

ECF No. 868
Public Redacted
Version

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**CONSUMER INDIRECT
PURCHASER PLAINTIFFS'
MEMORANDUM OF LAW IN
SUPPORT OF THEIR MOTION
FOR CLASS CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

FILED UNDER SEAL

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. CLASS DEFINITION.....	4
III. PROFFER OF FACTS COMMON TO THE CLASS.....	4
A. Before and during the class period, Defendant Processors removed and restrained industry slaughter capacity.	4
B. After removing capacity from the market, Defendant Processors agree to allocate market share and manage their respective slaughter volumes.....	11
C. Throughout the class period, Defendant Processors stabilized production by not competing for market share.	16
1. Each Defendant maintained a pre-determined market share target throughout the class period.....	16
2. Defendant Processors’ efforts stabilized production and beef prices throughout the class period.	19
a. USDA Slaughter Reports became a monitoring tool to enforce and stabilize the conspiracy.	19
b. Defendant Processors stabilized and restrained supply through various mechanisms.	20
3. Defendant Processors ran below capacity, against their own self-interest in furtherance of the market share allocation scheme.	24
D. Defendant Processors’ coordinated efforts to reduce capacity and stabilize production created a historic shift in the spread between cattle and beef prices.	26
IV. LEGAL STANDARD.....	28
V. ARGUMENT.....	29
A. The elements of Rule 23(a) support certification.....	29
1. The class is sufficiently numerous.	29

2.	Common questions of fact and law exist.	29
3.	The Named Plaintiffs’ claims are typical of the class claims.	30
4.	The Named Plaintiffs will adequately represent the class.	31
B.	The class satisfies Rule 23(b)(3).	32
1.	Questions of law and fact predominate over any individual questions.....	32
a.	Common questions about Defendant Processors’ violations of the antitrust laws predominate.	34
b.	Antitrust impact will be proven through evidence common to the class.	35
(1)	Market structure evidence supports a finding of common impact.	36
(2)	Common evidence demonstrates that industry-wide market prices were a shared reference point for all transactions.....	40
(3)	Correlation analyses show that pork prices moved together among Defendant Processors, geographic regions, and customers.	41
(4)	Regression analysis shows common impact in the form of higher beef prices.....	43
(5)	Economic theory predicts that overcharges were passed through from direct purchasers to class members.	45
(6)	Consumer IPPs measure pass-through based on millions of observations from market participants.	46
2.	Damages to class members need not be measured with precision, but can be measured using a common methodology.....	47

3.	A class action is superior to any other alternative.....	48
C.	The implicit requirements of Rule 23 are satisfied here.	50
D.	Class Counsel are adequate under Rule 23(g).....	51
VI.	CONCLUSION	51

TABLE OF AUTHORITIES

Page(s)

CASES

Amchem Prod., Inc. v. Windsor,
521 U.S. 591 (1997)..... 33

In re Blood Reagents Antitrust Litig.,
2015 WL 6123211 (E.D. Pa. Oct. 19, 2015)..... 41

In re Broiler Chicken Antitrust Litig.,
2022 WL 1720468 (N.D. Ill. May 27, 2022)..... *passim*

In re Capacitors Antitrust Litig.,
2018 WL 5980139 (N.D. Cal. Nov. 14, 2018) 34, 37

Carnegie v. Household Int’l, Inc.,
376 F.3d 656 (7th Cir. 2004) 49

Comcast Corp. v. Behrend,
569 U.S. 27 (2013)..... 48

Consumer Indirect Purchasers, v. Agri Stats, Inc.,
No. 23-8002, (8th Cir. May 19, 2023)..... 3

Custom Hair Designs by Sandy v. Cent. Payment Co., LLC,
984 F.3d 595 (8th Cir. 2020) *passim*

In re Dollar Gen. Corp. Motor Oil Mktg. & Sales Pracs. Litig.,
2019 WL 1418292 (W.D. Mo. Mar. 21, 2019)..... 51

Fond Du Lac Bumper Exch., Inc. v. Jui Li Enter. Co.,
2017 WL 4457515 (E.D. Wis. Aug. 8, 2017)..... 45

Fond Du Lac Bumper Exch., Inc. v. Jui Li Enter. Co., Ltd.,
2012 WL 3841397 (E.D. Wis. Sept. 5, 2012)..... 45

Gordon v. Microsoft Corp.,
2001 WL 366432 (D. Minn. Mar. 30, 2001) 46

Illinois Brick Co. v. Illinois,
431 U.S. 720 (1977)..... 4

Kleen Prods. LLC v. Int’l Paper Co.,
831 F.3d 919 (7th Cir. 2016) 37, 38, 39, 40

Kleen Prods. LLC v. Int’l Paper Co.,
306 F.R.D. 585 (N.D. Ill. 2015)..... 35, 47

In re Korean Ramen Antitrust Litig.,
2017 WL 235052 (N.D. Cal. Jan. 19, 2017)..... 46

Lafollette v. Liberty Mut. Fire Ins. Co.,
2016 WL 4083478 (W.D. Mo. Aug. 1, 2016)..... 50

McKeage v. TMBC, LLC,
847 F.3d 992 (8th Cir. 2017) 50

Messner v. Northshore Univ. Healthsystem,
669 F.3d 802 (7th Cir. 2012) 35, 39

Midwestern Mach. v. Nw. Airlines, Inc.,
211 F.R.D. 562 (D. Minn. 2001)..... 43

Mullins v. Direct Digital, LLC,
795 F.3d 654 (7th Cir. 2015) 48

In re Mushroom Direct Purchaser Antitrust Litig.,
319 F.R.D. 158 (E.D. Pa. 2016)..... 41

Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC,
31 F.4th 651 (9th Cir.) *passim*

Phillips Petroleum Co. v. Shutts,
472 U.S. 797 (1985)..... 49

In re Polyurethane Foam Antitrust Litig.,
2014 WL 6461355 (N.D. Ohio Nov. 17, 2014)..... 39

In re Pork Antitrust Litig.,
2023 WL 2696497 (D. Minn. Mar. 29, 2023) (*Pork*)..... *passim*

In re Pork Antitrust Litig.,
665 F. Supp. 3d 967 (D. Minn. 2023)..... *passim*

In re Potash Antitrust Litig. (Potash),
159 F.R.D. 682 (D. Minn. 1995)..... 33, 34, 35, 47

Sandusky Wellness Ctr., LLC v. Medtox Sci., Inc.,
821 F.3d 992 (8th Cir. 2016) 50

In re Scrap Metal Antitrust Litig.,
527 F.3d 517 (6th Cir. 2008) 34

In re Static Random Access Memory (SRAM) Antitrust Litig.,
264 F.R.D. 603 (N.D. Cal. 2009)..... 50

In re Terazosin Hydrochloride Antitrust Litig.,
220 F.R.D. 672 (S.D. Fla. 2004)..... 50

United States v. Apple Inc.,
952 F. Supp. 2d 638 (S.D.N.Y. 2013)..... 49

United States v. E. Mushroom Mktg. Coop., Inc.,
No. 2:04-cv-05829 (E.D. Pa. 2004) 5

In re Urethane Antitrust Litig.,
237 F.R.D. 440 (D. Kan. 2006)..... 40

In re Urethane Antitrust Litig.,
768 F.3d 1245 (10th Cir. 2014) 34

Valspar Corp. v. E.I. Du Pont De Nemours & Co.,
873 F.3d 185 (3d Cir. 2017)..... 37

Vogt v. State Farm Life Ins. Co.,
963 F.3d 753 (8th Cir. 2020) 31

Wal-Mart Stores, Inc. v. Dukes,
564 U.S. 338 (2011)..... 28, 30

In re Wholesale Grocery Prod. Antitrust Litig.,
2016 WL 4697338 (D. Minn. Sept. 7, 2016) *passim*

In re Wirebound Boxes Antitrust Litig.,
128 F.R.D. 268 (D. Minn. 1989)..... 33, 35

In re Workers’ Comp.,
130 F.R.D. 99 (D. Minn. 1990)..... *passim*

In re Zurn Pex Plumbing Prod. Liab. Litig.,
644 F.3d 604 (8th Cir. 2011) 29, 32

STATUTES

Livestock Mandatory Reporting Act..... 19

Sherman Act 33, 34, 49

OTHER AUTHORITIES

7 Charles Alan Wright & Arthur R. Miller,, Federal Practice and Procedure
§ 1781 (3d ed. 2020) 34

James MacDonald, U.S.D.A. ECON. RSCH. SERV., *Concentration in U.S.
Meatpacking Industry and How It Affects Competition and Cattle Prices*
(Jan. 25, 2024)..... 10, 27

Short Cite	Long Cite
Compl.	Consumer Indirect Purchaser Plaintiffs’ Sixth Amended Class Action Complaint, ECF No. 757 (July 29, 2024)
Ex.	All exhibit references are to the Declaration of Shana E. Scarlett in Support of Consumer Indirect Purchaser Plaintiffs’ Motion for Class Certification
Mangum	Declaration of Dr. Russell Mangum in Support of Consumer Indirect Purchaser Plaintiffs’ Motion for Class Certification
PARTIES	
Consumer IPPs	Consumer Indirect Purchaser Plaintiffs
Named Plaintiffs	Kenneth Peterson, Jason Falbo, Sharon Dawson-Green, Lisa Melegari, Cindy Abernathy, Andrew Cohen, Marcelo Lopez, Stacey Troupe, Eric Gauchat, Sharon Killmon, Karen Carter, Charlie Morgan, Brent Rasmussen, David Renz, Kent Winchester, Brenda King, Robert Trepper, Michelle Oversen, William Gee, Jacquelyn Watson, John Shupe, Martin Jarmulowicz, Harold M. Nyanjom, Mark Sperry, Dan Campbell, Craig Margulies, Lindsey Lemoi, and Leigh Tiller
Defendant Processors	Cargill, National, JBS, and Tyson (as defined herein)
Cargill	Defendants Cargill, Incorporated and Cargill Meat Solutions Corporation
National	Defendant National Beef Packing Company, LLC
JBS	Defendants JBS S.A., JBS USA Food Company, Swift Beef Company, and JBS Packerland, Inc.
Tyson	Defendants Tyson Foods, Inc. and Tyson Fresh Meats, Inc.

I. INTRODUCTION

By August 2014, Defendant Processors, the four largest beef processors in the country, which together control more than 80% of beef served on American's tables, entered into a market allocation agreement and stopped competing against each other for market share. The purpose of the scheme was to increase Defendant Processors' profits—the margin between the cost of obtaining cattle and producing beef products, and the price of selling wholesale cuts of beef. Consumer IPPs bring this motion on behalf of a class of consumers who indirectly purchased certain beef products during the class period from Tyson, JBS, National, and Cargill.

Evidence common to the class demonstrates that Defendant Processors conspired to stabilize the supply of beef sold to consumers. To accomplish this, in 2013 and 2014, Defendant Processors engaged in a series of long-term production restraints, including closing, idling, and putting restrictive deed covenants on slaughter facilities. Then, in July 2014, Defendant Processors attended a trade organization meeting and came to the understanding they would adhere to a certain market share of the beef market. And so Defendant Processors periodically reduced their slaughter volumes against their own self-interest, and communicated regarding slaughter levels. Because of this concerted action, Defendant Processors stabilized the supply of beef available for sale to retail operations, and therefore to Consumer IPPs. *See* section III.

Evidence, common to the class, demonstrates that this conspiracy had its intended impact. First, Consumer IPPs' expert, Dr. Russell Mangum, testifies that certain characteristics of the beef industry—the high level of concentration, barriers to entry,

inelastic demand, and commodity nature of the products—meant that it was nearly impossible for any direct (or indirect) purchaser to avoid paying an overcharge. *See* Mangum §§ III.A, IV.A. Second, Dr. Mangum performs a series of correlations to confirm that any overcharge in the market would have been felt by all class members. These price correlations across Defendant Processors, geographic regions, and customers *all* show that the prices of beef products in the class moved together. *Id.*, § IV.C. Third, Dr. Mangum uses a regression model to isolate the effects of the conspiracy and demonstrate that class members paid an overcharge. *Id.*, § V. And, finally, Dr. Mangum uses data subpoenaed from non-parties through the distribution channel to measure the pass-through of this overcharge to the end-consumer. *Id.*, § VI. Economic theory, as well as documents and testimony, confirms that such pass through is expected in this market. *Id.*

Consumer IPPs satisfy the elements of Rule 23(a). The class is undoubtedly numerous. There are many common questions of law and fact, such as whether Defendant Processors conspired to stabilize the supply and price of beef and whether this violates antitrust laws. The Named Plaintiffs have each suffered losses that make them typical of absent class members and are sufficiently committed to this litigation that they will adequately represent the class. The implicit requirements of Rule 23 are also satisfied because class members may be identified by reference to objective criteria and Named Plaintiffs fall within the proposed classes. *See* section V.A.

Consumer IPPs also meet the requirements of Rule 23(b)(3). Common questions of fact and law predominate in this action. As discussed above, Consumer IPPs present

robust evidence, common to the class, of Defendant Processors' agreement to stabilize the supply and price of beef—and that their agreement had a common impact on class members. *See* section V.B.1.

Finally, a class action is superior to proceeding by individual claims. Each class member has suffered harm, but not enough to individually justify an expensive lawsuit. Yet, combined, the damages to Consumer IPPs are estimated to be almost \$2 billion. Without the existence of a class action, there would likely be no action at all. *See* sections V.B.2–3.

In short, the proposed Consumer IPP class should be certified. That has been the consensus in recent, similar antitrust cases involving other proteins, including one pending in this Court. In *Pork*, this Court certified three plaintiff classes supported by the same expert as here (Dr. Mangum), and the Eighth Circuit denied the defendants' 23(f) petition seeking review of that decision.¹ Likewise, in *Broilers*, the Honorable Thomas Durkin certified three plaintiff classes, and the defendants' 23(f) petition was denied by the Seventh Circuit.²

For all these reasons, Consumer IPPs respectfully request that the Court grant their class certification motion.

¹ *In re Pork Antitrust Litig.*, 2023 WL 2696497 (D. Minn. Mar. 29, 2023) (*Pork*); *Consumer Indirect Purchasers, v. Agri Stats, Inc.*, No. 23-8002, (8th Cir. May 19, 2023).

² *In re Broiler Chicken Antitrust Litig. (Broilers)*, 2022 WL 1720468 (N.D. Ill. May 27, 2022); *In re Broiler Chicken Antitrust Litig.*, No. 22-8007, ECF No. 25 (7th Cir. July 18, 2022).

II. CLASS DEFINITION

The proposed class definition for the Consumer IPP class is:

All persons and entities who indirectly purchased for personal consumption one or more of the following beef products in the Repealer Jurisdictions between August 1, 2014 to December 31, 2019: beef from Defendants (whether fresh or frozen) made from chuck, loin, rib or round primal cuts. For this lawsuit, beef excludes any product that is marketed as USDA Prime, organic, No Antibiotics Ever (“NAE”), antibiotic free, 100% grass-fed, kosher, halal, certified humane, Wagyu, “American-Style Kobe Beef,” as well as any products that are ground, marinated, seasoned, flavored, breaded, or cooked.³

The Repealer Jurisdictions are those states which have “repealed” the Supreme Court’s holding in *Illinois Brick Co. v. Illinois*⁴ and provide standing to indirect purchasers.⁵

III. PROFFER OF FACTS COMMON TO THE CLASS

A. Before and during the class period, Defendant Processors removed and restrained industry slaughter capacity.

The events leading to the start of the class period began when Tyson, the nation’s largest processor, publicly signaled to the other Defendant Processors that it no longer

³ Excluded from the class are Defendants, the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; any affiliate, legal representative, heir or assign of any Defendant; any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action. Further excluded are purchases of products that contain ingredients other than beef (except for salt or water).

⁴ 431 U.S. 720 (1977). Internal citations, quotations and alternations omitted, and emphasis added throughout, unless otherwise indicated.

⁵ For purposes of this class certification motion, those jurisdictions are: Arizona, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Massachusetts, Maine, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, West Virginia, and Wisconsin.

planned to compete for market share.⁶ [REDACTED]

[REDACTED]⁷ The other Defendant Processors heard Tyson's repeated calls.

Subsequently, Defendant Processors closed, idled, and refused to sell plants, and added restrictive deed covenants preventing their use for cattle slaughter, which resulted in the long-term removal of slaughter capacity for the beef market. By shuttering existing facilities, Defendant Processors lowered their respective slaughter volumes and reduced their largest input cost: the price of cattle. At the same time, the restrained slaughter reduced the amount of beef on the market from competitive levels. These plant-related acts restrained capacity rather than allowing the market to respond rationally to changing conditions. Mangum, ¶ 191. The Department of Justice previously found that a series of deed restrictions on mushroom farms removing 8% of the capacity of the mushroom industry was anticompetitive.⁸ Discussed in more detail in the Mangum Report, Consumer IPPs briefly review these closures and restraints on capacity below. *See also* Mangum, § III.B.

In January 2013, Cargill closed its Plainview, Texas plant. At that time, [REDACTED]

[REDACTED]⁹ [REDACTED]

⁶ Ex. 1, TYSONBEEF03018949, 953 (Kathol Ex. 328).

⁷ Ex. 2, NationalBeef-00727819.

⁸ *United States v. E. Mushroom Mktg. Coop., Inc.*, No. 2:04-cv-05829 (E.D. Pa.), Compl., ECF No. 1. *Id.*, Final Judgment at 1, ECF No. 9-3.

⁹ Ex. 3, Carlgren Ex. 1542 (CARGILL000100037 at 37).

[REDACTED]¹⁰ In
October 2016, while negotiating the sale of the plant, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]¹² To assure its co-conspirators that the sale would not increase industry packing capacity, [REDACTED]

[REDACTED]¹³ See also Mangum, ¶¶ 196–199.

In April 2013, **JBS** purchased a **Nampa, Idaho** facility with a capacity of 1,100 head per day. Yet, JBS kept the Nampa facility offline despite the extraordinary profit margins experienced during the class period. In addition, JBS ensured the facility was never used for beef production by refusing to sell. When entities expressed interest in purchasing this facility, JBS responded: “[REDACTED]

[REDACTED]

[REDACTED]¹⁴ Holding excess capacity is considered a facilitating factor for anticompetitive behavior, as it serves as a deterrent to would-be competitors. In

¹⁰ Ex. 4, CARGILL001929460, 63.

¹¹ Ex. 5, Carlgren Ex. 1547.

¹² Ex. 6, CARGILL001913660.

¹³ Ex. 7, TYSONBEEF01252033 (Tyson); Ex. 8, McGee Ex. 1611 (NationalBeef-00057192) (National).

¹⁴ Ex. 9, JBS-0001318435.

response to a proposal on behalf of another buyer, JBS’s Bill Rupp was more clear: “
”¹⁵ During the class
period, JBS kept Nampa’s capacity off the market. *See* Mangum, ¶¶ 200–02.

In January 2014, National announced the closure of its Brawley, California
plant.¹⁶ This closure was a substantial departure from the two decades of growth by
National from 1% market share in 1991 to 14% market share by early 2014.¹⁷ Other
Defendant Processors ¹⁸

”¹⁹ Instead, just after
”
”
”
”²⁰ Mangum ¶¶ 203–10.

¹⁵ Ex. 10, JBS-0002188917.

¹⁶ Ex. 11, Klein Tr. 29:9–12.

¹⁷ *Id.* 154:6–17.

¹⁸ Ex. 12, CARGILL001289013 (Cargill internal email noting

”); Ex. 13, Strickholm Ex. 1162 (TYSONBEEF00330300)

¹⁹ Ex. 11, Klein Tr. 98:7–11.

²⁰ Ex. 14, Lowe Tr. 107:7–109:21, Ex. 15, Lowe Ex. 1762 (NationalBeef-01696162)
(3/12/14 email from Klein to Lowe

; Ex. 11, Klein Tr. 139:13–140:6 (discussing 7/31/14
email saying that

(NationalBeef-00023526); Ex. 11, Klein Tr. 141:22–142:3 (

In September 2014, at the start of the class period, it was Tyson's turn, closing its Cherokee, Iowa plant. Tyson kept the plant idle for four years, paying [REDACTED] annually in rent, plus maintenance costs and taxes, on the empty 250,000 square foot building, all to prevent a competing processor from using the facility. Local reporting on the situation described [REDACTED]

[REDACTED] Internal Tyson documents confirmed its strategy, with Noel White, then-President writing, [REDACTED]²² The owner of the property explained [REDACTED]

[REDACTED]²³
The Cherokee plant was finally sold on September 15, 2018, [REDACTED]

[REDACTED] It also required the new owner [REDACTED]
[REDACTED]
[REDACTED]²⁵ Mangum, ¶¶ 213–14.

Tyson later continued its capacity reduction measures by closing its Denison, Iowa plant in August 2015. Evidence shows that Tyson was careful to curate its messaging about the reasons for closing the Denison plant and signal to its competitors

²¹ Ex. 17, TYSONBEEF01664332–33.

²² Ex. 18, TYSONBEEF03612749.

²³ Ex. 17, TYSONBEEF01664332, 33.

²⁴ Ex. 19, TYSONBEEF00432185; Ex. 20, TYSONBEEF01661864–67.

²⁵ Ex. 21, NationalBeef-01105767, 69.

that capacity exceeded cattle supply. In August 2015, Tyson’s CEO Donnie King wrote to Steve Stouffer, Tyson’s President and others: [REDACTED]

[REDACTED]

Stouffer forwarded the message and said, “[REDACTED]

[REDACTED]

In other words, King wanted to signal clearly to its co-conspirators that [REDACTED]

[REDACTED] Consistent with this instruction, Stouffer was quoted in a press release saying, “The cattle supply is tight and there’s an excess of beef production capacity in the region.”²⁸ Mangum, ¶¶ 215–18.

Although the expansion at Dakota City raised Tyson’s slaughter capacity at that facility, it was not to offset the capacity loss—and subsequent loss of beef production—from the Denison closure. Shortly after the closure in 2015, an update to Tyson’s Board of Directors from Donnie Smith, President and CEO, stated, “[REDACTED]

[REDACTED] Like it did with the Cherokee plant, Tyson

[REDACTED]

[REDACTED]³⁰ Unsurprisingly, Tyson

²⁶ Ex. 22, Brooks Ex. 1262 (TYSONBEEF00416867).

²⁷ *Id.*

²⁸ Ex. 23, TYSONBEEF00348953.

²⁹ Ex. 24, TYSONBEEF03275404, 07.

³⁰ Ex. 25, TYSONBEEF01426314, 15.

still had not sold the Denison plant by 2018. And when Tyson received interest from a potential buyer that year, Tyson’s Don Kendrick observed in an email: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

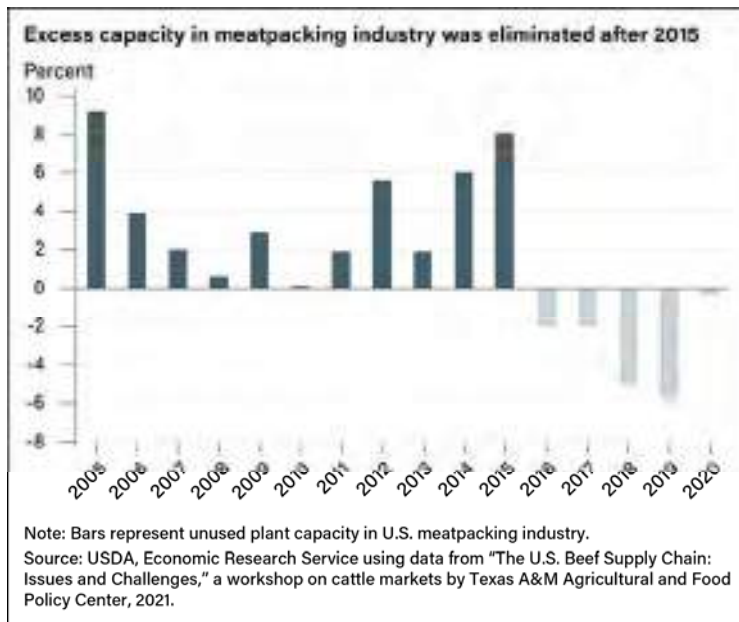
[REDACTED]

These deed restrictions had their intended effect. The USDA, the governmental agency assigned to oversee the agricultural industry, noted that “[s]omething appears to have changed after 2015.”³² And a chart from the USDA shows the striking change at the beginning of the class period:³³

³¹ Ex. 26, TYSONBEEF00436185, 86.

³² Ex. 27, James MacDonald, U.S.D.A. ECON. RSCH. SERV., *Concentration in U.S. Meatpacking Industry and How It Affects Competition and Cattle Prices*, Jan. 25, 2024, <https://www.ers.usda.gov/amber-waves/2024/january/concentration-in-u-s-meatpacking-industry-and-how-it-affects-competition-and-cattle-prices/> (last visited Sept. 11, 2024).

³³ *Id.*



B. After removing capacity from the market, Defendant Processors agree to allocate market share and manage their respective slaughter volumes.

Around the middle of 2014, Defendant Processors agreed to stabilize production by not competing for market share. Slaughtering only up to one's market share meant cutting kills so none would outpace another, carrying out the *collective* kill cuts that Defendant Processors had long known would boost their profits but had not been able to maintain.³⁴

Immediately before the class period, in July 2014 at the American Meat Institute (AMI) Executive Committee Meeting, Defendant Processors appear to have solidified their agreement to not compete for market share,³⁵ and after the meeting agreed to

³⁴ See, e.g., Ex. 28, Lowe Ex. 1761 (NationalBeef-00419991) (showing National [REDACTED]).

³⁵ Defendant Processors consistently define "market share" as their percentage of the total number of fed cattle killed industry-wide each week. See, e.g., Ex. 14, Lowe Tr.

additional kill cuts. The meeting took place in Chicago from July 10–11 and included (1) Tyson’s SVP of Beef Margin Management, Steve Stouffer; (2) JBS’s President and COO, Andre Nogueira; (3) Cargill’s President, John Keating; and (4) National’s CEO, Tim Klein.³⁶

In the days before the meeting, Defendant Processors discussed cutting kills.

[REDACTED]

[REDACTED]³⁷ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]³⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24:8–12 (“Q. What do you understand market share to mean? A. For us, it’s our percentage of cattle that we kill on a weekly basis versus the overall steer/heifer kill.”).

³⁶ Ex. 29, Klein Ex. 2039 (NationalBeef-00950021–25 at 24–25).

³⁷ Ex. 30, Kieffer Ex. 204 (TYSONBEEF00476366).

³⁸ Ex. 31, Williams Ex. 1720 (JBS-0001302439).

³⁹ *Id.*

⁴⁰ Ex. 32, Klein Ex. 2040 (NationalBeef-00267770).

⁴¹ Ex. 33, Chandler Ex. 2146 (CARGILL001383724).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁴⁵ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴² Ex. 34, HALES081139.
⁴³ Ex. 35, Lowe Ex. 1763 (NationalBeef-01697714).
⁴⁴ Ex. 36, JBS-0002827403.
⁴⁵ Ex. 16, Klein Ex. 1602 (NationalBeef-00023526–27).
⁴⁶ Ex. 37, Wagner Tr. 151:21–152:10, 153:13–154:14; *see also* Ex. 38, Wagner Ex. 1478 (NationalBeef-00046888), Ex. 39, Wagner Ex. 1478A (NationalBeef-00046889).

[REDACTED]

■ *Id.*

⁵⁴ Ex. 43, Byers Tr. 180:21–181:1.
⁵⁵ Ex. 44, CARGILL000094434.
⁵⁶ Ex. 45, CARGILL001311979–80.
⁵⁷ Ex. 46, Keating Ex. 2452 (CARGILL001297405).
⁵⁸ Ex. 47, Keating Ex. 2452A (CARGILL001297407, 08).
⁵⁹ Ex. 48, CARGILL000099841.

C. Throughout the class period, Defendant Processors stabilized production by not competing for market share.

1. Each Defendant maintained a pre-determined market share target throughout the class period.

Consistent with their agreement, Defendant Processors each maintained a market share target throughout the class period and used detailed tracking to make sure that they were getting—but not exceeding—their share of slaughter. While many firms track their own market shares, and even track the market shares of competitors, there is a difference between using market shares to assess outcomes after the fact and using them to determine outcomes beforehand. Mangum, ¶¶ 237–38, 271–72.

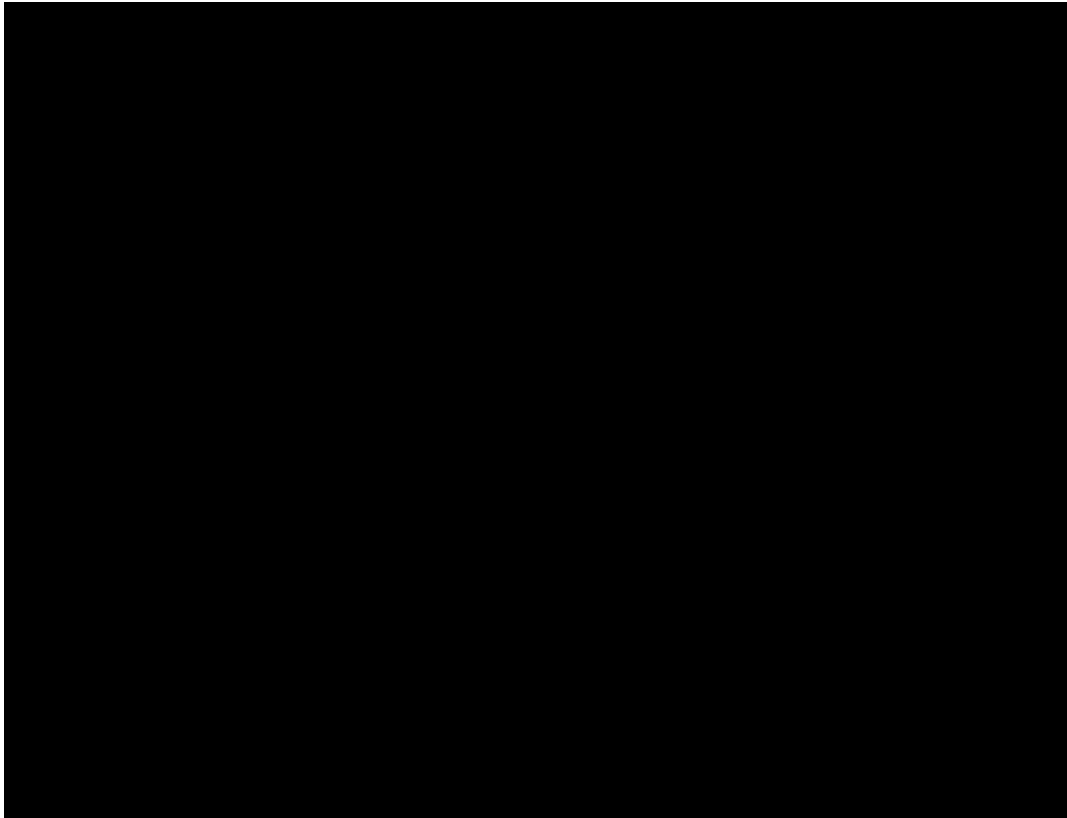
Evidence common to the class shows Defendant Processors routinely relied on their market shares to set slaughter targets ahead of time, reduced kills to avoid exceeding their shares, and generally counted on each other to adhere to the same pre-determined shares. Each Defendant’s share, or respective slaughter volume, was based on an approximation of their actual slaughter capacity divided by the full industry’s capacity.⁶⁰ See Mangum § III.B.3.

National: [REDACTED]

[REDACTED]⁶¹

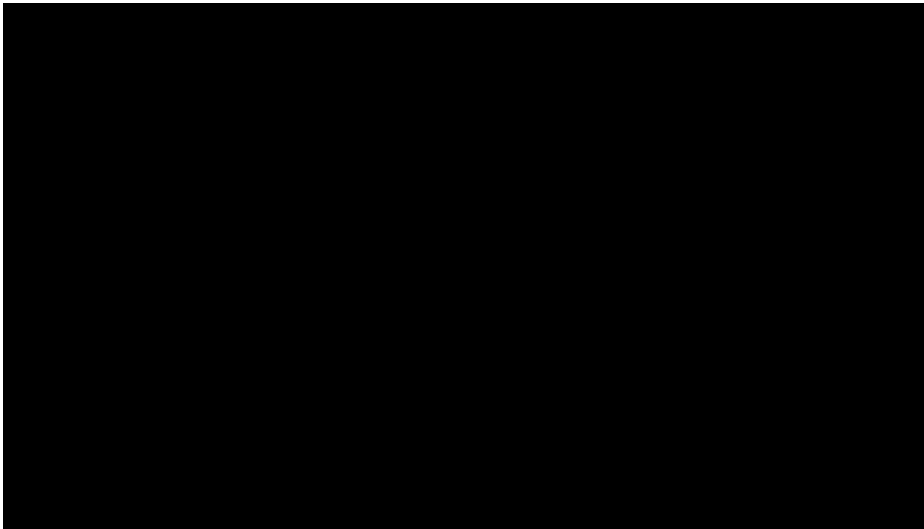
⁶⁰ Cargill (Ex. 49, Keating Tr. (Day 1) (56:2–9; 174:18–175:14); JBS (Ex. 50, Holloway Tr. 229:15–23; Ex. 51, JBS-0000295294); National (Ex. 52, NationalBeef-00062406–09, 406; Ex. 53, NationalBeef-01396517, 27); and Tyson (Ex. 54, Brooks Ex. 1249 (TYSONBEEF02095131)).

⁶¹ Ex. 55, Klein Ex. 2034 (NationalBeef-00782038, 43).



A graph from National's March 2019 Annual Meeting presentation, written by

Tim Klein, shows



⁶² Ex. 56, NationalBeef-00008441 at native 10.

JBS: [REDACTED]

[REDACTED]

[REDACTED]⁶³

[REDACTED]

Cargill: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tyson: [REDACTED]

[REDACTED]

[REDACTED]

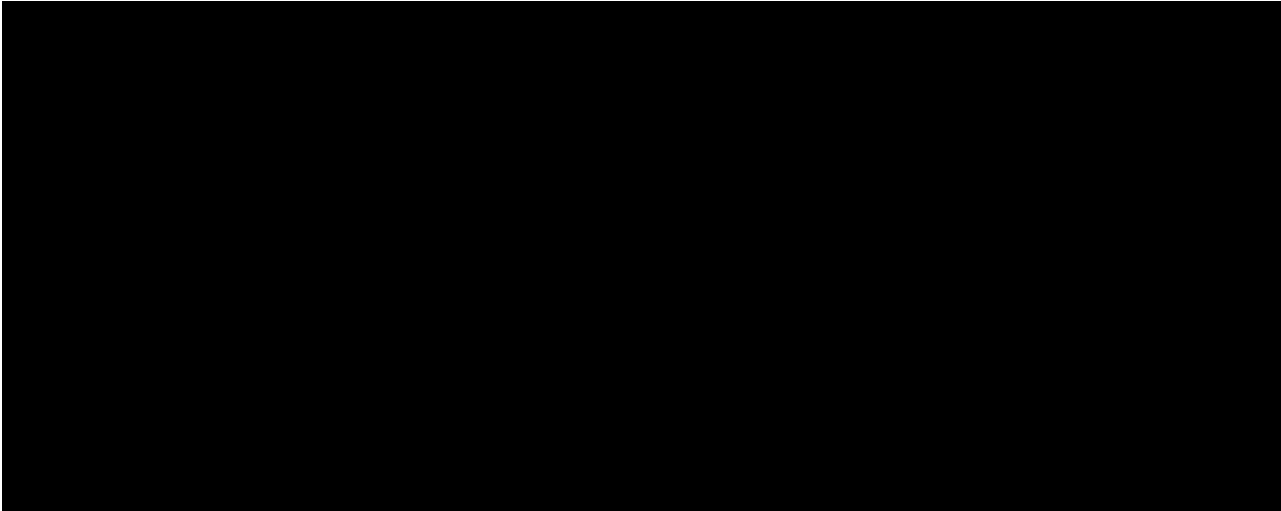
⁶³ Ex. 57, Holloway Ex. 637 (JBS-0000166249).

⁶⁴ See Ex. 58, Keating Ex. 2443 (CARGILL000229388); Ex. 49, Keating Tr. (Day 1) 175:11–14 ([REDACTED]).

⁶⁵ Ex. 58, Keating Ex. 2443 (“[REDACTED]”).

⁶⁶ Ex. 59, Birkhofer Ex. 78 (CARGILL001429314).

⁶⁷ Ex. 60, Sorensen Ex. 820 (TYSONBEEF01356804) (showing FY2018).



2. Defendant Processors' efforts stabilized production and beef prices throughout the class period.

As detailed in Dr. Mangum's report, Defendant Processors used many methods to exchange competitively sensitive information, implement slaughter reductions, and carry out the conspiracy. Mangum § III.B.5.

a. USDA Slaughter Reports became a monitoring tool to enforce and stabilize the conspiracy.

Because reports were comprehensive, regularly published, and the data was trusted, USDA slaughter reports were unwittingly coopted by Defendant Processors in furtherance of their conspiracy. Defendant Processors' market share tracking relied on USDA slaughter volumes published daily and weekly as required by the Livestock Mandatory Reporting Act. Defendant Processors combined the public data with their knowledge of the industry, as well as communications between Defendant Processors and conduits, to be used as a basis for determining competitors' individual plant outputs or to confirm information shared among Defendant Processors. *Id.*, ¶¶ 363–67.

b. Defendant Processors stabilized and restrained supply through various mechanisms.

As detailed in the Mangum Report, common evidence shows Defendant Processors used various mechanisms to ensure they maintained their agreed-upon market shares. *Id.*, § III.B.5.

Changes to Hours. Running their slaughter plants at reduced hours or pulling shifts were common during the class period. In June 2015, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁶⁸ See also Mangum, ¶¶ 299–306.

Changes to Plant Functioning. Defendant Processors also reduced “chain speeds,” the processing speed at which a plant is operated, or scheduled maintenance upkeep and shutdowns to align with their slaughter restraints. Reducing a plant’s “chain speed” would reduce the amount of cattle that can be slaughtered in a given period.

Commentary by industry analysts supports the conclusion that Defendant Processors could effectuate slaughter reductions using cleanings as pretext. One wrote: [REDACTED]

[REDACTED]

[REDACTED]⁶⁹ See also Mangum, ¶¶ 315–25.

⁶⁸ Ex. 61, TYSONBEEF01340139.

⁶⁹ Ex. 62, CFish_0000141929.

Changes to Saturday Kills. Saturday kills served at least two important functions in this conspiracy. First, Defendant Processors used pulling Saturday kills as a signal to other Defendant Processors to adjust production. Saturday kill adjustments began just after the 2014 AMI meeting, and continued throughout the class period. *See id.*, ¶¶ 307–14.

[REDACTED]

⁷⁰ Ex. 63, Rose Ex. 1824 (JBS-0002460801).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

[REDACTED]

Second, adding (or threatening to add) Saturday kills was used as punishment for those who would otherwise be tempted to expand production. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See also* Mangum, ¶¶ 370–72.

⁷⁶ Ex. 64, Rose Tr. 208:2–6.

⁷⁷ Ex. 65, Brooks Tr. 39:18–42:21.

⁷⁸ Ex. 66, Lowe Ex. 1786 (NationalBeef-00222732).

⁷⁹ Ex. 67, Klein Ex. 2041 (NationalBeef-00004142).

⁸⁰ Ex. 11, Klein Tr. 326:12–16.

⁸¹ Ex. 11, Klein Tr. 150:7–8.

Communications. Defendant Processors also communicated directly with one another or through third party conduits to share information about each other’s future production schedules. The volume and breadth of these communications is significant; as one Cargill employee remarked, [REDACTED]

[REDACTED]

[REDACTED]

Absent collusion, such information is not normally shared with competitors, and Defendant Processors’ antitrust guidance prohibited these types of communications. Cargill’s Guidance for Gathering Competitive Intelligence states that “[c]alls to competitors should be rare” and explains that employees should discuss only “market trends generally” with third parties and not use them “to filter pricing information between competitors.”⁸³ National’s Code of Conduct and Ethics Policy cautions employees: it is “likely to be illegal” to “[d]iscuss[] or exchang[e] with a competitor (directly or indirectly) company-specific information about current or future prices . . . ; sales, production, inventory, or capacity levels (as well as any changes to those levels under consideration); or any other competitively sensitive information.”⁸⁴ Tyson’s Global Antitrust Policy cautions employees not to share “competitively sensitive information” with a competitor, such as “current or future prices,” “terms or conditions of sale,” “market shares,” and “production levels or schedules.”⁸⁵ JBS’s Code of Conduct forbids

⁸² Ex. 68, Abrahamson Ex. 1856 (CARGILL001399268–69, 68).

⁸³ Ex. 69, CARGILL000001172.

⁸⁴ Ex. 70, NationalBeef-00251006, 19.

⁸⁵ Ex. 71, TYSONBEEF00001002, 04–06.

[REDACTED]

Other Punishment. Defendant Processors punished competitors by bidding up cattle prices to punish those who were buying too aggressively, for not exercising kill restraint, or scheduling Saturday kills as a tit-for-tat. [REDACTED]

[REDACTED]

[REDACTED]⁸⁸ See also Mangum, ¶¶ 368–70.

3. Defendant Processors ran below capacity, against their own self-interest in furtherance of the market share allocation scheme.

As a result of their market share allocation scheme, Defendant Processors [REDACTED]

For instance, Cassie Fish—the same industry analyst who often passed along information among other Defendant Processors—asked National’s Monte Lowe to

⁸⁶ Ex. 72, JBS-0000773560, 64.

⁸⁷ Ex. 73, TYSONBEEF01642792.

⁸⁸ Ex. 74, HALES204856.

⁸⁹ Ex. 14, Lowe Tr. 27:24–25 (“ [REDACTED] ”); *id.* 28:23–25 (“ [REDACTED] ”).

[REDACTED]

Likewise, Cargill [REDACTED]

[REDACTED]

And Defendant Processors continued to refuse to expand individual market share despite the obvious profit potential—even if it meant shorting customers in their efforts to keep production restrained. [REDACTED]

⁹⁰ Ex. 75, Lowe Ex. 1801 (NationalBeef-00209147).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Ex. 76, CARGILL001189962, 63.

⁹⁵ Ex. 77, Kathol Tr. 178:8–178:16; *see also* Ex. 78, Strickholm Tr. 200:18–19; Ex. 79, Strickholm Ex. 1172 (TYSONBEEF00281144–46); Ex. 80, Strickholm Ex. 1175 (TYSONBEEF00578579–80).

[REDACTED]

[REDACTED]

Defendant Processors reduced their output explicitly to avoid exceeding their market share allocation. For example, [REDACTED]

[REDACTED]

[REDACTED] *See also* Mangum, ¶¶ 325–30.

D. Defendant Processors’ coordinated efforts to reduce capacity and stabilize production created a historic shift in the spread between cattle and beef prices.

Before 2014, the prices of cattle and beef moved in tandem—a logical result since beef is cattle that has been processed for sale. Mangum, ¶¶ 373–82. The conspiracy severed this fundamental economic relationship.

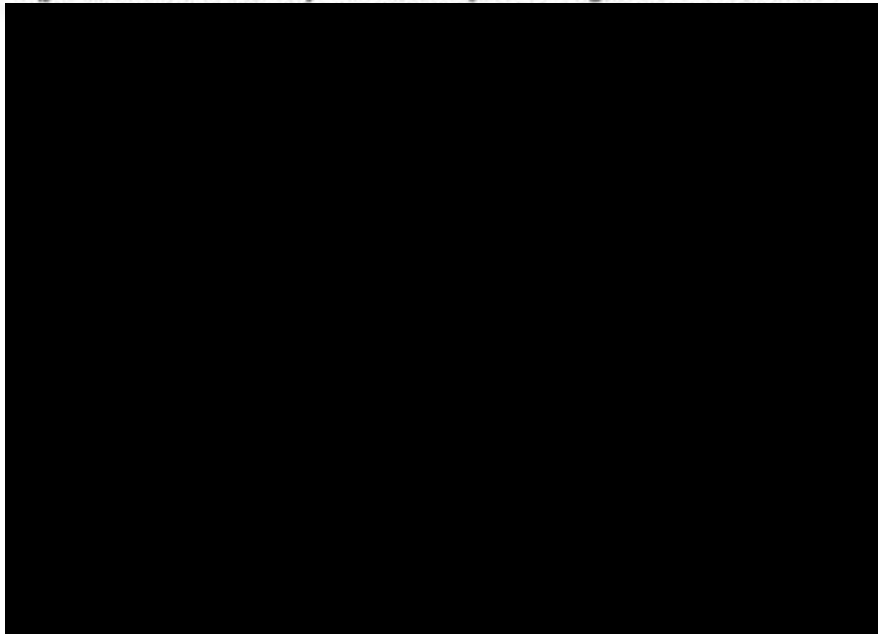
Between 2015 and 2019, the price of fed cattle declined significantly, but the price of beef did not decline with it. Instead, the price of beef remained artificially elevated. The spread between the price Defendant Processors pay for fed cattle and the price they charge for beef products grew by historic proportions:⁹⁸

⁹⁶ Ex. 81, Holbrook Ex. 257 (TYSONBEEF00426665, 66).

⁹⁷ Ex. 82, NationalBeef-00004859.

⁹⁸ Mangum, ¶ 229.

*Figure 27. Growth In Defendants' Profits During the Class Period*⁹⁹



Indeed, USDA's James MacDonald confirms that a "striking new development occurred around 2015" when "on average, the spread doubled between 2015 and 2019."⁹⁹ He explained that "[w]hile hourly production worker wages in meatpacking rose by about 16 percent between 2015 and 2019, the increase in the farm-to-wholesale spread far exceeded the impact of labor costs."¹⁰⁰ He concluded that "price spreads increased substantially after 2015, after displaying no strong trend over the previous 30 years."¹⁰¹

And JBS's Al Byers explains why:

[REDACTED]

[REDACTED]

[REDACTED]

102

⁹⁹ Ex. 83, James M. MacDonald, *et al.*, U.S.D.A. ECON. RSCH. SERV., *Concentration and Competition in U.S. Agribusiness*, Jun. 2023, <https://www.ers.usda.gov/webdocs/publications/106795/eib-256.pdf?v=7459>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Ex. 84, JBS-0000503320.

Moreover, Tyson’s prediction that prices for consumers would [REDACTED]

[REDACTED]

[REDACTED]

IV. LEGAL STANDARD

A party seeking to certify a class action must show that the proposed class satisfies the four prerequisites of Rule 23(a): numerosity, commonality, typicality, and adequacy of representation. The party must also satisfy one of the subsections of Rule 23(b).¹⁰⁵ Rule 23(b)(3) requires that “questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.”¹⁰⁶ Finally, Rule 23 “implicitly requires that a defined class exists and that the class representatives fall within the class.”¹⁰⁷

“District courts have broad discretion to determine whether certification is appropriate.”¹⁰⁸ A court “may only certify the class if it is satisfied after a rigorous analysis that all of the prerequisites are met.”¹⁰⁹ When determining “whether common

¹⁰³ Ex. 85, Kathol Ex. 340 (TYSONBEEF00804288, 90).

¹⁰⁴ Ex. 86, Holbrook Ex. 265 (TYSONBEEF00473241).

¹⁰⁵ *In re Workers’ Comp.*, 130 F.R.D. 99, 103 (D. Minn. 1990).

¹⁰⁶ *Custom Hair Designs by Sandy v. Cent. Payment Co., LLC*, 984 F.3d 595, 601 (8th Cir. 2020), *cert. denied*, 142 S. Ct. 426 (2021).

