elevators that remove the kernels, and dump them into sacks for shipment or storage. From there, the shellers market and sell the bulk nuts to candy companies and manufacturers, such as Hershey, Mars, and Jif.

As both buyer and seller, shellers have long had a lot of power in the market. That power has only grown over the last few decades. Since 1970, the number of shellers has consolidated from 92 companies nationally down to just 14 today, the farmers say, with the three shellers named in the lawsuit controlling between 80 and 90 percent of all peanut processing in the U.S.

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That's a hugely powerful bloc, even by the standards of the highly consolidated farm sector. For instance, America's four largest beef companies control over 73 percent of their market, and the four biggest chicken processors control 54 percent of theirs, according to a recent report by rural sociologist Mary Hendrickson.

With fewer companies to sell to, the farmers say they struggle to find better deals. Even grower-owned processing co-ops, like Georgia's Premium Peanut, "are not a significant competitive challenge to shellers as large and as dominant" as the defendants, according to the complaint.

There's something else, too, that distinguishes the peanut from your typical commodity crop. Unlike corn or soybeans, there's no futures market or public exchange to buy and sell all those millions of tons of nuts. That means prices are set entirely through contracts

between shellers and farmers, who say they're at the mercy of the "dominant players." The suit alleges that shellers wield this market power coercively, using it to roast growers with unfair deals.

Despite significant shocks to the system, the farmers say the prices they have received for their raw, unharvested crops has remained pretty much the same since 2014, at around \$425 per ton. They say profits would have increased under fair market conditions.

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In 2016, for instance, after heavy rains and floods from Hurricane Matthew pummeled the Carolinas, and droughts starved fields in Georgia and Alabama, the national runner inventory fell by almost 100,000 tons. Prices didn't reflect that scarcity. Same thing, after Hurricane Michael crushed peanut crops in Florida, Georgia and Alabama in 2018.

And those prices haven't much budged during the pandemic, according to USDA market reports, even as consumption of peanuts, and especially peanut butter, is at an all-time high.

That all caught the attention of the farmers in the suit, whose attorneys have since discovered records that the judge said lend credence to their accusations. Emails showed that employees at the three companies exchanged purchase prices and forged chummy relationships through trade associations. The exchange of private pricing information through illegal coordination, data tools, and other means has been a hallmark of the price-fixing suits in other areas of the food sector.

"It is always a pleasure to break bread together and talk about the industry and where we are and where we are going," read one email between Olam and Birdsong employees. The defendants claimed in court that those exchanges don't violate the Sherman Act, which bans price fixing.

The farmers say that more salty talk will be forthcoming through roughly two dozen scheduled depositions. A jury trial for the case, entitled *In re Peanut Farmers Antitrust Litigation*, is set for January.