¹⁰⁷ *In re Wholesale Grocery Prod. Antitrust Litig. (Wholesale Grocery)*, 2016 WL 4697338, at *4 (D. Minn. Sept. 7, 2016).

¹⁰⁸ *Custom Hair*, 984 F.3d at 599; *see also Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 369 (2011) (stating that “most issues arising under Rule 23” are “committed in the first instance to the discretion of the district court”).

¹⁰⁹ *Workers’ Comp.*, 130 F.R.D. at 103; *Wholesale Grocery*, 2016 WL 4697338, at *5.

questions predominate, a court must conduct a limited preliminary inquiry, looking behind the pleadings, but that inquiry should be limited to determining whether, if the plaintiffs' general allegations are true, common evidence could suffice to make out a prima facie case for the class."¹¹⁰ Merits questions may be considered "only to the extent" that they are "relevant to determining whether the Rule 23 prerequisites for class certification are satisfied."¹¹¹

V. ARGUMENT

A. The elements of Rule 23(a) support certification.

1. The class is sufficiently numerous.

Rule 23(a)(1) requires that a class be "so numerous that joinder of all members is impracticable."¹¹² "Courts generally recognize that the existence of 40 or more class members raises a presumption that joinder is impracticable."¹¹³ The "Eighth Circuit has affirmed the certification of classes with as few as 20 members."¹¹⁴ The proposed class here is estimated to be in the millions and thus satisfies numerosity. *See* Mangum, ¶ 498.

2. Common questions of fact and law exist.

Commonality is satisfied if "there are questions of law or fact common to the class."¹¹⁵ A common question "must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue

¹¹⁰ *In re Zurn Pex Plumbing Prod. Liab. Litig.*, 644 F.3d 604, 618 (8th Cir. 2011).

¹¹¹ *Custom Hair*, 984 F.3d at 600.

¹¹² Fed. R. Civ. P. 23(a)(1).

¹¹³ *Wholesale Grocery*, 2016 WL 4697338, at *7.

¹¹⁴ *Id.*

¹¹⁵ Fed. R. Civ. P. 23(a)(2).

that is central to the validity of each one of the claims in one stroke.”¹¹⁶ According to the Supreme Court, “even a single common question will do.”¹¹⁷ Here there are many.¹¹⁸ For example, whether Defendant Processors agreed to a market share allocation that resulted in the stabilization of the price of beef and whether this conduct violates antitrust law are class-wide questions that will yield class-wide answers based on common evidence.¹¹⁹ Commonality is satisfied.

3. The Named Plaintiffs’ claims are typical of the class claims.

Under Rule 23(a)(3), typicality is satisfied if “the claims or defenses of the representative parties are typical of the claims or defenses of the class.”¹²⁰ According to the Eighth Circuit, typicality is “fairly easily met so long as other class members have claims similar to the named plaintiff.”¹²¹ Indeed, “[f]actual variations in the individual claims will not normally preclude class certification if the claim arises from the same event or course of conduct as the class claims, and gives rise to the same legal or remedial theory.”¹²²

An “antitrust price fixing case generally will involve claims sufficiently similar to satisfy Rule 23(a)(3).”¹²³ If the representatives must prove “a conspiracy, its effectuation, and damages therefrom—precisely what the absentees must prove to recover—the

¹¹⁶ *Dukes*, 564 U.S. at 350.

¹¹⁷ *Wholesale Grocery*, 2016 WL 4697338, at *7 (quoting *Dukes*, 564 U.S. at 359).

¹¹⁸ Compl., ¶ 364.

¹¹⁹ See, e.g., Proffer, section III, above.

¹²⁰ Fed. R. Civ. P. 23(a)(3).

¹²¹ *Custom Hair*, 984 F.3d at 604.

¹²² *Id.*

¹²³ *Workers’ Comp.*, 130 F.R.D. at 106.

representative claims can hardly be considered atypical.”¹²⁴ So too here. Each of the Named Plaintiffs purchased beef for their own consumption during the class period.¹²⁵ And Defendant Processors’ conspiracy to stabilize the supply and raise the price of beef gives rise to their antitrust claims for damages—just as it does for class members. Typicality is satisfied.

4. The Named Plaintiffs will adequately represent the class.

“Rule 23(a)(4) focuses on whether: (1) the class representatives have common interests with the members of the class, and (2) whether the class representatives will vigorously prosecute the interest of the class through qualified counsel.”¹²⁶ “But perfect symmetry of interest is not required and not every discrepancy among the interests of class members renders a putative class action untenable.”¹²⁷ Here, each of the Named Plaintiffs, like each of the absent class members, is a consumer purchaser of beef.¹²⁸ And Plaintiffs’ expert, Dr. Mangum, explains that most consumers make 20 trips annually to the grocery store to buy beef, meaning that the class representatives’ repeat purchases are likely to be similar to that of other class members. Mangum, ¶ 25. Moreover, no Named Plaintiff has a material conflict with other class members. And each Named Plaintiff is aligned with the class in establishing Defendant Processors’ liability and maximizing

¹²⁴ *Id.*

¹²⁵ Compl., ¶¶ 31–58.

¹²⁶ *Wholesale Grocery*, 2016 WL 4697338, at *8.

¹²⁷ *Vogt v. State Farm Life Ins. Co.*, 963 F.3d 753, 767 (8th Cir. 2020), *cert. denied*, 141 S. Ct. 2551 (2021).

¹²⁸ Appendix C. (Fed. R. Evid. 1006 exhibit collecting Named Plaintiffs’ testimony regarding beef purchases).

class-wide damages. “Additionally, the proposed representatives have demonstrated their commitment to vigorously prosecute the interests of the classes by responding to interrogatories, producing documents, and being deposed.”¹²⁹ Adequacy is satisfied.

B. The class satisfies Rule 23(b)(3).

To satisfy Rule 23(b)(3), Consumer IPPs must show that “questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other methods for fairly and efficiently adjudicating the controversy.”¹³⁰ Each of these prongs is satisfied here.

1. Questions of law and fact predominate over any individual questions.

Predominance gauges “whether questions of law or fact capable of resolution through common evidence predominate over individual questions.”¹³¹ Analysis of predominance under Rule 23(b)(3) begins by “considering the nature of plaintiffs’ claim to determine whether it is suitable for class certification.”¹³² The district court does “not need to conclude whether the theory of liability is viable.”¹³³ Instead, the court denies certification “only if the theory of liability is a highly individualized question that does not allow class certification.”¹³⁴ Certification for class treatment “may be considered

¹²⁹ *Wholesale Grocery*, 2016 WL 4697338, at *8.

¹³⁰ Fed. R. Civ. P. 23(b)(3).

¹³¹ *Zurn Pex Plumbing*, 644 F.3d at 619.

¹³² *Custom Hair*, 984 F.3d at 601.

¹³³ *Id.*

¹³⁴ *Id.*

proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages.”¹³⁵

The essential elements of Consumer IPPs’ cause of action arising under § 1 of the Sherman Act, and the harmonized state laws, are “(1) Defendants violated federal antitrust laws, (2) Plaintiffs suffered some resulting injury, and (3) a measure of damages.”¹³⁶ Each of these elements presents class-wide questions. “[A]s a general rule in antitrust price-fixing cases, questions common to the members of the class will predominate over questions affecting only individual members.”¹³⁷ Where Consumer IPPs’ theory of liability rests on “a nationwide horizontal price-fixing conspiracy in violation of section 1 of the Sherman Act . . . [p]roof of such an antitrust violation involves primarily common issues of fact and law.”¹³⁸ And to prove injury, “plaintiffs need only demonstrate they have suffered some damage from the unlawful conspiracy,” which “showing may be made on a class basis if the evidence demonstrates that the conspiracy succeeded in increasing prices above the competitive level.”¹³⁹ Predominance is satisfied here.

¹³⁵ *Id.*

¹³⁶ *Wholesale Grocery*, 2016 WL 4697338, at *9; *see also* Compl., ¶¶ 378–683.

¹³⁷ *In re Potash Antitrust Litig. (Potash)*, 159 F.R.D. 682, 693 (D. Minn. 1995); *see Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 625 (1997) (“Predominance is a test readily met in certain cases alleging . . . violations of the antitrust laws.”).

¹³⁸ *In re Wirebound Boxes Antitrust Litig.*, 128 F.R.D. 268, 271 (D. Minn. 1989).

¹³⁹ *Workers’ Comp.*, 130 F.R.D. at 109.

a. Common questions about Defendant Processors’ violations of the antitrust laws predominate.

Defendant Processors’ antitrust violations present the prototypical common question in a class action. As leading treatises have recognized, “whether a conspiracy exists is a common question that is thought to predominate over the other issues in the case and has the effect of satisfying the first prerequisite in Rule 23(b)(3).”¹⁴⁰ Case law agrees.¹⁴¹ This Court recognized when certifying the purchaser classes in *Pork* that “evidence of a conspiracy relates solely to the defendant’s conduct, so proof would not vary among class members.”¹⁴² Likewise here, the question of antitrust liability will focus exclusively on the actions of Defendant Processors, and likewise here, Consumer IPPs will rely on evidence common to the entire class to make their case. *See* Proffer, section III, above.

¹⁴⁰ 7 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1781 (3d ed. 2020); accord 6 Newberg on Class Actions § 20:23 (6th ed. 2022) (“Price fixing cases are generally well-suited for class action adjudication” in part because “[t]he legal violation is established *per se*”).

¹⁴¹ *Wholesale Grocery*, 2016 WL 4697338, at *9 (proof of an antitrust conspiracy in violation of Section 1 of the Sherman Act involves primarily common issues of fact and law.”); *Potash*, 159 F.R.D. at 694 (“Whether Defendants agreed to fix the price of potash . . . clearly involves questions common to the entire class. This element relates solely to Defendants’ conduct, and as such proof for these issues will not vary among class members.”); accord *In re Urethane Antitrust Litig.*, 768 F.3d 1245, 1255 (10th Cir. 2014) (“In price-fixing cases, courts have regarded the existence of a conspiracy as the overriding issue even when the market involves diversity in products, marketing, and prices.”); *In re Scrap Metal Antitrust Litig.*, 527 F.3d 517, 535 (6th Cir. 2008) (“proof of the conspiracy is a common question that is thought to predominate over the other issues of the case”); *In re Capacitors Antitrust Litig. (Capacitors)*, 2018 WL 5980139, at *5 (N.D. Cal. Nov. 14, 2018) (“[T]he claim of a conspiracy to fix prices inherently lends itself to a finding of commonality and predominance, even when the market involves different products and prices.”).

¹⁴² *In re Pork Antitrust Litig.*, 665 F. Supp. 3d 967, 1002 (D. Minn. 2023).

b. Antitrust impact will be proven through evidence common to the class.

The second element of Consumer IPPs' claim is antitrust impact, or the "fact of injury."¹⁴³ The question at this stage "is not whether Defendant Processors actually engaged in a price-fixing conspiracy but whether, once a conspiracy is established, plaintiffs will also be able to prove impact through predominantly common proof."¹⁴⁴ At the class certification stage, Consumer IPPs need "only [] demonstrate that the element of antitrust impact *is capable of proof at trial* through evidence that is common to the class."¹⁴⁵

Because the "gravamen of a price-fixing claim is that the price in a given market is artificially high, there is a presumption that an illegal price-fixing scheme impacts upon all purchasers of a price-fixed product in a conspiratorially affected market."¹⁴⁶

¹⁴³ *Wirebound Boxes*, 128 F.R.D. at 272.

¹⁴⁴ *Pork*, 665 F. Supp. 3d at 1007.

¹⁴⁵ *Messner v. Northshore Univ. Healthsystem*, 669 F.3d 802, 818–19 (7th Cir. 2012) (emphasis in original); *see also id.* at 819 ("common evidence and common methodology to prove a class's claims is sufficient to support a finding of predominance on the issue of antitrust impact"); *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC (Tuna)*, 31 F.4th 651, 666-67 (9th Cir.), *cert. denied sub nom. StarKist Co. v. Olean Wholesale Grocery Coop., Inc.*, 143 S. Ct. 424 (2022) ("In determining whether the 'common question' prerequisite is met, a district court is limited to resolving whether the evidence establishes that a common question is *capable* of class-wide resolution, not whether the evidence in fact establishes that plaintiffs would win at trial.") (emphasis in original); *see also Tuna* at 683–84.

¹⁴⁶ *Potash*, 159 F.R.D. at 695; *see also Wirebound Boxes*, 128 F.R.D. at 272 ("Proof of impact typically follows from proof of a price-fixing conspiracy where the defendants are shown to have sufficient market power."); *accord Kleen Prods. LLC v. Int'l Paper Co. (Kleen I)*, 306 F.R.D. 585, 600 (N.D. Ill. 2015) ("[P]rice-fixing affects all market participants, creating an inference of class-wide impact even when prices are individually negotiated").

Consumer IPPs do not, however, rely on a mere presumption of impact. Rather, similar to *Tuna, Broilers*, and *Pork*, Consumer IPPs offer common proof of *marketwide overcharges* based on (1) economic theory and evidence of the structure of the beef market (Mangum, ¶¶ 91–118); (2) documentary and testimonial admissions that market prices were a shared reference point for beef prices (*id.*, ¶¶ 389–98); (3) a series of price correlations across Defendant Processors, geographic regions, and customers, all of which show that the prices of beef products in the class moved together (*id.*, ¶¶ 399–406); and (4) a regression model measuring impact on the class using Defendant Processors’ data and USDA data, as well as robustness checks regarding the impact by customer group, by product type, and by year (*id.*, ¶¶ 407–37).¹⁴⁷ Consumer IPPs also offer common proof of *marketwide pass through* of these overcharges based on (5) economic theory and extrinsic documents (*id.*, ¶¶ 441–60); and (6) empirical regression analysis (*id.*, ¶¶ 480–91).

(1) Market structure evidence supports a finding of common impact.

This Court recognized in *Pork* that to establish common impact, Consumer IPPs may rely on “qualitative evidence” demonstrating that the structure of the relevant market makes “it easier for competing firms to collude.”¹⁴⁸ The same market characteristics that supported this Court’s finding of common impact in *Pork* are present here: a concentrated

¹⁴⁷ *Broilers*, 2022 WL 1720468, at *7–19 (finding predominance of common questions and certifying three antitrust classes); *Pork*, 665 F. Supp. 3d at 1002–07 (same).

¹⁴⁸ *Pork*, 665 F. Supp. 3d at 1003.

market; barriers to entry; lack of substitutes; and commodity product.¹⁴⁹ In addition, market share stability, a plus factor buttressing the existence of the agreement on market share allocation, is also present.¹⁵⁰ All these factors ensure that if a conspiracy existed (and Consumer IPPs offer common proof that it did), that impact would have been felt by all class members.

Concentration: The market for beef is highly concentrated, with the four beef Defendant Processors in this case controlling more than 80% of the market during the class period.¹⁵¹ This level of concentration makes the beef market ripe for collusion.¹⁵² Mangum, ¶¶ 102–06.

Barriers to Entry: Defendant Processors themselves recognize that there are substantial barriers to entering the beef packing industry because of high, fixed capital costs. For example, a JBS economist explained that “the concentration [in the beef

¹⁴⁹ *Id.* (“Dr. Singer took into account Defendants’ market power, high barriers to entry, risk of entering the market, and knowledge barriers, among other factors. The market concentration, lack of adequate pork substitutions, and standardization of pork all make it easier for competing firms to collude.”); *see also Kleen Prods. LLC v. Int’l Paper Co. (Kleen II)*, 831 F.3d 919, 924, 927 (7th Cir. 2016); *Tuna*, 31 F.4th at 675 (affirming district court finding that “other evidence in the record,” including “market characteristics,” showed that class members suffered a common impact).

¹⁵⁰ *Valspar Corp. v. E.I. Du Pont De Nemours & Co.*, 873 F.3d 185, 210 (3d Cir. 2017) (Stengel, C.J., dissenting) (“Market share stability is a well-recognized symptom of collusive and concerted action in antitrust cases.”).

¹⁵¹ *See also* Ex. 87, Skold Tr. 202:8–12. (“The concentration has stayed kind of upper 70s [t]o low 80s for decades”); Ex. 88, CARGILL000154155.

¹⁵² *See Kleen II*, 831 F.3d at 924, 927 (describing market as concentrated when defendants were responsible for 74% of production); *Capacitors*, 2018 WL 5980139, at *8 (certifying class and noting that plaintiffs’ expert “provided considerable material about how the structure of the market for capacitors was conducive to price fixing, including evidence about the concentration of manufacturers”).

packing industry] has been there in part because it’s very hard to enter the business...It takes a long time to open plants too.”¹⁵³ Such high barriers to entry make the market for beef even more susceptible to collusion, given that a “capital-intensive manufacturing process (which affect[s] the pace and likelihood of new entry)” is a “well accepted characteristic[] of a market that is subject to cartelization.”¹⁵⁴ *See also* Mangum, ¶¶ 107–12.

Lack of Substitutes/Low Elasticity of Demand: Markets with “no good substitutes” and a “low elasticity of demand” are “accepted characteristics of a market that is subject to cartelization.”¹⁵⁵ Both apply here.

Beef is beef. Defendant Processors recognize that pork and chicken are poor substitutes for beef. Cargill economist Michael Zerr explained, [REDACTED]

[REDACTED]¹⁵⁶ In other words, an increase in the price of beef has little effect on the demand for pork and chicken.¹⁵⁷

The elasticity of demand for beef alone is also low. Cargill acknowledges that [REDACTED]

[REDACTED]

[REDACTED] And

¹⁵³ Ex. 87, Skold Tr. 204:1–4.

¹⁵⁴ *Kleen II*, 831 F.3d at 927.

¹⁵⁵ *Id.*; *see Pork*, 665 F. Supp. 3d at 1003.

¹⁵⁶ Ex. 89, Zerr Ex. 382 (CARGILL001238251).

¹⁵⁷ Ex. 90, McGee Tr. (Vol. II) 334:14–335:11 (“I think the correlations are thought to be calculated to be very weak ... [b]etween beef and other proteins.”)

¹⁵⁸ Ex. 91, Zerr Ex. 383 (CARGILL000137501–04 at native 2).

JBS recognizes that [REDACTED]

[REDACTED] See also Mangum, ¶¶ 98–101.

Commodity Product: The market for beef also satisfies the final “characteristics of a market that is subject to cartelization,” because beef is “a standardized, commodity product.”¹⁶⁰ As one court has recognized, “the more closely [given] products resemble a prototypical commodity . . . the more cohesive an industry cartel will be and the more widespread the price effects.”¹⁶¹ Defendant Processors acknowledge that beef is a commodity. For instance, National’s CEO described the beef packing business as “a very commodity business.”¹⁶² And Cargill management recognizes that [REDACTED]

[REDACTED] with Nate Birkhofer explaining: [REDACTED]

[REDACTED] Antitrust impact is routinely found to be a common issue in cases like this one involving commodity goods.¹⁶⁵ See also Mangum, ¶¶ 92–97.

¹⁵⁹ Ex. 92, Skold Ex. 734 (JBS-0000312849).

¹⁶⁰ *Kleen II*, 831 F.3d at 927.

¹⁶¹ See, e.g., *In re Polyurethane Foam Antitrust Litig.*, 2014 WL 6461355, at *19 (N.D. Ohio Nov. 17, 2014).

¹⁶² Ex. 11, Klein Tr. 272:2–7.

¹⁶³ Ex. 93, Birkhofer Tr. 365:3–4; see *id.* 315:24–316:2 (“[REDACTED]”).

¹⁶⁴ Ex. 93, Birkhofer Tr. 365:6–10.

¹⁶⁵ See, e.g., *Messner*, 669 F.3d at 816 (establishing common impact is “relatively simple” in cases involving “a market for a generic, undifferentiated commodity” and “simple supply and demand curves”); *In re Urethane Antitrust Litig.*, 237 F.R.D. 440, 450–51 (D. Kan. 2006) (certifying class where expert opined that “the products are fungible commodity products”).

In sum, Consumer IPPs’ evidence—including Dr. Mangum’s report—demonstrates that “the structure of the [relevant] market was conducive to successful collusion” and offers common proof that will establish antitrust injury on a class-wide basis.¹⁶⁶

(2) Common evidence demonstrates that industry-wide market prices were a shared reference point for all transactions.

“Even for transactions where prices were negotiated individually,” classwide impact follows where the “starting point for those negotiations would be higher if the market price for the product was artificially inflated.”¹⁶⁷ Defendant Processors’ internal documents recognized the impact of slaughter cuts *on the market price of beef*: [REDACTED]

Moreover, as in *Pork*, here Defendant Processors regularly used industry-wide USDA data to benchmark prices to each other and to the market.¹⁷⁰ And the use of formula pricing for Defendant Processors’ beef sales creates a systemic base starting

¹⁶⁶ *Kleen II*, 831 F.3d at 927; *see also Tuna*, 31 F.4th at 675.

¹⁶⁷ *Kleen II*, 831 F.3d at 928–29; *see also Tuna*, 31 F.4th at 678 (“[D]istrict court could reasonably conclude that price-fixing would have affected the entire market, raising the baseline prices for all buyers”).

¹⁶⁸ Ex. 28, Lowe Ex. 1761 (NationalBeef-00419991).

¹⁶⁹ Ex. 94, Lowe Ex. 1799 (NationalBeef-00210779).

¹⁷⁰ *Pork*, 665 F. Supp. 3d at 1006 n.15; Ex. 95, CARGILL000907570, 74 (“[REDACTED] Ex. 96, JBS-0000392465 (“[REDACTED]”); Ex. 97, NationalBeef-00298725 (“[REDACTED]”); Ex. 98, TYSONBEEF03141215, 16 (“[REDACTED]”).

price and ensures that like products will be priced the same way. *See* Mangum, ¶¶ 53–56, 111–14, 363–67, 389–98.

Importantly, Defendant Processors recognized that colluding to reduce the supply of beef would cause higher prices for all or nearly all beef products: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁷¹

Finally, Defendant Processors received other Defendant Processors’ price lists and would circulate them to their sales teams.¹⁷² For example, Tyson’s [REDACTED]

[REDACTED].¹⁷³

Such record evidence is “probative of whether common issues will predominate with respect to antitrust impact, as it is probative of whether the conspiracy occurred and was anticompetitive.”¹⁷⁴

(3) Correlation analyses show that pork prices moved together among Defendant Processors, geographic regions, and customers.

Dr. Mangum also demonstrates empirically that beef prices move together, showing that Defendant Processors’ prices largely track one another. The following

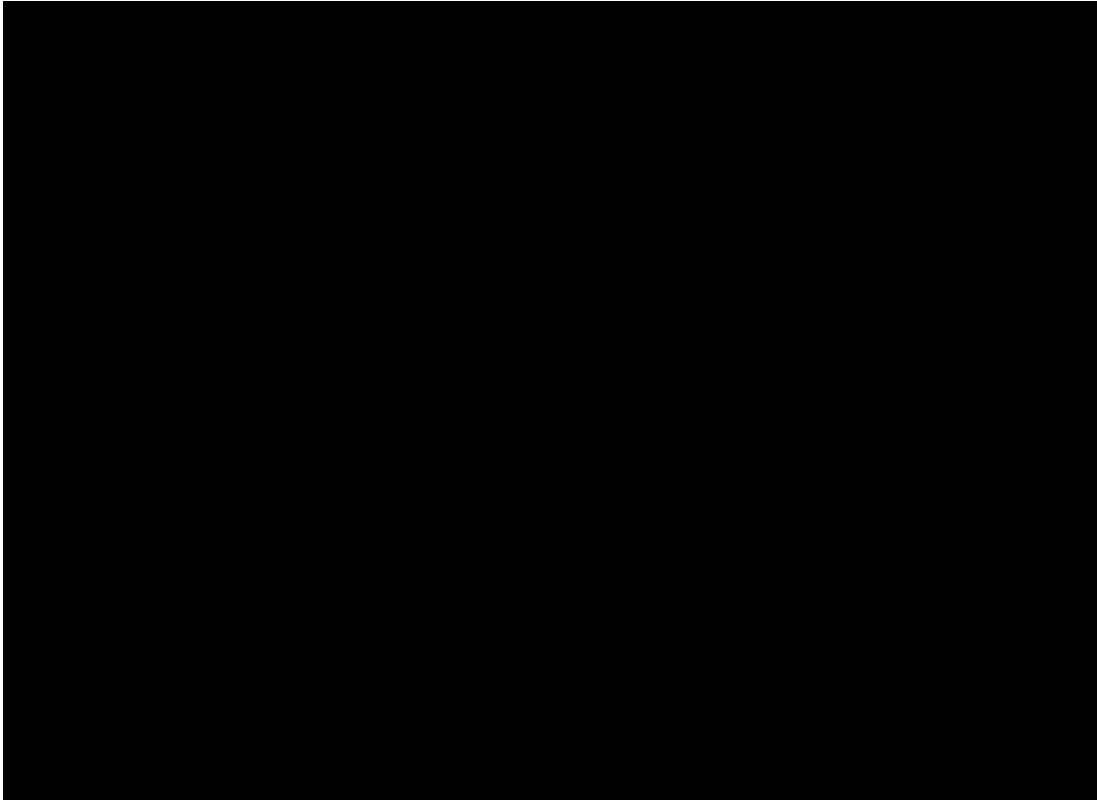
¹⁷¹ Ex. 99, Holloway Ex. 625 (JBS-0001425815).

¹⁷² Ex. 100, Groetken Tr. 270:13–273:22 ([REDACTED]).

¹⁷³ Ex. 101, Holbrook Tr. 55:15–22.

¹⁷⁴ *In re Mushroom Direct Purchaser Antitrust Litig.*, 319 F.R.D. 158, 200 (E.D. Pa. 2016); *In re Blood Reagents Antitrust Litig.*, 2015 WL 6123211, at *33 (E.D. Pa. Oct. 19, 2015) (finding that although the defendants’ internal “documents, standing alone, would not suffice to prove impact,” they “lend support to a finding of predominance”).

figure demonstrates that the prices of the four class primals move together across Defendant Processors:¹⁷⁵



Dr. Mangum performed correlation analyses for each category of product by the state to which the beef was being shipped. The price index for each state follows the same pattern—with pairwise correlations above 0.9—and prices generally rising and falling together despite differences in geography. Finally, Dr. Mangum also performed correlations across different customers for whom there was sufficient data, and shows that the prices for specific customers also move together. While correlations do not themselves show causation, they do show that to the extent a conspiracy and overcharge

¹⁷⁵ Mangum, Fig. 34.

existed, class members would not be able to avoid the effects of the conspiracy. *Id.*, ¶¶ 399–406.

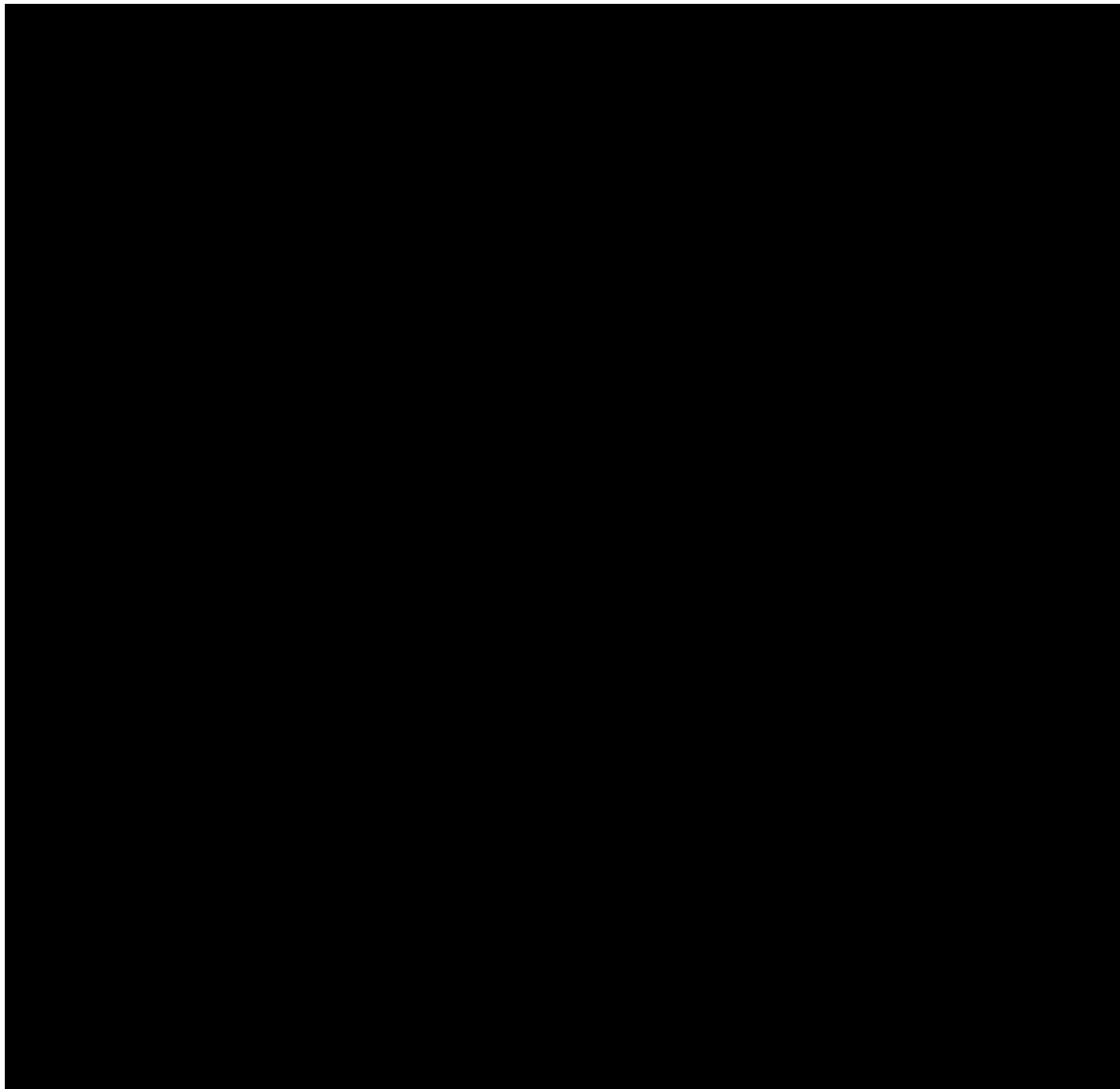
(4) Regression analysis shows common impact in the form of higher beef prices.

“In antitrust cases, regression models have been widely accepted as a generally reliable econometric technique to control for the effects of the differences among class members and isolate the impact of the alleged antitrust violations on the prices paid by class members.”¹⁷⁶ In *Pork*, Dr. Mangum offered common evidence in the form of a “rigorous regression analysis” and “found that a conspiracy would have impacted prices paid by all or nearly all” purchasers of beef from Defendant Processors.¹⁷⁷ Here, Dr. Mangum’s reduced form regression model likewise *proves empirically*, using evidence common to the class, that Defendant Processors’ conduct resulted in higher prices being paid by all class members. Mangum, ¶¶ 409–37. Using a benchmark period (January 2010 through July 2014), Dr. Mangum compares prices during the conspiracy period to those during the benchmark period, where prices are assumed to be unaffected by collusion. The following table shows the estimated coefficients of the August 2014 to December 2019 class period, with results that are positive and statistically significant at the 99 percent confidence level:¹⁷⁸

¹⁷⁶ *Tuna*, 31 F.4th at 677; *see also* *Midwestern Mach. v. Nw. Airlines, Inc.*, 211 F.R.D. 562, 567 (D. Minn. 2001) (expert’s “proposed methodology, namely regression analysis, and antitrust principles are widely recognized within the field of economics and have been accepted by courts”).

¹⁷⁷ *Pork*, 665 F. Supp. 3d at 1002–03.

¹⁷⁸ Mangum, ¶¶ 432–33.



Moreover, Dr. Mangum performs a number of robustness checks to ensure that no part of the market was untouched by this conspiracy. Dr. Mangum analyzes the effects of the conspiracy on an annual basis, which also results in coefficients that are statistically significant and positive. Dr. Mangum further tests the results of the model by applying it to the wholesale prices reported to the USDA, which shows an overcharge consistent with that estimated using Defendant Processors' data. And, finally, Dr. Mangum limits the model to just customers relevant for the Consumer IPP distribution chain, and those results also demonstrate a positive and statistically significant overcharge. *Id.*, ¶¶ 434–37.

The classes in *Broilers*, *Tuna*, and *Pork* were certified on very similar evidence.¹⁷⁹ As this Court stated in *Pork*, defendants’ criticisms of aspects of Dr. Mangum’s regression model “does not render the experts’ methodology unreliable or suggest it is unable to show predominance as to impact.”¹⁸⁰ So too here.

(5) Economic theory predicts that overcharges were passed through from direct purchasers to class members.

Consumer IPPs also demonstrate that the overcharges were passed through from direct purchasers through the distribution chain to the class members. When, as here, the products purchased by class members are the complete products substantially unchanged from how Defendant Processors sold them to direct purchasers, courts recognize the fundamental economic reality that “the price charged by the manufacturer will largely determine the [price] paid by the end user.”¹⁸¹ Thus, courts have repeatedly certified classes of indirect purchasers based on pass-through analysis that shows common impact and injury.¹⁸² This accords with basic economic theory, which uniformly predicts that in a

¹⁷⁹ *Broilers*, 2022 WL 1720468, at *7; *Tuna*, 31 F.4th at 676, 682–84; *Pork*, 665 F. Supp. 3d at 1002–04.

¹⁸⁰ *Pork*, 665 F. Supp. 3d at 1007.

¹⁸¹ *Fond Du Lac Bumper Exch., Inc. v. Jui Li Enter. Co., Ltd.*, 2012 WL 3841397, at *3 (E.D. Wis. Sept. 5, 2012); *see also Fond Du Lac Bumper Exch., Inc. v. Jui Li Enter. Co.*, 2017 WL 4457515 (E.D. Wis. Aug. 8, 2017) (certifying statewide classes of indirect purchasers who purchased aftermarket sheet metal auto parts that traveled down the distribution chain substantially unchanged).

¹⁸² *See, e.g., Pork*, 665 F. Supp. 3d at 1003–04; *Broilers*, 2022 WL 1720468, at *18–19; *Gordon v. Microsoft Corp.*, 2001 WL 366432, at *10–12 (D. Minn. Mar. 30, 2001) (where Microsoft OS was “unchanged as it passes through distribution” granting class certification “based on Plaintiffs’ proposed methods of determining an overcharge to direct purchasers and a percentage pass through to individual consumers”); *accord Tuna*, 31 F.4th at 663 (affirming district court determination that expert’s pass-through analysis

competitive market, firms will consistently pass through cost changes. Mangum, ¶¶ 441–53.

(6) Consumer IPPs measure pass-through based on millions of observations from market participants.

Consumer IPPs have also subpoenaed and measured pass-through of cost changes from thirty-two industry participants with usable data, including over [REDACTED] million observations, and accounting for around 64 percent of the sales into the Consumer IPP supply chain and for over [REDACTED] billion in beef product sales. *Id.*, ¶¶ 484, 490. Pass-through can be empirically measured if structured data for a reseller’s costs and prices over time are available, and Dr. Mangum performs a regression pass-through analysis using such procurement (cost) and sales (price) data. *Id.*, ¶¶ 483, 490.

Dr. Mangum identifies two levels of the distribution channel and runs the same pass-through regressions on each. Dr. Mangum first measures pass-through for seventeen grocery wholesalers and distributors (entities that largely purchase from Defendant Processors), generally finding pass-through rates ranging from [REDACTED] percent.¹⁸³ Then Dr. Mangum measures pass-through on fifteen entities at the retail level, finding pass-through ranging from [REDACTED] percent. *See* Mangum, Fig. 59.

was “capable of showing class-wide impact”); *In re Korean Ramen Antitrust Litig.*, 2017 WL 235052, at *19 n.38 (N.D. Cal. Jan. 19, 2017) (accepting pass-through analysis because “[t]he ramen market does not present the same sort of complexities” as actions involving component parts).

¹⁸³ Pass-through rates above 100 percent are common and expected in a commodity market such as this, when distributors and retailers use cost-plus pricing strategies to keep their markups constant when the cost of a good increases. For the purposes of damages, all pass-through numbers are conservatively limited to 100 percent. Mangum, ¶ 490.

A pass-through rate of 100 percent indicates that every penny increase (or decrease) in the price paid by a purchaser of a beef product (such as a distributor or retailer) results in a penny increase (or decrease) in the price charged. Any estimated pass-through rate above 0 percent demonstrates the existence of antitrust impact. *Id.*, ¶ 490.

Consistent with the documentary evidence, Dr. Mangum finds consistently high, positive rates of past-through *independently* for every market participant whose data he obtained to analyze. This empirical analysis is common evidence of impact on class members, because it shows that supra-competitive prices that resulted from Defendant Processors' anticompetitive conduct were passed through the distribution chain resulting in higher prices that consumer class members paid for beef products.

2. Damages to class members need not be measured with precision, but can be measured using a common methodology.

At the class certification stage, plaintiffs “need only demonstrate they have a valid method for calculating damages.”¹⁸⁴ “[T]he fact that the damages calculation may involve individualized analysis is not by itself sufficient to preclude certification when liability can be determined on a class-wide basis.”¹⁸⁵

¹⁸⁴ *Pork*, 665 F. Supp. 3d at 1007; *see also Wholesale Grocery*, 2016 WL 4697338, at *13 (“Dr. Leitzinger offers a generalized mathematical formula that can be applied to all class members to calculate a reasonable estimation of their damages.”); *Potash*, 159 F.R.D. at 697 (“Plaintiffs have proffered several reasonable damage methodologies.”); *accord Kleen I*, 306 F.R.D. at 605 (“[I]n a complicated antitrust case such as this, where the theory of harm is that the entire market price of a product was inflated as a result of a conspiracy, plaintiffs are permitted to use estimates and analysis to calculate a reasonable approximation of their damages.”).

¹⁸⁵ *Pork*, 665 F. Supp. 3d at 1007.

Here, Consumer IPPs propose a valid methodology to calculate aggregate damages to the class. Dr. Mangum first identifies relevant direct purchasers that are within the Consumer IPP class supply chain. He then estimates the portion of sales to these direct purchasers that would ultimately be resold to consumers, and finally he estimates the portion of these relevant nationwide direct purchaser sales that are made in class states. Applying an average overcharge of [REDACTED] percent, and a pass-through rate of [REDACTED] percent, Dr. Mangum estimates damages to the Consumer IPP class of approximately [REDACTED]. Mangum, ¶¶ 492–99. This method satisfies *Comcast* because it “measure[s] damages resulting from the particular antitrust injury on which [] liability in this action is premised.”¹⁸⁶

3. A class action is superior to any other alternative.

“Rule 23(b)(3)’s superiority requirement . . . is comparative: the court must assess efficiency [of a class action] with an eye toward other available methods.”¹⁸⁷ Rule 23 instructs that the matters pertinent to this inquiry include: (A) class members’ interests in individually controlling the prosecution of separate actions; (B) whether other litigation exists concerning this controversy; (C) the desirability of concentrating the litigation in this forum; and (D) any difficulties in managing a class action.¹⁸⁸ Each of these factors supports certification.

¹⁸⁶ *Comcast Corp. v. Behrend*, 569 U.S. 27, 36 (2013); see *Pork*, 665 F. Supp. 3d at 1008 (“[T]he experts’ damages methodologies align with the theory of Plaintiffs’ case. Therefore, there is no *Comcast* issue.”).

¹⁸⁷ *Mullins v. Direct Digital, LLC*, 795 F.3d 654, 664 (7th Cir. 2015).

¹⁸⁸ Fed. R. Civ. P. 23(b)(3).

When the harm caused to any one individual class member is small, but the collective harm is great, the first three factors of Rule 23(b)(3) weigh heavily in favor of certification.¹⁸⁹ The Eighth Circuit has recognized that when “individual claims are for tens or hundreds of dollars no plaintiff is likely to pursue their claim individually.”¹⁹⁰ So a “class action is the superior mechanism to try this case.”¹⁹¹

Moreover, litigating the claims of the class members from different states is manageable. Consumer IPPs bring claims under the laws of 27 jurisdictions, each of which has an antitrust, consumer protection, or unjust enrichment law that permits indirect purchaser suits and harmonizes with the federal Sherman Act.¹⁹² In *Pork*, this Court rejected defendants’ arguments that these same variations in state law would prohibit class certification.¹⁹³ Consumer IPPs outline the statutory bases of the claims in

¹⁸⁹ *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 809 (1985).

¹⁹⁰ *Custom Hair*, 984 F.3d at 605; see also *Carnegie v. Household Int’l, Inc.*, 376 F.3d 656, 661 (7th Cir. 2004) (“The realistic alternative to a class action is not 17 million individual suits, but zero individual suits, as only a lunatic or a fanatic sues for \$30.”), *cert. denied*, 543 U.S. 1051 (2005).

¹⁹¹ *Custom Hair*, 984 F.3d at 605; see *Pork*, 665 F. Supp. 3d at 1009 (“Class actions are also superior if the alleged damages are small, and absent a class action most plaintiffs would not realistically have a day in court.”).

¹⁹² See Appendices A & B. In the *Apple eBooks* antitrust litigation, the Attorney Generals of thirty-three states asserted that their antitrust laws prohibiting price fixing were so similar that they could be tried jointly with each other and the DOJ’s Sherman Act claims. Following that trial, the district court ruled that the defendant had “conspired to restrain trade in violation of Section 1 of the Sherman Act and relevant state statutes to the extent those laws are congruent with Section 1.” *United States v. Apple Inc.*, 952 F. Supp. 2d 638, 645, 687, 709 (S.D.N.Y. 2013).

¹⁹³ *Pork*, 665 F. Supp. 3d at 1009–10.

Appendices A and B. Here, as in *Pork*, the similarity of these statutes demonstrates that the “discrepancies in state law are not material.”¹⁹⁴

C. The implicit requirements of Rule 23 are satisfied here.

The “implicit criterion, subsumed within Rule 23, is the existence of a defined class of which the named representatives are a part.”¹⁹⁵ A class must be defined so that “its members may be identified by reference to objective criteria.”¹⁹⁶ The “precise contours of the class need not be ascertained before certification so long as the class members can be identified at some stage of the proceeding.”¹⁹⁷ Self-identification may be used “to adequately ascertain potential class members,” as “[s]elf-identification affidavits are appropriate in consumer class actions concerning low-cost products where class members are unlikely to retain purchasing records and financial incentives to falsify are

¹⁹⁴ See *Pork*, 665 F. Supp. 3d at 1009–10; see also *Broilers*, 2022 WL 1720468, at *20 (rejecting contention that “differences in state consumer protection and unjust enrichment laws make certification of the Indirects class inappropriate”); *In re Static Random Access Memory (SRAM) Antitrust Litig.*, 264 F.R.D. 603, 615 (N.D. Cal. 2009) (certifying 27 state subclasses); *In re Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. 672, 700–01 & n.45 (S.D. Fla. 2004) (certifying 17 state classes of indirect purchasers under state laws, which did “not pose a manageability problem because the applicable substantive laws are virtually identical in their required elements”).

¹⁹⁵ *Workers’ Comp.*, 130 F.R.D. at 104; see also *Sandusky Wellness Ctr., LLC v. Medtox Sci., Inc.*, 821 F.3d 992, 996 (8th Cir. 2016) (“[T]his court has not addressed ascertainability as a separate, preliminary requirement”).

¹⁹⁶ *McKeage v. TMBC, LLC*, 847 F.3d 992, 998–99 (8th Cir. 2017); see also *Lafollette v. Liberty Mut. Fire Ins. Co.*, 2016 WL 4083478, at *5 (W.D. Mo. Aug. 1, 2016) (“The *Sandusky* court . . . examine[d] whether the class proposed there was ascertainable according to objective criteria, and concluded it was. It did not apply any heightened ascertainability standard as advocated by the defendant there.”).

¹⁹⁷ *Wholesale Grocery*, 2016 WL 4697338, at *5; *McKeage*, 847 F.3d at 998–99.

low.”¹⁹⁸ Here, the proposed class definition—those purchasing certain beef products for personal consumption in the class jurisdictions during the class period—“allow for class members to be identified using objective criteria during the litigation.”¹⁹⁹ And the class representatives fall within these classes.²⁰⁰ Ascertainability is easily met here.

D. Class Counsel are adequate under Rule 23(g).

The Consumer IPPs respectfully request that Hagens Berman Sobol Shapiro LLP and Lockridge Grindal Nauen P.L.L.P. be appointed as co-lead class counsel under Rule 23(g) for the Consumer IPP class. These two firms have litigated this case on behalf of Consumer IPPs for nearly five years. Each firm has devoted considerable time and resources to prosecute this action since its inception, and each is committed to continuing to do so. The firms have overseen the litigation strategy, the briefing and argument of motions, the coordination and review of millions of documents from Defendant Processors and third parties, the taking and defending of dozens of depositions, and the retention of experts. Moreover, both firms know the relevant law and have experience litigating similar antitrust actions to a successful end.²⁰¹

VI. CONCLUSION

For all these reasons, Consumer IPPs respectfully request that the class be certified.

¹⁹⁸ *In re Dollar Gen. Corp. Motor Oil Mktg. & Sales Pracs. Litig.*, 2019 WL 1418292, at *16 (W.D. Mo. Mar. 21, 2019).

¹⁹⁹ *Wholesale Grocery*, 2016 WL 4697338, at *5.

²⁰⁰ Compl., ¶¶ 31–58.

²⁰¹ See Ex. 102 (Hagens Berman firm resume) & Ex. 103 (Lockridge firm resume).

DATED: September 25, 2024

s/ Shana E. Scarlett

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the United States that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: September 25, 2024

s/ Shana E. Scarlett

Shana E. Scarlett

ECF No. 868-2
Unsealed by
Agreement of the
Parties

APPENDIX A

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
Arizona	The Arizona Uniform Antitrust Act states that “[a] contract, combination or conspiracy between two or more persons in restraint of, . . . trade or commerce, any part of which is within this state, is unlawful.” <i>See</i> Ariz. Rev. Stat. § 44-1402.	Yes. <i>See</i> Ariz. Rev. Stat. § 44-1412 (“It is the intent of the legislature that in construing this article, the courts may use as a guide interpretations given by the federal courts to comparable federal antitrust statutes.”); <i>Wedgewood Inv. Corp. v. Int’l Harvester Co.</i> , 613 P.2d 620, 622–23 (Ariz. Ct. App. 1979) (“The Arizona legislature clearly intended to strive for uniformity between federal and state antitrust laws.”); <i>Brooks Fiber Communs. v. GST Tucson Lightwave</i> , 992 F. Supp. 1124, 1130 (D. Ariz. 1997) (“The Arizona Antitrust Act, A.R.S. §§ 44-1401 <i>et seq.</i> , mirrors federal antitrust law. Because summary judgment is inappropriate on the federal claims under the Sherman Act, it is also inappropriate on the state law claims.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Ariz. Rev. Stat. § 44-1408; <i>Bunker’s Glass Co. v. Pilkington PLC</i> , 75 P.3d 99, 102 (Ariz. 2003) (“by defining the term ‘person’ to include an ‘individual,’ the legislature signaled its intent to allow indirect purchasers to sue, because individuals are rarely direct purchasers.”).	4 years. <i>See</i> Ariz. Rev. Stat. § 44-1410(B).
California	California’s antitrust law, the Cartwright Act, prohibits combinations between two or more persons “[t]o create or carry out restrictions in trade or commerce” or “[t]o limit or reduce the production, or increase the price of merchandise or of any commodity.” <i>See</i> Cal. Bus. & Prof. Code § 16720(a) & (b).	Yes. <i>See</i> <i>Cty. of Tuolumne v. Sonora Cmty. Hosp.</i> , 236 F.3d 1148, 1160 (9th Cir. 2001) (“The analysis under California’s antitrust law mirrors the analysis under federal law because the Cartwright Act, Cal. Bus. & Prof. Code § 16700 <i>et seq.</i> , was modeled after the Sherman Act.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Cal Bus. & Prof. Code § 16750(a) (“This action may be brought by any person who is injured . . . regardless of whether such injured person dealt directly or indirectly with the defendant.”).	4 years. <i>See</i> Cal. Bus. & Prof. Code § 16750.1.
District of Columbia	The District of Columbia Antitrust Act provides that “[e]very contract, combination in the form of a trust or otherwise, or conspiracy in restraint of trade or commerce all or any part of which is within the District of Columbia is declared to be illegal.”	Yes. <i>See</i> D.C. Code § 28-4515 (“[A] court of competent jurisdiction may use as a guide interpretations given by federal courts to comparable antitrust statutes.”); <i>see also In re Tobacco/Governmental Health Care Costs Litig.</i> , 83 F. Supp. 2d 125, 134 n.7 (D.D.C. 1999) (liability under D.C. Code	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> D.C. Code §§ 28-4508(a), 28-4509(a) (“Any indirect purchaser in the chain of manufacture, production, or distribution of goods or services, upon proof of payment of all	4 years. <i>See</i> D.C. Code § 28-4511(b).

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
	<i>See</i> D.C. Code § 28-4502.	§ 28-4502 is “governed by the same principles” as liability under § 1 of the Sherman Act).	or any part of any overcharge for such goods or services, shall be deemed to be injured within the meaning of this chapter.”).	
Illinois	The Illinois antitrust act prohibits “any combination or conspiracy with, any other person who is, or but for a prior agreement would be, a competitor of such person . . . for the purpose or with the effect of fixing, controlling, or maintaining the price or rate charged for any commodity sold or bought by the parties thereto.” <i>See</i> 740 Ill. Comp. Stat. Ann. 10/3(1)(a).	Yes. <i>See</i> 740 Ill. Comp. Stat. Ann. 10/11 (“When the wording of this Act is identical or similar to that of a federal antitrust law, the courts of this State shall use the construction of the federal law by the federal courts as a guide in construing this Act.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> 740 Ill. Comp. Stat. Ann. 10/7(2) (“No provision of this Act shall deny any person who is an indirect purchaser the right to sue for damages.”).	4 years. <i>See</i> 740 Ill. Comp. Stat. Ann. 10/7.
Iowa	The Iowa antitrust act states that “[a] contract, combination, or conspiracy between two or more persons shall not restrain or monopolize trade or commerce in a relevant market.” <i>See</i> Iowa Code § 553.4.	Yes. <i>See</i> Iowa Code § 553.2 (“This chapter shall be construed to complement and be harmonized with the applied laws of the United States which have the same or similar purpose as this chapter.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Iowa Code § 553.12; <i>Comes v. Microsoft Corp.</i> , 646 N.W.2d 440, 445 (Iowa 2002) (§ 553.12 “does not restrict the class of persons who may bring suit under the Iowa Competition Law. Nothing in the statute says in order to seek redress for antitrust violations a purchaser must be directly injured.”).	4 years. <i>See</i> Iowa Code § 553.16(2).
Kansas	The Kansas Restraint of Trade Act prohibits “arrangements, contracts, agreements, trusts, or combinations between persons made with a view or which tend to prevent full and free competition.” <i>See</i> Kan. Stat. Ann. § 50-112.	Yes. <i>See Bergstrom v. Noah</i> , 974 P.2d 520, 531 (Kan. 1999) (Federal Sherman Act cases “may be persuasive authority for any state court interpreting its antitrust laws”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Kan. Stat. Ann. § 50-161(b) (“action may be brought by any person who is injured . . . regardless of whether such injured person dealt directly or indirectly with the defendant.”).	3 years. <i>See</i> Kan. Stat. Ann. § 60-512; <i>Four B Corp. v. Daicel Chem. Indus.</i> , 253 F. Supp. 2d 1147, 1155 (D. Kan. 2003).

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
Maine	Maine’s antitrust act states that “[e]very contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this State is declared to be illegal.” <i>See</i> Me. Rev. Stat. tit. 10, § 1101.	Yes. <i>See Tri-State Rubbish, Inc. v. Waste Mgmt., Inc.</i> , 998 F.2d 1073, 1081 (1st Cir. 1993) (“The Maine antitrust statutes parallel the Sherman Act”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Me. Rev. Stat. tit. 10, § 1104(1) (“Any person . . . injured directly or indirectly . . . may sue for the injury in a civil action.”).	6 years. <i>See</i> Me. Rev. Stat. tit. 14, § 752.
Michigan	Michigan’s Antitrust Reform Act prohibits “[a] contract, combination, or conspiracy between 2 or more persons in restraint of, or to monopolize, trade or commerce in a relevant market is unlawful.” <i>See</i> Mich. Comp. Laws Serv. § 445.772.	Yes. <i>See</i> Mich. Comp. Laws Serv. § 445.784 (“It is the intent of the legislature that in construing all sections of this act, the courts shall give due deference to interpretations given by the federal courts to comparable antitrust statutes”); <i>ETT Ambulance Service, Inc., v. Rockford Ambulance</i> , 516 N.W.2d 498, 500 (Mich. Ct. App. 1994) (“The Michigan antitrust laws were patterned after the Sherman Anti-Trust Act, 15 U.S.C. § 1 <i>et seq.</i> ”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Mich. Comp. Laws Serv. § 445.778(2). (“Any other person threatened with injury or injured directly or indirectly . . . may bring an action”).	4 years. <i>See</i> Mich. Comp. Laws Serv. § 445.781(2).
Minnesota	Minnesota’s antitrust act prohibits: “(1) A contract, combination, or conspiracy between two or more persons in competition: (a) for the purpose or with the effect of affecting, fixing, controlling or maintaining the market price, rate, or fee of any commodity or service.” <i>See</i> Minn. Stat. Ann. § 325D.53.	Yes. <i>See Minnesota Twins P’ship v. State</i> , 592 N.W.2d 847, 851 (Minn. 1999) (“Minnesota’s antitrust laws are generally interpreted consistently with federal courts’ construction of federal antitrust laws.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Minn. Stat. Ann. § 325D.57 (“Any person . . . injured directly or indirectly by a violation of sections 325D.49 to 325D.66, shall recover . . .”).	4 years. <i>See</i> Minn. Stat. Ann. § 325D.64(1).
Missouri	The Missouri Merchandising Practices Act prohibits “any practice which . . . [o]ffends any public policy as it has been established by . . . the Federal Trade Commission.” <i>See</i> Mo. Code Regs. Ann. tit. 15, § 60-8.020(1).	Yes. <i>See</i> Mo. Code Regs. Ann. tit. 15, § 60-8.020(1) (prohibiting “any practice which . . . offends any public policy as it has been established by . . . the Federal Trade Commission.”); <i>Federal Trade Comm’n v. Cement Inst.</i> , 333 U.S. 683, 694 (1948) (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade	Yes. Indirect purchasers have standing to pursue damages and attorneys’ fees. <i>See Gibbons v. J. Nuckolls, Inc.</i> , 216 S.W.3d 667, 669–70 (Mo. 2007) (rejecting privity requirement); <i>Sheet Metal Workers Local 441 Health & Welfare Plan v. GlaxoSmithKline, PLC</i> , 737 F. Supp. 2d 380, 415 (E.D. Pa.	5 years. <i>See</i> Mo. Rev. Stat. § 516.120(2).

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
		Commission Act”).	2010) (permitting suit by indirect purchasers based on <i>Gibbons</i>).	
Nebraska	Nebraska’s antitrust statute, the Junkin Act, prohibits “[e]very contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce.” <i>See</i> Neb. Rev. Stat. Ann. § 59-801.	Yes. <i>See</i> Neb. Rev. Stat. Ann. § 59-829 (“When any provision of sections 59-801 to 59-831 . . . is the same as or similar to the language of a federal antitrust law, the courts of this state in construing such sections or chapter shall follow the construction given to the federal law by the federal courts.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Neb. Rev. Stat. Ann. § 59-821 (“Any person who is injured . . . whether such injured person dealt directly or indirectly with the defendant, may bring a civil action”).	4 years. <i>See</i> Neb. Rev. Stat. Ann. § 25-206; <i>In re Pre-Filled Propane Tank Antitrust Litig.</i> , No. 14-02567-MD-W-GAF, 2019 WL 4796528, at *10 (W.D. Mo. Aug. 21, 2019) (“Junkin Act claims are governed by a catchall four-year statute of limitations.”).
Nevada	The Nevada Unfair Trade Practice Act prohibits “a contract, combination or conspiracy in restraint of trade,” including a specific prohibitions against agreements to restrict volumes of production and price-fixing conspiracies. <i>See</i> Nev. Rev. Stat. Ann. § 598A.060.	Yes. <i>See</i> Nev. Rev. Stat. Ann. § 598A.050 (“The provisions of this chapter shall be construed in harmony with prevailing judicial interpretations of the federal antitrust statutes.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Nev. Rev. Stat. Ann. § 598A.210(2) (“Any person injured or damaged directly or indirectly . . . may institute a civil action”).	4 years. <i>See</i> Nev. Rev. Stat. Ann. § 598A.220(2)(a).
New Hampshire	New Hampshire’s antitrust act prohibits “[e]very contract, combination, or conspiracy in restraint of trade.” <i>See</i> N.H. Rev. Stat. Ann. § 356:2.	Yes. <i>See Minuteman, LLC v. Microsoft Corp.</i> , 795 A.2d 833, 836 (N.H. 2002) (“While judicial review of our antitrust law is sparse, both we and the United States District Court for the District of New Hampshire have looked to federal law when construing RSA chapter 356.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> N.H. Rev. Stat. Ann. § 356:11(II) (“Any person injured . . . may recover . . . regardless of whether that person dealt directly or indirectly with the defendant.”).	4 years. <i>See</i> N.H. Rev. Stat. Ann. § 356:12.
New Mexico	The New Mexico antitrust act states that “[e]very contract, agreement, combination or conspiracy in restraint of trade or commerce, any part of which trade or commerce is within this state, is unlawful.” <i>See</i>	Yes. <i>See</i> N.M. Stat. Ann. § 57-1-15 (“Unless otherwise provided in the Antitrust Act, the Antitrust Act shall be construed in harmony with judicial interpretations of the federal antitrust laws. This construction shall be made to achieve uniform application of the	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> N.M. Stat. Ann. § 57-1-3(A) (“any person threatened with injury or injured in his business or property, directly or indirectly, . . . may	4 years. <i>See</i> N.M. Stat. Ann. § 57-1-12(B).

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
	N.M. Stat. Ann. § 57-1-1.	state and federal laws prohibiting restraints of trade and monopolistic practices.”).	bring an action”).	
New York	New York’s antitrust law, the Donnelly Act, prohibits “[e]very contract, agreement, arrangement or combination whereby . . . Competition or the free exercise of any activity in the conduct of any business, trade or commerce or in the furnishing of any service in this state is or may be restrained.” See N.Y. Gen. Bus. Law § 340(1).	Yes. See <i>Agency Dev., Inc. v. MedAmerica Ins. Co.</i> , 310 F. Supp. 2d 538, 543 n.6 (W.D.N.Y. 2004) (“A Donnelly Act claim generally is construed in accordance with the Sherman Act. Therefore, the analysis . . . applies equally to plaintiff’s state and federal antitrust claims.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. See N.Y. Gen. Bus. Law § 340(6) (“the fact that . . . any person who has sustained damages by reason of violation of this section has not dealt directly with the defendant shall not bar or otherwise limit recovery”).	4 years. See N.Y. Gen. Bus. Law § 340(5).
North Carolina	North Carolina’s antitrust law states that “[e]very contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce in the State of North Carolina is hereby declared to be illegal.” See N.C. Gen. Stat. § 75-1.	Yes. See <i>Rose v. Vulcan Materials Co.</i> , 194 S.E.2d 521, 530 (N.C. 1973) (“[T]he body of law applying the Sherman Act, although not binding upon this Court in applying G.S. § 75-1, is nonetheless instructive in determining the full reach of that statute.”).	Yes. Indirect purchasers have standing to pursue damages. See N.C. Gen. Stat. § 75-16; <i>Hyde v. Abbott Labs., Inc.</i> , 473 S.E.2d 680, 688 (N.C. App. 1996) (holding “that indirect purchasers have standing under N.C.G.S. § 75-16 to sue for Chapter 75 violations.”).	4 years. See N.C. Gen. Stat. § 75-16.2.
North Dakota	North Dakota’s antitrust law states that “[a] contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in a relevant market is unlawful.” See N.D. Cent. Code § 51-08.1-02.	Yes. See <i>Ag Acceptance Corp. v. Glinz</i> , 684 N.W.2d 632, 639–41 (N.D. 2004) (following federal case in construing claim under state antitrust act); <i>Beckler v. Visa U.S.A., Inc.</i> , No. 09-04-C-00030, 2004 WL 2115144, at *2 (N.D. Dist. Aug. 23, 2004) (“the Court assumes that a ‘tying’ arrangement illegal under the Clayton and Sherman Acts is also illegal under State law”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. See N.D. Cent. Code § 51-08.1-08(4) (“the fact that the . . . person threatened with injury or injured . . . has not dealt directly with the defendant does not bar recovery.”).	4 years. See N.D. Cent. Code § 51-08.1-10.
Oregon	Oregon’s antitrust statute prohibits “[e]very contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce[.]” Or. Rev. Stat. Ann. § 646.725.	Yes. See Or. Rev. Stat. Ann. § 646.715 (“The decisions of federal courts in construction of federal law relating to the same subject shall be persuasive authority in the construction of ORS 646.705 to 646.805	Or. Rev. Stat. § 646.780(1)(a) allows antitrust damages suits by indirect purchasers.	4 years. Or. Rev. Stat. Ann. § 646.800.

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
		and 646.990.”)		
Rhode Island	Rhode Island’s antitrust act states that “[e]very contract, combination, or conspiracy in restraint of, or to monopolize, trade or commerce is unlawful.” <i>See</i> R.I. Gen. Laws § 6-36-4.	Yes. <i>See</i> R.I. Gen. Laws § 6-36-2(b) (“This chapter shall be construed in harmony with judicial interpretations of comparable federal antitrust statutes insofar as practicable, except where provisions of this chapter are expressly contrary to applicable federal provisions as construed.”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> R.I. Gen. Laws § 6-36-11(a) (“the fact that a person . . . has not dealt directly with the defendant shall not bar or otherwise limit recovery.”).	4 years. <i>See</i> R.I. Gen. Laws § 6-36-23.
South Dakota	South Dakota’s antitrust statute provides that “[a] contract, combination, or conspiracy between two or more persons in restraint of trade or commerce any part of which is within this state is unlawful.” S.D. Codified Laws § 37-1-3.1.	Yes. <i>See</i> S.D. Codified Laws § 37-1-22 (“It is the intent of the Legislature that in construing this chapter, the courts may use as a guide interpretations given by the federal or state courts to comparable antitrust statutes.”).	S.D. Codified Laws § 37-1-33 provides a cause of action for indirect purchasers but also provides that courts may take any steps necessary to avoid duplicative recovery.	4 years. <i>See</i> S.D. Codified Laws § 37-1-14.4.
Tennessee	The Tennessee Unfair Trade Practices Act declares unlawful and void “[a]ll arrangements, contracts, agreements, trusts, or combinations between persons or corporations . . . designed, or which tend to advance, reduce, or control the price or the cost to the producer or the consumer of any product or service” <i>See</i> Tenn. Code Ann. § 47-25-101.	Yes. <i>See State ex rel. Leech v. Levi Strauss & Co.</i> , No. 79-722-III, 1980 WL 4696, at *2 n.2 (Tenn. Ch. Sept. 25, 1980) (“The State anti-trust statute passed in 1891 is quite similar to the Sherman Anti-Trust Act passed by Congress in 1890. 15 U.S.C. § 1. Authorities which define the character of private damage suits under the federal anti-trust statutes, particularly the Sherman Act, are most persuasive.”).	Yes. Indirect purchasers have standing to pursue damages. <i>See</i> Tenn. Code Ann. § 47-25-106; <i>Sherwood v. Microsoft Corp.</i> , No. M2000-01850-COA-R9CV, 2003 WL 21780975, at *29 (Tenn. Ct. App. July 31, 2003) (holding that “indirect purchasers are ‘persons’ who may bring an action for an injury caused by violation of the TTPA”).	3 years. <i>See</i> Tenn. Code Ann. § 28-3-105; <i>Levi Strauss & Co.</i> , 1980 WL 4696, at *1 (holding state antitrust claims subject to § 28-3-105).
Utah	Utah’s antitrust act states that “[e]very contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal.” <i>See</i> Utah Code Ann. § 76-10-3104.	Yes. <i>See</i> Utah Code Ann. § 76-10-3118 (“The Legislature intends that the courts, in construing this act, will be guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Utah Code Ann. § 76-10-3109(a)(1) (“A person . . . who is injured . . . may bring an action . . . regardless of whether the person dealt	4 years. <i>See</i> Utah Code Ann. § 76-10-3117.

ANTITRUST STATUTES				
STATE	ANTITRUST STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
		antitrust statutes.”).	directly or indirectly with the defendant.”).	
West Virginia	The West Virginia Antitrust Act provides that “[e]very contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce in this State shall be unlawful.” <i>See</i> W. Va. Code § 47-18-3.	Yes. <i>See</i> W. VA. Code § 47-18-16 (“This article shall be construed liberally and in harmony with ruling judicial interpretations of comparable federal antitrust statutes.”); <i>Gray v. Marshall Cty. Bd. of Educ.</i> , 367 S.E.2d 751, 755 (W. Va. 1988) (“we are directed by the legislature to apply the federal decisional law interpreting the Sherman Act to our own parallel anti-trust statute”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> W. VA. Code § 47-18-9; W. Va. Code St. R. § 142-9-2 (“any person who is injured directly or indirectly by reason of a violation of the West Virginia Antitrust Act, W. Va. Code § 47-18-1, <i>et seq.</i> , may bring an action for damages”).	4 years. <i>See</i> W. VA. Code § 47-18-11.
Wisconsin	Wisconsin’s antitrust statute provides that, “[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce is illegal.” Wis. Stat. Ann. § 133.03(1).	Yes. <i>See Ford Motor Co. v. Lyons</i> , 137 Wis. 2d 397, 429, 405 N.W.2d 354, 367 (Ct. App. 1987) (“[O]ur interpretation of sec. 133.03 is controlled by federal court decisions under the Sherman Act[.]”).	Yes. Indirect purchasers have standing to pursue damages, costs, and attorneys’ fees. <i>See</i> Wis. Stat. Ann. § 133.18(1)(a).	6 years. Wis. Stat. Ann. § 133.18(2).

ECF No. 868-3
Unsealed by
Agreement of the
Parties

APPENDIX B

CONSUMER PROTECTION STATUTES				
JURISDICTION	CONSUMER PROTECTION STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
California	California’s Unfair Competition Law prohibits “any unlawful, unfair or fraudulent business act or practice”. See Cal. Bus. & Prof. Code § 17200.	Yes. See <i>Rubio v. Cap. One Bank</i> , 613 F.3d 1195, 1204 (9th Cir. 2010) (by alleging a federal statute violation, a plaintiff “also alleged a UCL violation under the prong of the UCL that prohibits ‘unlawful’ business acts or practices.”).	Yes. See <i>In re Ditropan XL Antitrust Litig.</i> , 529 F. Supp. 2d 1098, 1105 (N.D. Cal. 2007) (“[A]s long as Indirect Purchaser Plaintiffs are ultimately able to prove traceability, California law authorizes this Court to award them restitution under the UCL.”).	4 years. See Cal. Bus. & Prof. Code § 17208.
District of Columbia	D.C.’s Consumer Protection Procedures Act (DCCPA) states that it “shall be a violation of this chapter for any person to engage in an unfair or deceptive trade practice[.]” See D.C. Code § 28-3904. (Note: the DCCPA is different than the D.C. Consumer Protection Act, DCPA. See <i>Murray v. Wells Fargo Home Mortg.</i> , 953 A.2d 308, 323 (D.C. 2008).)	Yes. See D.C. Code § 28-3901(d) (“In construing the term ‘unfair or deceptive trade practice’ due consideration and weight shall be given to the interpretation by the Federal Trade Commission”); <i>Federal Trade Comm’n v. Cement Inst.</i> , 333 U.S. 683, 694 (1948) (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade Commission Act”).	Yes. See <i>In re Chocolate Confectionary Antitrust Litig.</i> , 602 F. Supp. 2d 538, 584 (M.D. Pa. 2009) (“the DCCPPA subsumes a Sherman Act claim and creates an indirect purchaser cause of action for conspiratorial price fixing”).	3 years. See D.C. Code § 12-301(8) (residual three-year statute of limitations); <i>Murray v. Wells Fargo Home Mortg.</i> , 953 A.2d 308, 323 (D.C. 2008) (§ 12-301(8) applies to DCCPPA).
Florida	The Florida Deceptive and Unfair Trade Practices Act states that “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” See Fla. Stat. Ann. § 501.204(1).	Yes. See Fla. Stat. Ann. § 501.204(2) (“[D]ue consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to s. 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1)”); <i>Cement Inst.</i> , 333 U.S. at 694 (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade Commission Act”).	Yes. See <i>Mack v. Bristol-Myers Squibb Co.</i> , 673 So. 2d 100, 108 (Fla. Dist. Ct. App. 1996) (“[W]e read subsections 501.202(2), 501.211(2) and 501.204(1) of the Florida DTPA as a clear statement of legislative policy to protect consumers through the authorization of such indirect purchaser actions.”).	4 years. See Fla. Stat. Ann. § 95.11(3); <i>S. Motor Co. of Dade Cnty. v. Doktorczyk</i> , 957 So. 2d 1215, 1216–17 (Fla. Dist. Ct. App. 2007) (holding that § 95.11(3) applies to FDUTPA claims).

CONSUMER PROTECTION STATUTES				
JURISDICTION	CONSUMER PROTECTION STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
Illinois	Illinois’s Consumer Fraud and Deceptive Business Practices Act states that “[u]nfair methods of competition and unfair or deceptive acts or practices . . . in the conduct of any trade or commerce are hereby declared unlawful.” <i>See</i> 815 Ill. Comp. Stat. Ann. 505/2.	Yes. <i>See</i> 815 Ill. Comp. Stat. Ann. 505/2 (“In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act”); <i>Cement Inst.</i> , 333 U.S. at 694 (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade Commission Act”).	<i>Yes. See. In re Zetia (Ezetimibe) Antitrust Litig.</i> , 400 F. Supp. 3d 418, 436 (E.D. Va. 2019) (holding that end payor plaintiffs “can bring an indirect purchaser action under the consumer protection statutes of Illinois”).	3 years. <i>See</i> 815 Ill. Comp. Stat. Ann. 505/10a(e).
Massachusetts	Massachusetts’ consumer protection statute prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” Mass. Ann. Laws ch. 93A, § 2.	Yes. <i>See</i> Mass. Ann. Laws ch. 93A, § 3 (“Nothing in this chapter shall apply to transactions or actions otherwise permitted under laws . . . of the United States.”); <i>see also Barrett v. Garage Cars, LLC</i> , No. 23–CV–11018–NMG, 2024 WL 4069066, at *6 (D. Mass. Sept. 5, 2024) (certifying class under FRCP 23 alleging violations of Mass. Ann. Laws ch. 93A, § 1, <i>et seq.</i>).	<i>See</i> Mass. Ann. Laws ch. 93A, § 11 (giving a claim to “[a]ny person who engages in the conduct of any trade or commerce and who suffers any loss of money or property, real or personal, as a result of the use or employment by another person who engages in any trade or commerce of an unfair method of competition or an unfair or deceptive act or practice[.]”) (emphasis added).	4 years. Mass. Ann. Laws ch. 260, § 5A; <i>In re 201 Forest St. LLC</i> , 409 B.R. 543, 580 (Bankr. D. Mass. 2009).
Montana	Montana’s Unfair Trade Practices and Consumer Protection Act of 1970 states, “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.” Mont. Code Ann. § 30-14-103; <i>see also</i> § 30-14-201.	Yes. <i>See</i> Mont. Code Ann. § 30-14-104(1) (“It is the intent of the legislature that in construing 30-14-103 due consideration and weight shall be given to the interpretations of the federal trade commission and the federal courts relating to section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C., 45(a)(1)), as amended.”).	Yes. <i>See In re Broiler Chicken Antitrust Litig.</i> , 290 F. Supp. 3d 772, 820–21 (N.D. Ill. 2017) (declining to dismiss indirect purchaser plaintiffs’ Montana consumer protection laws claims on the basis of statutory class action bars).	2 years. Mont. Code Ann. § 27-2-211; <i>see Brunner v. Bawcom</i> , No. CV 10-24-M-DWM, 2010 WL 3724436, at *11 (D. Mont. Sept. 15, 2010).
Nevada	Nevada’s Deceptive Trade Practices Act states that a person engages in a deceptive trade practice by	Yes. <i>See</i> Nev. Rev. Stat. Ann. § 598.0923(1)(c) (person violates NDTPA by “[v]iolat[ing] a state or	Yes. <i>See In re Packaged Seafood Prods. Antitrust Litig.</i> , 242 F. Supp. 3d 1033, 1080–81 (S.D. Cal. 2017)	3 years. <i>See</i> Nev. Rev. Stat. Ann. § 11.190(3)(a).

CONSUMER PROTECTION STATUTES				
JURISDICTION	CONSUMER PROTECTION STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
	“[v]iolat[ing] a state or federal statute or regulation relating to the sale or lease of goods or services”). <i>See Nev. Rev. Stat. Ann. § 598.0923(1)(c).</i>	federal statute or regulation relating to the sale or lease of goods or services.”).	(allowing end purchaser plaintiffs’ claims under the NDTPA).	
New Mexico	New Mexico’s Unfair Practices Act states that “[u]nfair or deceptive trade practices and unconscionable trade practices in the conduct of any trade or commerce are unlawful.” <i>See N.M. Stat. Ann. § 57-12-3.</i>	Yes. <i>See N.M. Stat. Ann. § 57-12-4</i> (“It is the intent of the legislature that in construing Section 3 of the Unfair Practices Act the courts to the extent possible will be guided by the interpretations given by the federal trade commission and the federal courts.”); <i>Cement Inst.</i> , 333 U.S. at 694 (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade Commission Act”).	Yes. <i>See In re New Motor Vehicles Canadian Exp. Antitrust Litig.</i> , 350 F. Supp. 2d 160, 196 (D. Me. 2004) (rejecting the defendants’ argument that the “plaintiffs’ indirect purchaser status prevents them from pursuing an NMUPA claim”).	4 years. <i>See N.M. Stat. Ann. § 37-1-4; Nance v. L.J. Dolloff Assocs., Inc.</i> , 126 P.3d 1215, 1220 (N.M. Ct. App. 2005).
North Carolina	North Carolina’s Unfair and Deceptive Trade Practices Act states that “[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are declared unlawful.” <i>See N.C. Gen. Stat. § 75-1.1(a).</i>	Yes. <i>See Henderson v. U.S. Fid. & Guar. Co.</i> , 488 S.E.2d 234, 239 (N.C. 1997) (“Our statute is patterned after section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), and we look to federal case law for guidance in interpreting the statute.”); <i>Cement Inst.</i> , 333 U.S. at 694 (“all conduct violative of the Sherman Act may likewise come within the unfair trade practice prohibitions of the Trade Commission Act”).	Yes. <i>See In re Processed Egg Prod. Antitrust Litig.</i> , 851 F. Supp. 2d 867, 909-11 (E.D. Pa. 2012) (allowing indirect purchasers’ claims to proceed under North Carolina’s Unfair and Deceptive Trade Practices Act).	4 years. <i>See N.C. Gen. Stat. § 75-16.2.</i>
Utah	The Utah Consumer Sales Practices Act states that “[a] deceptive act or practice by a supplier in connection with a consumer transaction violates this	Yes. <i>See</i> (“This act shall be construed liberally to . . . make state regulation of consumer sales practices not inconsistent with the policies of the Federal Trade	Yes. <i>See Utah Code Ann. § 13-11-19(4)(a)</i> (“A consumer who suffers loss as a result of a violation of this chapter may bring a class action”); <i>id.</i> § 13-11-2 (requiring liberal construction of	5 years. Utah Code Ann. §§ 13-2-1(2) and 13-2-6(6)(b).

CONSUMER PROTECTION STATUTES				
JURISDICTION	CONSUMER PROTECTION STATUTE	HARMONIZATION WITH FEDERAL LAW	INDIRECT PURCHASER STANDING	STATUTE OF LIMITATIONS
	chapter[.]” Utah Code Ann. § 13-11-4(1). Additionally, “[a]n unconscionable act or practice by a supplier in connection with a consumer transaction violates this act[.]” <i>Id.</i> § 13-11-5(1).	Commission Act relating to consumer protection[.]”) Utah Code Ann. § 13-11-2(4).	this Act); <i>see also In re Pork Antitrust Litig.</i> , 495 F. Supp. 3d at 787 (denying motion to dismiss indirect purchasers’ complaint); Utah Code Ann. § 13-11-17.5 (providing for damages, costs, and fees).	

**ECF No. 868-4
Public Redacted
Version**

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
Andrew Cohen (Arizona)	Steaks - filets (loin), New York strip (loin), ribs (rib) roast (loin)	Weekly	<i>See</i> C-1 (Excerpt of Andrew Cohen deposition transcript).
Marcelo Lopez (California)	Asada (loin), filet mignon (loin), tri-tip (loin), ribs (rib), ribeye (rib) sirloin (loin), filet mignon (loin), tri-tip (loin), ribs (rib), ribeye (rib)	Weekly	<i>See</i> C-2 (Declaration of Marcelo Lopez).
Stacey Troupe (California)	Chuck roast (chuck), ribs (rib), cubed steak (round)	4-8 times per month	<i>See</i> C-3 (Excerpt of Stacey Troupe deposition transcript).
William Gee (Washington DC)	Steak (rib), roast (chuck), ribs (rib), New York strip (loin), ribeye (rib), filet roast (loin), beef tenderloin, (loin) prime steak (rib)	Twice per week	<i>See</i> C-4 (Excerpt of William Gee deposition transcript).
Lisa Melegari (Florida)	Standing rib roast (rib), New York strip (loin), beef short ribs (rib), chuck steaks (chuck), rib eye (rib), strip steak (loin), picanha (loin), sirloin cut (loin), chuck roast (chuck), tri-tip steak (loin) cubed steak (round), rump roast (round)	3-5 times per month	<i>See</i> C-5 (Excerpt of Lisa Melegari deposition transcript).

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
Eric Gauchat (Illinois)	Chuck roast (chuck), strip loin (loin), steaks (rib), strip steaks (loin), bone in and bone out ribeye steaks (rib), whole tenderloin (loin)	Weekly	<i>See</i> C-6 (Excerpt of Eric Gauchat deposition transcript).
Sharon Killmon (Iowa)	Ribs (rib), round steak (round), chuck pot roast (chuck)	Weekly	<i>See</i> C-7 (Declaration of Sharon Killmon).
Harold Nyanjom (Kansas)	Ribeye (rib), sirloin (loin), chuck pot roast (chuck) ribeye (rib), sirloin (loin), tenderloin (loin), T-bone steak (loin), ribs (rib), round steak (round), rump roast (round), chuck pot roast (chuck) and round roast (round)	2-3 times per month	<i>See</i> C-8 (Declaration of Harold Nyanjom).
Mark Sperry (Maine)	Chuck roast (chuck), ribeye (rib), T-bone (loin)	1-2 times per week	<i>See</i> C-9 (Excerpt of Mark Sperry deposition transcript).
Karen Carter (Massachusetts)	Filet (loin), strip steak (loin), steak tips (loin), beef ribs (rib), filet mignon (loin), sirloin roast (loin), roasts (rib), cube steak (round) beef ribs (ribs), stew meat (chuck), tenderloin roast (loin), sirloin tips (loin), porterhouse steak (loin), T-bone steak (loin), steak (loin), roasts (loin) eye-of-the-round roast (round), top-of-the-round beef round roast (round), cubed steak (round)	2-4 times per month, varies seasonally	<i>See</i> C-10 (Excerpt of Karen Carter deposition transcript).

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
John Shupe (Michigan)	Chuck roast (chuck), New York strip (loin), Delmonico (chuck), ribeye (rib), pot roast (chuck), chuck roast (chuck), beef short ribs (chuck)	2-4 times per month	<i>See</i> C-11 (Excerpt of John Shupe deposition transcript).
Charlie Morgan (Minnesota)	New York strip (loin), sirloin (loin)	Every two weeks prior to the pandemic	<i>See</i> C-12 (Excerpt of Charlie Morgan deposition transcript).
Sharon Dawson-Green (Missouri)	Roast (rib), steaks (loin), beef stew meat (chuck), choice strip (loin), T-Bone steak (loin), strip steak (loin), round roast (round), cube steak (round)	Weekly	<i>See</i> C-13 (Excerpt of Sharon Dawson-Green deposition transcript).
Brent Rasmussen (Montana)	Roast (chuck), rib steaks (rib), Tri- tip (loin), ribeye (rib), New York strip (loin), sirloin (loin)	2.5-5 times per week	<i>See</i> C-14 (Excerpt of Brent Rasmussen deposition transcript).
David Renz (Nebraska)	Sirloin steaks (loin), chuck roast (chuck), T-Bone steaks (loin), New York strip (loin)	Weekly	<i>See</i> C-15 (Excerpt of David Renz deposition transcript).
Kenneth Peterson (Nevada)	Top sirloin (loin), cross rib roast (rib), filet mignon (loin), New York Strip (loin)	Grocery shopping 2-3 times per week, beef grocery purchases vary over time	<i>See</i> C-16 (Excerpt of Kenneth Peterson deposition transcript).

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
Martin Jarmulowicz (New Hampshire)	Ribeye (rib), sirloin (loin), tri-tip (loin), pot roast (chuck), pot roast (chuck) and round roast (round)	Every two weeks	<i>See</i> C-17 (Declaration of Martin Jarmulowicz).
Kent Winchester (New Mexico)	Tenderloin (loin), ribeye (rib), ribs (rib)	4-6 times per month	<i>See</i> C-18 (Excerpt of Kent Winchester deposition transcript).
Brenda King (New York)	New York strip (Loin), beef loin (loin), porterhouse (loin), filet mignon (loin), ribeye (rib), chuck roast (chuck), ribeye roast (rib), cubed stew meat (chuck).	1-3 times per week	<i>See</i> C-19 (Excerpt of Brenda King deposition transcript).
Robert Trepper (North Carolina)	Roast (sirloin), short ribs (chuck)	Once per week	<i>See</i> C-20 (Excerpt of Robert Trepper deposition transcript).
Michelle Oversen (North Dakota)	Prime rib (rib), beef ribs (rib), sirloin roast (loin), ribeye steaks (rib), New York strip steak (loin), sirloin tip roast (loin), baby back beef ribs loin (rib), roast (chuck), sirloin tip roast (loin)	3-4 times per month in Dickinson, ND, 2 times per week in Killdeer, ND, 1 per quarter, Bismark, ND, increases seasonally around the holidays	<i>See</i> C-21 (Excerpt of Michelle Oversen deposition transcript).

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
Dan Campbell (Oregon)	Prime rib (rib), tri-tip roast (loin), steaks (loin), cube steak (sirloin), sirloin steak (loin), petite sirloin steak (sirloin), whole sirloin (loin), rib steak (rib), steak (rib), prime rib (rib), sirloin (loin), beef ribs (rib), steak (loin) cube steak (round)	Weekly	<i>See</i> C-22 (Excerpt of Dan Campbell deposition transcript).
Lindsey Lemoi (Rhode Island)	Roast (chuck), stew meat (chuck), filet (loin), ribeye (rib), sirloin (loin), strip (loin), roast beef (rib), steak (rib), beef ribs (rib), skewered beef (loin), steak tips (loin), sides of beef (rib), strip of filet (loin), tenderloin (loin), top round (round), bottom round (round)	Weekly	<i>See</i> C-23 (Excerpt of Lindsey Lemoi deposition transcript).
Craig Margulies (South Dakota)	Fresh and frozen subprimals, roast, steaks, tri tip (loin)	2-3 times per month	<i>See</i> C-24 (Excerpt of Craig Margulies deposition transcript).
Jacquelyn Watson (Tennessee)	Chuck roast (chuck), eye of round (round)	Twice per week	<i>See</i> C-25 (Excerpt of Jacquelyn Watson deposition transcript).
Cindy Abernathy (Utah)	Steaks (rib), roast (chuck), sirloin (loin)	Weekly	<i>See</i> C-26 (Excerpt of Cindy Abernathy deposition transcript).

**APPENDIX C: Summary of Plaintiffs Beef Purchases
Pursuant to Fed. R. Evid. 1006**

Plaintiff Name & State Representing	Class Products Purchased (Primal Cut – chuck, loin, rib, or round)	Frequency of Purchases	Citation
Leigh Tiller (West Virginia)	Ribeye (rib), sirloin (loin), tenderloin (loin), chuck post roast (chuck), round steak (round), rump roast (round), chuck pot roast (chuck), and round roast (round)	Every 1-2 weeks	<i>See C-27</i> (Declaration of Leigh Tiller).
Jason Falbo (Wisconsin)	Ribeye (rib), porterhouse (loin), filet mignon (tenderloin), New York strip (loin) beef roast (rib)	Weekly	<i>See C-28</i> (Excerpt of Jason Falbo deposition transcript).

Appendix C-1
Andrew Cohen (Arizona)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF) No. 22-md-3031 (JRT/JFD)
ANTITRUST LITIGATION)
This Document Relates)
To: Consumer Indirect)
Purchaser Plaintiff)
Actions)
-----)

REMOTE PROCEEDINGS OF THE
DEPOSITION OF ANDREW COHEN
THURSDAY, MAY 16, 2024

REPORTED BY NANCY J. MARTIN
CSR. NO. 9504, RMR, RPR
PAGES 1 - 122

1 food from a fast casual restaurant?

2 A. Again, hard to answer directly with a number,
3 but it happens.

4 Q. Okay. Now, think -- shifting to the beef
5 that you would buy to cook for yourself or cook for
6 your household at home, about how much beef would you
7 say you buy during a typical week?

8 A. Are you looking for like quantity in terms of
9 like pounds or like -- can you be more clear on what
10 you're looking for?

11 Q. Sure, yeah. Just based on pounds, about how
12 many pounds of beef would you say you purchase in a
13 typical week?

14 A. See, pounds, I'm not sure of the answer. I
15 can give you quantity in terms of like three steaks or
16 enough ground beef to make four burgers.

17 Q. Sure. Then tell me just however you're able
18 to quantify it --

19 A. Sure.

20 Q. -- about how much beef do you typically buy
21 in a normal week?

22 A. I would say the best estimate is enough to
23 feed six people.

24 Q. So that would be the equivalent of one meal
25 for six people; correct?

1 A. Yes.

2 Q. Okay. And is that because you are cooking
3 for other people as well as your household?

4 A. No.

5 Q. Is that because you are -- eat be
6 approximately three meals for you and your wife per
7 week?

8 A. Yes, leftovers.

9 Q. And leftovers. Has that been about the same
10 over the past 10 years?

11 A. Again, hard to talk about 10 years, but yes.

12 Q. Are there times of the year in which you
13 purchase -- you find yourself purchasing more beef to
14 cook or eat at home during the course of a year?

15 A. No.

16 Q. Any particular holidays that you find
17 yourself buying more beef or specifically making a
18 point to buy beef products?

19 A. No.

20 Q. Again, this is another one of those 10-year
21 questions. Do you think that the amount of beef that
22 you buy on an annual basis for your household has
23 changed at all over the past 10 years?

24 A. Yes.

25 Q. Okay. How has it changed?

1 A. I would say it increased over the years as
2 we've cut other things out.

3 Q. What things have you cut out that have led to
4 that increase?

5 A. Fast food.

6 Q. Okay. So I think you said you sort of moved
7 away from fast food restaurants over the past two to
8 three years; is that right?

9 A. Approximately.

10 Q. And your recollection is that you bought less
11 fast food but then more beef for your household
12 consumption; correct?

13 A. I wouldn't directly draw the correlation that
14 less fast food equals more beef, but we have gone to
15 more meal prepping which would involve more beef.

16 Q. Okay. Understood. During the course of a
17 year, are there particular times that you go out to
18 eat more often?

19 A. No.

20 Q. I listed a whole bunch of other restaurant
21 types. During the course of the year, are there times
22 when you get more food from any of those types of
23 restaurants, whether it's sit down, fast casual or
24 anything like that?

25 A. No.

1 Q. And then -- and that's been the case for the
2 past three years or so?

3 A. Yes.

4 Q. Okay. Is there any other time prior to the
5 last three years when Safeway was your normal grocery
6 store?

7 A. Yes.

8 Q. Okay. Do you remember when that was
9 approximately?

10 A. It was probably 2015, 2016 when we lived at
11 the [REDACTED]

12 Q. Okay. So I want to ask you about your
13 purchases from Safeway first. Are there specific beef
14 products that you typically buy from Safeway, so
15 particular cuts of beef?

16 A. There is not like a specific list I have.

17 Q. Okay. What kind -- in general, what kinds of
18 cuts of beef do you buy?

19 A. Sure. Steaks, ground beef. I guess I would
20 say different cuts of steak.

21 Q. Okay.

22 A. Definitely have gotten a brisket before.
23 Hopefully a good list.

24 Q. Do you ever buy any roasts?

25 A. No, not a big roast guy.

1 Q. Ribs, do you ever buy any ribs?

2 A. Yes.

3 Q. Any other cuts of beef that you can recall
4 buying from Safeway specifically?

5 A. No.

6 Q. And whenever you've purchased from Safeway,
7 has that changed at all over time, the different cuts
8 of beef that you buy?

9 A. No.

10 Q. Okay. What kind of steaks do you normally
11 buy? You said different kinds. Do you recall what
12 kinds you typically buy?

13 A. Yeah. There's a variation of fillets versus
14 New York strip versus, I don't know, top round.

15 Q. You said that you generally -- your testimony
16 earlier was that you'd buy enough beef on a weekly
17 basis, approximately, for -- to feed six people. So
18 six meals; correct?

19 A. Correct.

20 Q. How often do you buy steaks specifically from
21 Safeway?

22 A. Once a week.

23 Q. Once a week. Okay. Has that changed at all
24 over time?

25 A. Not that I can recall.

1 Q. What about ground beef? What would you say
2 you typically buy per week?

3 A. Probably not per week. Sorry.

4 Q. Okay. How often do you buy ground beef?

5 A. Estimated once per month.

6 Q. Once per month. Okay. Do you have a sense
7 of how much you typically buy when you buy it once a
8 month?

9 A. It's probably a couple pounds.

10 Q. Okay. What about brisket? You mentioned the
11 brisket. About how often do you buy brisket from
12 Safeway?

13 A. Twice a year.

14 Q. Twice a year. Okay. Has that changed over
15 time?

16 A. Yes.

17 Q. How so?

18 A. I got a smoker a few years ago and before
19 that, I did not smoke brisket.

20 Q. Is it a Traeger?

21 A. It's not. It's a direct competitor.

22 Q. Okay. What's the brand?

23 A. Yoder.

24 Q. Yoder. Okay. What about ribs? We talked
25 about ribs. About how often do you buy those?

1 A. Barely once a year.

2 Q. Okay. For any of those products that we
3 talked about, do you -- buying from Safeway, do you
4 recall the brand or any brand or labeling on any of
5 those?

6 A. No.

7 Q. Okay. Do you recall if buying from Safeway,
8 any beef products that were specifically grass-fed
9 cattle?

10 A. No.

11 Q. Do you know if any of the products, beef
12 products you buy from Safeway, are processed from
13 dairy cows or dairy cattle?

14 A. I have no idea.

15 Q. Okay. So thinking just about Safeway grocery
16 store, have you noticed any general trends in the
17 prices you've paid for beef over the past 10 years?

18 A. Yes.

19 Q. What have you noticed?

20 A. I'm not a data scientist but I would say that
21 the prices have gone up, especially over the last
22 decade.

23 Q. Okay. Is the same true for other -- the
24 price of other products that Safeway -- other grocery
25 items?

1 at Safeway?

2 A. Saturday.

3 Q. Do you normally keep your receipts from
4 Safeway when you purchase beef there or purchase
5 anything there?

6 A. No.

7 Q. What do you do with them?

8 A. Sometimes they just hang from the receipt
9 machine, and sometimes they get thrown out with the
10 recycling.

11 Q. Have you ever ordered groceries to be
12 delivered from Safeway, either through the store
13 directly or like a third-party delivery service?

14 A. Yes.

15 Q. Okay. How often do you do that?

16 A. Maybe monthly.

17 Q. Okay. And is it through the store? Is it
18 through a third-party delivery service?

19 A. Third party.

20 Q. Which one?

21 A. Instacart.

22 Q. When you use Instacart, is there like an
23 electronic record of what you ordered from them?

24 A. Yes.

25 Q. Okay. And do those records go to your E-mail

1 account?

2 A. Yes. Well, unsure.

3 Q. Okay. Do you have access to them now if you
4 had to look them up? Not like today but if you had
5 to?

6 A. I personally do not.

7 Q. Okay. Do you know who does?

8 A. Yes.

9 Q. Who?

10 A. My wife.

11 Q. Got it. So is it an account that's in your
12 wife's name that you use for Instacart?

13 A. Yes.

14 Q. Do you ever recall using Instacart to
15 purchase beef specifically from Safeway?

16 A. No.

17 Q. Is it possible that you have done that?

18 A. Yes, it's possible.

19 Q. Okay. We've talked about Safeway. I want to
20 ask you about Fry's. That was a grocery store you
21 mentioned.

22 How often do you -- how often do you shop at
23 Fry's now?

24 A. Hardly ever now in the current state.

25 Q. Was Fry's your main grocery store that you

1 shopped at at some point?

2 A. Yes.

3 Q. When was that approximately?

4 A. [REDACTED] so 2018 to 2020.

5 Q. Okay.

6 A. And then [REDACTED] 2015, 2016.

7 Q. Okay. What types of beef, what cuts of beef
8 do you remember typically purchasing from Fry's?

9 A. The same as Safeway.

10 Q. Okay. So steaks once a week; is that
11 correct?

12 A. Yeah. Estimated.

13 Q. Ground beef, a few pounds a month; is that
14 correct?

15 A. Yep.

16 Q. Okay. Did you ever buy -- I think this is in
17 the presmoker era. Did you ever buy brisket or ribs
18 from Fry's?

19 A. No.

20 Q. Any other cuts of meat you can remember
21 buying from Fry's?

22 A. No.

23 Q. So would you say aside from brisket and ribs,
24 you're purchasing -- the quantities and types of meat
25 that you would purchase at Fry's was the same as what

1 you purchase now from Safeway?

2 A. No.

3 MR. GOPLERUD: Object to the form of the
4 question.

5 BY MR. ELLISON:

6 Q. How is it different?

7 A. It would have been less.

8 Q. And why was that?

9 A. Either not living with my wife and having a
10 different roommate or I wasn't financially stable
11 enough to afford it.

12 Q. Okay. So you bought the same cuts of meat
13 but probably less in quantity when you were purchasing
14 from Fry's; is that accurate?

15 MR. GOPLERUD: Object to the form of the
16 question.

17 THE WITNESS: Yes.

18 BY MR. ELLISON:

19 Q. Do you remember any particular brands or
20 labeling of the beef that you purchased at Fry's?

21 A. No.

22 Q. Do you know if the beef you purchased at
23 Fry's was produced by any of the defendants in this
24 case?

25 A. I do not.

1 THE WITNESS: Yes.

2 BY MR. ELLISON:

3 Q. It's okay. You can give your counsel just a
4 moment to object. Sometimes there's a delay because
5 of the video, but that's fine.

6 A. Got it.

7 Q. So just pause for a moment.

8 A. Okay.

9 Q. When you purchased beef at Fry's -- or
10 when -- just when you did any grocery shopping at
11 Fry's, did you keep your receipts?

12 A. No.

13 Q. Okay. Did you ever order beef -- sorry.

14 Did you ever order groceries from Fry's to be
15 delivered, either from the store or through Instacart
16 or something like that?

17 A. No.

18 Q. All right. I want to ask you about Costco.

19 How often do you shop at Costco?

20 A. Quarterly.

21 Q. And has that changed over time?

22 A. Yes.

23 Q. How so?

24 A. It has increased in the last several years
25 because of family needs.

1 Q. When did you first become a member at Costco?

2 A. I think it was within the last few years.

3 Q. Okay. When you shop at Costco, you said it's
4 about quarterly. Do you ever buy beef from Costco?

5 A. Yes.

6 Q. Okay. And do you stock up on beef when you
7 buy from Costco?

8 A. No.

9 Q. Okay. So would you say when you buy from
10 Costco and you buy beef, is that just part of your
11 regular weekly grocery needs?

12 A. Yes.

13 Q. Okay. So it's not the sort of thing where
14 you would go there and buy, you know, whatever they
15 have, a 20 pack of steaks because you can't find that
16 somewhere else?

17 A. Correct.

18 Q. Okay. Thinking about the cuts of beef or the
19 beef products you buy at Costco, they're generally the
20 same types of products you buy there as what you
21 purchase from Safeway?

22 A. Yes.

23 Q. So that would be steaks about once a week; is
24 that right?

25 MR. GOPLERUD: Object to the form of the

1 question. Mischaracterizes his testimony of
2 frequency.

3 THE WITNESS: I think I agree with what he
4 just said. I don't go to Costco weekly.

5 BY MR. ELLISON:

6 Q. Oh, yeah. Sorry. Okay.

7 So when you would go there, you would buy
8 steaks; correct?

9 A. Yes.

10 Q. Okay. Do you ever buy ground beef at Costco?

11 A. Yes.

12 Q. Okay. About how much when you go there?

13 A. Couple pounds.

14 Q. Okay. And do you ever buy brisket or ribs at
15 Costco?

16 A. No.

17 Q. So pretty much just steaks and ground beef;
18 is that right? From Costco?

19 A. Tri-tip.

20 Q. Tri-tip.

21 Do you make it a point to buy tri-tip
22 specifically at Costco?

23 A. I don't know if I would say "make it a
24 point," but there's a specific cut of meat at Costco,
25 which is the tri-tip, that when I'm there, I will get

1 it.

2 Q. And why is that?

3 A. It's delicious.

4 Q. No objection there.

5 Do you ever buy tri-tip at other locations?

6 A. Yes.

7 Q. Okay. Which other ones?

8 A. Private butcher shop.

9 Q. Okay. Anything else?

10 A. No.

11 Q. Okay. Yeah, it is hard to find sometimes.

12 So you purchased from Costco steaks, a

13 tri-tip, which I think is a roast technically, and

14 then ground beef. Any other products you can think

15 of?

16 A. No.

17 Q. Okay. Do you recall any specific brands or
18 labeling on the beef that you buy from Costco?

19 A. No.

20 Q. Do you know if any of the beef you buy from
21 Costco is produced by any of the defendants in this
22 case?

23 A. I do not.

24 Q. Do you ever buy any beef from Costco that is
25 specifically labeled as grass fed?

1 A. Yeah. Actually, thinking about it, it's
2 longer than 10 years ago. None of the addresses
3 listed are relevant.

4 Q. Okay. When you shopped at Bashas' was there
5 anything -- did you buy again the same types of meat
6 that you'd buy at Safeway?

7 MR. GOPLERUD: Benjamin, I'm going to go
8 ahead and make an objection not only to object to the
9 form but also on relevancy, that this may all be
10 outside of any of the class period. And so I'd ask
11 that you move through this area quickly so I don't
12 have to instruct him to not answer.

13 MR. ELLISON: Objection is noted. So I'll
14 ask the question again.

15 Q. When you purchased groceries at Bashas', was
16 it generally the same types of -- cuts of meat we've
17 already talked about at Safeway?

18 A. It's going to be assumptions here too, it was
19 so long ago. But, yes, assuming it's the same cut but
20 it was also like college days. So I was probably not
21 buying as much beef because of the price in general.

22 Q. Do you know whether any of the defendants in
23 this case produced the beef that you purchased at
24 Bashas'?

25 A. I do not.

1 Q. Okay. When you do buy beef from Sprouts, is
2 it -- do you buy any different cuts than what you buy
3 from Safeway?

4 A. No.

5 Q. Do you know where Sprouts -- the company that
6 produces the beef that Sprouts sells?

7 A. Can you repeat the question.

8 Q. Sure. Do you know the name of the company
9 that actually makes the beef that Sprouts sells in its
10 stores?

11 A. No.

12 Q. Do you remember anything specific about the
13 labeling of the beef that you buy at Sprouts?

14 A. No.

15 Q. Trader Joe's, how frequently do you shop at
16 Trader Joe's?

17 A. Estimated, twice per month.

18 Q. Twice per month. Has that been -- has that
19 been the same over the past 10 years?

20 A. Over the last 10 years, no. I would say over
21 the last several, yes.

22 Q. Okay. Approximately -- you said several
23 years. Approximately how many years back did you --
24 or have you been shopping at Trader Joe's?

25 A. Roughly three to five.

1 Q. What led you to start shopping at Trader
2 Joe's?

3 A. My wife.

4 Q. When you go to Trader Joe's, do you ever buy
5 beef there?

6 A. Yes.

7 Q. Okay. Any particular products -- beef
8 products you buy at Trader Joe's?

9 A. Yeah, skirt steak, tri-tip as well.

10 Q. Do you ever buy ground beef at Trader Joe's?

11 A. Yes.

12 Q. Do you ever buy other types of steak at
13 Trader Joe's?

14 A. It's possible, yes.

15 Q. Is there a particular reason that you would
16 buy beef from Trader Joe's as opposed to any place
17 else?

18 A. No, just happen to be there.

19 Q. When you shop at Trader Joe's, do you buy
20 more meat per week than you typically do?

21 A. No. Probably less actually.

22 Q. And why is that?

23 A. Because we get other proteins there as well.

24 Q. Do you know the brand or labeling of any of
25 the beef that you buy at Trader Joe's?

1 A. Lower quality for sure.

2 Q. Okay. So we have talked about Safeway,
3 Fry's, Costco, Trader Joe's, Bashas' and Sprouts. Can
4 you recall any other grocery stores that you have
5 purchased beef from?

6 A. No.

7 Q. No. Do you ever purchase beef from a
8 farmer's market?

9 A. No.

10 Q. Do you ever purchase beef directly from a
11 local farm or farming operation?

12 A. No.

13 Q. You mentioned a local butcher -- or a butcher
14 shop that you buy beef from occasionally; is that
15 right?

16 A. Yes.

17 Q. What's the name of that shop?

18 A. I think it's just Gilbert Butcher.

19 Q. Gilbert Butcher. That's named after Gilbert,
20 Arizona, I take it?

21 A. I would assume that.

22 Q. Have you ever bought beef from any other
23 butcher shop?

24 A. Not that I can recall.

25 Q. Okay. How often do you buy beef from Gilbert

1 Butcher?

2 A. Quarterly.

3 Q. What makes you decide to buy beef from the
4 butcher shop?

5 A. Maybe a special occasion.

6 Q. Are there any particular -- anything else
7 that would cause you to buy beef specifically from
8 there?

9 A. Yeah. I mean if Safeway is out of brisket,
10 I'll go to the butcher for it.

11 Q. You said you go there about quarterly; is
12 that right?

13 A. Yes.

14 Q. How long have you been going -- have you been
15 shopping at Gilbert Butcher?

16 A. Under two years, since I moved here.

17 Q. Okay. When you go there quarterly, about how
18 much beef do you buy?

19 A. Only a few pounds.

20 Q. What are the different cuts of beef that you
21 recall buying from Gilbert Butcher?

22 A. Yeah, fillets, New York strip. We've gotten
23 short rib once. Brisket. Yeah.

24 Q. Did you ever buy tri-tip there?

25 A. I don't think I have actually.

1 Q. Okay. Do you buy other kinds of meat when
2 you shop at Gilbert Butcher?

3 A. What do you mean by "meat"?

4 Q. So like chicken or pork or sausage?

5 A. Yes.

6 Q. Okay. What other kinds of meat do you buy
7 there?

8 A. We will do some bratwurst, gotten some
9 chicken before. No pork. Yeah, that's about it.

10 Q. How do the prices at Gilbert Butcher compare
11 to the prices for similar products at Safeway, for
12 example?

13 A. They are higher.

14 Q. Is the quality of the products you buy at
15 Gilbert Butcher higher than what you buy at Safeway?

16 A. In my opinion, yes.

17 Q. Do you know where the meat that Gilbert
18 Butcher sells comes from?

19 A. No.

20 Q. Do you know whether Gilbert Butcher
21 advertises any of its meat or displays it as being
22 locally sourced?

23 A. I don't know.

24 Q. Okay. Do you remember -- do you know
25 anything about how Gilbert Butcher labels its meat,

1 whether it's grass fed, product of the USA, corn fed,
2 anything like that?

3 A. No.

4 Q. Okay. Do you know the quality grade of the
5 meat that you buy at Gilbert, whether it's labeled
6 prime, choice, or select?

7 A. I know that they talk about it. I don't know
8 what I select though, what I would choose.

9 Q. Okay. I take it you don't know whether any
10 of the meat that you purchase from Gilbert Butcher was
11 manufactured by any of the defendants in this case; is
12 that right?

13 A. That's right.

14 Q. Did you ever buy beef from any -- let me take
15 that back.

16 Do you ever talk to the people at Gilbert
17 Butcher shop, the people who work there, about beef or
18 the beef industry?

19 A. No.

20 Q. Okay. Have you ever purchased beef products
21 from a dollar store or convenience store?

22 A. No.

23 Q. Have you ever purchased them from -- have you
24 ever purchased beef or beef products from what you
25 would call like a discount grocery store of any kind?

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: May 25, 2024

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

Appendix C-2
Fernando “Marcelo” Lopez
(California)
Declaration

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**DECLARATION OF PLAINTIFF
FERNANDO “MARCELO” LOPEZ
IN SUPPORT OF CONSUMER
INDIRECT PURCHASER
PLAINTIFFS’ MOTION FOR
CLASS CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

I, Plaintiff Fernando “Marcelo” Lopez, state under oath, as follows:

1. I make this declaration in support of Consumer Indirect Purchaser Plaintiffs’ Motion for Class Certification in the above-captioned related actions. I am familiar with the facts set forth herein, and if called upon to do so, I could and would testify competently to them.

2. During the 2014-2019 class period, I lived in California. I usually bought beef weekly from a physical supermarket—including Ralphs, Stater Bros., Albertsons, Trader Joe’s, and Cardenas Markets—from the superstores and wholesale warehouses Walmart and Costco, and from Walmart’s grocery shopping app. My beef purchases at these stores included sirloin (referred to as “asada” at Cardenas Markets), flank steak, filet mignon, tri-tip, ribs, and ribeye.

3. I understand my role as a representative of members of the proposed Class involves duties beyond those I would have if this case were brought solely for me. For instance, I understand that I should keep informed about important events in the case. I have committed to doing what counsel asks me to assist in prosecuting the case, such as producing documents, answering interrogatories, and having my deposition taken, and I am willing to testify at the trial if asked to do so.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: September 23, 2024

DocuSigned by:
Fernando Marcelo Lopez
B70743444532422
Marcelo Lopez

Appendix C-3
Stacey Troupe (California)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

** CONTAINS CONFIDENTIAL INFORMATION **
REMOTE 30(b)(1) DEPOSITION OF STACEY TROUPE

Taken via Zoom
On Friday, February 16, 2024
At 9:31 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington

1 Q. Do you have an understanding of what the
2 term "fed cattle" means?

3 A. No.

4 MS. BURKE: Okay. We could take this down.
5 Thank you, Zach.

6 BY MS. BURKE:

7 Q. Who is the primary purchaser of groceries in
8 your household?

9 A. I am.

10 Q. Has that been consistent over the last ten
11 years?

12 A. Yes.

13 Q. In a typical month, how often do you go
14 grocery shopping?

15 A. Four to maybe eight times.

16 Q. Has that been consistent over the last ten
17 years?

18 A. Yes.

19 Q. Do you buy beef when you go grocery
20 shopping?

21 A. Yes.

22 MS. DUPREE: Objection. Form.

23 Stacey, if you just give me a minute to --
24 to object before your answer.

25 THE WITNESS: Okay. Thank you. Sorry.

1 A. Yes.

2 Q. What about --

3 A. I --

4 Q. Go ahead.

5 A. No. Actually, you okay. It looked like you
6 was going to sneeze.

7 Q. Thank you. I was.

8 What about, like, processed beef products
9 like hot dogs?

10 A. Yes.

11 Q. Okay. Any -- any others? I understand that
12 you --

13 A. Mmm, I've bought beef stew, flank meat, cube
14 steak. I'm trying to look at the grocery store as
15 I'm saying it. I buy a little bit of everything,
16 'cause I don't like to make the same thing twice in a
17 week.

18 Q. Has your -- the types of beef that you
19 purchased from FoodMaxx, has that been generally
20 consistent over the last ten years?

21 A. I can say yes.

22 Q. Would you be able to estimate in a typical
23 month how much steak that you purchase from FoodMaxx?

24 A. No, ma'am.

25 Q. What about chuck roast?

1 A. No.

2 Q. Ground beef?

3 A. No.

4 Q. What about just collectively, the -- the
5 amount of beef that you purchased from FoodMaxx,
6 would you be able to estimate that in a typical
7 month?

8 A. I'd say a lot. I couldn't estimate exactly
9 how much, no.

10 Q. Well, what is "a lot" to you?

11 A. A lot. Okay. So you think on a regular
12 plate, each boy eats like two plates. So there's
13 three boys. So it's like six plates. And then me
14 and my daughter is a plate. And then I have extras,
15 because they eat a little bit later. So to me,
16 that's like ten-plus plates. That's a lot.

17 Q. Do you cook dinner every night?

18 A. Unfortunately, yes.

19 Q. Has that been consistent over the last ten
20 years?

21 A. Yes.

22 Q. Do you know what the brand of steak that you
23 buy from FoodMaxx is?

24 A. No.

25 Q. Do you know the brand -- brand of ground

1 to confirm, do you ever have your groceries delivered
2 from FoodMaxx through like a -- either the store
3 itself or a third-party company like Uber Eats?

4 MS. DUPREE: Objection. Form.

5 A. My groceries? Maybe, like, water and stuff,
6 but I don't believe I've ordered food, like meats.

7 BY MS. BURKE:

8 Q. What about Lucky? Which locations do you
9 shop at?

10 A. [REDACTED]

11 Q. What type of beef products do you buy from
12 Lucky?

13 A. Same as what I said for Food Co., a variety.

14 Q. So steak, ribs, chuck roast, ground beef?

15 A. Flank meat, cube steaks, ribs. Everything.
16 Everything that I would normally purchase, I purchase
17 at the same store.

18 Q. Has the type of beef that you purchased from
19 Luckys been generally consistent over the last ten
20 years?

21 A. I'd say yes.

22 Q. Do you know the cut or the grade of any of
23 the beef that you purchase from Luckys?

24 A. No.

25 Q. Do you know the -- the grade of any of the

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REPORTER'S CERTIFICATE

I, the undersigned Certified Shorthand Reporter, holding valid and current licenses issued by the States of California, Nevada, Washington, Utah and Idaho, do hereby certify:

That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have subscribed my name on this date: February 20, 2024.



Emily A. Gibb

Certified Shorthand Reporter

Appendix C-4
William Gee
(District of Columbia)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE: CATTLE AND BEEF :
ANTITRUST LITIGATION, :
: No. 22-md-3031
This Document Relates to :
Consumer Indirect Purchaser: JRT/JFD
Plaintiff Actions :

VIDEOTAPED ZOOM 30(b)(1) DEPOSITION OF
WILLIAM GEE

DATE: January 18, 2024
TIME: 10:17 a.m. to 2:07 p.m.
LOCATION: Witness Location

REPORTED BY: Felicia A. Newland, CSR

Veritext Legal Solutions
1250 Eye Street, N.W., Suite 350
Washington, D.C. 20005

1 whenever it's needed. We share that.

2 BY MR. STRATFORD:

3 Q And in a typical month, how often do
4 you go shopping for groceries?

5 A Once or twice a week, so probably
6 eight times a month, depending.

7 Q Is that approximately the same -- has
8 that been approximately the same over the past ten
9 years?

10 MR. MISTRIOTTI: Object to form.

11 THE WITNESS: Yeah, to the best of my
12 recollection. I mean, it's kind of ebbed and
13 flowed as life ebbs and flows, but in general, yes.

14 BY MR. STRATFORD:

15 Q Do you buy beef for your own
16 consumption at home?

17 A Yes.

18 Q Do you buy beef just for yourself or
19 also for others?

20 A Both.

21 Q And who are the others?

22 A Our kids, my wife, friends, family.

1 A Yes.

2 Q Thinking in terms of pounds or
3 quantity, how much beef would you say that you or
4 your wife buy to cook or eat at home during a
5 typical week?

6 MR. MISTRIOTTI: Object to form.

7 THE WITNESS: Gosh, somewhere in the
8 ballpark of a pound, I think, is a reasonable
9 estimate. It -- it ebbs and flows. It depends on
10 the recipe, it depends on the week.

11 BY MR. STRATFORD:

12 Q Can you describe in the ways in which
13 it ebbs and flows?

14 MR. MISTRIOTTI: Object to form.

15 THE WITNESS: I'm not sure. Like in
16 big aggregate terms or, like, a specific week, or
17 like how --

18 BY MR. STRATFORD:

19 Q Yeah, just -- just -- you had
20 mentioned, I think, something about a recipe or
21 otherwise. I'm just trying to understand the
22 reasons why how much beef you're buying to cook or

1 eat at home changes week to week.

2 A God. Yeah, I mean, it's -- it's
3 really -- it's kind of random, which is to say, I
4 think in aggregate, it's probably relatively stable
5 and on a week-to-week basis, it isn't that stable.
6 It just depends on the recipes that showed up in
7 the Cooks Illustrated that may or may not have come
8 in a meal or sometimes I just, like, have a
9 hankering for steaks on a Sunday night, and I
10 just -- you know, kind of nothing else will do, and
11 then sometimes not as much.

12 Q Can you recall any major trends
13 either increasing in the amount of beef that you're
14 buying or buying less beef over the course of the
15 last ten years?

16 MR. MISTRIOTTI: Object to form.

17 THE WITNESS: No, I really -- I
18 really can't.

19 BY MR. STRATFORD:

20 Q Do you generally purchase the same
21 amount of beef to cook or eat at home over the
22 course of a year?

1 MR. MISTRIOTTI: Object to form.

2 THE WITNESS: I wouldn't be able to
3 say one way or the other.

4 BY MR. STRATFORD:

5 Q Did COVID-19 impact how you purchased
6 groceries?

7 MR. MISTRIOTTI: Object to form.

8 THE WITNESS: Yeah. Yes, of course.

9 BY MR. STRATFORD:

10 Q In what ways?

11 A It -- it was a siege for a while.

12 There was a -- you know, you would go to Trader

13 Joe's and you would get your hands sprayed and you

14 would have to -- I mean, I -- don't you remember

15 it? It was wild. It was -- at least in D.C., it

16 was -- it was a surreal experience.

17 Q So during those time frames, were you
18 stocking up on groceries?

19 MR. MISTRIOTTI: Object to form.

20 Sorry. Objection to form.

21 THE WITNESS: Yeah. Sorry. Excuse
22 me.

1 that are available at a particular location a
2 factor that goes into your consideration of where
3 you're going to be purchasing a beef product from?

4 MR. MISTRIOTTI: Object to form.

5 THE WITNESS: Yeah. I suppose in the
6 sense that sometimes I'll go and look at the
7 butcher case and nothing looks good and I won't get
8 anything, or perhaps I wasn't planning on getting
9 something, but something looks really good or
10 there's something that I like for a good price and,
11 you know, I'll kind of choose accordingly, but
12 like -- does that make sense?

13 BY MR. STRATFORD:

14 Q Yeah.

15 Have you ever gone out of your way to
16 buy beef from a different store specifically
17 because of the beef products you were looking to
18 purchase?

19 MR. MISTRIOTTI: Object to form.

20 THE WITNESS: Like do I go to
21 particular stores to get particular things?

22

1 BY MR. STRATFORD:

2 Q Yeah.

3 Do you go to particular stores to get
4 particular beef products?

5 A I mean, I wouldn't say that any of
6 this is exclusive, but I -- you know, like I love
7 to get, like, prime steaks from Costco, for
8 instance.

9 Q Do promotions or discounts or
10 coupons, any sort of rebate like that, does that
11 generally factor into your consideration of where
12 to purchase beef to cook at -- and eat at home?

13 A I don't really engage in
14 coupon-clipping in that regard, but certainly
15 pricing, you know, plays a key role. And -- and so
16 it's not so much coupons, but sometimes in stores
17 there are specials that are offered to, like,
18 loyalty members or to -- you know, there's some
19 kind of -- some indication of some sale or discount
20 that probably, you know, shapes my decision, among
21 many other factors, I guess.

22 Q Are -- are there -- other than what

1 part of the program that you accumulate points that
2 you can use to discount specific purchases?

3 I'm sorry, I didn't -- I didn't catch
4 that, Mr. Gee.

5 A I don't know.

6 Q Okay.

7 MR. STRATFORD: All right. We can
8 take this exhibit down.

9 BY MR. STRATFORD:

10 Q All right. So I'm going to walk
11 through some specific places that you might be
12 purchasing beef. And I'll apologize in advance,
13 this may be a little repetitive, but I just want to
14 make sure we're understanding your --

15 A Sure.

16 Q -- beef purchasing habits.

17 Do you purchase beef from super
18 stores, like Kroger, Giant, Safeway, Whole Foods,
19 Giant Eagle, and Harris Teeter?

20 A Yes.

21 Q Okay. And while you were living in
22 Washington, D.C., is that true that you were

1 purchasing beef from those stores?

2 A What was the list again?

3 Q Kroger, Giant, Safeway, Whole Foods,
4 Giant Eagle, and Harris Teeter, were those all
5 locations at which you purchased beef while you
6 were living in Washington, D.C.?

7 A I don't think that Giant Eagle is in
8 D.C., but otherwise, yes, that sounds right.

9 Q Okay. Let's start with Kroger. Do
10 you know where -- what Kroger store were you
11 purchasing beef from when you lived in the
12 District?

13 A Oh, man. Okay. That was at Giant.
14 I think -- I -- gosh. I couldn't tell you. Kroger
15 has been at the heart of like so many of these
16 acquisitions, these grocery acquisitions, that I
17 couldn't tell you exactly which ones are Kroger's
18 or not. I -- you know, I -- I could -- if I pulled
19 up a list of locations and had them on a map, I
20 could certainly tell you which ones, but I -- you
21 know . . .

22 Q What specific types of beef products

1 would you typically purchase from Kroger?

2 MR. MISTRIOTTI: Object to form.

3 THE WITNESS: You know, in line with
4 my previous answers, a lot of it really depends
5 kind of on what we're making. If it's chili or if
6 it's steaks or if it's a roast for everybody,
7 and -- and -- it's very kind of situational and
8 circumstantial.

9 BY MR. STRATFORD:

10 Q Can you recall any specific types of
11 beef that you would purchase from Kroger?

12 MR. MISTRIOTTI: Object to form.

13 THE WITNESS: Not any specific kinds,
14 but, you know, not any nonspecific -- you know,
15 like there's nothing that I avoided from Kroger
16 either.

17 BY MR. STRATFORD:

18 Q So just thinking even more generally,
19 I know we've talked about how they have changed,
20 but I'm just trying to get a sense of what kind of
21 beef that you're purchasing.

22 When you're purchasing from a

1 supermarket store, what are the different kinds of
2 beef that you're purchasing --

3 MR. MISTRIOTTI: Objection. Asked
4 and answered.

5 BY MR. STRATFORD:

6 Q -- generally?

7 MR. MISTRIOTTI: Objection. Asked
8 and answered.

9 BY MR. STRATFORD:

10 Q Go ahead and answer, Mr. Gee.

11 A Okay. A wide range, like we -- we
12 buy all sorts of stuff. I -- you know, I don't
13 know honestly if there's kind of a type of the
14 cow -- there's a part of the cow that I haven't
15 purchased at one time or another.

16 I just don't have specific memories
17 of whether that was at Kroger or not at Kroger. I
18 suppose that depends on the products that Kroger is
19 stocking. I can't imagine that they have some of
20 the more exotics, but I don't know.

21 Q And -- and I'm asking just more
22 generally, when you're buying beef from a

1 supermarket store, not specific to Kroger, are you
2 able to identify the types of beef that you're --
3 that you usually purchase?

4 MR. MISTRIOTTI: Object to form.

5 THE WITNESS: Yeah, usually it's --
6 it's just -- it's -- it's really hard. If you --
7 if you gave me specific cuts, then I could tell you
8 if I have purchased them or not before. I -- for
9 our regular groceries, it's -- it's usually cuts,
10 right, like it's steaks or chops or ribs of some
11 kind, but we buy some ground beef, we buy, you
12 know, all sorts of stuff.

13 BY MR. STRATFORD:

14 Q What specific kind of cuts of steak
15 do you typically buy?

16 A I -- again, it really depends on who
17 and what -- you know, the kind of recipe and for
18 whom I'm cooking. In terms of just personal
19 preference, I love a New York strip, I love a
20 ribeye.

21 Q Can you recall the last time that you
22 purchased beef at Kroger?

1 Q And do you know if any of the beef
2 that you purchased from Trader Joe's was processed
3 by one of the Defendants?

4 MR. MISTRIOTTI: Object to form.

5 THE WITNESS: I couldn't tell you.

6 BY MR. STRATFORD:

7 Q Do you regularly purchase beef from
8 any wholesale clubs, like Costco or Sam's Club?

9 A I don't know if I would say
10 regularly, but I definitely purchased beef from
11 Costco.

12 Q How often would you purchase beef
13 from Costco?

14 A On occasion. You know, sometimes for
15 something special, and I would make a special trip
16 to Costco. And then sometimes just as part of a
17 Costco trip, we would buy beef.

18 Q Are there specific types of beef that
19 you typically would buy from Costco?

20 MR. MISTRIOTTI: Object to form.

21 THE WITNESS: Nothing -- you know,
22 all kinds, right? Like nothing inclusive or

1 exclusive; though, I will say I -- I would
2 typically go there for -- they have wonderful
3 steaks there, and we also would buy -- it's a great
4 place to buy a filet roast, a beef tenderloin.

5 BY MR. STRATFORD:

6 Q Do you know what brand of steak that
7 you would typically buy at Costco?

8 A Would that be like the -- like the
9 grade of it?

10 Q Yeah.

11 So I'm asking just about the specific
12 brand, if it was the Costco brand or another brand
13 for when you would purchase steaks.

14 A I don't -- I -- I don't know if it
15 was a brand. Again, typically I would buy my beef
16 out of the -- kind of the butcher's case. So I --
17 like I can tell you that it's prime, and I think
18 that you can only get that at Costco specifically,
19 in terms of kind of things that are available to
20 consumers, but I didn't see a brand that was on it.

21 Q How about for the filet roast, is
22 there a particular brand that you recall buying at

1 Costco?

2 A No. It was the same thing, it was
3 vacuum sealed. It was prepped by their butcher, so
4 I don't know. You know, it just had kind of the
5 Costco price tag meat label on it.

6 Q For the steak and filet roast that
7 you would purchase at Costco, has that typically
8 been the same over the past ten years?

9 MR. MISTRIOTTI: Object to form.

10 THE WITNESS: In terms of have I
11 liked buying both of those at Costco for the last
12 ten years?

13 BY MR. STRATFORD:

14 Q Correct.

15 A Yeah, in -- in general, though.
16 Again, particularly for like a ten-year time frame,
17 I -- I wouldn't want to say that I haven't
18 purchased other kinds of beef there, but I -- I
19 would say pretty confidently that I have known
20 about purchasing kind of high-end cuts from Costco.
21 It's a great place to do it. I highly recommend
22 it.

1 Q Are you able to quantify in a typical
2 month how -- how -- in what quantity of beef that
3 you would have purchased from Costco?

4 A No. That's quite -- that -- it would
5 vary quite a bit, I think, month to month.

6 Q Do you know if the beef that you
7 purchased from Costco was processed by one of the
8 Defendants?

9 MR. MISTRIOTTI: Object to form.

10 THE WITNESS: I have no idea.

11 BY MR. STRATFORD:

12 Q Can you recall any general trends in
13 the prices that you paid for beef at Costco over
14 the past ten years?

15 MR. MISTRIOTTI: Object to form.

16 THE WITNESS: No real concept of kind
17 of trends or I guess, like I just -- I wouldn't
18 feel well-equipped to be able to, you know, say
19 something confidently.

20 BY MR. STRATFORD:

21 Q And would that also be true for
22 non-beef products that you purchased at Costco over

1 the past ten years?'

2 A Yeah, I think so. I mean, yeah, I'm
3 not -- I'm not positive one way or the other.

4 Q When was the last time that you
5 purchased beef at Costco?

6 A The day before the NCAA national
7 championship game, I went and bought steaks for me
8 and my friends to have. The Huskies were supposed
9 to beat the Wolverines, so that didn't work out.
10 The steaks were delicious.

11 Q Yes, to my chagrin as well.

12 A Go Ducks.

13 Q Do you ever order beef to be
14 delivered from Costco, either through the store
15 directly or a third-party delivery service?

16 A I -- we definitely ordered deliveries
17 from Costco. I don't know if beef products have
18 been included in those or not. My wife usually
19 does those.

20 Q And when -- what time frame, do you
21 recall, for those deliveries from Costco?

22 A What do you mean?'

1 Q Is there a -- is there a specific
2 time when you started getting the delivery service
3 from Costco?

4 A No. She's been doing that for a long
5 time.

6 Q Were you buying beef from Costco --
7 have you continued to buy beef from Costco since
8 you've moved out of the District?

9 A Yes.

10 Q Other than Costco, are there any
11 other wholesale clubs that you had purchased beef
12 from in the last ten years?

13 A I don't think so. Nothing comes to
14 mind, but I -- you know, I'm not positive.

15 MR. MISTRIOTTI: Barry, when it makes
16 sense for you, I think we're coming up on another
17 hour here, and keeping lunch in mind, I think it
18 makes sense to take a break soon, so -- but when it
19 makes sense for you.

20 MR. STRATFORD: Yeah, this is as good
21 a time as any, so we can go ahead and go off the
22 record.

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CERTIFICATE OF NOTARY PUBLIC

I, FELICIA A. NEWLAND, CSR, the officer before whom the foregoing videotaped Zoom deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



FELICIA A. NEWLAND, CSR
Notary Public

My commission expires:
September 15, 2024

Appendix C-5
Lisa Melegari (Florida)
Deposition Testimony Excerpt

Appendix C-6
Eric Gauchat (Illinois)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF) No. 22-md-3031 (JRT/JFD)
ANTITRUST LITIGATION)
This Document Relates)
To: Consumer Indirect)
Purchaser Plaintiff)
Actions)
-----)

Friday, June 7, 2024

- - -

Remote Deposition of ERIC GAUCHAT,
beginning at 9:02 a.m., before Nancy J. Martin, a
Registered Merit Reporter, Certified Shorthand
Reporter. All parties appeared remotely.

REPORTED BY NANCY J. MARTIN
CSR. NO. 9504, RMR, RPR
PAGES 1 - 143

1 that exhibit down. Thank you. 10:17:46

2 Q. Who has been the primary purchaser of 10:17:53

3 groceries in your household over the last 10 years? 10:17:55

4 A. Myself. 10:17:58

5 Q. Has that changed at all over the last 10:17:59

6 10 years? 10:18:01

7 A. No. 10:18:02

8 Q. In a typical month, how often do you go 10:18:02

9 grocery shopping? 10:18:05

10 A. Four times. 10:18:07

11 Q. And would that be about a weekly basis? 10:18:10

12 A. Yes. 10:18:12

13 Q. Has that changed over the last 10 years in 10:18:17

14 any way? 10:18:20

15 A. No. 10:18:20

16 Q. Do you buy beef for your own consumption at 10:18:22

17 home? 10:18:28

18 A. Yes. 10:18:30

19 Q. Do you buy beef for just yourself or also for 10:18:31

20 others when you go grocery shopping? 10:18:33

21 A. Myself and my partner, whom I live with. 10:18:39

22 Q. And has that changed over the last 10 years, 10:18:46

23 who you were buying beef for when you go grocery 10:18:48

24 shopping? 10:18:51

25 A. Yes. 10:18:59

1 Q. And when did that change? 10:18:59

2 A. A year ago. 10:19:05

3 Q. So prior to a year ago, were you only 10:19:10

4 purchasing beef for yourself, primarily, when you went 10:19:12

5 grocery shopping? 10:19:17

6 A. Yes. 10:19:17

7 Q. And then a year ago you began purchasing beef 10:19:18

8 for yourself and your partner; is that correct? 10:19:20

9 A. Yes. 10:19:22

10 Q. Have you generally eaten beef on a consistent 10:19:27

11 basis since 2014? 10:19:30

12 A. Yes. 10:19:32

13 Q. To your knowledge, has your partner generally 10:19:35

14 eaten beef on a consistent basis since you've been 10:19:39

15 buying beef for yourself and your partner in the past 10:19:41

16 year? 10:19:44

17 A. Yes. 10:19:44

18 Q. Have you or any family member ever been a 10:19:48

19 vegetarian? 10:19:51

20 A. No. 10:19:52

21 Q. Have you or a family member -- strike that. 10:19:55

22 Have you or any of your family members ever 10:19:58

23 been a vegan? 10:20:02

24 MS. DUPREE: Objection to form. 10:20:03

25 You can answer. 10:20:05

1 How often do you eat at fast-casual 10:31:16
2 restaurants? 10:31:18
3 A. Almost never. 10:31:20
4 Q. When you say, "almost never," would you 10:31:25
5 estimate in a year about how many times you would eat 10:31:27
6 at a fast-casual restaurant? 10:31:30
7 A. Once, if at all. On average, I would give it 10:31:34
8 one half. 10:31:38
9 Q. Has that frequency with which you eat at 10:31:40
10 fast-casual restaurants changed over the last 10:31:43
11 10 years? 10:31:46
12 A. No. 10:31:47
13 Q. Do you order beef when you eat at 10:31:50
14 fast-casual -- 10:31:53
15 A. Occasionally. 10:31:56
16 Q. And about how often do you order beef when 10:31:57
17 you eat at fast-casual restaurants? 10:32:00
18 A. Half the time. 10:32:12
19 Q. Has the frequency with which you order beef 10:32:14
20 at fast-casual restaurants changed over the last 10:32:17
21 10 years? 10:32:19
22 A. No. 10:32:20
23 Q. How much beef would you say you buy to cook 10:32:27
24 at home during a typical week? 10:32:29
25 A. Half a pound to a pound. 10:32:39

1 Q. Has that quantity changed over the last 10:32:48
2 10 years? 10:32:50
3 A. Yes. 10:32:55
4 Q. How so? 10:32:56
5 A. It has declined over the last 10 years. 10:32:59
6 Q. Could you maybe explain a little bit more 10:33:06
7 about how it has declined over the last 10 years. 10:33:09
8 A. I find beef has become more expensive, and 10:33:21
9 I'm less inclined to purchase it as a result. 10:33:23
10 Q. Thinking back to 10 years ago, could you 10:33:35
11 estimate how much beef you'd purchase in a given week? 10:33:37
12 A. I would have likely been purchasing a pound 10:34:01
13 to two pounds of beef a week. 10:34:03
14 Q. And has that slowly declined over the last 10:34:14
15 10 years, or was there a point in time that you can 10:34:18
16 think of when you decided to stop buying as much beef? 10:34:20
17 A. Likely after 2019. 10:34:28
18 Q. And what makes you say 2019 as the time when 10:34:34
19 you stopped buying as much beef? 10:34:38
20 A. My grocery shopping behaviors changed in 2020 10:34:48
21 as a result of some large price changes. 10:34:54
22 Q. When you say, "large price changes," are you 10:35:04
23 talking about price changes in beef? 10:35:06
24 A. Yes. As well as others. 10:35:09
25 Q. So you're also including price changes in 10:35:14

1 other proteins specifically? 10:35:16

2 A. No. 10:35:18

3 MS. DUPREE: Objection to form. 10:35:20

4 BY MR. MUELLER: 10:35:25

5 Q. So after 2019 -- sorry. I just want to make 10:35:25

6 sure I understand this correctly -- you stopped buying 10:35:31

7 beef in as high of quantities after 2019 because you 10:35:34

8 noticed higher prices in beef; correct? 10:35:40

9 A. Yes. 10:35:42

10 Q. Did you also notice higher prices in other 10:35:45

11 grocery items around the same time period? 10:35:48

12 A. Yes. 10:35:53

13 Q. Did those other grocery items include other 10:35:56

14 proteins? 10:35:59

15 A. No. 10:36:01

16 Q. So you -- strike that. 10:36:04

17 Did those other grocery items include produce 10:36:07

18 and other pantry items? 10:36:10

19 A. Yes. 10:36:14

20 Q. Did the price increase of the other non-beef 10:36:15

21 items, did that also affect the frequency with which 10:36:19

22 you purchase those other non-beef items? 10:36:23

23 MS. DUPREE: Objection to form. 10:36:29

24 THE WITNESS: Can you repeat the question? 10:36:36

25 BY MR. MUELLER: 10:36:38

1 Q. Yeah. That was probably not clear. So let 10:36:38
2 me see if I can make that clear for you. 10:36:40
3 Am I correct that you noticed a price 10:36:45
4 increase after 2019 in other grocery items besides 10:36:51
5 beef; correct? 10:36:53
6 A. Yes. 10:36:54
7 Q. Did your purchasing habits of those other 10:36:58
8 non-beef grocery items that you noticed a price 10:37:00
9 increase in, did your purchasing habits change with 10:37:04
10 respect to those items as well? 10:37:07
11 A. Slightly. 10:37:15
12 Q. Did your purchasing habits change more or 10:37:19
13 less with respect to -- compared to your purchasing 10:37:21
14 habits with beef? 10:37:27
15 A. Those habits would have changed less. 10:37:29
16 Q. And why is that? 10:37:32
17 A. I would consider most of those items to be 10:37:45
18 staple items. 10:37:47
19 Q. Do you generally purchase the same amount of 10:38:06
20 beef to cook or eat at home throughout the year? 10:38:09
21 MS. DUPREE: Objection to form. 10:38:17
22 Go ahead and answer. 10:38:18
23 THE WITNESS: Yeah, I'd say so. 10:38:27
24 BY MR. MUELLER: 10:38:29
25 Q. Are there any times of the year where you 10:38:29

1 Q. And when you say you generally only shop 10:51:37
 2 nearest your home, those would be the addresses that 10:51:40
 3 we previously discussed; right? 10:51:44
 4 A. Yes. 10:51:47
 5 Q. Do you also consider customer service when 10:51:49
 6 deciding where to purchase your beef from? 10:51:53
 7 A. No. 10:51:55
 8 Q. Do you also consider the selection or 10:51:59
 9 availability of product when deciding where to 10:52:03
 10 purchase your beef from? 10:52:05
 11 A. Only if I'm looking for a specific product. 10:52:21
 12 Q. And what are some examples of specific 10:52:25
 13 products that would cause you to go to a particular 10:52:27
 14 store to purchase the beef? 10:52:31
 15 A. If I was looking for chuck roast, for 10:52:38
 16 example, or strip loin, something like that for a 10:52:42
 17 specific purpose. 10:52:52
 18 Q. So then you have gone out of your way to buy 10:52:53
 19 beef from a different store specifically because of 10:53:02
 20 one of those types of beef? 10:53:04
 21 A. Yeah. 10:53:12
 22 Q. About how often do you do that? 10:53:16
 23 A. Maybe once or twice a year. 10:53:21
 24 Q. And has that generally changed over the last 10:53:25
 25 10 years? 10:53:28

1 A. I don't think so. 10:53:29

2 Q. Still talking about factors that you consider 10:53:32

3 when deciding where to purchase beef from, does the 10:53:35

4 quality of the beef play a role on where you decide to 10:53:38

5 purchase beef from? 10:53:41

6 A. That's not something I generally think about. 10:53:47

7 Q. I know you mentioned price is the primary 10:53:51

8 factor. Does that include things like promotions or 10:53:54

9 discounts or rebates or coupons? 10:53:58

10 A. Yes. 10:54:02

11 Q. Have you ever gone out of your way, to a 10:54:04

12 store that you don't normally go to, to purchase beef 10:54:06

13 because a particular beef product was on sale at that 10:54:10

14 store? 10:54:13

15 A. Yes. 10:54:14

16 Q. About how often do you do that? 10:54:17

17 A. Infrequently. Maybe twice a year that 10:54:30

18 happens. 10:54:37

19 Q. Has that frequency been about the same over 10:54:39

20 the last 10 years? 10:54:43

21 A. No. 10:54:49

22 Q. How has that changed? 10:54:51

23 A. 10 years ago I don't recall ever going out of 10:54:58

24 my way to -- to do so. 10:55:01

25 Q. What made you start going out of your way to 10:55:08

1 A. I'm sure I shopped at another store during 11:38:56
2 those four years. 11:38:58
3 Q. But those two were your kind of primary 11:38:59
4 grocery stores that you shopped at? 11:39:02
5 A. Yes. 11:39:04
6 Q. Going back to Buffalo -- and we're kind of 11:39:08
7 just going 10 years back, so I don't need the entire 11:39:10
8 time you were in Buffalo. But those last couple of 11:39:15
9 years you were in Buffalo on [REDACTED] what 11:39:17
10 were your primary grocery stores there? 11:39:20
11 A. Tops Markets and Wegmans. 11:39:24
12 Q. Could you repeat that first one you said. 11:39:29
13 A. Tops Markets. 11:39:32
14 Q. Tops, T-o-p-s? 11:39:33
15 A. T-o-p-s. 11:39:36
16 Q. Is Tops Markets a full-service grocery store 11:39:39
17 as well? 11:39:43
18 A. Yes. 11:39:44
19 Q. So over the last 10 years, your primary 11:39:47
20 grocery shopping has been done at Jewel-Osco, Costco, 11:39:52
21 Chicago Produce, Hyde Park Produce, Tops Market and 11:39:56
22 Wegmans. 11:40:00
23 Does that sound right? 11:40:01
24 A. Yes. 11:40:02
25 Q. Can you think of any other grocery store that 11:40:05

1 you would have considered your primary grocery store 11:40:07
2 over the last 10 years? 11:40:09
3 A. No. 11:40:21
4 Q. Have you ever purchased beef from any other 11:40:21
5 superstore like Whole Foods, Target, WalMart, 11:40:24
6 Mariano's, Kroger's, Safeway, anything like that? 11:40:28
7 A. I recall purchasing beef at Whole Foods once. 11:40:34
8 Q. When was that? 11:40:46
9 A. I can't recall an exact date. 11:40:58
10 Q. Can you estimate a date or a year? 11:41:01
11 (Indiscernible crosstalk.) 11:41:11
12 THE WITNESS: 2018 seems like that would have 11:41:11
13 been correct. 11:41:13
14 BY MR. MUELLER: 11:41:13
15 Q. So that would have been when you were on 11:41:18
16 Drexel. 11:41:20
17 Does that sound right? 11:41:21
18 A. Yes. 11:41:25
19 Q. Can you think of any other grocery store that 11:41:28
20 you purchased beef at in the last 10 years? 11:41:32
21 A. Nothing I can recall. 11:41:34
22 Q. So let's start with Jewel-Osco. When you go 11:41:42
23 to Jewel-Osco, what types of beef products do you 11:41:46
24 typically buy? 11:41:49
25 A. I usually purchase cuts from the meat 11:42:02

1 section. Wrapped steaks, ground beef, things like 11:42:06
2 that. 11:42:21
3 Q. Can you think of any other beef products that 11:42:22
4 you buy from Jewel-Osco besides steaks and ground 11:42:24
5 beef? 11:42:27
6 A. I mean I will purchase a variety of cuts if 11:42:38
7 they're on sale. It's hard to say any specific. 11:42:44
8 Q. Sitting here today, can you think of any cuts 11:42:55
9 that you've purchased that were because they were on 11:42:57
10 sale at Jewel-Osco? 11:42:59
11 A. Yes. 11:43:07
12 Q. And what are those that you can think of 11:43:07
13 today? 11:43:09
14 A. Chuck roast, cubed stew beef, and either 11:43:12
15 ribeye or strip steaks. 11:43:36
16 Q. Previously, when you mentioned that you buy 11:43:50
17 steaks and ground beef from Jewel-Osco, when you use 11:43:52
18 the term "steaks," do you know what cuts of or what 11:43:55
19 type of steak you would purchase from Jewel-Osco? 11:44:00
20 A. Yes. 11:44:05
21 Q. And what is that? 11:44:05
22 A. I would generally stick to ribeye or strip 11:44:10
23 steak. 11:44:14
24 Q. So it looks like you've been shopping at 11:44:35
25 Jewel-Osco, as one of your primary grocery stores, for 11:44:36

1 the last seven years or so. 11:44:39

2 Does that sound correct, that time period? 11:44:42

3 A. Yes. 11:44:47

4 Q. Has the type of beef that you purchased from 11:44:48

5 Jewel-Osco changed over those last seven years? 11:44:50

6 A. No. 11:44:57

7 Q. So for Jewel, I've got steaks, such as ribeye 11:45:01

8 and strip steaks, ground beef, and other things that 11:45:05

9 might be on sale, like chuck roast, cubed stew beef, 11:45:08

10 and again, ribeye and strip steaks. 11:45:12

11 Does that sound right? 11:45:14

12 A. Yes. 11:45:15

13 Q. Can you think of any other kind of beef that 11:45:15

14 you may have purchased from Jewel-Osco? 11:45:19

15 A. I can't think of anything specific. 11:45:37

16 Q. Let's start with ribeyes. Do you know what 11:45:41

17 cut or grade of ribeye you purchased from Jewel-Osco? 11:45:43

18 A. I'm not sure of grade, but I would say both 11:46:06

19 bone-in and bone-out steaks. 11:46:10

20 Q. For any particular month, about how many 11:46:12

21 pounds of ribeye steaks do you purchase from 11:46:14

22 Jewel-Osco? 11:46:16

23 A. I wouldn't say that I regularly purchase 11:46:23

24 ribeyes from Jewel-Osco on a monthly basis. 11:46:26

25 Q. How about, if it's easier, on a yearly basis, 11:46:33

1 about how many pounds of ribeye do you currently buy 11:46:36

2 from Jewel-Osco? 11:46:39

3 A. I'd say between -- probably about four 11:46:48

4 pounds. 11:46:54

5 Q. And has that changed? The four pounds, has 11:46:58

6 that changed over the last 10 years? 11:47:01

7 A. Yes. 11:47:09

8 Q. In what ways? 11:47:09

9 A. I purchase expensive cuts like ribeyes less 11:47:15

10 frequently from Jewel-Osco. 11:47:19

11 Q. And why do you purchase cuts like ribeye from 11:47:22

12 Jewel-Osco less now than you did 7 years ago? 11:47:32

13 MS. DUPREE: Objection. Form. Asked and 11:47:38

14 answered. 11:47:41

15 THE WITNESS: My impression is that it's on 11:47:46

16 sale less frequently. 11:47:48

17 BY MR. MUELLER: 11:48:03

18 Q. Do you know what brand of ribeye you purchase 11:48:03

19 from Jewel-Osco? 11:48:06

20 A. The meat I purchase from Jewel-Osco is 11:48:08

21 unbranded. 11:48:14

22 Q. Do you know if the ribeyes you purchased from 11:48:15

23 Jewel-Osco came from any one of the defendants in this 11:48:18

24 action? 11:48:21

25 A. I don't know definitively. 11:48:22

1 Q. Do you know if the ribeye you purchased from 11:48:27
2 Jewel-Osco was processed from grass fed cattle or 11:48:28
3 grain-fed cattle? 11:48:32
4 A. I do not. 11:48:39
5 Q. Do you know if the ribeye that you purchase 11:48:40
6 from Jewel-Osco is processed from dairy cattle? 11:48:43
7 A. I don't. 11:48:50
8 Q. Do you recall any general trends in the 11:48:54
9 prices that you've paid for beef -- strike that. 11:48:56
10 Do you recall any general trends in the 11:49:02
11 prices you've paid for ribeyes from Jewel-Osco in the 11:49:04
12 past 7 years? 11:49:10
13 A. I couldn't give you an exact dollar amount, 11:49:26
14 but I'd say my recollection is that the price per 11:49:34
15 pound has increased. 11:49:36
16 Q. Let's move on to ground beef. Do you know 11:49:58
17 what quality of ground beef you've purchased from 11:50:01
18 Jewel-Osco over the last 7 years? 11:50:05
19 A. No. 11:50:14
20 Q. Do you know what brand of ground beef you've 11:50:18
21 purchased from Jewel-Osco over the last seven years? 11:50:20
22 A. I can't recall any specific brand. 11:50:29
23 Q. About how much ground beef do you purchase 11:50:34
24 from Jewel-Osco in a given month currently? 11:50:36
25 A. I probably purchase a pound every other 11:50:51

1 from Jewel-Osco was processed from dairy cattle? 11:52:19

2 A. I do not. 11:52:25

3 Q. Let's talk about chuck roast that you 11:52:38

4 purchase from Jewel-Osco on occasion. 11:52:39

5 About how often would you estimate in a year 11:52:42

6 currently that you purchase chuck roast from 11:52:46

7 Jewel-Osco? 11:52:49

8 A. Twice a year. 11:52:52

9 Q. And has that changed over the last seven 11:52:55

10 years since you've been shopping at Jewel-Osco? 11:52:57

11 A. I don't think so. 11:53:02

12 Q. And when you purchase a chuck roast about 11:53:07

13 twice a year, about how many pounds do you purchase 11:53:10

14 each time? 11:53:13

15 A. I think they're usually two or three pounds 11:53:19

16 from Jewel. 11:53:22

17 Q. Has the size of a chuck roast that you 11:53:27

18 purchase from Jewel-Osco over the last seven years 11:53:29

19 changed, or has it been roughly about two or three 11:53:31

20 pounds the entire time? 11:53:34

21 A. I'd say it's remained consistent. 11:53:39

22 Q. Do you know if the Chuck roast that you 11:53:44

23 purchased from Jewel-Osco is processed by one of the 11:53:46

24 defendants in this action? 11:53:49

25 A. I do not. 11:53:51

1 Q. Do you know if the chuck roast from 11:53:53
2 Jewel-Osco is processed from grain-fed cattle or 11:53:54
3 grass-fed cattle? 11:53:59
4 A. I do not. 11:54:04
5 Q. Do you know if the Chuck roast from 11:54:07
6 Jewel-Osco is processed from dairy cattle? 11:54:09
7 A. I do not. 11:54:17
8 Q. Let's talk about the cube stew beef that you 11:54:18
9 purchase from Jewel-Osco. 11:54:20
10 About how often do you purchase cubed stew 11:54:22
11 beef from Jewel-Osco? 11:54:26
12 A. Maybe once a year. 11:54:27
13 Q. And has that changed -- has the frequency 11:54:29
14 changed over the last seven years since you've been 11:54:33
15 shopping at Jewel-Osco? 11:54:35
16 A. Yes. 11:54:38
17 Q. How so? 11:54:39
18 A. I generally purchase that product for my dog. 11:54:45
19 Q. So how -- how has the frequency with which 11:54:58
20 you've purchase cubed stew beef from Jewel-Osco 11:55:01
21 changed over the last seven years? 11:55:05
22 A. My first dog died in 2020, and I recently got 11:55:09
23 another dog last year. 11:55:15
24 Q. So from 2020 until last year, you would not 11:55:17
25 have been purchasing cubed stew beef; is that correct? 11:55:20

1 A. That's correct. 11:55:26

2 Q. And when you buy cubed stew beef about once a 11:55:28

3 year, other than the last -- that segment of time when 11:55:31

4 you weren't purchasing that we just discussed, about 11:55:35

5 how much in pounds of cubed stew beef would you buy? 11:55:38

6 A. Probably a pound and a half to two pounds. 11:55:54

7 Q. And has that been consistent over the last 11:55:57

8 seven years when you would -- when you did buy cubed 11:56:00

9 stew beef? 11:56:04

10 A. Yes. 11:56:05

11 Q. Do you know if the cubed stew beef that you 11:56:10

12 purchased from Jewel-Osco is processed by one of the 11:56:11

13 defendants in this action? 11:56:14

14 A. No. 11:56:15

15 Q. Do you know if the cubed stew beef from 11:56:17

16 Jewel-Osco is processed from grass-fed cattle or 11:56:19

17 grain-fed cattle? 11:56:23

18 A. No. 11:56:24

19 Q. Do you know if the cubed stew beef that you 11:56:27

20 purchased from Jewel-Osco was processed from dairy 11:56:29

21 cattle? 11:56:32

22 A. I do not. 11:56:33

23 Q. So besides -- let's go back to strip steaks, 11:56:37

24 and you mentioned you purchased those from Jewel-Osco 11:56:45

25 as well. 11:56:47

1 About how often do you purchase strip steaks 11:56:47
2 from Jewel-Osco currently? 11:56:49
3 A. When they're on sale. 11:56:54
4 Q. If you had to -- sorry. Go ahead. 11:56:56
5 A. Yeah. When they're on sale. 11:57:02
6 Q. If you had to estimate in a given year about 11:57:03
7 how many times you've purchased strip steaks from 11:57:06
8 Jewel-Osco? 11:57:08
9 A. Three times a year. 11:57:13
10 Q. And has that frequency remained about the 11:57:16
11 same over the past seven years that you've been 11:57:20
12 shopping at Jewel-Osco? 11:57:22
13 A. Yes. 11:57:35
14 Q. When you purchase strip steak from 11:57:43
15 Jewel-Osco, about how much in pounds do you purchase 11:57:45
16 at a time? 11:57:49
17 A. Probably one. 11:57:50
18 Q. Has that remained relatively consistent over 11:57:53
19 the last seven years? 11:57:55
20 A. Yes. 11:58:00
21 Q. Do you know what cut or grade of strip steak 11:58:01
22 you purchase from Jewel-Osco? 11:58:05
23 A. No. 11:58:07
24 Q. Do you know if the strip steak you purchase 11:58:10
25 from Jewel-Osco is processed by one of the defendants 11:58:12

1 in this action? 11:58:14

2 A. No. 11:58:15

3 Q. Do you know if the strip steak from 11:58:16

4 Jewel-Osco is processed from grass-fed cattle or 11:58:18

5 grain-fed cattle? 11:58:21

6 A. No. 11:58:23

7 Q. Do you know if the strip steak that you 11:58:23

8 purchased from Jewel-Osco was processed from dairy 11:58:25

9 cattle? 11:58:28

10 A. No. 11:58:28

11 Q. So besides ribeyes and strip steaks, ground 11:58:29

12 beef, chuck roast, cubed stew beef, can you think of 11:58:32

13 any other cut of beef that you have purchased from 11:58:36

14 Jewel-Osco over the last seven years? 11:58:40

15 A. No. 11:58:43

16 Q. Taking all of those together, do you recall 11:58:49

17 any general trends in the prices you've paid for beef 11:58:50

18 that you purchased at Jewel-Osco over the past seven 11:58:53

19 years since you've been shopping there? 11:58:56

20 A. Yes. 11:58:58

21 Q. And what is the general trend? 11:58:59

22 A. I'd say the price per pound has increased 11:59:11

23 across the board for all of those items. 11:59:13

24 Q. Has the price of other non-beef products that 11:59:17

25 you buy at Jewel-Osco also increased over the last 11:59:20

1 six months. 12:17:46

2 Q. When you say, "a pack," about how large is a 12:17:48

3 pack of ground beef from Costco? 12:17:51

4 A. I think they're four- to six-pound packages. 12:17:55

5 Q. And over the last three to four years, since 12:18:00

6 you've been shopping at Costco, has that frequency of 12:18:02

7 about one pack every six months remained consistent or 12:18:05

8 has that changed? 12:18:11

9 A. I'd say that's remained consistent. 12:18:12

10 Q. Do you know what brand of ground beef you buy 12:18:20

11 from Costco? 12:18:23

12 A. It's also unbranded. 12:18:24

13 Q. Do you know if the ground beef you buy from 12:18:25

14 Costco is processed by one of the defendants in this 12:18:27

15 action? 12:18:30

16 A. No. 12:18:31

17 Q. Do you know if the ground beef from Costco is 12:18:32

18 processed from grass-fed or grain-fed cattle? 12:18:35

19 A. I don't. 12:18:38

20 Q. Do you know if the ground beef you purchase 12:18:40

21 from Costco is processed from dairy cattle? 12:18:42

22 A. I don't. 12:18:45

23 Q. So outside of the ground beef, you talked 12:18:49

24 about large cuts every once in a while. Could you 12:18:51

25 maybe expand on what those large cuts are and about 12:18:55

1 how often you have purchased those large cuts over the 12:18:59
2 last three or four years? 12:19:01
3 A. I purchased a whole tenderloin once and a 12:19:04
4 strip loin once. 12:19:17
5 Q. Can you think of any other large cuts you've 12:19:18
6 purchased from Costco? 12:19:20
7 A. No. 12:19:26
8 Q. Do you -- can you estimate about when you 12:19:26
9 purchased the whole tenderloin from Costco? 12:19:27
10 A. 2019, I want to say. 2020. 2020 or 2019. 12:19:42
11 Q. Same thing for strip loin. 12:19:49
12 Can you estimate about when you purchased the 12:19:50
13 strip loin? 12:19:51
14 A. 2022. 12:19:54
15 Q. Let's start with the tenderloin. Do you 12:19:57
16 recall about how large the tenderloin was in pounds? 12:20:01
17 A. Maybe 10 pounds, but it's hard to recall. 12:20:18
18 Q. Was the tenderloin that you purchased from 12:20:34
19 Costco branded or unbranded? 12:20:36
20 A. Unbranded. 12:20:38
21 Q. Do you know if the tenderloin you purchased 12:20:39
22 from Costco was processed by one of the defendants in 12:20:42
23 this action? 12:20:43
24 A. I can't say, so... 12:20:43
25 Q. Do you know if the tenderloin you purchased 12:20:45

1 every six months or so. 12:24:52

2 Q. Okay. Have you ever ordered beef to be 12:24:54

3 delivered from Costco either directly through the 12:24:55

4 store or through a third-party delivery service like 12:24:58

5 Uber Eats or Instacart? 12:25:00

6 A. No. 12:25:04

7 Q. Are there any neighborhood grocery stores 12:25:10

8 that you purchase beef from that we have not discussed 12:25:15

9 today? 12:25:17

10 A. I have purchased beef at the Paulina Meat 12:25:20

11 Market sporadically over the last 10 years -- or the 12:25:25

12 last 7 years I've lived in Chicago. 12:25:28

13 Q. When you say, "sporadically," can you 12:25:35

14 estimate, perhaps on an annual basis, about how often 12:25:36

15 you purchase beef at the Paulina Meat Market? 12:25:39

16 A. I think I've purchased beef two or three 12:25:44

17 times in the last 7 years. 12:25:46

18 Q. Do you know what kind of beef you purchase 12:25:48

19 from Paulina Meat Market? 12:25:49

20 A. Ribeye steaks. 12:25:53

21 Q. Have you purchased any other kind of beef 12:25:58

22 from Paulina Meat Market? 12:25:59

23 A. No. 12:26:01

24 Q. Do you remember anything about the cut or the 12:26:02

25 quality of the ribeye steaks from Paulina Meat Market? 12:26:05

1 A. I believe those were USDA prime. 12:26:14

2 Q. What factors led you to purchase beef from 12:26:21

3 Paulina Meat Market rather than your primary grocery 12:26:23

4 stores that we've discussed today? 12:26:26

5 A. It's an old, tiny butcher shop. 12:26:39

6 Q. And how did that affect your decision to 12:26:45

7 purchase beef from Paulina Meat Market? 12:26:47

8 A. I wanted to visit a local institution and buy 12:26:57

9 some steaks from them. 12:27:00

10 Q. When you purchased the ribeyes about two to 12:27:07

11 three times over the last 7 years, do you recall about 12:27:08

12 how much beef you purchased at a time in pounds? 12:27:13

13 A. Two. 12:27:16

14 Q. Do you recall anything about the brand of the 12:27:21

15 beef, or was it unbranded, like we've been discussing? 12:27:23

16 A. Unbranded. 12:27:26

17 Q. Do you know if the beef you purchased from 12:27:27

18 Paulina Meat Market was processed by one of the 12:27:29

19 defendants in this action? 12:27:32

20 A. I do not. 12:27:34

21 Q. Do you know if the beef that you purchased 12:27:35

22 from Paulina Meat Market was processed from grass-fed 12:27:36

23 cattle or grain-fed cattle? 12:27:42

24 A. No. 12:27:44

25 Q. Do you know if the beef you purchased from 12:27:44

1 Paulina Meat Market was purchased from dairy cattle? 12:27:46

2 A. I do not. 12:27:51

3 Q. Do you recall any general trends over the two 12:27:52

4 to three times that you purchased beef from Paulina 12:27:54

5 Meat Market in the price of the beef that you 12:27:56

6 purchased? 12:27:59

7 A. No. 12:28:00

8 Q. Any other neighborhood grocery stores over 12:28:10

9 the life of -- that you purchased beef from over the 12:28:12

10 last 10 years? 12:28:12

11 A. Nothing else I can think of. 12:28:13

12 Q. Do you ever purchase beef from a farmers 12:28:23

13 market? 12:28:26

14 A. No. 12:28:26

15 Q. Do you ever purchase beef directly from a 12:28:30

16 farmer? 12:28:32

17 A. No. 12:28:32

18 Q. Do you ever purchase beef from a local 12:28:34

19 butcher? 12:28:37

20 A. The Paulina Meat Market. 12:28:42

21 Q. Over the last 10 years, have you ever 12:28:45

22 purchased any beef from a butcher other than the 12:28:48

23 Paulina Meat Market? 12:28:51

24 A. No. 12:28:53

25 Q. Do you ever purchase beef from a convenience 12:29:01

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: June 11, 2024

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

Appendix C-7
Sharon Killmon (Iowa)
Declaration

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**DECLARATION OF PLAINTIFF
SHARON KILLMON IN SUPPORT
OF CONSUMER INDIRECT
PURCHASER PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

I, Plaintiff Sharon Killmon, state under oath, as follows:

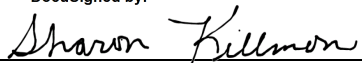
1. I make this declaration in support of Consumer Indirect Purchaser Plaintiffs' Motion for Class Certification in the above-captioned related actions. I am familiar with the facts set forth herein, and if called upon to do so, I could and would testify competently to them.

2. During the 2014-2019 class period, I lived in Iowa. I usually bought beef weekly from a physical supermarket—including Hy-Vee and Fareway—and superstore and wholesale warehouses—including Walmart and Sam's Club. My beef purchases at these stores included ribs, round steak, and chuck pot roast.

3. I understand my role as a representative of members of the proposed Class involves duties beyond those I would have if this case were brought solely for me. For instance, I understand that I should keep informed about important events in the case. I have committed to doing what counsel asks me to assist in prosecuting the case, such as producing documents, answering interrogatories, and having my deposition taken, and I am willing to testify at the trial if asked to do so.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: September 24, 2024

DocuSigned by:

3AEF49E238EC48B
Sharon Killmon

Appendix C-8
Harold Nyanjom (Kansas)
Declaration

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**DECLARATION OF PLAINTIFF
HAROLD NYANJOM IN SUPPORT
OF CONSUMER INDIRECT
PURCHASER PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

I, Plaintiff Harold Nyanjom, state under oath, as follows:

1. I make this declaration in support of Consumer Indirect Purchaser Plaintiffs' Motion for Class Certification in the above-captioned related actions. I am familiar with the facts set forth herein, and if called upon to do so, I could and would testify competently to them.

2. During the 2014-2019 class period, I lived in Kansas. I usually bought beef two to three times a month from a physical supermarket—including Dillons, Kroger, and Sprouts—or in a superstore or wholesale warehouse—including Walmart and Sam's Club. My beef purchases at these stores included ribeye, sirloin, tenderloin, T-bone steak, ribs, round steak, London broil, rump roast, chuck pot roast, and round roast.

3. I understand my role as a representative of members of the proposed Class involves duties beyond those I would have if this case were brought solely for me. For instance, I understand that I should keep informed about important events in the case. I have committed to doing what counsel asks me to assist in prosecuting the case, such as producing documents, answering interrogatories, and having my deposition taken, and I am willing to testify at the trial if asked to do so.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: September 19, 2024

DocuSigned by:

Harold Nyanjom

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Harold Nyanjom

Appendix C-9
Mark Sperry (Maine)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE 30(b)(1) DEPOSITION OF MARK SPERRY

Taken via Zoom

On Wednesday, February 14, 2024

At 7:31 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington

A P P E A R A N C E S

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I N D E X

MARK SPERRY	PAGE
Examination	5

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E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1 -	Consumer Indirect Purchaser Plaintiffs' Fifth Amended Class Action Complaint	15
Exhibit 2 -	Consumer Indirect Purchaser Plaintiffs' Objections and Amended Response to Defendants' First Set of Interrogatories	38
Exhibit 3 -	January 1, 2017 Email from Blue Apron [CONSUMERIPP0000017692-17693]	53
Exhibit 4 -	Counsel for Plaintiffs in the Consumer Indirect Purchaser Class List	64
Exhibit 5 -	Consumer Indirect Purchaser Plaintiffs' Objections and Responses to Defendants' First Requests for the Production of Documents to Plaintiffs	69

1 last ten years?

2 MS. DUPREE: Objection. Form.

3 THE WITNESS: Probably, yeah.

4 BY MS. BURKE:

5 Q. Do you purchase beef for your own
6 consumption at home?

7 MS. DUPREE: Objection. Form.

8 THE WITNESS: Yes.

9 BY MS. BURKE:

10 Q. Do you buy beef for just yourself or also
11 for others?

12 A. Just for my wife and I to make meals for
13 ourselves.

14 Q. Have you and your wife -- understanding that
15 you have not been together for ten years, but have
16 you generally eaten beef on a consistent basis over
17 the last ten years?

18 MS. DUPREE: Objection. Form.

19 THE WITNESS: Yes.

20 BY MS. BURKE:

21 Q. Have you ever been a vegetarian?

22 A. Nope.

23 Q. Have you ever been a vegan?

24 A. Nope.

25 Q. Have you ever been a pescatarian?

1 THE WITNESS: I've heard -- yeah, I don't --
2 I don't think about it.

3 BY MS. BURKE:

4 Q. What about beef from cattle that have not
5 received any added hormones?

6 MS. DUPREE: Objection. Form.

7 THE WITNESS: Same. I don't really think
8 about it.

9 BY MS. BURKE:

10 Q. Do you know what brands of beef products you
11 typically buy at the grocery store?

12 A. I stick to the store brand, whether it be
13 just the -- just the grocery store brand.

14 Q. Has that changed over the last ten years?

15 A. No.

16 Q. So when you say "grocery store brand," do
17 you mean you -- the -- the beef that's just in the
18 case near the butcher, typically?

19 MS. DUPREE: Objection. Form.

20 THE WITNESS: Typically just the -- the beef
21 that's in the packaging that -- you know, it will say
22 Shaw's Grocery Store on it, and it's whatever cut
23 that I want. I don't usually go up to the butcher
24 desk and ask for anything.

25 ///

1 in Wiscasset, Maine, and the other is in Bath, Maine.

2 Q. What specific types of beef products do you
3 typically buy at Shaw's?

4 MS. DUPREE: Objection. Form.

5 THE WITNESS: I make a lot of slow cooker
6 stuff. So chuck roast a lot. We make hamburgers, so
7 ground beef. Less often, maybe special occasions, we
8 might do steak. We buy all-beef hot dogs. But then
9 outside of that, it's just what -- whatever recipe
10 that catches our eye calls for.

11 BY MS. BURKE:

12 Q. Okay. During a typical month, about how
13 many pounds of chuck do you buy from Shaw's?

14 A. I don't know.

15 Q. Would you be able to estimate in a typical
16 year?

17 A. In a year, that's even harder. I -- no, I
18 don't think so.

19 Q. Okay. What about a week?

20 A. Again, I -- it's hard for me to speculate.
21 It's just if there's a -- if there's a recipe that I
22 want to make and I buy that, and then you move on and
23 try to have leftovers for a while.

24 Q. Okay. What brand of chuck do you typically
25 purchase from Shaw's?

1 purchase from Shaw's?

2 MS. DUPREE: Objection. Form.

3 THE WITNESS: I am not.

4 BY MS. BURKE:

5 Q. What about in a typical week?

6 A. I don't know.

7 MS. DUPREE: Objection. Form.

8 BY MS. BURKE:

9 Q. Do you know what brand of ground beef that
10 you buy from Shaw's?

11 A. It -- just the grocery store brand. It just
12 says "Shaw's" on the packaging.

13 Q. Do you know whether the ground beef from
14 Shaw's has been processed by one of the defendants in
15 this case?

16 A. I don't know.

17 MS. DUPREE: Objection. Form.

18 THE WITNESS: I'm sorry. I don't know.

19 BY MS. BURKE:

20 Q. What about the -- you mentioned steaks.

21 What type of cuts do you like to get from

22 Shaw's?

23 MS. DUPREE: Objection. Form.

24 THE WITNESS: I think like ribeye and like a

25 T-bone. I'm not, like, an expert on this.

1 THE WITNESS: I have been asked to, and so I
2 do for this case.

3 BY MS. BURKE:

4 Q. Do you ever order beef to be delivered from
5 Shaw's through either Shaw's directly or a
6 third-party service like Uber Eats?

7 A. No. No Uber Eats out here.

8 Q. All right. Hannaford's.

9 Is that the name of the store that you
10 mentioned?

11 A. Yeah, that would be the other grocery store.

12 Q. Okay. And do you know what locations you
13 shop at?

14 A. The one that I would go to is in Brunswick,
15 Maine.

16 Q. Do you buy beef from Hannaford's?

17 A. Yes.

18 Q. What specific types of beef do you typically
19 purchase from Hannaford's?

20 A. The same as Shaw's.

21 Q. So is that chuck, ground beef, all-beef hot
22 dogs, steak? Anything else?

23 A. To my knowledge --

24 MS. DUPREE: Objection. Form.

25 THE WITNESS: I'm sorry.

1 To my knowledge, that would be what we buy.

2 BY MS. BURKE:

3 Q. Has that been generally consistent in the
4 last five, six years?

5 MS. DUPREE: Objection. Form.

6 THE WITNESS: Yes.

7 BY MS. BURKE:

8 Q. I'm going to ask you the same questions that
9 I did, so just be prepared.

10 A. Okay.

11 Q. Are you able to estimate in a typical month
12 about how many pounds of chuck that you purchase from
13 Hannaford's?

14 A. No.

15 Q. Do you know what the brand of chuck that you
16 purchase from Hannaford's is?

17 A. It says "Hannaford's" on the packaging.

18 Q. Do you know if the chuck has been processed
19 by one of the defendants in this case?

20 A. I don't know.

21 Q. Do you know if the chuck from Hannaford's
22 has been processed by grain-fed cattle?

23 MS. DUPREE: Objection. Form.

24 THE WITNESS: I don't know.

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REPORTER'S CERTIFICATE

I, the undersigned Certified Shorthand Reporter, holding valid and current licenses issued by the States of California, Nevada, Washington, Utah and Idaho, do hereby certify:

That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have subscribed my name on this date: February 20, 2024.



Emily A. Gibb

Certified Shorthand Reporter

Appendix C-10
Karen Carter (Massachusetts)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF) No. 22-md-3031 (JRT/JFD)
ANTITRUST LITIGATION)
This Document Relates)
To: Consumer Indirect)
Purchaser Plaintiff)
Actions)
-----)

Tuesday, June 11, 2024

- - -

Remote Deposition of KAREN CARTER,
beginning at 9:54 a.m., before Nancy J. Martin, a
Registered Merit Reporter, Certified Shorthand
Reporter. All parties appeared remotely.

REPORTED BY NANCY J. MARTIN
CSR. NO. 9504, RMR, RPR
PAGES 1 - 229

1 A. No. 10:09:56

2 Q. Over the last 10 years, was the primary 10:10:07

3 purchaser of groceries in your household just you or 10:10:10

4 your spouse? 10:10:13

5 MR. OWEN: Object to form. 10:10:15

6 You can answer. 10:10:20

7 (Indiscernible cross-talk.) 10:10:27

8 BY MS. WOLF: 10:10:27

9 Q. Could you please repeat that. 10:10:27

10 A. I said yes. 10:10:28

11 Q. Got it. Who purchases groceries more often? 10:10:29

12 A. It really depends on my schedule. It really 10:10:36

13 depends. I couldn't say it was exclusive to myself or 10:10:44

14 my spouse. 10:10:47

15 Q. You say over the last 10 years it's about 10:10:49

16 50-50? 10:10:52

17 A. I would, actually. Give or take. 10:10:53

18 Q. In a typical month, how often do you go 10:11:07

19 shopping for groceries? 10:11:09

20 A. It varies. 10:11:12

21 Q. How so? 10:11:15

22 A. Seasonal, schedule. If I have more time 10:11:17

23 versus my husband. If it's the holidays, I might shop 10:11:21

24 a little bit more. If I'm in an area that is 10:11:25

25 conducive to shopping versus where I am, that type of 10:11:30

1 thing. 10:11:36

2 Q. So would you say you go more than two times a 10:11:48

3 month usually over the last 10 years? 10:11:51

4 A. I would say that, yes. 10:11:55

5 Q. Would you say you go more than four times a 10:12:04

6 month? 10:12:06

7 A. Again, that would vary. 10:12:07

8 Q. Has that changed over the last 10 years? 10:12:12

9 A. I would be reluctant to say yes or no to that 10:12:20

10 because, again, it would vary month to month, season 10:12:26

11 to season. So that might have changed or it might not 10:12:29

12 have. 10:12:32

13 Q. Okay. Do you buy beef for your own 10:12:33

14 consumption at home? 10:12:41

15 A. Yes. 10:12:42

16 (Dogs barking.) 10:12:47

17 THE WITNESS: Sorry for the dogs. 10:12:49

18 BY MS. WOLF: 10:12:50

19 Q. That's okay. 10:12:50

20 Have all of your family members generally 10:13:01

21 eaten beef on a consistent basis since 2014? 10:13:01

22 A. Yes. 10:13:03

23 MR. OWEN: Object to form. 10:13:03

24 BY MS. WOLF: 10:13:11

25 Q. Have you or any of your family members ever 10:13:11

1 Q. -- unsure about more than four since it 10:14:21
2 varies -- 10:14:24
3 A. Right. 10:14:25
4 Q. -- were you, does that include both you and 10:14:25
5 your husband going shopping or just -- 10:14:29
6 A. Sure. 10:14:31
7 MR. OWEN: Objection. Object to form. 10:14:33
8 BY MS. WOLF: 10:14:39
9 Q. Go ahead. 10:14:39
10 A. So, again, it varies. If I'm not shopping, 10:14:41
11 he would; if he's not shopping, I would. So it really 10:14:44
12 is something that has a tendency to change depending 10:14:48
13 on schedule or what have you. 10:14:53
14 Q. I know it varies. So I understand this is an 10:15:01
15 estimate, but do you think you personally grocery shop 10:15:04
16 more than two times a month? 10:15:07
17 A. I would say yes. 10:15:12
18 Q. Got it. 10:15:20
19 And do you and your husband generally 10:15:26
20 purchase the same types of items when you go to the 10:15:27
21 grocery store? 10:15:30
22 A. Can you be more specific? I mean are you 10:15:36
23 looking that we buy identical items or does he buy 10:15:39
24 different quantities, or what is it that you're 10:15:43
25 asking? 10:15:46

1 vary. 10:28:35

2 Q. Are there seasons that you eat more beef? 10:28:39

3 A. Sometimes it might be more in the summer. 10:28:44

4 Sometimes it might be more in the winter depending on, 10:28:45

5 you know, the ebb and flow here. 10:28:49

6 Q. Do you -- in a typical week, would you say 10:29:04

7 you eat beef once a week at home? 10:29:05

8 A. Define "typical." That's the tough part. If 10:29:13

9 I'm not -- if I'm not home early from work or what 10:29:15

10 have you, it really depends on my schedule. 10:29:18

11 Q. Do you think over the last 10 years you eat 10:29:28

12 beef once a week at home? 10:29:31

13 A. I would say that's fair to say, if not more. 10:29:39

14 Q. Maybe twice a week? 10:29:44

15 A. That would be more than what I'm thinking, 10:29:48

16 but again, that can vary. So it might be more one 10:29:50

17 week, less another week, depending on who's cooking. 10:29:56

18 You know, what their preference is as far as 10:30:00

19 preparation and what have you. 10:30:02

20 Q. But on average over the last 10 years, twice 10:30:07

21 a week is your best estimate? 10:30:10

22 A. I think that's fair to say, if not more, but 10:30:11

23 again, that could, you know, wax and wain accordingly. 10:30:14

24 Q. Has the amount of beef that you consume at 10:30:21

25 home changed over the last 10 years? 10:30:25

1 purchase beef products from there? 11:52:39

2 A. I would assume yes, but I don't recollect 11:52:39

3 exactly what I made for purchases. 11:52:42

4 Q. Were there any types of beef that you 11:52:45

5 typically purchased from Roche Brothers? 11:52:48

6 A. It wouldn't be from Roche Brothers 11:52:52

7 exclusively. It would be just because it would be the 11:52:55

8 types of beef that we would be buying. It isn't 11:52:57

9 because I was making a purchase there. So it would 11:53:00

10 depend on what we were cooking, what we were having, 11:53:05

11 what we were serving, what the recipe was, that type 11:53:07

12 of thing. 11:53:10

13 Q. So what types of beef do you typically buy? 11:53:11

14 A. Ground beef. We would buy a roast. Either a 11:53:17

15 top-of-the-round beef ground or an eye-of-the-round 11:53:21

16 roast. If it was a holiday, maybe something a little 11:53:25

17 bit more special. A fillet, strip steak, steak tips. 11:53:28

18 Those would be the go-tos. 11:53:37

19 Q. So the go-tos are ground beef, some type of 11:53:50

20 roast, whether it's top-of-the-round or 11:53:54

21 eye-of-the-round, fillet, strip steak, and steak tips? 11:53:56

22 A. Right. Occasionally beef ribs. That's done 11:54:03

23 a little infrequently. I'm sure there are more, but 11:54:07

24 nothing is coming to my mind. 11:54:13

25 Q. Do you think you purchased -- do you think 11:54:23

1 Q. What did you buy? 12:04:43

2 A. Four ground beef patties that were 12:04:47

3 prepackaged. 12:04:49

4 Q. And do you also keep the receipts when you 12:04:59

5 purchase beef from Roche Brothers? 12:05:01

6 A. Yes, I do. 12:05:03

7 Q. Do you ever use delivery services to get beef 12:05:04

8 delivered from Roche Brothers? 12:05:07

9 A. No, I do not. 12:05:08

10 Q. Is there a store that you purchase beef from 12:05:15

11 most often? 12:05:19

12 A. Uh-huh. Correct. 12:05:20

13 Q. Which one? 12:05:24

14 A. It's called Boston Beef. It's a store in 12:05:25

15 Norwood, Massachusetts. 12:05:36

16 Q. Is it a grocery store? 12:05:38

17 A. It's like a little market. The other place I 12:05:43

18 would buy would be Costco or, more typically, 12:05:49

19 Stop & Shop or Big Y. 12:05:52

20 Q. Okay. So for Stop & Shop -- 12:06:10

21 A. Uh-huh. 12:06:12

22 Q. -- what beef products do you typically buy 12:06:12

23 from there? 12:06:14

24 A. All the ones that I had mentioned. A ground 12:06:16

25 beef, ground beef patties, cubed steak, or a stew meat 12:06:21

1 for beef stew type of thing. A strip steak, fillet 12:06:28

2 mignon, and roasts, like a beef round, 12:06:33

3 top-of-the-round beef round, or eye-of-the-round. 12:06:38

4 Like a sirloin roast or such. 12:06:41

5 Q. Has the type of beef that you purchased from 12:06:52

6 Stop & Shop changed over the past 10 years? 12:06:55

7 A. The only thing I've observed -- what I called 12:07:00

8 a "top-of-the-round beef round roast" has now become 12:07:05

9 something else, or it has been named something else. 12:07:08

10 I don't know -- I forget the name of it. I always 12:07:12

11 knew it as a top-of-the-round beef round. 12:07:17

12 So if I asked the butcher, he always will 12:07:21

13 give you something that it has a little bit of a 12:07:22

14 different variation. 12:07:25

15 Q. So the name is different, but probably the 12:07:25

16 types of beef you've purchased have stayed consistent? 12:07:30

17 A. I would say yes, correct. It's stayed the 12:07:33

18 same. 12:07:37

19 Q. Do you know what cut or grade the ground beef 12:07:45

20 is that you purchase at Stop & Shop? 12:07:49

21 A. I would not know the answer to that, no. 12:07:53

22 Q. During a typical month, how many pounds of 12:07:58

23 ground beef do you purchase from Stop & Shop? 12:08:02

24 A. I don't know the answer to that. I'm sorry. 12:08:07

25 Q. Do you buy ground beef from Stop & Shop more 12:08:10

1 that. 12:12:35

2 Q. Do you look for whether something was grass 12:12:40

3 or grain fed when you purchased the ground beef? 12:12:43

4 A. To my knowledge, it's not something that's 12:12:46

5 clearly marked on the packaging. 12:12:48

6 Q. Do you know if the ground beef you've 12:12:58

7 purchased from Stop & Shop was processed from dairy 12:13:01

8 cattle or fed cattle? 12:13:04

9 MR. OWEN: Object to form. Foundation. 12:13:07

10 THE WITNESS: Again, if it doesn't specify, 12:13:09

11 no, I would have no knowledge of that. 12:13:12

12 BY MS. WOLF: 12:13:17

13 Q. Do you specifically look for whether the 12:13:17

14 ground beef you purchased from Stop & Shop was from 12:13:20

15 dairy cattle or fed cattle? 12:13:24

16 A. I wouldn't know because it's not on a label. 12:13:30

17 So I wouldn't have any means of finding that out. 12:13:33

18 Q. Have you looked? 12:13:40

19 A. For that specifically, no, but I will next 12:13:43

20 time I go to the supermarket. 12:13:45

21 Q. So you mentioned purchasing ground beef from 12:13:50

22 Stop & Shop. 12:13:55

23 A. Uh-huh. 12:13:57

24 Q. What other types of beef do you purchase from 12:13:57

25 Stop & Shop? 12:14:01

1 A. All the ones that I've listed, the strip 12:14:04
2 steak or fillet or cubed beef or roasts. I know my 12:14:08
3 husband has bought beef ribs there. Stew meat, or a 12:14:12
4 cubed beef. I don't know how you specify it, but 12:14:20
5 things you would make a beef stew with or like a -- I 12:14:23
6 can't think. Like make a soup with. 12:14:29

7 Q. How often do you purchase cubed steak from 12:14:33
8 Stop & Shop? 12:14:37

9 A. That's a seasonal type of thing. If I had to 12:14:38
10 speculate, that would be more like in the winter. If 12:14:42
11 you were anticipating a snow storm or whatever, you 12:14:45
12 might make a beef stew or you might make some type of 12:14:48
13 a soup, like a beef barley soup or something. So it 12:14:51
14 really depends. 12:14:55

15 Q. So when you're buying more of it, like in the 12:14:57
16 winter, how often do you estimate -- let's just go the 12:14:59
17 last year that you bought cubed steak from Shop & 12:15:05
18 Shop. 12:15:08

19 A. Probably less last year only for the fact we 12:15:10
20 didn't have a lot of snow last year. So previous to 12:15:12
21 that, more often in the wintertime. 12:15:16

22 Q. How often do you think? 12:15:23

23 A. I don't know. I really don't recall. 12:15:24

24 Q. During the winter months, do you think you 12:15:28
25 purchased it more than twice a month? 12:15:32

1 Q. And you also have purchased strip steak from 12:18:30

2 Stop & Shop -- 12:18:33

3 A. Correct. 12:18:35

4 Q. -- is that right? 12:18:36

5 A. Correct. 12:18:37

6 Q. Can you estimate how often you buy strip 12:18:42

7 steak from Stop & Shop? 12:18:47

8 A. That, I can speculate is something we don't 12:18:54

9 buy as often anywhere. So I really don't know the 12:18:55

10 quantities of that. Again, it depends. Seasonally, 12:18:59

11 if it's something you were going to throw on the grill 12:19:03

12 versus what have you. So it's not as frequent a cut 12:19:06

13 of meat that we buy. 12:19:09

14 Q. Stepping away from Stop & Shop, do you know 12:19:11

15 how often you buy strip steak anywhere from the 12:19:15

16 grocery store to take home? 12:19:21

17 A. I really do not know the answer to that, no. 12:19:21

18 Q. So over the past 10 years, you can't estimate 12:19:25

19 how much strip steak you purchased? 12:19:28

20 A. I can't. 12:19:31

21 Q. Okay. You said there are certain times where 12:19:34

22 you might consume it more often? 12:19:44

23 A. Correct. 12:19:47

24 Q. What are those times? 12:19:48

25 A. Again, it might be more convenient to throw 12:19:51

1 on the label. 12:21:31

2 BY MS. WOLF: 12:21:35

3 Q. Have you ever investigated if it was 12:21:35

4 processed by one of the defendants? 12:21:38

5 A. I would have had no reason to investigate 12:21:40

6 that, no. 12:21:42

7 Q. Do you know if the strip steak you purchased 12:21:45

8 from Stop & Shop was processed from grain or grass-fed 12:21:49

9 cattle? 12:21:53

10 MR. OWEN: Object to form. Foundation. 12:21:53

11 THE WITNESS: I do not know the answer to 12:21:58

12 that. 12:22:00

13 BY MS. WOLF: 12:22:00

14 Q. Do you know if the strip steak you purchased 12:22:00

15 from Stop & Shop was processed from dairy or fed 12:22:02

16 cattle? 12:22:05

17 MR. OWEN: Object to form. Foundation. 12:22:06

18 THE WITNESS: Again, if it wasn't on the 12:22:08

19 label, I wouldn't know. 12:22:10

20 BY MS. WOLF: 12:22:25

21 Q. You said you purchased fillets, fillet mignon 12:22:25

22 in the past? 12:22:29

23 A. Uh-huh. 12:22:31

24 Q. Have you purchased that from Stop & Shop? 12:22:32

25 A. I believe we have. 12:22:37

1 Q. Do you know when, how often? 12:22:40

2 A. I don't know the answer to that, no. 12:22:46

3 Q. But you recall that you purchased fillet from 12:22:50

4 Stop & Shop in the past? 12:22:53

5 A. Correct. 12:22:55

6 Q. Generally, stepping away from Stop & Shop, 12:22:56

7 how often do you purchase fillet in a year? 12:23:01

8 A. Probably more frequently than other cuts of 12:23:09

9 meat. Similar to the ground beef, that would be our 12:23:13

10 go-to type of cut. But as far as quantity, I couldn't 12:23:17

11 even hazard a guess. 12:23:24

12 Q. Do you eat fillet once a week? 12:23:25

13 A. Do you mean at home and outside combined or 12:23:34

14 exclusively at home? 12:23:39

15 Q. At home. 12:23:39

16 A. Not once a week. Maybe two to three times a 12:23:41

17 month. How's that? 12:23:48

18 Q. Has that changed over the past 10 years? 12:23:53

19 A. No. 12:23:56

20 Q. Was the quantity of fillet that you've 12:24:01

21 purchased, has that changed over the past 10 years? 12:24:04

22 A. Again, I'm not sure how many times I 12:24:10

23 purchased it. It's hard to guess if it changed. So 12:24:12

24 I'd have to say I don't recall. 12:24:15

25 Q. So when there are more family members in your 12:24:17

1 MS. WOLF: I think now is a good time for a 12:26:53
2 break. 12:26:55
3 THE VIDEOGRAPHER: We're off the record. 12:26:58
4 It's 12:26 p.m. 12:26:59
5 (A recess was taken from 12:26 p.m. 12:27:03
6 to 12:35 p.m.) 12:35:06
7 THE VIDEOGRAPHER: We're back on the record. 12:35:07
8 It's 12:35 p.m. 12:35:08
9 BY MS. WOLF: 12:35:10
10 Q. So we talked about your purchases from Stop & 12:35:14
11 Shop. So far we've discussed ground beef, cubed 12:35:17
12 steak, strip steak, fillet. 12:35:20
13 A. Uh-huh. 12:35:23
14 Q. You said you also purchased roasts from Stop 12:35:25
15 & Shop? 12:35:29
16 A. Correct. 12:35:30
17 Q. Do you recall what kinds? 12:35:35
18 A. Just bear with me. I was just fixing the -- 12:35:36
19 for some reason, I was needing the gallery back. 12:35:39
20 It would be either a sirloin roast, an 12:35:45
21 eye-of-the-round roast. Again, I knew it as a 12:35:51
22 top-of-the-round beef round roast, but it's named 12:35:54
23 something else now. 12:35:58
24 Q. Do you buy these interchangeably, or is there 12:36:04
25 a different reason to buy each type of roast that you 12:36:06

1 just described? 12:36:09

2 MR. OWEN: Objection. Form. 12:36:12

3 THE WITNESS: Price. 12:36:16

4 BY MS. WOLF: 12:36:17

5 Q. Do you use the roasts for the same types of 12:36:17

6 meals? 12:36:20

7 A. Yes. 12:36:26

8 Q. Okay. Do you know -- have you purchased a 12:36:26

9 sirloin roast in the last month from Stop & Shop? 12:36:43

10 A. No. 12:36:47

11 Q. In the past six months? 12:36:52

12 A. I believe my husband has. I think he -- yes. 12:36:53

13 Q. Do you know how many pounds that was, 12:37:03

14 approximately? 12:37:07

15 A. I do not. 12:37:09

16 Q. Do you think it was more than five? 12:37:11

17 A. I do not. It was probably between three and 12:37:16

18 five-ish, perhaps. 12:37:20

19 Q. Have you purchased sirloin roasts from Stop & 12:37:25

20 Shop in the past year? 12:37:28

21 A. I don't recall if it was Stop & Shop or 12:37:38

22 elsewhere, but I know I purchased a roast I think at 12:37:41

23 Christmastime. 12:37:45

24 Q. A sirloin roast? 12:37:47

25 A. I don't remember the cut. I'm sorry. 12:37:49

1 Q. That's okay. 12:37:52

2 A. No. I think it was a tenderloin roast. Let 12:37:57

3 me just think. It was a tenderloin roast. 12:38:03

4 Q. And you purchased that when? I'm sorry. 12:38:12

5 A. It was for the holidays, and honestly, I 12:38:14

6 don't remember the amount because I'm trying to think 12:38:17

7 if it was served with something else, like they were 12:38:20

8 two entrees or what have you. I'm drawing a blank. 12:38:23

9 Sorry. 12:38:31

10 Q. That's okay. Is that the only roast you 12:38:35

11 recall purchasing in the past year? 12:38:37

12 A. I just remember that specifically because it 12:38:41

13 was the holidays, and it's not a typical cut of roast 12:38:43

14 that I would normally buy. So that's why it's 12:38:47

15 sticking out in my mind as much as it is. 12:38:50

16 Q. Okay. But you don't recall purchasing a 12:38:55

17 sirloin roast in the past year even? 12:39:00

18 A. I really do not recall. 12:39:12

19 Q. What about eye-of-the-round? Have you 12:39:14

20 purchased that in the past month? 12:39:16

21 A. Not in the past month, no. 12:39:22

22 Q. The past six months? 12:39:23

23 A. That -- that could be likely, yes. I just 12:39:28

24 don't remember if it was an eye or if it was a 12:39:30

25 top-of-the-round beef round. I don't recall which 12:39:33

1 label, it wouldn't be something I would be aware of. 12:46:41

2 BY MS. WOLF: 12:46:55

3 Q. So outside of the eye-of-the-round roast, 12:46:55

4 top-of-the-round roast, is there any other type of 12:46:58

5 roast that you purchased from Stop & Shop? 12:47:00

6 A. There probably are, but I just don't know the 12:47:06

7 cut and what it's called. It does not come to my 12:47:08

8 mind, what the other name of it is. So I apologize. 12:47:16

9 Q. But it's another type of roast? 12:47:21

10 A. It is. I don't recall. Sorry. 12:47:23

11 Q. Is this something that you purchased with any 12:47:34

12 frequency? 12:47:40

13 A. No, because I think then it would have been 12:47:40

14 more, you know, off the top of my recollection. 12:47:43

15 Q. So outside of ground beef, cubed steak, strip 12:47:54

16 steak, fillet, and the roasts that we've discussed, 12:47:59

17 are there any other types of beef that you purchased 12:48:04

18 from Stop & Shop? 12:48:06

19 A. I'm sorry. Did you mention ground beef? I 12:48:13

20 didn't hear you say ground beef in that list. 12:48:16

21 Q. Yes. Ground beef, cubed steak, strip steak, 12:48:19

22 fillet, and the roasts. 12:48:23

23 A. Like sirloin tips are a little different than 12:48:26

24 stew meat. So that would purchase -- I believe my 12:48:30

25 husband has bought beef ribs. 12:48:32

1 I know -- he bought this for his own 12:48:44

2 consumption. He'll buy like a porterhouse from time 12:48:48

3 to time. I'm trying to think of what else he might 12:48:51

4 buy. Sometimes -- I'm not a T-bone type of steak, 12:49:00

5 which I'm not sure if that's the same as a porter, but 12:49:05

6 he might buy something like that. 12:49:09

7 Q. As far as the sirloin tips -- 12:49:14

8 A. Uh-huh. 12:49:20

9 Q. -- have you purchased that from Stop & Shop 12:49:20

10 in the last month? 12:49:23

11 A. Not in the last month, no. 12:49:26

12 Q. How about the last six months? 12:49:29

13 A. I don't think we purchased from Stop & Shop. 12:49:33

14 I believe it was elsewhere. 12:49:37

15 Q. Elsewhere. 12:49:39

16 Do you think you purchased sirloin tips from 12:49:40

17 Stop & Shop in the last year? 12:49:42

18 A. I would say yes. 12:49:49

19 Q. More than once, do you think? 12:49:53

20 A. I would say maybe a few times. I really 12:50:00

21 can't put a number to that. I'm thinking we would 12:50:02

22 tend to buy them elsewhere. 12:50:05

23 Q. Where did you prefer to buy the sirloin tips? 12:50:10

24 A. At Boston beef or at Whole Foods. 12:50:13

25 Q. But you do recall purchasing sirloin tips 12:50:31

1 right beside him, and he might go in there more than I 13:01:10
2 would tend to go in there. 13:01:13
3 Q. Do you think he purchases beef from there 13:01:20
4 more than four times a year? 13:01:24
5 A. No. 13:01:28
6 Q. Do you think you purchased beef from there 13:01:35
7 more than twice a year? 13:01:37
8 A. Maybe more than twice a year, but it's not a 13:01:42
9 place that I frequent. That's not one of the places 13:01:45
10 that I tend to typically shop at. 13:01:48
11 Q. What type of beef do you buy from Big Y when 13:02:01
12 you go there? 13:02:03
13 A. He would typically maybe buy the ribs there. 13:02:04
14 He might buy steak there or ground beef. Those would 13:02:11
15 typically be the three items that I think he would 13:02:18
16 gravitate toward. 13:02:21
17 Q. What about you? 13:02:27
18 A. Again, if I was to buy, it would have been 13:02:30
19 based on what the circular had. So it would vary. It 13:02:33
20 might be a roast or it might be like a package of 13:02:38
21 ground beef or something. 13:02:44
22 Q. Has the type of beef that you've purchased 13:03:02
23 from Big Y, has that changed in the past 10 years? 13:03:06
24 A. I don't think so. It might be a supermarket 13:03:16
25 he shopped a little bit more because that was one of 13:03:24

1 the supermarkets that a newer location was open since 13:03:26
2 2020, I think we said, or 2021. So that might be 13:03:30
3 someplace he might shop a little bit more for that 13:03:34
4 reason. 13:03:37

5 In all honesty, sometimes I don't ask him 13:03:40
6 where it was that he purchased it. You know, it just 13:03:42
7 sort of shows up. 13:03:48

8 Q. So when you shop there, you buy, typically, 13:03:52
9 roasts or ground beef; is that right? 13:03:59

10 A. Right. 13:04:01

11 Q. Anything else you would typically purchase 13:04:03
12 from there? 13:04:05

13 A. Maybe stew meat if I was to cook. But that 13:04:08
14 would be it. 13:04:18

15 Q. Okay. In the past year -- 13:04:20

16 A. Uh-huh. 13:04:26

17 Q. -- do you recall how many times you've 13:04:26
18 purchased a roast from Big Y? 13:04:27

19 A. I don't think I purchased any this year from 13:04:33
20 them. 13:04:34

21 Q. In the past 10 years, have you? 13:04:37

22 A. I'm sure I did, but I just don't recall the 13:04:45
23 frequency of that. If I had to guess, maybe three 13:04:48
24 times within the past 10 years, unless they had a 13:04:53
25 sale, and that would have been the reason that it 13:04:58

1 meat, is there anything else that you have 13:13:05
2 purchased -- any other beef you typically purchase 13:13:08
3 from Big Y? 13:13:11
4 A. Not to my recollection, no. 13:13:12
5 Q. Okay. And then the last grocery store that I 13:13:17
6 think you mentioned, before we can move on to Costco 13:13:20
7 and the likes and Boston Beef was Whole Foods; is that 13:13:24
8 right? 13:13:28
9 A. Uh-huh. Correct. 13:13:29
10 Q. Have you purchased beef from Whole Foods? 13:13:32
11 A. I have. 13:13:34
12 Q. And what types of beef did you typically buy 13:13:37
13 from Whole Foods? 13:13:40
14 A. Typically either steak tips and ground beef. 13:13:42
15 I don't believe I ever bought a roast there. I 13:13:53
16 believe we bought either a strip or fillet. Gosh, I 13:14:00
17 don't recall. But I -- 13:14:04
18 (Indiscernible crosstalk.) 13:14:07
19 THE WITNESS: Yeah, I know ground beef for 13:14:07
20 sure, and I know -- I know steak tips. Maybe stew 13:14:08
21 meat, but I -- I'm trying to think. I would say we 13:14:17
22 probably bought stew meat there perhaps too. 13:14:21
23 BY MS. WOLF: 13:14:25
24 Q. Then you mentioned like steaks, like a 13:14:25
25 fillet? 13:14:28

1 A. I thought we did, but that's not typically 13:14:32
2 something we would buy there. 13:14:34

3 Q. Is it something that you purchased there more 13:14:37
4 than once a year? 13:14:40

5 A. It might have been just on a whim kind of 13:14:44
6 thing. It isn't something that there's any frequency 13:14:47
7 to. 13:14:50

8 Q. Okay. How often do you purchase steak tips 13:14:51
9 from Whole Foods? 13:14:57

10 A. Infrequently. We typically buy like maybe 13:14:58
11 ground beef there. Maybe two to three times a year 13:15:04
12 maybe. Maybe. Over the course of the last couple of 13:15:08
13 years. 13:15:14

14 Q. Two to three times a year over -- 13:15:15

15 A. Yeah. Maybe. 13:15:17

16 Q. Do you think that stayed the same over the 13:15:23
17 past 10 years? 13:15:25

18 A. I think so. 13:15:27

19 Q. When you purchase steak tips -- 13:15:30

20 A. Uh-huh. 13:15:34

21 Q. -- how many pounds, generally, is the 13:15:34
22 package? 13:15:37

23 A. I don't recall, but to the best of my 13:15:46
24 recollection it's like between two and three pounds 13:15:49
25 maybe. 13:15:51

1 A. Correct. 13:23:46

2 Q. And I think you might guess what I'm going to 13:23:52

3 ask, but what types of beef do you purchase from 13:23:54

4 Costco, generally? 13:23:56

5 A. Sure. Either fresh or frozen. 13:23:57

6 Q. What types? 13:24:01

7 A. You mean cuts? 13:24:05

8 Q. Yes. 13:24:07

9 A. Okay. All right. We go with fillet, 13:24:08

10 definitely ground beef, roasts we've purchased from 13:24:13

11 them. Stew meat I have purchased from them. I know 13:24:17

12 I've never purchased beef ribs. Let me think. Let me 13:24:24

13 think. 13:24:32

14 So definitely, fresh, we did fillets. We've 13:24:38

15 done roast. Maybe a strip steak from time to time. 13:24:43

16 I'm trying to think what else. Frozen hamburger 13:24:50

17 patties we've bought. I think that runs the gamut. 13:24:55

18 Q. Okay. So I have fillet, ground beef -- 13:25:12

19 A. Right. 13:25:16

20 Q. -- sirloin, roast, stew meat. 13:25:17

21 A. Correct. 13:25:21

22 Q. All right. Has the type of beef that you 13:25:25

23 purchased at Costco changed at all over the past 13:25:28

24 10 years? 13:25:31

25 A. Maybe a little bit. We typically would buy 13:25:32

1 roasts from them, but it really became very expensive. 13:25:37

2 So we've opted to buy them like through the circulars 13:25:43

3 at the local supermarkets. 13:25:47

4 I know at the holidays some of the roasts 13:25:49

5 were over \$100 which was significantly high in price. 13:25:52

6 So I would say yes, we've opted not to buy roasts from 13:26:03

7 them. We have been looking elsewhere. 13:26:06

8 Q. Got it. 13:26:10

9 For the fillets that you buy at Costco, how 13:26:18

10 often do you -- would you say you typically buy them? 13:26:22

11 A. Not as often only because they're packaged a 13:26:26

12 little bit too much in a package if it was just my 13:26:34

13 husband and myself. So that would vary. 13:26:36

14 It would typically be the ground beef or such 13:26:40

15 that we would be buying or maybe stew meat, typically. 13:26:42

16 Q. So do you think you purchased fillets from 13:26:51

17 there in the past six months? 13:26:57

18 A. No. Definitely not. 13:26:58

19 Q. Past year? 13:26:59

20 A. Maybe in the past year, but definitely not in 13:27:01

21 the past six months. 13:27:04

22 Q. In the past 10 years, do you think you 13:27:06

23 purchased fillets from Costco more than once a year on 13:27:10

24 average? 13:27:14

25 A. I would say maybe three to four times within 13:27:16

1 beef? 14:10:47

2 A. No. 14:10:51

3 Q. Do you know if the ground beef that you 14:10:57

4 purchased from Boston Beef was processed by one of the 14:10:59

5 defendants? 14:11:02

6 MR. OWEN: Object to form. Foundation. 14:11:03

7 THE WITNESS: I wouldn't know that. That's 14:11:06

8 not something that's shared with me on a label. 14:11:07

9 BY MS. WOLF: 14:11:12

10 Q. Do you know if the ground beef purchased from 14:11:12

11 Boston Beef was from grass-fed or grain-fed cattle? 14:11:14

12 MR. OWEN: Object to form. Foundation. 14:11:17

13 THE WITNESS: That's not something that's 14:11:22

14 found on the label. 14:11:23

15 BY MS. WOLF: 14:11:25

16 Q. And do you know whether the ground beef that 14:11:25

17 you purchased from Boston Beef was from a dairy or fed 14:11:26

18 cattle? 14:11:30

19 MR. OWEN: Object to form. Foundation. 14:11:30

20 THE WITNESS: Again, that's not something 14:11:35

21 that's apparent on the label. 14:11:36

22 BY MS. WOLF: 14:11:38

23 Q. And then you also mentioned purchasing fillet 14:11:38

24 from Boston Beef? 14:11:41

25 A. Correct. 14:11:43

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: June 16, 2024

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

Appendix C-11
John Shupe (Michigan)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE VIDEO-RECORDED 30(b)(1) DEPOSITION OF
JOHN SHUPE

Taken via Zoom
On Friday, August 2, 2024
At 10:31 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified In: Utah/Nevada/California/Idaho/Washington

1 Q. And when you say "beginning of that period," 11:08:54
2 can you give me, like, a time frame? 11:08:56

3 A. Within the last ten years, probably between 11:08:59
4 2014 and 2016. 11:09:04

5 Q. And since -- from 2016 to present day, has 11:09:10
6 anyone else lived with you and your wife? 11:09:13

7 A. No. 11:09:20

8 Q. And then, Mr. Shupe, who has been the 11:09:20
9 primary purchaser of groceries in your household? 11:09:23

10 A. I'm probably the primary purchaser, but we 11:09:27
11 share that duty. 11:09:31

12 Q. And when you say you "share," do you mean 11:09:38
13 you share it with your wife? 11:09:40

14 A. Yes, yes. 11:09:41

15 Q. And by sharing, could you give me, like, an 11:09:42
16 estimate, like, in terms of how often it's you 11:09:44
17 purchasing the groceries versus your wife? 11:09:48

18 A. Probably about 75 percent of the time, it's 11:09:51
19 me because I'm the cook in the family, and 25 percent 11:09:53
20 my wife. 11:09:59

21 Q. And has that changed over the last ten 11:10:05
22 years? 11:10:08

23 A. No. 11:10:09

24 Q. In a typical month, how often do you go 11:10:14
25 shopping for groceries? 11:10:18

1 A. I would say two or three times a month. A 11:10:22
2 lot of small trips to the store if something is 11:10:27
3 needed, but grocery shopping, two or three times a 11:10:31
4 month. 11:10:35
5 Q. And has that changed over the last ten 11:10:39
6 years? 11:10:41
7 A. Yeah. Probably -- well, we'll say 2014 to 11:10:42
8 2016 when we had more people in the house, it was 11:10:48
9 probably a weekly shopping trip. 11:10:50
10 Q. Okay. And in the last year or so, do you 11:11:07
11 buy beef for your own consumption at home? 11:11:09
12 A. Yes. 11:11:14
13 Q. And has that been the case for the last ten 11:11:14
14 years as well? 11:11:16
15 A. Beef has been a -- yes. 11:11:21
16 Q. And do you buy beef for just yourself or 11:11:25
17 also for others? 11:11:29
18 A. Also for others, you said? 11:11:30
19 Q. Mm-hmm. 11:11:32
20 A. If others includes my wife, it would be for 11:11:39
21 my wife and I, yes. 11:11:42
22 Q. And then from 2014 to 2016 when your 11:11:49
23 daughter and your son lived with you, did you also 11:11:54
24 purchase beef for them as well? 11:11:57
25 A. In the sense that they were eating what I 11:12:01

1 was cooking, yes. So yes, I suppose in that sense. 11:12:03

2 Q. And then how often -- first, from 2014 to 11:12:16

3 2016, how often were you purchasing beef to consume 11:12:20

4 at home for yourself and others? 11:12:24

5 A. During that period of time, probably with 11:12:28

6 each regular shopping trip. 11:12:33

7 Q. And you mentioned before, in 2014 to 2016, 11:12:39

8 once a week; right? 11:12:42

9 A. Right. 11:12:44

10 Q. And then from 2016 to present, how often 11:12:47

11 would you say you purchased beef for yourself and 11:12:49

12 your wife? 11:12:51

13 A. I would -- a couple times a month. Not 11:13:04

14 necessarily every shopping trip, but a couple times a 11:13:06

15 month. 11:13:08

16 Q. Have you or any of your family members ever 11:13:11

17 been vegetarian? 11:13:12

18 A. No. 11:13:15

19 Q. Vegan? 11:13:17

20 A. No. 11:13:18

21 Q. Pescatarian? 11:13:19

22 A. It's been included in the diet, but not 11:13:22

23 exclusively, no. 11:13:26

24 Q. Okay. And then do you or any of your family 11:13:27

25 members have any other dietary restrictions related 11:13:29

1 Q. And has that changed over the last ten 11:24:44
2 years? 11:24:46

3 A. No. 11:24:46

4 Q. And then how often do you eat at fast casual 11:24:47
5 restaurants like a Chipotle or a Five Guys, something 11:24:50
6 between a sit-down restaurant and a fast food? 11:24:54

7 A. Never. 11:24:58

8 Q. Has that changed over the last ten years? 11:25:00

9 A. No. 11:25:02

10 Q. And then, Mr. Shupe, how much beef would you 11:25:11
11 say you buy to cook or eat at home during a typical 11:25:13
12 week? 11:25:18

13 A. During a typical week? Averaged out over a 11:25:18
14 month? Because there's some weeks we don't eat any 11:25:24
15 beef and other weeks we'll eat beef a couple of 11:25:28
16 times. Averaged out over the course of a month, we 11:25:31
17 probably have beef three or four times. 11:25:38

18 Q. Has that changed over the last ten years? 11:25:41

19 A. Yeah, I think so. We probably eat less now 11:25:48
20 than we did before. 11:25:50

21 Q. And around what time period did -- did that 11:26:00
22 change? 11:26:03

23 A. Again, after the kids left the house, it 11:26:03
24 was -- you know, things just changed a little bit. I 11:26:06
25 mean, we did -- in a situation like that when the 11:26:15

1 kids were home, on Sunday we'd have a -- a -- a chuck 11:26:17

2 roast, and a chuck roast is a little bit too much for 11:26:19

3 two people now. 11:26:23

4 Q. Do you generally purchase, like, the same 11:26:31

5 amount of beef to cook or eat at home over the course 11:26:32

6 of a year? 11:26:35

7 A. I'm not sure I understand what you're 11:26:40

8 asking. 11:26:41

9 You mean total? 11:26:41

10 Q. Or -- I'm going to ask a more clarifying 11:26:47

11 question. 11:26:49

12 Like, are there certain time periods in the 11:26:49

13 year where you may order more amounts of beef than 11:26:51

14 others? Like, for example, do you buy more or less 11:26:55

15 beef around the holidays? 11:26:58

16 A. Probably buy more beef around the holidays. 11:27:02

17 It's more of a celebratory type of thing. 11:27:07

18 Q. And which holidays would you say you 11:27:15

19 purchased more beef on? 11:27:17

20 A. The year-end holidays: Christmas, 11:27:20

21 New Year's, and Easter. 11:27:23

22 Q. Are there any other special occasions 11:27:30

23 outside of the holidays that -- where you purchase 11:27:33

24 beef? 11:27:36

25 A. Special occasions? No. 11:27:38

1 A. Not an example that I can give specific 11:46:03
2 details on, but it's happened. 11:46:05

3 Q. And then has there ever been a time when you 11:46:11
4 planned to order beef at a restaurant, but you ended 11:46:15
5 up ordering another protein or meat instead? 11:46:18

6 A. No, because I -- I generally don't go into a 11:46:26
7 restaurant to order beef. Again, if duck's on the 11:46:29
8 menu, I'm all -- all over it, but ... 11:46:36

9 Q. And I think you may have testified before, 11:46:40
10 too, about getting vegetarian sandwiches at sandwich 11:46:45
11 shops, but just also wanted to ask: Has there ever 11:46:48
12 been a time in the last ten years where you planned 11:46:50
13 to order beef from a sandwich shop, but you ended up 11:46:52
14 buying another meat or protein instead? 11:46:56

15 A. No. 11:46:58

16 Q. And then conversely, was there ever a 11:47:15
17 time -- again, in the last ten years, was there ever 11:47:18
18 a time when you planned to buy another type of meat 11:47:20
19 or protein, but you ended up buying beef instead? 11:47:22

20 A. Again, I can't give a specific, but there's 11:47:30
21 been times that I've gone to the store to buy 11:47:32
22 something other than beef, saw, oh, these New York 11:47:35
23 strips are on sale. Might as well pick up a package 11:47:40
24 for later. You know, something like that. But not 11:47:43
25 as a substitute. 11:47:45

1 Q. And you -- sorry. 11:47:49

2 And you mentioned with that example, like, 11:47:52

3 if you would see, like, New York strips on sale. 11:47:55

4 Beyond seeing a beef product on sale, was 11:47:59

5 there any other type of factor that you considered or 11:48:02

6 that changed your mind to have you then buy beef 11:48:05

7 instead of the other meat or protein that you planned 11:48:08

8 to purchase? 11:48:11

9 A. No. It typically wouldn't be instead. It 11:48:13

10 would be in addition to. If I thought it was a good 11:48:19

11 value, I'd buy it. 11:48:22

12 Q. Do you typically try and wait to buy beef 11:48:32

13 products when they go on sale for a discounted price? 11:48:34

14 A. No. Because I don't look at sale flyers or 11:48:39

15 anything like that. We -- we've gone pretty 11:48:43

16 paperless. Don't get the newspaper that much 11:48:51

17 anymore. 11:48:55

18 Q. And then do you ever use coupons to reduce 11:48:56

19 the purchase price of beef? 11:48:59

20 A. We use coupons, but I'm not sure if we've 11:49:04

21 used coupons specifically for beef. 11:49:08

22 Q. Where do you get your coupons generally? 11:49:16

23 A. Again, I'll -- I'll talk about that specific 11:49:22

24 store where we've got members of a loyalty programs, 11:49:24

25 Meijer. They send out online or -- or -- yeah, 11:49:27

1 but I -- I can't remember -- remember anything 12:25:36
2 specific. 12:25:39
3 Q. So in terms of, then, the supermarkets, 12:25:41
4 starting with Meijer, can you please let me know what 12:25:44
5 locations of Meijers you purchased beef from? 12:25:47
6 A. Primarily in their store at the corner of 12:25:59
7 Wilson Avenue and Lake Michigan Drive in Standale, 12:26:03
8 Michigan. 12:26:04
9 Q. Are there any other locations of Meijers 12:26:05
10 that you purchased from? 12:26:10
11 A. Possibly a Meijer location on Alpine Avenue. 12:26:12
12 Q. And what specific types of beef products do 12:26:26
13 you purchase from Meijer? 12:26:28
14 A. In the past, primarily ground beef, steaks, 12:26:31
15 and, like, pot roast, chuck roast. 12:26:41
16 Q. How about ribs? 12:26:51
17 A. Like beef short ribs? 12:26:53
18 Q. Mm-hmm. Yep. 12:26:55
19 A. If I buy something like that, it would 12:26:58
20 probably come from -- I would be more likely to go to 12:27:00
21 the local butcher shop. 12:27:03
22 Q. Okay. And then how about brisket from 12:27:06
23 Meijers? 12:27:13
24 A. I don't think I've ever bought brisket from 12:27:15
25 Meijer. 12:27:17

1 is store packaged. 12:28:48

2 So is it -- does it have any brand or is it 12:28:50

3 just the store brand? 12:28:54

4 A. Store branding. 12:28:56

5 Q. Do you know if the ground beef that you 12:28:56

6 purchase from Meijers is -- is processed by one of 12:28:58

7 the defendants in the case? 12:29:01

8 A. No, I don't know that. 12:29:07

9 Q. Do you know if it was processed by -- from 12:29:08

10 grass-fed cattle or grain-fed cattle? 12:29:11

11 A. No. 12:29:14

12 Q. And do know if it was processed from dairy 12:29:18

13 cattle or from fed cattle? 12:29:21

14 A. Again, no. 12:29:23

15 Q. Okay. And then with the steak that you 12:29:24

16 mentioned, what type or kind of steaks do you 12:29:27

17 typically purchase from Meijer? 12:29:30

18 A. Usually, Delmonico, ribeye, or New York 12:29:34

19 strips. 12:29:39

20 Q. And during a typical month, about how many 12:29:49

21 pounds of steak do you typically purchase from 12:29:51

22 Meijer? 12:29:53

23 A. Six pounds, maybe. 12:30:01

24 Q. Has that changed over the last ten years? 12:30:02

25 A. Yeah. It's probably increased during the 12:30:07

1 last ten years, simply because we're going with 12:30:09

2 higher quality cuts for the two of us rather than 12:30:15

3 trying to feed the whole family with Delmonicos. 12:30:18

4 Q. And what's the brand of steaks that you 12:30:33

5 typically purchase from Meijer, if any? 12:30:35

6 A. Again, it's store packaged Meijer brand. 12:30:37

7 Q. And do you know if the steak that you 12:30:44

8 purchased from Meijer, if it was processed by one of 12:30:47

9 the defendants in the case? 12:30:49

10 A. No, I don't know. 12:30:57

11 Q. Do you know if it was processed from 12:30:58

12 grass-fed cattle or grain-fed cattle? 12:31:01

13 A. No. 12:31:03

14 Q. Do you know if it was processed from fed 12:31:04

15 cattle or from dairy cattle? 12:31:05

16 A. No. 12:31:08

17 Q. And then with the chuck roast, in a -- 12:31:12

18 during a typical month, about how many pounds of 12:31:19

19 chuck roast would you say that you purchased from 12:31:21

20 Meijer? 12:31:23

21 A. Oh, the minimum size is usually about 12:31:24

22 3 pounds. About 3 pounds. 12:31:26

23 Q. Has that changed over the last ten years? 12:31:30

24 A. It's probably gone down a little bit over 12:31:34

25 the past ten years. Again, because use chuck roast 12:31:36

1 as a family meal versus -- again, 3 pounds of meat is 12:31:40
2 a lot of meat for two people to eat. 12:31:45
3 Q. And do you typically -- strike that. 12:31:50
4 Is there a brand of chuck roast that you 12:31:53
5 typically purchase from Meijer or is it the store -- 12:31:55
6 store package? 12:31:59
7 A. Store package. 12:32:02
8 Q. And do you know if the chuck roast that you 12:32:08
9 purchased from Meijer, if it was processed by one of 12:32:10
10 the defendants in the case? 12:32:13
11 A. No, I do not. 12:32:14
12 Q. Do you know if it was processed from 12:32:16
13 grass-fed cattle or grain-fed cattle? 12:32:18
14 A. Typically, no. It's not labeled that way. 12:32:25
15 Q. And do you know if it was processed from fed 12:32:28
16 cattle or from dairy cattle? 12:32:31
17 A. I do not know, no. 12:32:33
18 Q. Do you recall any general trends in the 12:32:37
19 prices that you've paid for beef that you purchased 12:32:39
20 at Meijers over the last ten years? 12:32:42
21 A. I didn't quite get the -- the question. It 12:32:47
22 kind of dropped out a little bit. 12:32:50
23 Q. I can repeat it. 12:32:53
24 A. Could you restate it, please. 12:32:54
25 Q. Do you recall any general trends in the 12:32:56

1 Q. And when was the last time you purchased 12:34:33
2 beef at Meijers? 12:34:34

3 A. I think I bought some burger there about two 12:34:46
4 weeks ago. 12:34:48

5 Q. Do you keep the receipts from when you 12:34:52
6 purchase beef at Meijers? 12:34:55

7 A. As often as I can. Again, it's my wife and 12:34:58
8 I both -- both shopping. Sometimes it's just not top 12:35:02
9 of mind, but I've been trying, yes. 12:35:09

10 Q. Okay. And do you produce any of those 12:35:12
11 receipts to your attorney for this lawsuit? 12:35:15

12 A. I have, yes. 12:35:17

13 Q. And do you ever order beef to be delivered 12:35:21
14 from Meijers to you, either directly by the store or 12:35:23
15 through a third-party delivery service like Uber 12:35:28
16 Eats? 12:35:30

17 A. No. 12:35:32

18 Q. Then, with Family Fare, what are the 12:35:40
19 specific types of beef products that you buy from 12:35:43
20 Family Fare? 12:35:46

21 A. Again, it would have been -- over the past 12:35:50
22 ten years, and it would be that same -- those same 12:35:53
23 categories: ground beef, beef roast, and steak. 12:35:56

24 Q. And with ground beef, what's the type or 12:36:09
25 kind of ground beef that you purchase from Family 12:36:11

1 did that switch kind of occur? 12:37:45

2 A. Probably -- nearly 20 years ago, because we 12:37:52

3 moved from our previous residence to this residence, 12:37:59

4 and it's in closer proximity. 12:38:02

5 Q. Okay. Is the ground beef that you purchase 12:38:05

6 from Family Fare, is it a -- a -- is it under a brand 12:38:08

7 or is it store packaged? 12:38:14

8 A. It's store packaged. 12:38:16

9 Q. Okay. Do you know if the ground beef that 12:38:18

10 you purchased from Family Fare, if it was processed 12:38:20

11 by one of the defendants in the case? 12:38:23

12 A. I do not know that, no. 12:38:26

13 Q. Okay. Do you know if it was processed from 12:38:28

14 grass-fed cattle or grain-fed cattle? 12:38:31

15 A. Well, once again, I don't know that. 12:38:35

16 Q. And do you know if it was processed from fed 12:38:37

17 cattle or dairy cattle? 12:38:40

18 A. Again, no. 12:38:42

19 Q. In terms of the steak that you purchased 12:38:46

20 from Family Fare, what type or kind of steak do you 12:38:48

21 purchase from there? 12:38:52

22 A. It would be the same categories: Delmonico, 12:38:55

23 ribeye, or New York strip. 12:38:58

24 Q. And in a typical year, about how many pounds 12:39:02

25 of steak do you purchase from Family Fare? 12:39:05

1 A. Again, top of the head, 5 pounds. 12:39:15

2 Q. Is the steak that you purchase from Family 12:39:18

3 Fare, is it under a brand or is it store packaged? 12:39:20

4 A. Store packaged. 12:39:25

5 Q. Do you know if the steak that you purchase 12:39:27

6 from Family Fare, if it was processed by one of the 12:39:28

7 defendants in the case? 12:39:32

8 A. No. 12:39:34

9 Q. Do you know if it was processed from 12:39:35

10 grass-fed cattle or grain-fed cattle? 12:39:37

11 A. No. I don't have that information. 12:39:40

12 Q. And do you know if it was processed from fed 12:39:43

13 cattle or dairy cattle? 12:39:46

14 A. Again, I -- I am not aware of what kind of 12:39:48

15 cattle it came from. 12:39:52

16 Q. And then the last -- you said beef roast or 12:39:54

17 chuck roast. 12:39:57

18 In a typical year, about how many pounds of 12:40:02

19 chuck roast do you purchase from Family Fare? 12:40:04

20 A. Five or 6 pounds. It's typically a little 12:40:13

21 larger because it's a larger cut of meat. 12:40:21

22 Q. And is the chuck roast that you purchase 12:40:24

23 from Family Fare, is it typically under a brand or is 12:40:26

24 it store packaged? 12:40:28

25 A. It's store packaged. 12:40:30

1 beef from Family Fare? 12:41:51

2 A. Not in recent memory. Not in recent memory. 12:41:58

3 I do not recall. 12:42:03

4 Q. Do you keep the receipts from when you 12:42:07

5 purchase beef at Family Fare? 12:42:10

6 A. No, because I don't think I've purchased 12:42:17

7 beef from Family Fare since becoming part of this 12:42:20

8 class action suit. 12:42:27

9 Q. And then do you ever order beef to be 12:42:31

10 delivered from Family Fare through the store directly 12:42:33

11 or through a third-party delivery service? 12:42:36

12 A. No. 12:42:39

13 Q. And then you also mentioned ALDI. 12:42:43

14 What beef products do you purchase from 12:42:47

15 ALDI? 12:42:49

16 A. That would be steaks. 12:42:51

17 Q. And what kind or type of steaks do you 12:42:56

18 purchase from ALDI? 12:43:00

19 A. They're usually Delmonico or ribeye. 12:43:01

20 MS. AKALAONU: Sorry. I want to check 12:43:11

21 again. So, Emily, are you able to hear me or is it 12:43:12

22 still unclear? 12:43:14

23 (Pause in the proceedings.) 12:43:14

24 MS. DUPREE: Should we go off the record? 12:43:38

25 MS. AKALAONU: Yes, please. Let's go off 12:43:40

1 the record. 12:43:41

2 VIDEOGRAPHER: Thanks. We're off the 12:43:42

3 record. It's 12:43 p.m. 12:43:43

4 (Short recess taken.) 12:43:45

5 VIDEOGRAPHER: We're back on the record. 12:47:03

6 It's 12:46 p.m. 12:47:05

7 BY MS. AKALAONU: 12:47:07

8 Q. Okay. So, Mr. Shupe, I believe the last 12:47:07

9 thing you were mentioning was the type of steaks that 12:47:09

10 you purchased from ALDI, and I believe you said 12:47:13

11 Dominico [sic] -- similar to the same type that you 12:47:17

12 purchase at Meijers and Family Fare; is that correct? 12:47:21

13 A. Yes. 12:47:23

14 Q. And in a typical month, about how many 12:47:27

15 pounds of steak do you pretty much from ALDI? 12:47:30

16 A. It's usually only one steak. So probably 12:47:34

17 about three-quarters of a pound. A pound. 12:47:36

18 Q. And what location of ALDIs do you purchase 12:47:47

19 from? 12:47:49

20 A. There's an ALDIs store, actually right 12:47:52

21 across from Meijer, on Wilson Avenue in Standale, 12:47:54

22 Michigan. 12:48:00

23 Q. And has it been there for the last ten 12:48:01

24 years? 12:48:03

25 A. No. I think it's only been there about five 12:48:04

1 years. 12:48:06

2 Q. Any other location of ALDIs that you shop 12:48:13

3 at? 12:48:17

4 A. There's one on Alpine Avenue also in Grand 12:48:23

5 Rapids, Michigan. 12:48:26

6 Q. And beyond steaks, over the last ten years, 12:48:34

7 have you purchased any other type of beef from ALDIs? 12:48:36

8 A. No. 12:48:41

9 Q. And then the steak that you purchase from 12:48:47

10 ALDIs, is it under a brand or is it store packaged? 12:48:48

11 A. It's under a brand, but I -- not sure if 12:48:58

12 it's an ALDI brand. It's usually, like, Cryovaced. 12:49:00

13 Q. Do you know how to spell -- spell that? 12:49:03

14 A. Cryovac? 12:49:06

15 Q. Yeah. 12:49:08

16 A. It's actually -- you could refer to it as 12:49:08

17 vacuum-packed. It's, like, an individual steak 12:49:11

18 vacuum-packed. 12:49:14

19 Q. And do you know if this steak that you 12:49:22

20 purchased from ALDI, if it was processed by one of 12:49:24

21 the defendants in the case? 12:49:26

22 A. No. It's not obvious. 12:49:30

23 Q. Do you know if it was processed from 12:49:32

24 grain-fed cattle or grass-fed cattle? 12:49:34

25 A. No. 12:49:37

1 down there and pick up what we need. 12:52:52

2 Q. And where is the location of the Gordon Food 12:52:56

3 Services that you shop at personally? 12:52:58

4 A. That one is on Alpine Avenue in Grand 12:53:02

5 Rapids. 12:53:07

6 Q. And where is the one that you shop at in a 12:53:11

7 professional capacity? 12:53:14

8 A. That's on Clay Avenue in Wyoming, Michigan. 12:53:16

9 Q. And the one that you shop at at Alpine 12:53:25

10 Avenue, what is -- when you're shopping personally or 12:53:29

11 in your own personal capacity, what type of beef 12:53:33

12 products do you purchase from there? 12:53:38

13 A. That would be prepackaged, vacuum-packed 12:53:42

14 steaks. Typically a New York strip. 12:53:45

15 Q. And during a typical month, about how many 12:54:01

16 pounds of -- or sorry. Strike that. 12:54:03

17 During a typical month, about how many 12:54:09

18 pounds of this steak do you purchase from the Gordon 12:54:11

19 Food Services on Alpine Avenue? 12:54:13

20 A. Maybe 1 pound. Again, it's kind of an 12:54:20

21 impulse purchase. 12:54:22

22 Q. Has -- and has that changed over the last 12:54:30

23 ten years? 12:54:32

24 A. Yeah, it's probably increased over the last 12:54:35

25 ten years. But primarily because they didn't offer 12:54:37

1 the prepackaged steaks until recently. 12:54:44

2 Q. Okay. And is that steak that you purchased 12:54:48

3 from the Alpine Avenue, is it under a brand or is it 12:54:55

4 store packaged? 12:55:01

5 A. I think it's under a Gordon brand. Well, 12:55:02

6 store packaged, yeah. 12:55:06

7 Q. Do you know if that steak that you purchased 12:55:09

8 from Gordon Food Services, the one on Alpine, if it 12:55:11

9 was processed by one of the defendants in the case? 12:55:14

10 A. I do not. 12:55:17

11 Q. Do you know if it was processed from 12:55:20

12 grass-fed cattle or grain-fed cattle? 12:55:22

13 A. I do not. 12:55:25

14 Q. And do you know if it was processed from fed 12:55:25

15 cattle or dairy cattle? 12:55:27

16 A. Again, I do not. 12:55:30

17 Q. And then in terms of the Gordon Food 12:55:33

18 Services that you purchase beef from in a 12:55:34

19 professional capacity, the one on Clay Avenue in 12:55:38

20 Wyoming, what -- what beef products do you purchase 12:55:43

21 from that Gordon Food Services? 12:55:45

22 A. When I purchase -- I don't purchase fresh 12:55:50

23 beef products in my professional capacity. 12:55:53

24 Q. So what type of products do you purchase 12:56:03

25 from the Gordon Food Services on Clay Avenue in 12:56:07

1 Wyoming in your professional capacity? 12:56:12

2 A. Generally, whatever we're out of. It could 12:56:15

3 be anywhere from deli meats to -- to frozen baked 12:56:19

4 goods, depending on what we're making for our 12:56:25

5 customers. 12:56:32

6 Q. But you don't purchase beef products from 12:56:33

7 that Gordon Food Services? 12:56:35

8 A. Not raw beef products, no. 12:56:39

9 Q. And in terms of the Gordon Food Services on 12:56:53

10 Alpine Avenue that you shop at personally, do you 12:56:57

11 recall any general trends in the prices of beef that 12:57:00

12 you've purchased from there over the last ten years? 12:57:02

13 A. No. Typically the product that I buy there 12:57:10

14 is marked with a price sticker. For the New York 12:57:12

15 strip, it's \$9. But the size of the -- the size of 12:57:18

16 the steak may have changed within the package, but 12:57:22

17 the package is still \$9. 12:57:25

18 Q. And have you noticed any general trend -- 12:57:32

19 trend in terms of the size of the steak that's in the 12:57:34

20 package -- 12:57:37

21 A. Not -- 12:57:38

22 Q. -- over the last ten years? Sorry. 12:57:40

23 A. No. 12:57:44

24 Q. Okay. Have you noticed any general trend in 12:57:44

25 the price of non-beef products that you've purchased 12:57:57

1 A. There's a -- this all sounds repetitive, but 12:59:33
2 there's a Costco on Wilson Avenue in Grandville, 12:59:37
3 Michigan. 12:59:43

4 Q. And besides that one, is there any other 12:59:47
5 Costco that you shop at? 12:59:49

6 A. There was one on 28th Street in Kentwood, 12:59:56
7 Michigan, but I don't think I've ever bought beef 12:59:59
8 from that one. 01:00:01

9 Q. And what specific types of beef products do 01:00:02
10 you typically buy from Costco, that one in 01:00:05
11 Grandville, Michigan? 01:00:09

12 A. With that was -- I think most of my 01:00:17
13 purchase - I can think of two things in particular. 01:00:18
14 I've bought beef brisket there, and I've also bought 01:00:21
15 subprimal cuts of New York strip to cut up into 01:00:26
16 steaks. 01:00:42

17 Q. Has the type of beef that you've purchased 01:00:43
18 from Costco, has that changed over the past ten 01:00:45
19 years? 01:00:47

20 A. The type of beef? 01:00:48

21 Q. Mm-hmm. 01:00:49

22 A. No. It's -- it would be in that category. 01:00:50
23 And it -- that's been a sporadic purchase. 01:00:52

24 Q. So how often in a year would you say you've 01:00:57
25 purchased beef brisket from Costco? 01:00:59

1 A. I do not. 01:02:28

2 Q. In terms of the subprimal cuts of New York 01:02:33

3 strip, how often in a year would you say you purchase 01:02:37

4 that from Costco? 01:02:41

5 A. In all of history, I've probably done it 01:02:44

6 twice. 01:02:46

7 Q. And in those two times -- strike that. 01:02:51

8 Have those two times been within the last 01:02:54

9 ten years? 01:02:56

10 A. Yes. 01:02:57

11 Q. And during those two times, about how many 01:03:00

12 pounds of that subprimal cut of New York strip steak 01:03:03

13 have you purchased? 01:03:07

14 A. I'm just doing a -- kind of a quick 01:03:10

15 calculation. Probably 10 pounds each. 01:03:14

16 Q. And were those subprimal cuts of New York 01:03:26

17 strip, were they under a brand or were they store 01:03:31

18 packaged? 01:03:34

19 A. They were still in the vacuum package 01:03:36

20 from -- from the case, I assume. And they were store 01:03:38

21 branded. 01:03:43

22 Q. Okay. And do you know if the subprimal cuts 01:03:44

23 of New York strip that you purchased from that 01:03:47

24 Costco, if it was processed by one of the defendants 01:03:49

25 in the case? 01:03:52

1 price. 01:10:30

2 Q. And was this a price that you negotiated 01:10:34

3 with the people who ran the farm or the -- the farm 01:10:36

4 or was it a set price? 01:10:39

5 A. I think it was a set price. 01:10:40

6 Q. And then besides this, have you ever 01:10:50

7 purchased beef from any other local farms? 01:10:51

8 A. No. 01:10:53

9 Q. And then in terms of the butcher shop that 01:11:00

10 you named before, what's the name of that butcher 01:11:02

11 shop that you purchased beef from? 01:11:05

12 A. It's called Sobie's meat market. 01:11:06

13 And I'll spell Sobie's for you, 01:11:11

14 S-o-b-i-e-'-s. 01:11:13

15 Q. And where is that located? 01:11:28

16 A. That's located on Remembrance Road in 01:11:29

17 Walker, Michigan. 01:11:35

18 Q. And how -- strike that. 01:11:37

19 Has that butcher shop, Sobie's, been located 01:11:44

20 at Remembrance Road during the duration of the last 01:11:48

21 ten years? 01:11:52

22 A. Yes. 01:11:53

23 Q. And in the last year, how often would you 01:11:58

24 say you shop at or purchase beef at Sobie's meat 01:12:01

25 markets? 01:12:07

1 A. In the last ten years, did you say, or in 01:12:10
2 the last year? 01:12:12

3 Q. Yeah. My first question was going to be 01:12:13
4 the -- in the last year and then ask if that's 01:12:15
5 changed over the last ten years. 01:12:16

6 A. I don't think I've purchased beef there in 01:12:18
7 the past year. In the past ten years, two or three 01:12:21
8 times, usually specialty cuts. 01:12:27

9 Q. And so what type of beef products do you 01:12:37
10 purchase from Sobie's? 01:12:40

11 A. Again, it's a butcher shop, so usually use 01:12:46
12 them for things that I can't get elsewhere. Beef 01:12:49
13 short ribs comes to mind. 01:12:52

14 Q. Anything else besides the beef short ribs? 01:12:56

15 A. I've also bought beef shanks there before. 01:13:01

16 Q. And to confirm, you stated that you 01:13:15
17 typically purchase these beef products from Sobie's 01:13:18
18 because they're not available elsewhere; is that 01:13:20
19 correct? 01:13:23

20 A. They may be available elsewhere, but they're 01:13:27
21 usually -- it's usually something special, so I know 01:13:29
22 that they have that, so it saves a trip. 01:13:32

23 Q. Beyond that, is there any other factor that 01:13:39
24 you -- that -- strike that. 01:13:41
25 Besides that, is there any other, like, 01:13:44

1 factor or reason that you purchase these beef 01:13:47
2 products from Sobie? 01:13:49
3 A. No. 01:13:52
4 Q. And then in the last ten years, how often 01:13:58
5 have you purchased the beef short ribs? 01:13:59
6 A. Twice. 01:14:02
7 Q. And during those two occasions, about how 01:14:06
8 many pounds of the short ribs -- beef short ribs did 01:14:09
9 you purchase? 01:14:13
10 A. I would say, thinking about the instances I 01:14:16
11 bought the short ribs for, 6 pounds each time. 01:14:22
12 Q. And do you know if the beef short ribs that 01:14:46
13 you purchased from Sobie's, if it was produced from 01:14:49
14 grass-fed cattle or grain-fed cattle? 01:14:54
15 A. I do not. 01:14:57
16 Q. And do you know if it was purchased from fed 01:14:57
17 cattle or dairy cattle? 01:15:00
18 A. I do not. 01:15:02
19 Q. And then do you know if the Sobie's meat 01:15:05
20 markets, if it's in any way affiliated with any of 01:15:08
21 the defendants in the case? 01:15:11
22 A. I do not. 01:15:13
23 Q. Do you know if the beef short ribs you get 01:15:17
24 from there was in any way processed by one of the 01:15:19
25 defendants in the case? 01:15:22

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of John Shupe, commencing on August 2, 2024, at 10:31 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- (X) Review and signature was requested.
- () Review and signature was waived.
- () Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 8th day of August, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-12
Charlie Morgan (Minnesota)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF
ANTITRUST LITIGATION

Case No. 0:20-cv-01319
(JRT/JFD)

This Document Relates To:

CONSUMER INDIRECT
PURCHASER PLAINTIFF
ACTION

Case No. 0:22-md-03031
(JRT/JFD)

ZOOM DEPOSITION OF CHARLES MORGAN
(Reported Remotely via Video & Web videoconference)
Bloomington, Minnesota (Deponent's location)
Tuesday, June 18, 2024
Volume 1

STENOGRAPHICALLY REPORTED BY:
REBECCA L. ROMANO, RPR, CSR, CCR
California CSR No. 12546
Nevada CCR No. 827
Oregon CSR No. 20-0466
Washington CCR No. 3491
JOB NO. 6719534
PAGES 1 - 129

1 Quite a while. Oh, boy. At least since 09:21:57
2 2010.

3 Q. What's your wife's name?
4 A. Michelle, M-I-C-H-E-L-L-E.

5 Q. Same last name as you? 09:22:13
6 A. Correct.

7 Q. Do you live with anyone else?
8 A. No.

9 Q. Over the past ten years, have you lived
10 with anyone else other than Michelle? 09:22:27
11 A. No.

12 Q. Who has been the primary purchaser of
13 groceries in your household?
14 A. I have.

15 Q. Is that true over the last ten years? 09:22:40
16 A. Yes.

17 Q. In a typical month, how often do you shop
18 for groceries?
19 A. About once a week.

20 Q. Has that changed over the past ten years? 09:22:59
21 A. I'd say it's more frequent now. During
22 COVID, it was less frequent. And then before that,
23 probably every two weeks.

24 Q. When you say it was less frequent during
25 COVID, when do you say that COVID started? 09:23:24

1 A. I would say about lockdown, so about 09:23:26
2 March 2020.

3 Q. And you said "less frequently during
4 COVID," what does that mean to you?

5 A. Going probably about once every three 09:23:39
6 weeks, I would say.

7 Q. When did you make the switch from going
8 approximately once every three weeks to
9 approximately once a week?

10 A. I would say end of 2021, so probably 09:23:55
11 about November.

12 Q. And prior to around March 2020, you
13 stated that you were going to the grocery store
14 about once every other week; is that correct?

15 A. Correct. 09:24:17

16 Q. And until around 2020, was that true,
17 generally, since you moved to Minnesota?

18 A. Yes.

19 Q. Do you buy beef for your own consumption
20 at home? 09:24:40

21 A. Yes.

22 Q. Do you buy beef for just yourself or for
23 others also?

24 A. For myself and my wife.

25 Q. Has that generally been true over the 09:24:56

1 last ten years? 09:24:57

2 A. Yes.

3 Q. Have you and Michelle both consistently

4 eaten beef in the last ten years?

5 A. It was -- it -- consistently up through, 09:25:11

6 I'd say, the last two or three years.

7 Q. And then in the last two or three years,

8 around 2022, 2021, is that the right time frame?

9 A. Yeah, I'd say around, like, summer of

10 2021. 09:25:40

11 Q. Did you eat less beef starting in summer

12 2021?

13 A. Yes.

14 Q. Why is that?

15 A. Mostly due in part to just the cost of 09:25:57

16 beef versus other options.

17 Q. So before around the summer 2021,

18 approximately how often would you eat beef in a

19 typical week?

20 A. I would say maybe once a week. 09:26:26

21 Q. And then starting around summer 2021

22 until present, approximately how often do you eat

23 beef?

24 A. Once every two weeks, maybe, if not less.

25 Q. So you said that you stopped eating as 09:27:01

1 much beef in part due to the cost of beef. 09:27:04

2 Can you explain that a little bit more.

3 A. Yes. The prices for beef and the cost of

4 getting, say, a pair of steaks started being higher

5 than we would like, and so we were looking for 09:27:18

6 alternatives.

7 Q. And when did you first notice that

8 increase in price?

9 A. I would say I started taking notice of

10 price increase most likely around 2018 or so, but 09:27:33

11 it didn't effect me as much.

12 Q. Why didn't it effect you as much?

13 A. I wasn't paying as much attention to our

14 regular expenses and -- and wages back then.

15 Q. Are you paying more attention to your 09:28:01

16 wages now?

17 A. Yes.

18 Q. Why is that?

19 A. Partly because of -- I mean,

20 unemployment, having to be a bit more financially 09:28:13

21 sound there. After we moved to Bloomington, higher

22 rent cost.

23 Q. Would you say you were tracking beef

24 prices?

25 MR. OWEN: Objection. Form. 09:28:40

1 A. No. 09:41:48

2 Q. How much beef would you say you typically
3 buy to cook at home in a typical week?

4 A. I'd say for my wife and I, maybe two
5 steaks every two weeks or so, right now. 09:42:14

6 Q. Has that generally changed over time?

7 A. Yes.

8 Q. And how has that changed over time?

9 A. We used to buy more beef, ground beef and
10 steaks and hamburgers, I'd say, earlier than we do 09:42:35
11 now.

12 Q. And in a typical week, how often are you
13 cooking at home versus getting something to eat
14 out?

15 A. I would say these days, we are trying to 09:43:02
16 cook at home probably more like four times in a
17 week.

18 Q. Has that changed over time?

19 A. Yes. During COVID, we were cooking a bit
20 more often at home. Prior to the lockdown 09:43:27
21 March 2020 window, I would say we weren't -- we
22 were ordering out and -- and eating out more.

23 Q. Do you generally purchase the same amount
24 of beef to cook or eat at home throughout the year,
25 or is there seasons, holidays, other times when you 09:43:57

1 might purchase more or less beef? 09:44:02

2 MR. OWEN: Objection. Form.

3 THE DEPONENT: As far as we would

4 probably get more beef product around holidays,

5 such as Thanksgiving, Easter or Christmas. That's 09:44:17

6 about it.

7 Q. (By Ms. Bollman) Are there any other
8 specific occasions that you might purchase more
9 beef?

10 A. No. 09:44:38

11 Q. Do you buy more beef during the summer to
12 barbeque?

13 A. No. We keep pretty frequent, or, as I
14 started -- our normal frequency.

15 Q. You buy more beef during football season? 09:44:56

16 A. No.

17 Q. If you're football fan. If not, it might
18 not matter.

19 Over the course of the year, are there
20 particular times of the year that you go out to eat 09:45:21
21 more frequently?

22 A. If I'm not involved with a show, yes.

23 Q. And if you are involved with a show or
24 some of these other activities, you might go out to
25 eat more frequently? 09:45:40

1 A. I couldn't say, no. 09:47:01

2 Q. Would you estimate you spent more money
3 on beef purchases in 2023 than you did in 2014?

4 MR. OWEN: Object to form.

5 THE DEPONENT: I don't have the number in 09:47:28
6 front of me, so I couldn't estimate for you.

7 Q. (By Ms. Bollman) We talked a little bit
8 about COVID-19.

9 Did you stock up on beef purchases during
10 COVID-19? 09:47:56

11 A. No, I did not.

12 Q. Did COVID-19 impact how often you
13 purchased beef?

14 A. No.

15 Q. Did COVID-19 impact where you purchased 09:48:13
16 beef?

17 A. No.

18 Q. So when purchase beef to cook or eat at
19 home, what factors do you generally consider in
20 deciding where you're going to purchase the beef 09:48:37
21 from?

22 A. The factors I consider is generally I am
23 shopping primarily at Target, so what Target has on
24 hand.

25 Q. Is there a Target close to your -- your 09:48:59

1 place? 09:49:02

2 A. Yes, the Eagan Target.

3 Q. We're never too far from a Target.

4 A. Not in Minnesota, no.

5 Q. So you have moved a few times. 09:49:22

6 Has your answer changed, you know,

7 depending on where you've moved?

8 MR. OWEN: Objection. Form.

9 THE DEPONENT: Primarily, we've shopped

10 at Target, whatever is the closest proximity. 09:49:35

11 That's been our primary grocery get.

12 Q. (By Ms. Bollman) If Target doesn't have

13 the beef product you were looking for, will you go

14 to other stores?

15 A. No. 09:50:07

16 Q. What would you do in that circumstance?

17 A. I can't say there's been a time I've

18 actively been looking for a specific beef product

19 and then, A, it's not there, or, B, you know,

20 decided against -- getting something else. 09:50:27

21 Q. Are there higher quality or premium beef

22 products that you prefer to purchase?

23 A. No.

24 Q. Do you -- you don't have a preference

25 for, like, grass-fed beef, for example? 09:50:50

1 I'm sorry, Edina Target. I don't know 10:07:12

2 why I said Eagan.

3 Q. The Edina Target?

4 A. Yes, Edina.

5 Q. Do you work in Edina? 10:07:23

6 A. No, I work downtown.

7 Q. Okay.

8 A. But I live close enough to Edina that

9 it's just easier to go to that Target.

10 Q. Do you have other Target locations that 10:07:38

11 you primarily purchase beef from?

12 A. Not since we moved to Bloomington, no.

13 Q. What about before you moved to

14 Bloomington?

15 A. When we were living in Minneapolis, it 10:07:54

16 was either the rose day -- Roseville Target or the

17 Fridley Target.

18 Q. So the Edina, Roseville and Fridley

19 Targets, are those generally the supermarkets that

20 you do your beef purchasing over the last ten 10:08:23

21 years?

22 A. Correct.

23 Q. What specific types of beef products do

24 you typically purchase from Target?

25 A. Primarily steaks, occasionally ground 10:08:43

1 beef. 10:08:53

2 Q. Has that type of beef that you purchase

3 from Target changed over the past ten years?

4 A. No.

5 Q. So you stated primarily you're buying 10:09:23

6 steaks.

7 What cut do you typically buy?

8 A. Flat iron or New York.

9 Q. What grade?

10 A. Sometimes -- I'm sorry. 10:09:46

11 Not paying attention to the grade, no.

12 Q. During a typical month, how many pounds

13 of flat iron steak are you buying from Target?

14 A. If I had to estimate, I'd say 3 pounds.

15 Q. And during a typical month, how many 10:10:27

16 pounds of ground beef do you purchase from Target?

17 A. I'd say a typical month, very

18 infrequently.

19 THE VIDEOGRAPHER: Counsel, did you want

20 this document on the screen? 10:10:44

21 MS. BOLLMAN: Oh, thank you very much for

22 asking.

23 You can take this down.

24 MR. OWEN: And we've been going for a

25 little over an hour. Can I ask if -- if it's an 10:10:53

1 appropriate time to take a break, if Charlie needs 10:10:57

2 one.

3 MS. BOLLMAN: Sure. If I could just get

4 through some of these purchases from Target, we can

5 take a break then. Maybe five more minutes. 10:11:05

6 THE DEPONENT: I'm fine with that.

7 MR. OWEN: Okay.

8 Q. (By Ms. Bollman) And how many pounds of

9 New York Strip do you purchase -- do you typically

10 purchase from Target in -- in a month? 10:11:18

11 A. Maybe one and a half pounds.

12 Q. Has that changed over the last ten years?

13 A. No, that's usually the cuts of steak we

14 get.

15 Q. And do I understand your prior testimony 10:11:45

16 to be that you don't know which brand of the flat

17 iron, New York or ground beef that you're typically

18 buying from Target?

19 A. I'm not. I can't recall, no.

20 Q. You can't recall the brand? 10:12:02

21 A. Correct.

22 Q. Do you know if the flat iron steaks that

23 you purchased from Target are processed by one of

24 the defendants in this case?

25 MR. OWEN: Objection. Form. Foundation. 10:12:19

1 steak for 13.29 on this receipt was processed by 11:10:44

2 one of the defendants in this case?

3 MR. OWEN: Objection. Form. Foundation.

4 THE DEPONENT: I don't know.

5 Q. (By Ms. Bollman) Do you know if that 11:10:56

6 steak was processed from fed cattle?

7 MR. OWEN: Objection. Form. Foundation.

8 THE DEPONENT: I don't know.

9 Q. (By Ms. Bollman) All right. Let's look

10 at the -- the next receipt on this page. It looks 11:11:22

11 like at the top, it says, "MPLS Nicollet Mall."

12 Do you see that?

13 A. Yes, I do.

14 Q. And is that the Nicollet Mall Target

15 downtown? 11:11:38

16 A. Yes, it is.

17 Q. A little bit hard to see, but I believe

18 the date is October 27th, 2019; is that right?

19 A. I would agree with that, yes.

20 Q. And would you shop at the Nicollet Mall 11:12:00

21 Target frequently for beef purchases?

22 MR. OWEN: Objection. Form.

23 THE DEPONENT: I believe this time was

24 just a convenient situation walking home from work.

25 Q. (By Ms. Bollman) It's not often that 11:12:15

1 Is this the same USDA Choice product that 11:14:01
2 we looked at in the first receipt?

3 MR. OWEN: Objection. Form.

4 THE DEPONENT: I don't know.

5 Q. (By Ms. Bollman) Next to "USDA Choice" 11:14:13
6 entry, the price is difficult to see. It looks to
7 me like 11.33.

8 Does that sound right?

9 A. I would agree with that, 11.33, yes.

10 Q. Do you know what item this "USDA Choice" 11:14:40
11 entry refers to?

12 A. I believe it was steak.

13 Q. Do you know what cut that would be?

14 A. I don't recall.

15 Q. Do you know the -- never mind. 11:14:54

16 Do you know the weight of this steak?

17 A. I don't recall.

18 Q. It looks like under the "USDA Choice"
19 entry, the receipt says, "Regular Price 8.99."

20 Do you see that? 11:15:28

21 A. I do see that, yes.

22 Q. Do you know what that means?

23 MR. OWEN: Objection. Form.

24 THE DEPONENT: I don't know.

25 Q. (By Ms. Bollman) Does that indicate to 11:15:43

1 you that there was a sale on this beef item? 11:15:44

2 MR. OWEN: Objection. Form.

3 THE DEPONENT: I don't know.

4 Q. (By Ms. Bollman) Do you know if this
5 beef product was processed by one of the defendants 11:16:17
6 in this case?

7 MR. OWEN: Objection. Form. Foundation.

8 THE DEPONENT: I don't know.

9 Q. (By Ms. Bollman) Do you know if this
10 beef product was processed from fed cattle? 11:16:26

11 MR. OWEN: Objection. Form. Foundation.

12 THE DEPONENT: I don't know.

13 Q. (By Ms. Bollman) Could you have
14 purchased this product on sale?

15 A. I don't know. 11:16:45

16 Q. Do you know if this is a typical price
17 you would pay for this item?

18 MR. OWEN: Objection. Form.

19 THE DEPONENT: I don't know.

20 MS. BOLLMAN: All right. We can move 11:17:01
21 down to the next page.

22 Q. (By Ms. Bollman) This is kind of a long
23 receipt. On CONSUMERIPP -19122, I'm looking at a
24 Target receipt. At the top, it says, "Roseville."

25 Is it your understanding that you 11:17:29

1 purchased these items on the receipt from the 11:17:30

2 Roseville Target?

3 A. Yes.

4 Q. The date, to me, looks like December 6th,

5 2019. 11:17:45

6 Does that sound right to you?

7 A. That sounds correct, yes.

8 Q. Are you able to identify the beef

9 products purchased in this receipt?

10 And we can scroll down as you need. 11:18:03

11 A. Yes, I believe I'll be able to.

12 So starting from the left, the two items

13 listed as "Deli Meat" would have most likely been

14 ham or turkey.

15 Just you scroll down a little bit, 11:18:18

16 please, Zach. Thank you.

17 The "USDA Choice" there about seven from

18 the bottom.

19 Scroll back up, please.

20 Fortunately, Target tends to have a good 11:18:53

21 pattern to this.

22 And I -- scroll down, please.

23 And I believe that's it.

24 Q. Do you know what item that "USDA Choice"

25 product was? 11:19:14

1 A. I believe it was steak. I do not know 11:19:19

2 what cut.

3 Q. Do you know the weight of that item?

4 A. I don't recall.

5 Q. Under the "USDA Choice" line, it says -- 11:19:41

6 well, first, to the -- to the right of it, it says,

7 "\$7" or it's "7.99"?

8 A. I believe it'd be 7 -- yeah, 7.99.

9 Q. Okay. You understand that -- and then

10 under -- the next line says, "Regular Price 7.99"; 11:20:06

11 is that right?

12 A. Yes.

13 Q. Do you know what that means?

14 MR. OWEN: Objection. Form.

15 THE DEPONENT: I don't know. 11:20:15

16 Q. (By Ms. Bollman) The next line after

17 that says, "Category Coupon, 1.31."

18 Do you see that?

19 A. I do see that, yes.

20 Q. Do you know what that means? 11:20:30

21 MR. OWEN: Objection. Form.

22 THE DEPONENT: I believe that was part of
23 the Target Circle's sales for that week.

24 Q. (By Ms. Bollman) So would that have been

25 a \$1.31 discount on that USDA Choice product? 11:20:49

1 a typical price you would pay for this steak? 11:22:22

2 MR. OWEN: Objection. Form.

3 THE DEPONENT: I don't know.

4 Q. (By Ms. Bollman) All right. I think we
5 can move on to the next page. It says 11:22:48

6 CONSUMERIPP -19123. We have two more receipts
7 here, so we'll take them each in turn.

8 A. Okay.

9 Q. I would first look -- like to look at the
10 shorter receipt that says, "Fridley," at the top. 11:23:05

11 Do you see that receipt?

12 A. Yes, I do.

13 Q. Is it your understanding that the
14 products purchased here were purchased from the
15 Fridley Target? 11:23:16

16 A. Yes.

17 Q. It looks, to me, like the date here says
18 July 26th, 2020.

19 Does that look right to you?

20 A. I would agree with that. 11:23:36

21 Q. Could you please identify the beef

22 products purchased on this receipt.

23 A. Certainly.

24 The "GG Beef" which is seven from the

25 top. 11:23:58

1 Q. Anything else? 11:24:03

2 A. No.

3 Q. Do you know what product the "GG Beef"

4 was?

5 A. I believe it was steaks, do not recall 11:24:19

6 the cut.

7 Q. Do you know if GG is a brand?

8 MR. OWEN: Objection. Form.

9 THE DEPONENT: I believe it might be

10 Good & Gather, the Target-based brand. 11:24:36

11 Q. (By Ms. Bollman) Do you know the weight

12 of this steak?

13 A. I don't remember.

14 Q. Reading the receipt, it looks like the

15 price was \$13.20-something cents. 11:25:00

16 Does that look right to you?

17 A. Yes.

18 Q. I'm not sure I can read that -- the cents

19 line.

20 A. I would guess maybe a nine, it look like, 11:25:12

21 possibly.

22 Q. Do you know if that was a typical price

23 you would pay for that steak?

24 MR. OWEN: Objection. Form.

25 THE DEPONENT: I don't know. 11:25:25

1 Q. (By Ms. Bollman) Do you know if this 11:25:26
2 steak product was processed by one of the
3 defendants in this case?

4 MR. OWEN: Objection. Form. Foundation.

5 THE DEPONENT: I don't know. 11:25:40

6 Q. (By Ms. Bollman) Looking to the other
7 receipt on this page, at the top, I see,
8 "Roseville"; is that correct?

9 A. Correct.

10 Q. Were the products purchased on this 11:25:55
11 receipt purchased from the Roseville Target?

12 A. Correct.

13 Q. The date, to me, looks like June 21st,
14 2020.

15 Does that sound right to you? 11:26:12

16 A. Yes.

17 Q. Are you able to identify the beef
18 products purchased on this receipt?

19 A. I believe so, yes.

20 That would be Good & Gather beef there in 11:26:27
21 the middle. And, just double-checking, I believe
22 that was the only beef purchased on this receipt.

23 Oh, no sorry. There's a "Dinty Moore" beef stew
24 there right below the "Kraft."

25 Q. That -- what was the brand of that beef 11:27:15

1 stew? 11:27:17

2 A. Dinty Moore, D-I-N-T-Y.

3 Q. Is that a canned good?

4 A. That is a canned good.

5 Q. And then that "GG Beef" entry, do you 11:27:45

6 know if that is the same products as in the

7 receipts on this same page that we just discussed?

8 A. I believe it is based off of the grocery

9 coding.

10 Q. Do you know if that's a typical item you 11:28:08

11 would purchase from Target?

12 MR. OWEN: Objection. Form.

13 THE DEPONENT: The steaks were something

14 that we would purchase on occasion.

15 Q. (By Ms. Bollman) And you think that this 11:28:19

16 was branded the Good & Gather brand?

17 A. I believe so, yes.

18 Q. Do you know the weight of this product?

19 A. I don't remember.

20 Q. It looks like the price on the right 11:28:41

21 says, "13.29"; is that correct?

22 A. That's correct.

23 Q. Would that be the same price you paid for

24 that product in the receipt to the left?

25 MR. OWEN: Objection. Form. 11:28:55

1 THE DEPONENT: I believe that is the same 11:28:59

2 price, yes.

3 Q. (By Ms. Bollman) Do you know if that's a

4 typical price you would pay for this product?

5 MR. OWEN: Objection. Form. 11:29:06

6 THE DEPONENT: I don't know.

7 Q. (By Ms. Bollman) Do you know if that
8 beef was processed by one of the defendants in this
9 case?

10 MR. OWEN: Objection. Form. Foundation. 11:29:24

11 THE DEPONENT: I don't know.

12 MS. BOLLMAN: I want to be conscious of
13 the time that we've kept you between breaks. I
14 have three more receipts to go over with you.

15 Would you prefer to take a break now or finish up 11:29:46
16 those receipts?

17 THE DEPONENT: I'd be fine to power on
18 through the receipts.

19 MS. BOLLMAN: We can move to the next
20 page, then. 11:30:04

21 Q. (By Ms. Bollman) We are looking at two
22 receipts on CONSUMERIPP -19124.

23 And why don't we start with the smaller
24 receipt. I see "Roseville" at the top.

25 Is it your understanding that these 11:30:27

1 products were purchased at the Roseville Target? 11:30:28

2 A. Yes.

3 Q. The date looks like May 17th, 2020.

4 Does that sound right?

5 A. That does sound right, yes. 11:30:44

6 Q. Could you please identify the beef

7 products purchased on this receipt.

8 A. That would be the -- at the very top, the

9 Good & Gather beef. And that was the only beef

10 product on that list. 11:30:59

11 Q. And it looks like that product has a

12 price of 7.99; does that sound right?

13 A. That does sound right.

14 Q. Do you know if this "GG Beef" item is the

15 same product that we talked about on the last two 11:31:20

16 receipts?

17 MR. OWEN: Objection. Form.

18 THE DEPONENT: I don't know.

19 Q. (By Ms. Bollman) Do you know what this

20 beef item is? 11:31:32

21 A. I believe it was a steak of some sort. I

22 don't recall the cut.

23 Q. Do you know the grade of the steak?

24 A. I do not.

25 Q. Do you recall the weight of this steak? 11:31:49

1 A. No, I do not. 11:31:53

2 Q. Do you know if the steak was processed by
3 one of the defendants?

4 MR. OWEN: Objection. Form. Foundation.

5 THE DEPONENT: I don't know. 11:32:07

6 Q. (By Ms. Bollman) And do you know if this
7 was a typical price you would pay for this steak?

8 MR. OWEN: Objection. Form.

9 THE DEPONENT: I don't know.

10 Q. (By Ms. Bollman) We can look to the 11:32:23
11 other receipt on this page. I think I see
12 "Roseville" at the top.

13 Is it your understanding that these
14 products were purchased at the Target in Roseville?

15 A. It is my understanding, yes. 11:32:32

16 Q. Are you able to make out a date on this
17 receipt?

18 A. I am not able to make the date of when
19 the receipt actually happened. I can see the
20 expiration is of November 3rd, which I believe is 11:32:54
21 usually a six-month window, but I couldn't recall
22 for certain.

23 Q. And can you please identify the beef
24 products purchased on this receipt.

25 A. Certainly. About a quarter of the way 11:33:11

1 down, we have "USDA" there. 11:33:19

2 If you can scroll down just a little bit,
3 please.

4 And I believe that is -- that's it.

5 Q. I can make out "USDA." It looks like 11:33:45
6 there's something else next to "USDA."

7 Do you know what that full line should
8 say?

9 MR. OWEN: Objection. Form.

10 THE DEPONENT: I believe it's USDA 11:34:02
11 sirloin.

12 Q. (By Ms. Bollman) Is that a product you
13 would typically purchase from Target?

14 A. It would be one of the cuts of steaks
15 that was -- we would sometimes get. It's either 11:34:14
16 sirloin or strip.

17 Q. To the right, I see a price of 9.49; is
18 that correct?

19 A. That is correct.

20 Q. It looks to me like the 9.49 was written 11:34:31
21 in by hand.

22 Do you know if you made that alteration
23 to this receipt?

24 A. I don't recall. It's been a minute.

25 Q. Do you recall the price that you paid for 11:34:55

1 this steak? 11:34:55

2 A. If it's 9.49 there, I believe it was

3 9.49.

4 Q. Do you know the weight of this item?

5 A. I don't remember. 11:35:21

6 Q. Do you know if this USDA item was

7 processed by one of the defendants in this case?

8 MR. OWEN: Objection. Form. Foundation.

9 THE DEPONENT: I don't know.

10 Q. (By Ms. Bollman) And do you know if this 11:35:39

11 was a typical price you would pay for this item?

12 MR. OWEN: Objection. Form.

13 THE DEPONENT: I don't know.

14 MS. BOLLMAN: All right. We can scroll

15 down to the last page. 11:35:51

16 Q. (By Ms. Bollman) We are now looking at a

17 receipt on page stamped CONSUMERIPP -19125.

18 Does this look like a receipt for items

19 purchased at the Roseville Target?

20 A. Yes. 11:36:17

21 Q. And I see a date of November 23rd, 2019.

22 Does that sound right?

23 A. Yes.

24 Q. Can you please identify the beef products

25 purchased. 11:36:33

1 A. Yes. The two deli meats listed would 11:36:35
2 have most likely been ham or turkey.

3 Scroll down, please.

4 Fourth from the bottom, "USDA Choice."

5 Scroll back up, please. 11:37:20

6 And that's it.

7 Q. So that "USDA Choice" item, do you recall
8 what beef product that was?

9 A. Could you scroll down, please.

10 I believe it was a steak. I do not 11:37:42
11 recall the cut.

12 Q. To the right of that entry, it looks like
13 the price is \$7.40-something cents.

14 Do you agree with that?

15 A. I would agree with that. 11:38:00

16 Q. Hard to tell.

17 Under that entry, I see "Regular Price
18 7.99."

19 Do you see that?

20 A. I do see that, yes. 11:38:16

21 Q. And then under that entry, I see
22 Spend\$50get\$10GC."

23 Do you see that entry?

24 A. I do see that entry.

25 Q. Do you know what that means? 11:38:33

1 MR. OWEN: Objection. Form. 11:38:36

2 THE DEPONENT: I believe that's a -- a
3 deal at Target where if you spend \$50 in groceries,
4 you would get a \$10 gift card from Target.

5 Q. (By Ms. Bollman) Is it your 11:38:53
6 understanding that you were able to get this beef
7 item on sale from Target with this coupon?

8 MR. OWEN: Objection. Form.

9 THE DEPONENT: I don't recall.

10 Q. (By Ms. Bollman) And do you recall the 11:39:04
11 typical price for this beef product?

12 MR. OWEN: Objection. Form.

13 THE DEPONENT: I don't -- I don't
14 remember.

15 Q. (By Ms. Bollman) And you're not sure if 11:39:24
16 this was on sale?

17 A. I don't remember.

18 Q. Do you know if this beef product was
19 processed by one of the defendants in this case?

20 MR. OWEN: Objection. Form. Foundation. 11:39:43

21 THE DEPONENT: I don't know.

22 MS. BOLLMAN: All right. I think we can
23 take that exhibit down, and I think it makes sense
24 to take a break.

25 Do you want to go off the record? 11:40:02

1 I, Rebecca L. Romano, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath;
8 that a record of the proceedings was made by me
9 using machine shorthand which was thereafter
10 transcribed under my direction; that the foregoing
11 transcript is true record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [X] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

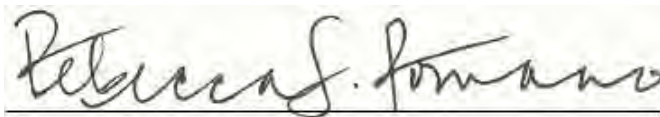
19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21

22 Dated: June 25, 2024

23

24



Rebecca L. Romano, RPR, CCR

25

CSR. No 12546

Appendix C-13
Sharon Dawson-Green
(Missouri)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

-o0o-

IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

PORTIONS OF THE TRANSCRIPT HAVE BEEN DESIGNATED AS
CONFIDENTIAL OR HIGHLY CONFIDENTIAL

REMOTE 30(b)(1) DEPOSITION OF SHARON DAWSON-GREEN

Taken via Zoom
On Wednesday, February 7, 2024
At 7:32 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington

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18

1 BY MS. BURKE:

2 Q. Okay. What about the term "case-ready
3 beef"? Do you have an understanding of what that
4 term means?

5 A. No.

6 MR. OWEN: Object to form.

7 BY MS. BURKE:

8 Q. I'm sorry. What was that?

9 A. No.

10 Q. Do you have an understanding what the term
11 "fed cattle" means?

12 A. I'm not sure.

13 Q. Ms. Dawson-Green, who is the primary
14 purchaser of groceries in your household?

15 A. I am.

16 Q. Has that been consistent over the last ten
17 years?

18 MR. OWEN: Object to form.

19 THE WITNESS: Yes.

20 BY MS. BURKE:

21 Q. In a typical month, how often do you go
22 shopping for groceries?

23 A. Once a week.

24 Q. Has that changed over the last ten years?

25 MR. OWEN: Object to form.

Page 18

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19

1 THE WITNESS: At various times, you know.
2 Just depend on the weather and depend on if I need
3 anything, so it could vary. So yeah.

4 BY MS. BURKE:

5 Q. When you go grocery shopping, do you buy
6 beef for your own consumption at home?

7 A. Yes.

8 Q. Do you buy beef for just yourself or also
9 for others?

10 A. Mostly myself.

11 Q. When you say "mostly," could you clarify
12 that?

13 A. It could mean if I made a pot of chili with
14 ground beef, I might share some with my son, you
15 know, because I live alone. So sometimes I have too
16 much. Or I make some beef stew, I might share half
17 of that with him because he lives alone and I live
18 alone. Doesn't make any sense for me to make a big
19 pot and let it go to waste. So I might share some.
20 But -- you know, not on a consistent basis, but just
21 periodically.

22 Q. Has that generally been the case for the
23 last ten years?

24 MR. OWEN: Object to form.

25 THE WITNESS: Yes.

Page 19

1 BY MS. BURKE:

2 Q. Can you estimate how often, just to the best
3 of your recollection?

4 A. Maybe 50 percent of the time.

5 Q. Has that generally been consistent over the
6 last ten years?

7 MR. OWEN: Object to form.

8 THE WITNESS: Yes.

9 BY MS. BURKE:

10 Q. You mentioned that you buy less beef now
11 than you used to.

12 Could you quantify roughly how much less on
13 a weekly basis?

14 MR. OWEN: Object to form.

15 THE WITNESS: It would mean if they have --
16 I go to the store and some type of beef is on sale
17 for something that I'm going to cook that I need beef
18 for, then I would get it.

19 But if it's at regular price and it's -- the
20 price is high -- so things like beef roast, I don't
21 buy them anymore because the price of it is too high.
22 And it's generally never on sale. So there's certain
23 types of beefs that I no longer eat because of the
24 price.

25 ///

1 BY MS. BURKE:

2 Q. So you mentioned that you no longer eat beef
3 roasts.

4 A. Mm-hmm.

5 Q. What other beef products do you no longer
6 eat?

7 MR. OWEN: Object to form.

8 THE WITNESS: That would be the only one
9 that I would specifically be able to identify.

10 BY MS. BURKE:

11 Q. How often do you order delivery or take-out?

12 A. Probably every two weeks. It could be
13 weekly, but I would say on the average, every two
14 weeks.

15 Q. And I think you said that that's increased
16 since --

17 A. COVID.

18 Q. -- COVID-19?

19 A. Mm-hmm. Yes.

20 Q. Do you always order beef when you get
21 take-out or delivery?

22 A. No.

23 Q. About how often do you order beef?

24 A. Maybe 30 or 40 percent of the time.

25 Q. Do you ever eat out at sandwich shops?

1 like whatever I'm making.

2 Q. So do you have a preference for certain
3 grocery stores to purchase your beef at?

4 A. Yes.

5 Q. Which stores?

6 A. Schnucks, Dierbergs. That would be my
7 preference, those two.

8 Q. Why do you like buying your beef from those
9 two stores?

10 A. I like the quality of their meat. I like --
11 we can get more lean meat, and if it's on sale, it's
12 a good thing.

13 Q. So do you only purchase beef from Dierbergs
14 and Schnucks if it's on sale?

15 A. Most of the time.

16 Q. Are the sales that those stores run -- well,
17 let's start with Dierbergs.

18 Is the sale that -- are the sales that
19 Dierbergs runs, are they storewide or is it
20 coupon-based?

21 MR. OWEN: Object to form.

22 THE WITNESS: Could you repeat that
23 question?

24 BY MS. BURKE:

25 Q. Sure. That was not a very well-phrased

1 BY MS. BURKE:

2 Q. What would you say the No. 1 factor was ten
3 years ago when you were deciding where to purchase
4 beef from to cook at home?

5 A. It would be sale again. But more -- more
6 likely, you know, it was more affordable then. I'm
7 always looking for sales. I'm sorry.

8 Q. Are there higher quality or premium beef
9 products that you prefer to purchase?

10 MR. OWEN: Object to form.

11 THE WITNESS: Not necessarily.

12 BY MS. BURKE:

13 Q. You mentioned that you like Dierbergs and
14 Schnucks because they have lean meat selections?

15 A. Leaner. Leaner.

16 Q. Leaner.

17 A. Uh-huh.

18 Q. Can you clarify what you mean by that?

19 A. Less fat. You know, you're looking at the
20 grain of it and you see less fat.

21 Q. So is that for steaks generally?

22 A. Generally, but it could be a roast. It
23 could be cube steak because you still look at that
24 and see how much fat it is. So I would just say any
25 beef, you look at how much fat.

1 buying from farmers' markets?

2 A. Just felt less of a need to.

3 Q. Can you explain what you mean by that?

4 A. It would mean, like, since I've decreased
5 the amount of beef that I've purchased, I didn't feel
6 the need to go to, like, a local meat market, as I do
7 now.

8 Q. So are you saying that you used to buy more
9 meat five years ago than you do now?

10 MR. OWEN: Object to form.

11 THE WITNESS: Yes.

12 BY MS. BURKE:

13 Q. And when you bought more meat -- strike
14 that.

15 When you purchased meat from a meat market,
16 I think you said --

17 A. Mm-hmm.

18 Q. -- what -- what was that meat market?

19 A. It was the -- it's called Saveway. And then
20 there's another one, Meat Fair in -- Meat Fair I know
21 is no longer in business. But Saveway is still
22 there.

23 Q. So was that like a wholesale store?

24 MR. OWEN: Object to form.

25 THE WITNESS: No.

1 BY MS. BURKE:

2 Q. Did the meat -- do you know if the meat from
3 the meat market came from local farmers?'

4 MR. OWEN: Object to form.

5 THE WITNESS: I'm not sure.

6 BY MS. BURKE:

7 Q. Was there ever a time when you planned to
8 buy beef but you ended up buying another meat or
9 protein instead?

10 MR. OWEN: Object to form.

11 THE WITNESS: Could you repeat that
12 question?

13 BY MS. BURKE:

14 Q. Yeah.

15 Was there ever a time when you planned to
16 buy beef but you ended up buying another meat or
17 protein instead?

18 MR. OWEN: Object to form.

19 THE WITNESS: No.

20 BY MS. BURKE:

21 Q. Was there ever a time that you planned to
22 buy another type of meat and you ended up buying beef
23 instead?

24 MR. OWEN: Object to form.

25 THE WITNESS: No.

1 BY MS. BURKE:

2 Q. Okay. Let's go down to the next page.

3 Okay. The receipt on the left --

4 A. Mm-hmm.

5 Q. -- is that for Ruler Foods?

6 A. Yes.

7 Q. Can you identify a date on there?

8 MR. OWEN: Yeah. I'm going to state the
9 same thing for the record, that these receipts are
10 not entirely clear and hard to read.

11 MS. BURKE: Yeah. And just for the record,
12 these are how we received them in this litigation.
13 This is the same form.

14 MR. OWEN: Okay.

15 THE WITNESS: No. It's blurry.

16 BY MS. BURKE:

17 Q. Can you identify what beef products are on
18 this receipt?

19 A. I believe its cube steak, two cube steaks.

20 Q. And can you tell what price that is?

21 A. Not particularly. It's like it fades. You
22 can see a little bit top of one and barely can see
23 the second one, price.

24 Q. And can -- for the record, can you explain
25 what "cube steaks" means.

1 MR. OWEN: Object to form.

2 THE WITNESS: Not really. I don't -- I
3 don't work in the meat department, so I couldn't tell
4 you.

5 BY MS. BURKE:

6 Q. Is it raw beef?

7 MR. OWEN: Object to form.

8 THE WITNESS: Could you clarify that?

9 BY MS. BURKE:

10 Q. Yeah. Are cube steaks raw beef?

11 MR. OWEN: Same objection.

12 THE WITNESS: It's some type of beef. I
13 don't know particularly -- like, I guess it's raw. I
14 don't -- I don't know how they make it. You know,
15 I'm not a -- a meat manufacturer or I don't work in
16 the meat department, so I can't tell you that.

17 BY MS. BURKE:

18 Q. I just -- when I say -- when I said "raw," I
19 just meant is it uncooked?

20 A. Yeah, it's uncooked.

21 Q. Do you -- okay. Okay.

22 Let's take a look at the receipt on the
23 right.

24 A. Mm-hmm.

25 Q. And this is from Dierbergs?

1 BY MS. BURKE:

2 Q. What about the cube steaks from Ruler Foods
3 on the left? Do you know if those are processed by
4 one of the defendants in this action?

5 MR. OWEN: Object to form.

6 THE WITNESS: I'm not sure.

7 MS. BURKE: All right. Let's go to the next
8 page.

9 Okay. And for the record, on the bottom
10 right, we have the Bates number, and it ends in 055.

11 BY MS. BURKE:

12 Q. So looking at the receipt on the left side,
13 it's from Dierbergs?

14 A. Uh-huh.

15 Q. Could you read the date for me on this one?

16 A. February the 10th, and I see a 2-0. So I
17 guess it's 2020.

18 Q. And can you identify for me the beef
19 products on this receipt?

20 A. Beef stew meat and ground beef.

21 Q. For the stew meat, is that uncooked?

22 A. Yes.

23 Q. Is it marinated or flavor enhanced in any
24 way?

25 A. No.

1 Q. And it looks like it was on sale, a \$5 meat
2 sale.

3 Does that sound right?

4 A. Yeah.

5 MR. OWEN: Object to form.

6 THE WITNESS: Yes.

7 BY MS. BURKE:

8 Q. Does that mean that the total price was \$5
9 for the stew meat?

10 MR. OWEN: Object to form.

11 THE WITNESS: Yes.

12 BY MS. BURKE:

13 Q. Do you think that you paid too much for that
14 stew meat?

15 MR. OWEN: Object to form.

16 THE WITNESS: No. It was on sale.

17 BY MS. BURKE:

18 Q. Do you know if the stew meat was processed
19 by one of the defendants in this action?

20 MR. OWEN: Object to form.

21 THE WITNESS: No.

22 BY MS. BURKE:

23 Q. What about the ground beef? Can you tell me
24 how much you paid for that?

25 A. Five dollars.

1 BY MS. BURKE:

2 Q. Do you know who highlighted them?

3 A. No.

4 Q. Okay. Let's take a look at the receipt on
5 the right.

6 Could you identify the beef purchase on this
7 one or beef purchases?

8 A. It says "DICE STRIP." I'm thinking it's a
9 beef dice strip for \$4. I'm thinking that's what I
10 see. Eight ounces.

11 Q. Do you know what a dice strip is?

12 (Clarification by the Reporter.)

13 THE WITNESS: I said it's too blurry for me
14 to -- I mean, it's too long ago for me to remember.

15 BY MS. BURKE:

16 Q. Do you think that it could say "CHOICE
17 STRIP"?

18 A. Yeah, it could say that.

19 MR. OWEN: Yeah.

20 BY MS. BURKE:

21 Q. And it looks like it was on sale for \$2 off;
22 correct?

23 MR. OWEN: Object to form.

24 THE WITNESS: No. It -- it means that you
25 save \$2. So it was \$4 and you save \$2.

1 BY MS. BURKE:

2 Q. Okay. So it was \$2 off?

3 MR. OWEN: Object to form.

4 THE WITNESS: I guess it regularly would
5 cost \$6 and it is \$4. So the 4 -- at the price of
6 \$4, the \$2 have already been taken off.

7 BY MS. BURKE:

8 Q. Okay.

9 A. So the additional \$2 is already taken.

10 Q. Do you know if the choice strip was
11 processed by one of the defendants in this action?

12 MR. OWEN: Object to form.

13 THE WITNESS: No.

14 MS. BURKE: Okay. And just for the record,
15 could you scroll down just a little bit and see if we
16 could see a date on here.

17 BY MS. BURKE:

18 Q. Do you see a date on this one,

19 Ms. Dawson-Green?

20 A. I don't see the month, but it's -- I see a
21 08/2019.

22 MS. BURKE: Okay. Let's move to the next
23 page. And can you scroll down just a little bit,
24 please, to see if we can see a date.

25 ///

1 BY MS. BURKE:

2 Q. All right. Do you see a date on this one,
3 on the left?

4 A. On the left? December 30, '18. 2018.

5 Q. Okay. And can you identify --

6 MS. BURKE: We can scroll up just a little
7 bit. Thanks.

8 BY MS. BURKE:

9 Q. Can you identify any beef products on this
10 Schnucks receipt on the left?

11 A. The choice beef strip, paid \$4, save \$2.
12 Same as was on the other receipt.

13 Q. Do you know whether the -- this beef was
14 processed by one of the defendants in this case?

15 MR. OWEN: Object to form.

16 THE WITNESS: No.

17 BY MS. BURKE:

18 Q. Okay. Let's look at the one on the right,
19 the Schnucks receipt.

20 Are you able to read a date on there?

21 A. I'm able to read 05 and 2017, but the month
22 is blurred.

23 Q. Okay. And then can you identify the beef
24 products on this receipt?

25 A. Ballpark Beef Franks.

1 And it says "Save a lot."

2 Can you just tell me what Save A Lot is.

3 A. Grocery --

4 MR. OWEN: Object to form.

5 THE WITNESS: A grocery store.

6 BY MS. BURKE:

7 Q. Okay. Is it a discount grocery store?

8 MR. OWEN: Object to form.

9 THE WITNESS: It's a food store, so I
10 couldn't tell you if it's discount. But it's a food
11 store.

12 BY MS. BURKE:

13 Q. Okay. This Save A Lot receipt is
14 particularly difficult to read for me, so I think we
15 should just skip that one.

16 Let's take a look at the Dierbergs one on
17 the right.

18 A. But I could see it's under -- it's like a
19 T-bone steak. I know that's what it is, but I
20 couldn't tell you the price of it.

21 Q. Okay. T-bone steak.

22 Do you know if the T-bone steak on this
23 receipt was produced by one of the defendants in this
24 action?

25 MR. OWEN: Object to form.

1

THE WITNESS: No.

2

BY MS. BURKE:

3

Q. Let's look at the Dierbergs receipt on the right.

4

5

Can you read a date on there?

6

A. This look like it say April the 20th, 2017. That's what it appears from what I can read.

7

8

Q. And can you identify the beef product on this receipt?

9

10

A. It is -- look like some beef patties.

11

Q. Were those on sale?

12

A. Yes. That's the "Pick 3 Meat" sales.

13

Q. What is the Pick 3 Meat Sale?

14

A. Well, you pick three meats, and they each be \$5 each.

15

16

Q. Okay. So it looks like you got \$2.19 off of the -- the patties?

17

18

A. Yes.

19

Q. Do you know if these beef patties were processed by one of the defendants in this action?

20

21

MR. OWEN: Object to form.

22

THE WITNESS: No.

23

MS. BURKE: Okay. Let's move to the next one.

24

25

And just for the record, this -- this one

1 ends in 059 Bates number.

2 BY MS. BURKE:

3 Q. Let's take a look at the receipt on the
4 left.

5 A. Mm-hmm.

6 Q. Can you identify a date on this one?

7 A. Not at the beginning. I can just see the
8 date -- the day of. It's the 20th in 2017. So the
9 month I can't read.

10 Q. Okay. Can you identify the beef products on
11 this receipt?

12 A. Stew meat and -- I don't know what this
13 second one is. I think it says ground steak. Some
14 kind of steak.

15 Q. Do you know whether the stew meat was
16 processed by one of the defendants in this action?

17 MR. OWEN: Object to form.

18 THE WITNESS: No.

19 BY MS. BURKE:

20 Q. Do you know whether the steak was processed
21 by any of the defendants in this action?

22 MR. OWEN: Object to form.

23 THE WITNESS: No.

24 BY MS. BURKE:

25 Q. What is Shop 'n Save?

1 Q. Okay.

2 MS. BURKE: And then if we could scroll back
3 up, because I don't think we said where this receipt
4 was from.

5 BY MS. BURKE:

6 Q. What store is the receipt from on the left?

7 A. Schnucks.

8 Q. Okay. All right. Let's take a look at the
9 one on the right, also from Schnucks.

10 Can you read the date on this one?

11 A. July 20, 2016.

12 Q. And can you identify the beef products on
13 this receipt.

14 A. Cube steaks, \$2.81, saved \$.23.

15 Q. So were these cube steaks on sale?

16 A. Yeah. I mean, you save 23 cents, so I have
17 to say that's on sale.

18 Q. Do you know if the cube steaks from Schnucks
19 on this receipt were processed by one of the
20 defendants in this action?

21 MR. OWEN: Object to form.

22 THE WITNESS: No.

23 MS. BURKE: Okay. Let's go down.

24 BY MS. BURKE:

25 Q. Take a look at the receipt on right.

1 right.

2 What store is this one from?

3 A. Schnucks.

4 Q. Can you identify a date on this one?

5 A. No. It's blurred out.

6 Q. Can you identify the beef products on this
7 one?

8 A. Cube steak for \$2.97, saved 12 cents.

9 Q. Were the cube steaks on sale?

10 A. Yes.

11 Q. Do you know if the cube steaks were
12 processed by one of the defendants in this action?

13 MR. OWEN: Object to form.

14 THE WITNESS: No.

15 MS. BURKE: All right. Let's scroll down,
16 please.

17 MS. GILCHRIST: Do you mean on this page,
18 Counsel, or the next?

19 MS. BURKE: The next page. Thank you.

20 MS. GILCHRIST: Okay. Got it.

21 MS. BURKE: And can we -- can we scroll down
22 just a little bit more for the -- great. Thank you.
23 And, yeah, for the record, this Bates ends in 064.

24 BY MS. BURKE:

25 Q. Let's take a look at the receipt on the

1 left.

2 MS. BURKE: And you can scroll up. Thank
3 you.

4 BY MS. BURKE:

5 Q. Are you able to see a date on this one, on
6 the left?

7 A. In the middle, I can recognize the -- that
8 the date is the 18th, but the month and the year is
9 blurred out.

10 Q. Can you identify the beef product on this
11 receipt?

12 A. Round roast, saved \$2.09. The price look
13 like it's \$8.34. I think that's what it says.

14 Q. And was this roast on sale?

15 A. Yes.

16 Q. Do you know if the roast was processed by
17 the defendants on here?

18 MR. OWEN: Object to form.

19 THE WITNESS: No.

20 BY MS. BURKE:

21 Q. All right. Let's just go through one more.
22 The one on the -- the right, we can look at this one.
23 Okay. By now, you probably know what questions I'm
24 going to ask.

25 Can you identify a date on this receipt?

1 A. No.

2 Q. Could you identify the meat -- beef
3 products? Excuse me.

4 A. Eight-ounce strip steak, two of them, \$5
5 each, save \$1.50 on each one.

6 Q. So these strip steaks, they were on sale;
7 correct?

8 A. Yes.

9 Q. Do you know if the strip steaks were
10 processed by one of the defendants in this action?

11 MR. OWEN: Object to form.

12 THE WITNESS: No.

13 BY MS. BURKE:

14 Q. So I'm not going to go through all of the
15 rest of these. As we -- as we've seen from the
16 receipts, it appears that the dates and the beef
17 products may have been highlighted.

18 Do you agree with that, Ms. Dawson-Green?

19 A. Could you state that question again?

20 Q. Yeah.

21 So we saw from these receipts that the dates
22 and the beef products may have been highlighted and
23 made the -- and made those portions of the receipts
24 more difficult to read.

25 Do you agree with that?

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REPORTER'S CERTIFICATE

I, the undersigned Certified Shorthand Reporter, holding valid and current licenses issued by the States of California, Nevada, Washington, Utah and Idaho, do hereby certify:

That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have subscribed my name on this date: February 13, 2024.



Emily A. Gibb
Certified Shorthand Reporter

Appendix C-14
Brent Rasmussen (Montana)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF ANTITRUST)
LITIGATION)Case No.
)0:20-cv-01319 (JRT/JFD)
This Document Relates To:)
CONSUMER INDIRECT PURCHASER)
PLAINTIFF ACTION)
-----)

HIGHLY CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

FRIDAY, JULY 26, 2024

- - -

Remote Deposition of BRENT RASMUSSEN, beginning
at 8:03 a.m., before Nancy J. Martin, a Registered
Merit Reporter, Certified Shorthand Reporter. All
parties appeared remotely.

REPORTED BY NANCY J. MARTIN
CSR. NO. 9504, RMR, RPR
PAGES 1 - 136

1 BY MS. AKALAONU: 08:48:00

2 Q. So currently, in terms of from 2019 to the 08:48:00

3 present, in a typical month, how often do you go 08:48:06

4 shopping for groceries? 08:48:08

5 A. Over 10 times. 10 to 20. 08:48:09

6 Q. And has that changed over the last 10 years? 08:48:20

7 A. It's been around the same, I guess. 08:48:27

8 Q. Do you buy beef for your consumption at home? 08:48:42

9 A. Can you rephrase that, please. 08:48:49

10 Q. Do you purchase beef for you and/or your 08:48:51

11 family members to consume at home? 08:48:57

12 A. Yes. I purchase it at the store. Well, the 08:49:02

13 framing of your question is strange to me, but yes, I 08:49:09

14 believe so. 08:49:12

15 Q. Do you ever buy or purchase beef -- sorry. 08:49:13

16 Strike that. 08:49:15

17 Do you purchase or buy beef for just yourself 08:49:16

18 or also for others? 08:49:20

19 A. Myself and others and for myself. So both, I 08:49:23

20 guess. 08:49:26

21 Q. And by "others," who would those others 08:49:34

22 consist of? 08:49:37

23 A. Primarily my wife and children. 08:49:39

24 Q. Anyone else? 08:49:44

25 A. If we had dinner guests, it would be them. 08:49:47

1 A. Can you repeat that, please. 09:02:48

2 Q. Yes. 09:02:50

3 In the last year, how much beef would you say 09:02:51

4 you buy to cook or eat at home during a typical week? 09:02:54

5 A. Okay. Two to three pounds of hamburger per 09:03:02

6 week on average, and do you want pounds here? A roast 09:03:05

7 every couple weeks and occasional steaks in addition 09:03:13

8 to that and then an occasional brisket a couple times 09:03:17

9 a year probably. 09:03:22

10 Q. Has the amount of beef that you buy to cook 09:03:28

11 or eat at home during the typical week, has that 09:03:32

12 changed over the last 10 years? 09:03:36

13 A. Yes. My family size increased, which 09:03:38

14 increased my beef purchases, yes. 09:03:45

15 Q. That was going to be my next question. 09:03:47

16 So with your family increasing, has the 09:03:49

17 amount of beef that you buy to cook or eat at home 09:03:51

18 during a typical week, has that increased over the 09:03:54

19 last 10 years? 09:03:57

20 A. Yes. 09:03:58

21 Q. During the last year, do you generally 09:04:09

22 purchase the same amount of beef to cook or eat at 09:04:12

23 home over the course of a year? 09:04:17

24 A. Yes. 09:04:19

25 Q. Is there a time period over the last 10 years 09:04:22

1 Minnesota, I purchased from a different store. 09:53:01

2 Q. Okay. What's the name of the supermarket in 09:53:03

3 Minnesota that you purchased beef from? 09:53:11

4 A. A grocery store in Rogers. I don't know what 09:53:13

5 it's called. 09:53:16

6 Q. So you have the SuperValu in Montana and then 09:53:25

7 the grocery store in Rogers? 09:53:28

8 A. Yes. 09:53:30

9 Q. Minnesota. Anywhere else? 09:53:32

10 A. Probably the Target in Minnesota. 09:53:36

11 Q. Anywhere else? 09:53:50

12 A. No. 09:53:50

13 Q. And starting with the SuperValu, can you tell 09:53:51

14 me which locations you shopped from? 09:53:54

15 A. Plentywood, Montana location. 09:53:59

16 Q. And what specific type of beef products do 09:54:09

17 you typically buy from the SuperValu? 09:54:11

18 A. Ground beef, steaks, brisket, roasts, chuck 09:54:13

19 roasts primarily. 09:54:19

20 Q. Do you buy ribs? 09:54:30

21 A. No, not beef ribs. 09:54:31

22 Q. And has the type of beef that you purchased 09:54:36

23 from the SuperValu, has that changed over the past 09:54:38

24 10 years? 09:54:41

25 A. Yes. They occasionally have different cuts 09:54:43

1 available. They had a Tri-Tip, but yes, the cuts 09:54:47
2 occasionally change. 09:54:52
3 Q. And so with respect to the ground beef, what 09:55:02
4 type of ground beef do you typically purchase from 09:55:04
5 SuperValu? 09:55:06
6 A. I think they -- I don't know if they grind it 09:55:08
7 in the store and put it in a little container with 09:55:14
8 plastic over it. Various levels of fat content, I 09:55:16
9 guess. 09:55:21
10 Q. Do you know like the percentage? Is it 90/10 09:55:21
11 or... 09:55:25
12 A. It varies. I no longer buy the 80/20. I 09:55:25
13 think -- yeah. I don't know what they have. It 09:55:30
14 depends what's going, I guess, or how we're using it. 09:55:33
15 Q. And in the last year, during a typical month, 09:55:44
16 about how many pounds of ground beef do you purchase 09:55:45
17 from SuperValu? 09:55:49
18 A. 10 to 15. 09:55:50
19 Q. Has that changed over the last 10 years? 09:55:56
20 A. Yes, it's increased with the family size 09:55:58
21 increasing. 09:56:01
22 Q. And what brand of ground beef do you 09:56:06
23 typically purchase from SuperValu? 09:56:08
24 A. Store brand? They have a meat cutting thing 09:56:15
25 in the store. I don't know what the brand is, I 09:56:17

1 guess. I think they do it themselves. 09:56:20

2 Q. Do you know if the ground beef that you 09:56:25

3 purchased from SuperValu, if it was processed by one 09:56:27

4 of the defendants in the case? 09:56:30

5 A. No. 09:56:37

6 Q. Do you know if it was processed from grass 09:56:37

7 fed cattle or grain fed cattle? 09:56:39

8 A. I don't know. 09:56:44

9 Q. And do you know if it was processed from fed 09:56:45

10 cattle or from dairy cattle? 09:56:47

11 A. I don't know. 09:56:52

12 Q. In terms of the steak, what type or kind of 09:56:55

13 steaks do you typically buy from SuperValu? 09:56:57

14 A. Various cuts that are available. 09:57:03

15 Q. And when you say, "various cuts," can you 09:57:04

16 give me a type of idea of what type of cuts you 09:57:15

17 purchase from SuperValu? 09:57:18

18 A. Mainly, steak cuts. You know, I think 09:57:18

19 they're primarily rib cuts. So it would be a ribeye, 09:57:22

20 New York strip, sirloins, or maybe the shoulder. 09:57:23

21 Tri-Tip, I believe, is steak. Sirloin maybe, would be 09:57:26

22 the primary ones. 09:57:35

23 Q. And in the last year, during a typical month, 09:57:36

24 about how many pounds of steak do you purchase from 09:57:38

25 SuperValu? 09:57:41

1 A. I don't. The brisket is different, though. 10:00:17
2 I don't think it's the store's wrapping on there. 10:00:19
3 It's a different wrapping. It's air tight by someone 10:00:22
4 else. 10:00:25
5 Q. Do you recall from that wrapping if you saw 10:00:37
6 any brand name on that other wrapping? 10:00:39
7 A. I don't recall. 10:00:42
8 Q. Okay. Do you know if the brisket that you 10:00:43
9 purchased from SuperValu, if it was processed from fed 10:00:45
10 cattle or dairy cattle? 10:00:49
11 A. I don't know. 10:00:50
12 Q. And then the chuck roast. In the last year 10:00:53
13 during a typical month, about how many pounds of chuck 10:00:57
14 roast do you purchase from SuperValu? 10:00:59
15 A. Four. 10:01:02
16 Q. Has that changed over the last 10 years? 10:01:04
17 A. Probably not, no. That one has remained the 10:01:07
18 same. 10:01:10
19 Q. What brand of chuck roast do you typically 10:01:11
20 purchase from SuperValu? 10:01:13
21 A. I don't know. I don't know. 10:01:18
22 Q. Okay. Do you know if the chuck roast that 10:01:22
23 you purchased from SuperValu, if it was processed by 10:01:24
24 one of the defendants in the case? 10:01:27
25 A. I don't know. 10:01:29

1 A. 10. 10:09:01

2 Q. Did that change over the last 10 years? 10:09:09

3 A. That one wouldn't have too much, no. We 10:09:12

4 don't shop there anymore. So it changed in that 10:09:16

5 sense, but... 10:09:19

6 Q. Around what time period would you say you 10:09:20

7 stopped shopping there? 10:09:22

8 A. 2019. 10:09:28

9 Q. Okay. And what brand of ground beef did you 10:09:36

10 typically purchase from the Rogers grocery store? 10:09:38

11 A. I don't recall. 10:09:41

12 Q. Do you know if that ground beef that you 10:09:42

13 purchased from the Rogers grocery store, if it was 10:09:43

14 processed by one of the defendants? 10:09:46

15 A. No. I don't know. I don't know. 10:09:48

16 Q. Okay. Do you know if it was processed from 10:09:52

17 grass-fed cattle or grain-fed cattle? 10:09:56

18 A. I don't know. 10:09:59

19 Q. Do you know if it was processed from fed 10:10:00

20 cattle or from dairy cattle? 10:10:03

21 A. I don't know. 10:10:06

22 Q. In terms of the steaks that you purchased 10:10:06

23 from the Rogers grocery store, what type or kind of 10:10:08

24 steaks did you typically purchase from there? 10:10:12

25 A. Same cuts of meat. Strip steaks, ribeyes, 10:10:14

1 sirloin. 10:10:19

2 Q. And during the time that you shopped there, 10:10:23

3 during a typical month, about how many pounds of 10:10:24

4 steaks did you purchase from that Rogers grocery 10:10:26

5 store? 10:10:29

6 A. Three. 10:10:30

7 Q. And over the last 10 years, during the time 10:10:36

8 that you shopped there, did that change, that amount 10:10:38

9 change? 10:10:41

10 A. No. 10:10:42

11 Q. What brand of steaks did you typically 10:10:49

12 purchase from the Rogers grocery store? 10:10:51

13 A. Don't recall. 10:10:53

14 Q. Do you know if the steaks that you purchased 10:10:55

15 from the Rogers grocery store, if they were processed 10:10:57

16 by one of the defendants? 10:11:00

17 A. I don't know. 10:11:02

18 Q. Do you know if it was processed from 10:11:02

19 grass-fed cattle or grain-fed cattle? 10:11:04

20 A. I don't know. 10:11:07

21 Q. And do you know if it was processed from fed 10:11:08

22 cattle or from dairy cattle? 10:11:10

23 A. I don't know. 10:11:12

24 Q. And then in terms of the roast that you 10:11:24

25 purchased from the Rogers grocery store, what type or 10:11:26

1 have a big grocery department. 10:14:57

2 Q. Okay. 10:14:59

3 A. So, no, I don't recall. 10:14:59

4 Q. Okay. And then do you purchase beef from 10:15:04

5 wholesale clubs besides Costco? 10:15:12

6 A. No. 10:15:14

7 Q. So have you ever purchased beef from like a 10:15:14

8 Sam's Club? 10:15:18

9 A. No. 10:15:19

10 Q. In terms of the Costco, which Costco 10:15:21

11 locations have you purchased beef from? 10:15:25

12 A. Maple Grove, Minnesota; Billings, Montana. 10:15:34

13 Q. Anywhere else? 10:15:41

14 A. Fargo, North Dakota probably. 10:15:43

15 Q. And then what specific types of beef products 10:16:05

16 do you typically buy from Costco? 10:16:07

17 A. Chuck roast. 10:16:10

18 Q. Any other type of beef products? 10:16:17

19 A. Are we talking -- which Costco? The Costco 10:16:23

20 in Minnesota was chuck roast. Billings, Montana was 10:16:28

21 brisket and steaks. New York strip steaks. And Fargo 10:16:32

22 actually may have just been fish. 10:16:46

23 Q. So no beef from North Dakota? 10:16:47

24 A. Not that I can recall. 10:16:50

25 Q. And then has the type of beef that you 10:17:00

HIGHLY CONFIDENTIAL

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: July 31, 2024

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

Appendix C-15
David Renz (Nebraska)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

** CONFIDENTIAL **

REMOTE VIDEO-RECORDED 30(b)(1) DEPOSITION OF
DAVID RENZ

Taken via Zoom
On Monday, August 19, 2024
At 9:04 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified In: Utah/Nevada/California/Idaho/Washington

1 A. No. 09:31:40

2 Q. And then who -- who is the primary purchaser 09:31:45

3 of groceries in your household? 09:31:48

4 A. I am. 09:31:50

5 Q. Has that changed over the last ten years? 09:31:57

6 A. No. 09:31:59

7 Q. In a typical month, how often do you shop 09:32:07

8 for groceries? 09:32:10

9 A. Typically once a week. 09:32:11

10 Q. Has that changed over the last ten years? 09:32:19

11 A. No. 09:32:21

12 Q. And when you go grocery shopping, do you buy 09:32:22

13 beef for your own consumption at home? 09:32:24

14 A. Yes, I do. 09:32:32

15 Q. Do you also buy beef -- or strike that. 09:32:33

16 Do you buy beef for just yourself or also 09:32:35

17 for others? 09:32:39

18 A. Just for myself and my family. 09:32:40

19 Q. And has that changed over the last ten years 09:32:58

20 in any way? 09:33:02

21 A. No. 09:33:02

22 Q. Have all of your family members or all those 09:33:10

23 that have been living in the house with you there for 09:33:13

24 the last ten years generally eaten beef on a 09:33:16

25 consistent basis since 2014? 09:33:18

1 Q. Did you stock up on any products in early 09:58:48
2 2020? 09:58:51
3 A. Yes. 09:58:53
4 Q. Was beef or beef products included in those 09:58:55
5 products? 09:58:58
6 A. Yes. 09:58:59
7 Q. Specifically what type of beef or beef 09:59:02
8 products did you stock up on in early 2020? 09:59:04
9 A. The biggest product that I stocked up on was 09:59:08
10 ground beef. 09:59:11
11 Q. And when you say "stocked up on," can you 09:59:15
12 explain -- tell -- explain a bit more to me about 09:59:18
13 that? 09:59:21
14 A. I'd buy beef -- beef -- ground beef in, 09:59:22
15 like, the -- the bulk tubes where they're 10-pound 09:59:27
16 tubes of hamburger. And then I'd repackage it into 09:59:32
17 smaller 1-pound packages, and then I'd put that in my 09:59:36
18 deep freeze. 09:59:39
19 But then I would also buy roast, like 09:59:44
20 3-pound, 4-pound roasts, and I would also put those 09:59:46
21 in my -- my deep freeze so I could have those for 09:59:50
22 later. 09:59:53
23 Q. Did COVID-19 impact how often you purchased 10:00:07
24 beef? 10:00:09
25 A. No. 10:00:11

1	purchase beef?	10:04:34
2	A. Yes, it would, 'cause if I could find one	10:04:35
3	that's, you know, a good price at a good value, you	10:04:40
4	know, I would, you know, shop at that store.	10:04:43
5	Q. And do you get advertisements, like, in the	10:04:56
6	mail?	10:04:59
7	A. Yes.	10:05:01
8	Q. From what stores?	10:05:04
9	A. Multiple stores across the town. On	10:05:08
10	Wednesdays, they send the flyers out for the upcoming	10:05:12
11	week for the sales events that they have.	10:05:16
12	Q. And when you say the advertisements that you	10:05:25
13	receive in the mail on Wednesdays, they're for all	10:05:27
14	the stores in the town or for a specific one?	10:05:31
15	A. Just the specific ones that are advertising	10:05:33
16	that are sending out those flyers.	10:05:36
17	Q. Okay. What are some examples of the	10:05:38
18	specific stores you receive advertisements from?	10:05:41
19	A. Hy-Vee, Super Saver, Walmart, I think Russ's	10:05:43
20	also.	10:05:52
21	Q. And then do you get any advertisements	10:05:57
22	through your email?	10:06:00
23	A. Very seldom.	10:06:01
24	Q. Okay. Which stores do you receive email	10:06:03
25	advertisements from?	10:06:10

1 Q. Do you ever look for the country of origin 10:14:09
2 on the beef or beef products that you purchase? 10:14:11
3 A. Yes, I do sometimes. 10:14:17
4 Q. And when you do look, what are you typically 10:14:22
5 looking for? 10:14:26
6 A. That it was produced in America or raised in 10:14:26
7 America. 10:14:29
8 Q. Do you ever look to see where the beef is 10:14:42
9 packed? 10:14:44
10 A. Sometimes. 10:14:49
11 Q. And when you say "sometimes," can you tell 10:14:57
12 me a bit more about when were the occasions when 10:14:59
13 you're looking to see where the beef was packed? 10:15:03
14 A. If I'm purchasing from, you know, one of the 10:15:05
15 stores I don't normally go to like -- such as 10:15:07
16 Walmart, you know, I may look for the country of 10:15:10
17 origin or any information that's on the package. 10:15:12
18 Q. And what's the reason that you typically do 10:15:20
19 that? 10:15:26
20 A. Because I typically don't, you know, go to a 10:15:26
21 store such as that. 10:15:28
22 Like I said, my -- my typical store I go to 10:15:30
23 is Super Saver. You know, I know that that beef was 10:15:33
24 processed there, the -- from the, I guess, boxed beef 10:15:38
25 that they got. 10:15:48

1 2020. 10:26:37

2 Is that your understanding as well? 10:26:39

3 A. Yes. 10:26:43

4 Q. And is that your signature at the bottom of 10:26:44

5 the page? 10:26:47

6 MS. AKALAONU: Chelsea, you may have to 10:26:49

7 scroll down a little bit. 10:26:50

8 THE WITNESS: Yes. 10:26:52

9 MS. AKALAONU: And then, Chelsea, yes, could 10:26:54

10 you please scroll back up a bit. 10:26:58

11 BY MS. AKALAONU: 10:26:59

12 Q. And so, Mr. Renz, to the best of your 10:27:00

13 knowledge, is everything on this page accurate? 10:27:03

14 A. Yes. 10:27:05

15 Q. Okay. And so I see that you -- what's 10:27:06

16 listed within the chart is "Russ's Market," "Hyvee," 10:27:10

17 "Sam's Club," and "Dillons." So we'll start first 10:27:15

18 with Russ's Market. 10:27:19

19 So in the second column, where it says 10:27:22

20 "Account Number," there for Russ's market it says: 10:27:24

21 "Information is not in the client's custody 10:27:28

22 or control." 10:27:30

23 Mr. Renz, can you explain to me, what's your 10:27:32

24 understanding of what that means? 10:27:34

25 MR. OWEN: Object to form. 10:27:38

1 A. That, I do not know. 11:17:17

2 Q. Okay. In terms of the steaks that you 11:17:18

3 purchase from Super Savers, what type or kind of 11:17:24

4 steaks do you usually or typically buy from Super 11:17:26

5 Savers? 11:17:29

6 A. I prefer a sirloin steak. 11:17:31

7 Q. And during a typical month, about how many 11:17:43

8 pounds of sirloin steak or -- yeah, sirloin steak do 11:17:45

9 you purchase from Super Savers? 11:17:48

10 A. I would say 1 to 2 pounds. 11:17:50

11 Q. Has that changed over the last ten years? 11:17:57

12 A. I don't think it would change over the 11:18:03

13 years. I think it's -- kind of varies, you know, 11:18:04

14 monthly. You know, sometimes it would be more. 11:18:06

15 Sometimes it would be less. 11:18:08

16 Q. And what usually determines during the month 11:18:26

17 if you buy more or if you buy less? 11:18:31

18 A. It just depends on the need. 11:18:34

19 Q. Okay. And what type -- strike that. 11:18:38

20 What brand of steaks do you typically 11:18:47

21 purchase from Super Savers? Is it wrapped in a 11:18:50

22 package that has a certain brand label, or is it 11:18:53

23 wrapped in a package that has the store's label? 11:18:56

24 A. It would be the store's label. 11:19:00

25 Q. And then do you know if the steak that you 11:19:08

1 purchase from Super Savers, if it was processed by 11:19:10
2 one of the defendants in the case? 11:19:13
3 A. I do not know. 11:19:16
4 Q. Do you know if it was processed from 11:19:19
5 grass-fed cattle or grain-fed cattle? 11:19:22
6 A. I do not know. 11:19:24
7 Q. And do you know if it was processed from fed 11:19:25
8 cattle or dairy cattle? 11:19:28
9 A. I do not know. 11:19:29
10 Q. And then the roasts that you get from Super 11:19:31
11 Savers -- 11:19:35
12 A. I missed that -- 11:19:36
13 Q. Sorry? The roast. 11:19:37
14 A. Oh, roast. Okay. Yes. 11:19:39
15 Q. Okay. Yeah. 11:19:40
16 The roast that you get from Super Savers, 11:19:41
17 what type or kind of roast do you get? 11:19:44
18 A. It typically was a chuck roast. 11:19:48
19 Q. Okay. And during a typical month, about how 11:19:51
20 many pounds of roast do you purchase from Super 11:19:59
21 Savers? 11:20:03
22 A. I don't think it's really like a monthly 11:20:14
23 type of thing. It's -- it's -- I can more quantify, 11:20:16
24 you know, like yearly, but it's kind of -- something 11:20:21
25 of necessity to buy it for like a certain recipe or 11:20:27

1 something. 11:20:30

2 I would say like per month, it would be 11:20:32

3 less -- less than once, but per year, probably like 11:20:36

4 three to four. 11:20:38

5 Q. Okay. So in a typical year, about how many 11:20:39

6 pounds of roast would you say you purchase from Super 11:20:41

7 Savers? 11:20:44

8 A. I think it would be about 20 pounds' worth. 11:20:51

9 Q. And what brand of roast do you typically 11:21:02

10 purchase from Super Savers? Again, is it in a -- 11:21:04

11 wrapped in a package that has a brand label, a 11:21:08

12 specific brand, or is it wrapped in a package that 11:21:11

13 has a store label? 11:21:14

14 A. It would be the store label. 11:21:14

15 Q. And do you know if the roast that you 11:21:22

16 purchase from Super Saver, if it was processed by one 11:21:23

17 of the defendants in the case? 11:21:26

18 A. I do not know. 11:21:27

19 Q. Do you know if it was processed from 11:21:28

20 grass-fed cattle or grain-fed cattle? 11:21:30

21 A. I do not know. 11:21:32

22 Q. And do you know if it was processed from fed 11:21:34

23 cattle or from dairy cattle? 11:21:36

24 A. I do not know. 11:21:39

25 Q. And do you recall any general trends in the 11:21:46

1 BY MS. AKALAONU: 11:28:11

2 Q. You can answer. 11:28:12

3 A. I think just the -- the supply and demand 11:28:17

4 has changed. And when supply is high, it -- it will 11:28:23

5 go down. When supply is low, it goes up. 11:28:32

6 Q. When was the last time you purchased beef at 11:28:45

7 Super Savers? 11:28:48

8 A. I believe it was just last week. 11:28:50

9 Q. And what did you purchase? 11:28:55

10 A. Two steaks. 11:28:56

11 Q. Do you keep the receipts from when you 11:29:01

12 purchase beef at Super Savers? 11:29:03

13 A. I typically do. 11:29:06

14 Q. And where do you typically keep your 11:29:14

15 receipts? 11:29:16

16 A. My attorneys sent me a folder to keep 11:29:17

17 receipts for -- for when I purchase beef and that I 11:29:19

18 can send them in quarterly. 11:29:25

19 Q. And so have -- did you produce receipts from 11:29:29

20 your purchases of beef at Super Savers to your 11:29:33

21 attorneys for this lawsuit? 11:29:36

22 MR. OWEN: Object to form. 11:29:38

23 BY MS. AKALAONU: 11:29:38

24 Q. You can answer. 11:29:39

25 A. I produced receipts that they asked me to 11:29:41

1 Q. And in terms of the steaks, what type or 11:51:14
 2 kind of steaks do you get from Sam's Club? 11:51:15
 3 A. Typically be like a -- a sirloin. But if 11:51:20
 4 they have another steak, like a -- a T-bone or a 11:51:26
 5 New York strip that is a -- of a decent price to 11:51:29
 6 where I'm not paying, you know, a significant price 11:51:37
 7 per pound, I may get, you know, one of the other 11:51:39
 8 ones. 11:51:44
 9 Q. And during a typical month, about how many 11:51:44
 10 pounds of steak do you purchase from Sam's Club? 11:51:49
 11 A. Less than 1 pound. 11:51:51
 12 Q. Has that changed over the last ten years? 11:51:55
 13 A. No. 11:52:00
 14 Q. And what brand of steak do you typically 11:52:04
 15 purchase from Sam's Club? 11:52:06
 16 A. It would be their house brand. 11:52:08
 17 Q. Do you know if the steaks that you purchased 11:52:12
 18 from Sam's Club, if -- if they were processed by any 11:52:14
 19 of the defendants in this case? 11:52:17
 20 A. I do not know. 11:52:19
 21 Q. Do you know if they were processed from 11:52:22
 22 grass-fed cattle or grain-fed cattle? 11:52:25
 23 A. I do not know. 11:52:27
 24 Q. And do you know if they were processed from 11:52:28
 25 dairy cattle or fed cattle? 11:52:29

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of David Renz, commencing on August 19, 2024, at 9:04 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- (X) Review and signature was requested.
- () Review and signature was waived.
- () Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 24th day of August, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-16
Kenneth Peterson (Nevada)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No.:
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE VIDEO-RECORDED 30(b)(1) DEPOSITION OF
KENNETH PETERSON

Taken via Zoom
On Friday, July 19, 2024
At 9:02 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified In: Utah Nevada California Idaho Washington

1 went to the store for and forgot, and sometimes you 09:39:51
2 run out of something, and ... 09:39:53
3 BY MS. AKALAONU: 09:39:56
4 Q. So in terms of the -- going to shop for 09:39:56
5 groceries a couple of times a week, has that changed 09:40:01
6 over the last ten years? 09:40:03
7 A. Not really. 09:40:08
8 Q. When you say "not really," can you tell me 09:40:11
9 more about what you mean by that? 09:40:14
10 A. Well, it's been about the same. It's on 09:40:15
11 average. 09:40:22
12 Q. And when going shopping for groceries, do 09:40:30
13 you buy beef for your own consumption at home? 09:40:32
14 A. When we buy beef, yes. 09:40:37
15 Q. Do you buy beef for just yourself or also 09:40:48
16 for others? 09:40:52
17 A. Well, it would have been for my wife and 09:40:52
18 Winnie. 09:40:54
19 Q. And how often would you say in a week would 09:41:03
20 you be buying beef for your wife, Patricia, or for 09:41:09
21 Winnie? 09:41:14
22 MS. DUPREE: Objection to form. 09:41:18
23 THE WITNESS: Well, we haven't done it for a 09:41:19
24 while -- 09:41:20
25 ///

1 supermarkets like Safeway, Smith's, Raley's, and 11:14:58
2 Save Mart? 11:15:03
3 A. Safeway, yes. Smith's, no. Save Mart, no. 11:15:04
4 Q. Are there any other supermarkets that you 11:15:12
5 purchase beef from? 11:15:14
6 A. Raley's and Nob Hill. I'm assuming you 11:15:18
7 don't count Costco as a supermarket. 11:15:20
8 Q. No. I have that here as -- as a different 11:15:25
9 category. I think it's the next category, the 11:15:26
10 wholesale clubs. 11:15:29
11 All right. So I'll go through each of these 11:15:35
12 stores so that I can sort of understand your 11:15:37
13 purchasing history from them. So we'll start with 11:15:40
14 Safeway. 11:15:43
15 Which locations of Safeway do you purchase 11:15:49
16 from? 11:15:52
17 A. Well, there's one in Reno. And there's a 11:15:53
18 couple of them in Livermore. And when I was living 11:15:58
19 in Los Gatos, there was one -- I think it was 11:16:11
20 tech- -- I think it was -- yeah, I think that side of 11:16:15
21 the street was Los Gatos. The other side of the 11:16:18
22 street was Campbell. 11:16:23
23 Q. And what's the -- specific type of beef 11:16:24
24 products do you typically buy from Safeway? 11:16:26
25 A. That would typically be steaks. 11:16:33

1 Q. Any other types of beef that you typically 11:16:40
2 purchase from Safeway? 11:16:41
3 A. When? 11:16:45
4 Q. Like, do you purchase ribs from Safeway? 11:16:46
5 A. No. 11:16:50
6 Q. Ground beef? 11:16:53
7 A. Occasionally, yes. 11:16:55
8 Q. Chuck roast? 11:17:00
9 A. Chuck roast, no. 11:17:02
10 Q. Any other type of roast? 11:17:04
11 A. Well, back when my wife would eat it, we'd 11:17:07
12 have the cross rib roast. 11:17:11
13 Q. Brisket? 11:17:18
14 A. Rarely. 11:17:25
15 Q. Has the type of beef that you purchased at 11:17:41
16 Safeway changed over the last ten years? 11:17:43
17 A. Yeah. 11:17:53
18 Q. In what ways has it changed? 11:17:55
19 A. It's probably more often just hamburger or 11:17:58
20 top sirloin. 11:18:04
21 Q. And do you mean by that, like, in more 11:18:09
22 recent years that you're more often purchasing 11:18:12
23 hamburger or top sirloin? 11:18:15
24 A. Well, if I was buying meat, that's what 11:18:16
25 those -- that's what it would be. 11:18:19

1 Q. In more recent years from Safeway? 11:18:20

2 A. Correct. 11:18:22

3 Q. And in terms of the steak that you purchased 11:18:39

4 from Safeway, what type or kind? 11:18:41

5 A. Say that again. 11:18:44

6 Q. What type or kind of steak do you 11:18:45

7 purchase -- do you typically buy from Safeway? 11:18:47

8 A. It would be -- more specific type or kind? 11:18:56

9 Do you have an example? 11:18:59

10 Q. Or like just what cut or grade? 11:19:00

11 A. Well, it would typically be top sirloin if 11:19:02

12 it was steak. 11:19:05

13 Q. And during a typical month, how many pounds 11:19:11

14 of steak do you purchase from Safeway? 11:19:13

15 A. Well, hasn't been much for the past couple 11:19:19

16 years, so ... 11:19:22

17 Q. And in terms of last couple years, do you 11:19:37

18 mean like the last five years? 11:19:41

19 A. Yeah. 11:19:44

20 Q. Prior to the last -- strike that. 11:19:48

21 From about 2015 to 2020, how often or how -- 11:19:58

22 about how many pounds of steak would you say you 11:20:02

23 purchased from Safeway? 11:20:05

24 A. Well, I don't know that I differentiate 11:20:11

25 between the three stores, so it does depend upon time 11:20:13

1 delivered from Safeway either through the store 11:27:49
2 directly or through, like, a third-party delivery 11:27:51
3 system like Uber Eats? 11:27:54

4 A. Nope. 11:27:56

5 Q. And then with -- with Raley's/Nob Hill -- 11:28:04
6 and just so I can confirm, it's not Raley's, not 11:28:09
7 "Raleigh." 11:28:11

8 Is it Raley? 11:28:11

9 A. Yeah, it's Raley's. 11:28:14

10 Q. Okay. Raley's. Yes. Thank you. 11:28:15

11 Okay. So with Raley's, what specific type 11:28:19
12 of beef products do you typically buy from them? 11:28:22

13 A. For what time period? 11:28:27

14 Q. What type -- okay. 11:28:34

15 In terms of time period, just so that I 11:28:35

16 better understand, can you explain to me a bit more 11:28:38

17 about what your beef purchases at Raley's looks like 11:28:40

18 in terms of time periods? 11:28:44

19 A. Well, in the earlier years, it would have 11:28:49

20 been -- my wife preferred filet mignon, and it was 11:28:53

21 better to have top sirloin for Winnie, and 11:28:59

22 occasionally we would get New York steaks, boneless. 11:29:07

23 But since my wife has changed her dietary habits, we 11:29:15

24 don't get filet mignons. We stick with top sirloin 11:29:19

25 if we buy it. 11:29:25

1 purchased beef from Costco? 11:37:44

2 A. Couldn't tell you. 11:37:48

3 Q. What specific type of beef products do you 11:37:53

4 typically buy from Costco? 11:37:56

5 A. Typically would be steak. 11:37:57

6 Q. Any other type of beef products, like ground 11:38:02

7 beef? 11:38:04

8 A. No. I don't think I've bought ground beef 11:38:08

9 at Costco in -- that I can recall. 11:38:10

10 Q. Ribs? 11:38:17

11 A. Nope. 11:38:18

12 Q. Or a roast? 11:38:19

13 A. It's been a while, so I couldn't tell you 11:38:22

14 when the last one was. 11:38:24

15 Q. Has the type of beef that you've purchased 11:38:32

16 from Costco, has it changed over the past ten years? 11:38:34

17 A. Yes. 11:38:37

18 Q. In what way? 11:38:39

19 A. Same as the others. I earlier would have 11:38:41

20 purchased more filet mignons. Not anymore. 11:38:44

21 Occasionally, the boneless New York steaks. Not 11:38:48

22 anymore. So it's primarily just top sirloins. 11:38:51

23 Q. During a typical month, like, how many 11:39:08

24 pounds of steak do you purchase from Costco? 11:39:10

25 A. Depended on the month and the year and the 11:39:17

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of Kenneth Peterson, commencing on July 19, 2024, at 9:02 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

Review and signature was requested.

Review and signature was waived.

Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 25th day of July, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-17
Martin Jarmulowicz
(New Hampshire)
Declaration

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**DECLARATION OF PLAINTIFF
MARTIN JARMULOWICZ IN
SUPPORT OF CONSUMER
INDIRECT PURCHASER
PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

I, Plaintiff Martin Jarmulowicz, state under oath, as follows:

1. I make this declaration in support of Consumer Indirect Purchaser Plaintiffs' Motion for Class Certification in the above-captioned related actions. I am familiar with the facts set forth herein, and if called upon to do so, I could and would testify competently to them.

2. During the 2014-2019 class period, I lived in New Hampshire. I usually bought beef at least every two weeks from a physical supermarket—including Hannaford, Shaws, Stop & Shop, Market Basket, McKinnon's Meat Market, Whole Foods, and Trader Joe's—or through the grocery delivery apps, including PeaPod (an app from Stop & Shop). My beef purchases at these stores included raw steaks—ribeye, sirloin and tri-tip—and pot roast and round roast.

3. I understand my role as a representative of members of the proposed Class involves duties beyond those I would have if this case were brought solely for me. For instance, I understand that I should keep informed about important events in the case. I have committed to doing what counsel asks me to assist in prosecuting the case, such as producing documents, answering interrogatories, and having my deposition taken, and I am willing to testify at the trial if asked to do so.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: September 20, 2024

DocuSigned by:
Martin Jarmulowicz
9EE220ACE7BA450
Martin Jarmulowicz

Appendix C-18
Kent Winchester
(New Mexico)
Deposition Testimony Excerpt

HIGHLY CONFIDENTIAL

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF ANTITRUST
LITIGATION,

No. 22-md-3031 (JRT/JFD)

This Document Relates to:
All Actions

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*** HIGHLY CONFIDENTIAL ***

Remote Video-recorded Deposition of KENT
WINCHESTER, appearing remotely from Los Ranchos,
New Mexico at 9:02 a.m., Mountain Daylight Time,
on TUESDAY, JULY 23, 2024, before Renee Harris,
California Certified Shorthand Reporter No. 14168,
New Jersey CCR No. 30XI00241200, Registered
Professional Reporter.

JOB NO. 6765333
PAGES: 1 - 130

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10
11 Also Present:
12 Scott Slater, Videographer
13 Zach Czerenda, Technician
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1 A. My wife more than me.

2 Q. And then when you say that your wife has
3 been more of the primary purchaser of groceries
4 than yourself, can you tell me a bit more about
5 that? 09:28:54

6 A. I would guess that she buys 60 to
7 65 percent of our groceries, and I buy the rest.

8 Q. And has that changed over the last ten
9 years?

10 A. No. 09:29:13

11 Q. And in a typical month, how often do you
12 go shopping for groceries?

13 A. You're talking about me personally?

14 Q. Yes.

15 A. Four to six. 09:29:33

16 Q. And then how many times in a typical
17 month would you say your wife goes shopping for
18 groceries?

19 A. Eight to ten.

20 Q. Has the amount of times that you
21 personally go shopping in a typical month, has
22 that changed over the last ten years? 09:29:55

23 A. No.

24 Q. Do you buy beef for your own consumption
25 at home when you go grocery shopping? 09:30:18

1 A. Yes.

2 Q. Do you buy beef for just yourself or also
3 for others?

4 A. Just us or the occasional dinner guest.

5 Q. And when you say "just us," do you mean 09:30:31
6 you and your wife or you and your wife and your
7 dogs?

8 A. No. Our dogs -- well, they get leftovers
9 from time to time. But no, we buy it for
10 ourselves. 09:30:48

11 Q. Okay. And then in terms of the
12 occasional dinner guest, how often in a typical
13 month would you say you would have a dinner guest?

14 A. That varies. Maybe once a month.

15 Q. And has that changed over the last ten 09:31:08
16 years?

17 A. It may have declined a little bit during
18 COVID, but other than that, no.

19 Q. And then have you and your wife generally
20 eaten beef on a consistent basis since 2014? 09:31:33

21 A. Yes.

22 Q. Have you or your wife ever been a
23 vegetarian?

24 A. No.

25 Q. Or a vegan? 09:31:45

1 Q. Any other supermarket besides Smith's?

2 A. There is a local chain called Sprouts,
3 and we may occasionally buy beef from Sprouts, but
4 generally not.

5 Q. So just in terms of your understanding, 10:09:58
6 your purchase history, just first with Smith's,
7 which locations of Smith's do you purchase from?

8 A. On Fourth Street in Los Ranchos.

9 Q. What specific types of beef products do
10 you typically buy from Smith's? 10:10:36

11 A. Hamburgers. Rib eyes. Maybe
12 occasionally a brisket.

13 Q. Any other type of beef products, like
14 ribs?

15 A. No. We usually get ribs at Costco's. 10:11:00

16 Q. How about roast?

17 A. I'm sorry. Say that again?

18 Q. How about roast?

19 A. I don't think we buy roasts -- I don't
20 remember buying a roast at Smith's. 10:11:20

21 Q. So you mentioned hamburgers, rib eye
22 steaks, and brisket.

23 Has the type of beef that you purchased
24 at Smith's changed over the last ten years?

25 A. No. 10:11:32

1 STATE OF CALIFORNIA)
2 (Ss.
3 COUNTY OF LOS ANGELES)
4

5 I, RENEE HARRIS, do hereby certify that I
6 am a licensed Certified Shorthand Reporter, duly
7 qualified and certified as such by the State of
8 California;

9 That prior to being examined, the witness named
10 in the foregoing deposition was by me duly sworn
11 to testify to tell the truth, the whole truth, and
12 nothing but the truth;

13 That the said deposition was by me recorded
14 stenographically;

15 And the foregoing pages constitute a full,
16 true, complete and correct record of the testimony
17 given by the said witness;

18 That I am a disinterested person, not
19 being in any way interested in the outcome of said
20 action, or connected with, nor related to any of
21 the parties in said action, or to their respective
22 counsel, in any manner whatsoever. DATED: July 30 2024

23 
24

Renee Harris, CSR, CCR, RPR CA CSR No. 14168
NJ CCR No. 30XI00241200

Appendix C-19
Brenda King (New York)
Deposition Testimony Excerpt

HIGHLY CONFIDENTIAL

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF ANTITRUST
LITIGATION,

No. 22-md-3031 (JRT/JFD)

This Document Relates to:
All Actions

/

*** HIGHLY CONFIDENTIAL ***

Remote Video-recorded Deposition of
BRENDA KING, the witness herein, appearing
remotely from New City, New York at 10:00 a.m.,
Eastern Daylight Time, on Thursday, September 5,
2024, before Renee Harris, California Certified
Shorthand Reporter No. 14168; New Jersey CCR,
No. 30XI00241200; Registered Professional
Reporter, and FL Notary No. 1708946

JOB NO. 6877606
PAGES: 1 - 148

1 Q. And then from February 2015 to present,
2 it's yourself, your three sons and your father?

3 A. Correct.

4 Q. Okay. Who has been the primary purchaser
5 of groceries in your household? 10:20:05

6 A. Myself.

7 Q. Has that changed over the last ten years?

8 A. No.

9 Q. In a typical month, how often do you go
10 shopping for groceries? 10:20:24

11 A. Anywhere from one to three times a week.

12 Q. What factors influence how often you go
13 shopping for groceries in a given week?

14 A. How much my three sons eat.

15 Q. Is that the only factor that kind of 10:20:44
16 determines how frequently you go shopping in a
17 given week, or are there some other things that
18 might play a role in that?

19 A. A change in meal plan; are we having
20 people over. Things like that. 10:21:06

21 But primarily the rate of consumption by
22 my children.

23 Q. Sticking with that
24 one-to-three-times-per-week frequency, has that
25 changed over the last ten years? 10:21:21

1 A. No. It's pretty consistent.

2 Q. Would you say over the last ten years,

3 there's been any change in whether it's more

4 weeks, whether it's one time a week versus more

5 weeks where there's three times a week?

10:21:39

6 A. Probably increased a little bit over; so

7 more frequent in the past ten years, as they have

8 grown.

9 Q. And so you buy beef at grocery stores for

10 your own consumption at home; correct?

10:22:00

11 A. Correct.

12 Q. And you buy beef for your three sons as

13 well; is that correct?

14 A. Correct.

15 Q. And you buy beef for your father as well;

10:22:12

16 is that correct?

17 A. That's correct.

18 Q. Over the last ten years, has there been

19 anybody else that you have bought beef for at the

20 grocery store?

10:22:24

21 A. No.

22 Q. Have all of your family members in your

23 household since, let's say, 2014, generally eaten

24 beef on a consist basis?

25 A. Yes.

10:22:41

1 A. No. I'd say that's consistent.

2 Q. And you are the one that pays for the
3 fast-casual food when someone in your household
4 orders it?

5 A. Yes. 10:37:36

6 Q. How much beef would you say you buy to
7 cook at home during a typical week?

8 A. In a week, I would say at least three --
9 between three and five nights a week.

10 Q. On a given night per week, about how much 10:37:58
11 beef do you cook at a time?

12 A. Are we talking mass?

13 Q. Yeah.

14 So any kind of measurement you can give
15 me is helpful. If you have like a pound or -- 10:38:19

16 A. So, yeah, with three teenage boys, I
17 would say currently probably between two and four
18 pounds.

19 Q. And that would be between two and four
20 pounds per night of the week that you -- that you 10:38:42
21 cook beef?

22 A. Yes.

23 Q. Stretching my math here.

24 So roughly that's about on a low end,
25 maybe six pounds of beef per week. High end, 10:39:01

1 about 20 pounds of beef per week?

2 A. 20 might be stretching it but --

3 Q. Okay.

4 A. I wouldn't -- I wouldn't -- at minimum,

5 six if -- yeah. It would be at least six pounds a 10:39:13

6 week of beef.

7 Q. Okay. And has that, like, quantity of

8 beef per week that you purchase to eat at home,

9 has that changed over the last ten years?

10 A. As my children have aged, yeah, it's 10:39:30

11 increased.

12 Q. And similarly, would you -- has that been

13 a gradual increase as they have aged?

14 A. Yes.

15 Q. Can you recall to about ten years ago how 10:39:42

16 that number was different in the quantity of beef

17 that you purchased from a grocery store each --

18 each week?

19 A. I would say, ten years ago, it would

20 probably have been closer to the six pounds. I 10:39:58

21 don't ever think we have gone under six pounds.

22 It's shifted more towards the -- probably

23 around 10- to 18-pounds range now.

24 Q. Do you generally purchase the same amount

25 of beef to cook or to eat at home over the course 10:40:23

1 of a year, or are there points in time during the
2 year when you would purchase more or less?

3 A. Pretty consistent.

4 Q. So for example, do you purchase more or
5 less beef around the holidays? 10:40:38

6 A. Yeah, I would say it's probably about the
7 same.

8 Q. No other special occasions that happen on
9 a yearly or somewhat regular basis where you would
10 purchase more beef? 10:40:54

11 A. Maybe birthdays. But they are spread out
12 throughout the year.

13 So it's, you know, not really -- if you
14 looked at it monthly, it wouldn't have a monthly
15 impact. 10:41:05

16 Q. What about during the summer? Do you
17 purchase more beef during the summer for things
18 like cookouts or barbecues?

19 A. Because I am home during the day -- I am
20 a teacher; so I am home. There would be more beef 10:41:21
21 during the summer. Burgers.

22 Q. And would you say that that just puts you
23 towards the upper end of the range that we
24 estimated?

25 A. Yes. 10:41:34

1 Q. Or does it actually go above the range we
2 estimated earlier?

3 A. I would say it would probably put us up
4 around the 20-pound range.

5 Q. And has that been for the same for the 10:41:42
6 last ten years, or would you say that that has
7 increased?

8 A. There's been an increase but -- over the
9 last ten years as my kids have gotten older.

10 Q. What about during football season? Do 10:41:57
11 you purchase more beef during football season for
12 watch parties or chili or anything like that?

13 A. I have three football players. So yeah,
14 during bulking season, there's always lots of
15 chili being made. 10:42:10

16 Q. So similar question. Is that -- would
17 you estimate that puts you just towards the upper
18 end of range that we discussed earlier or over
19 that range?

20 A. That would put me up towards the upper 10:42:19
21 end. An occasional bump over but...

22 Q. And thinking on kind of a yearly or
23 annual big picture basis, has the amount of beef
24 that you've purchased on an annual basis remained
25 about the same over the last ten years, or 10:42:38

1 slightly increased with some of these other things

2 we've talked about?

3 A. As my children have aged, it has

4 increased.

5 Q. Over the course of a year, are there any 10:42:48
6 particular times during the year that you go out
7 to eat more often?

8 A. Not that I can think of, no.

9 Q. So birthdays, holidays, special, like,
10 occasions or special events, anything like that 10:43:11
11 that would prompt you to go out to eat more often?

12 A. They are consistently spread throughout
13 the year. So it's not where you would get a huge
14 bump over another. So I would say it's pretty
15 consistent or even throughout. 10:43:26

16 Q. And would you say that that's been about
17 the same over the last ten years?

18 A. Yes.

19 Q. Are you able to estimate about how much
20 money you spent purchasing beef in 2023? 10:43:36

21 A. No. I'm relying on my attorneys to take
22 care of that.

23 Q. Would you estimate you spent more money
24 on beef purchases in 2023 than you did in 2014?

25 A. I can't say for certain. But over time, 10:43:55

1 I would say pos- -- probably. I'm not a hundred
2 percent sure.

3 Q. And would that be in part because you are
4 purchasing more beef as your children have grown
5 up? 10:44:14

6 A. Probably.

7 Q. Would you agree that inflation could --
8 could play a role in the price of beef over the
9 last ten years?

10 MR. OWEN: Object to form. 10:44:27

11 THE WITNESS: I guess.

12 BY MR. MUELLER:

13 Q. Did COVID-19 impact how you purchased
14 groceries?

15 MR. OWEN: Object to form. 10:44:43

16 THE WITNESS: Yeah. It did for everyone.

17 BY MR. MUELLER:

18 Q. And how did affect how you personally
19 purchased groceries?

20 A. More large shops, and less -- you know, 10:44:55
21 instead of going three times a week, going once a
22 week and mass purchasing.

23 Less out, also. More -- more purchases
24 dur- -- you know, more cooking at home.

25 Q. So did COVID-19 impact the volume of beef 10:45:16

1 that you purchased in a given week at the grocery
2 store?'

3 A. Not necessarily. Because our dinners
4 were consistent.

5 Q. I think you mentioned that you would go 10:45:34
6 out to eat less during COVID-19; is that correct?

7 A. Yeah. But they would still do deliveries
8 and stuff I think.

9 Q. Okay. So that didn't result in you
10 eating at home more often. It's just kind of a 10:45:49
11 substitute of, instead of going out to eat, you
12 would order delivery or takeout?

13 A. Possibly, yes.

14 Q. Was there a point in time in which things
15 returned normal -- returned to normal for you as 10:46:07
16 far as purchasing groceries?

17 MR. OWEN: Object to form.

18 THE WITNESS: I guess, yeah, as the
19 pandemic lifted and we all kind of returned
20 to everything. More into the flow. 10:46:18

21 So instead of once a week going back
22 to the -- you know, multiple times a week
23 going to the grocery store.

24 BY MR. MUELLER:

25 Q. And sitting here today, can you estimate 10:46:28

1 to those stores. They are cheaper.

2 Q. When you say you "go" to those stores, do
3 you mean just that's generally where you shop, or
4 do you mean you know that there are certain deals
5 that occur at certain stores on certain products; 10:51:51
6 and so you would change your buying -- you know,
7 your shopping habits to pick up one of those
8 deals?

9 A. No. The grocery stores I consistently
10 use tend to be cheaper. I'm not going to like a 10:52:03
11 Wegmans when I have a Stop & Shop.

12 Q. Have you ever gone out of your way to buy
13 a beef product because you knew it was on sale at
14 a different store than would you normally go to?

15 A. Occasionally, yeah, I guess. But I don't 10:52:23
16 scour the circulars and determine where I'm
17 grocery shopping. I won't go to five different
18 grocery stores just for a deal.

19 Q. Can you think of any other factors other
20 than the ones we've discussed so far that would 10:52:40
21 influence where you decide to purchase beef that
22 you are going to cook and eat at home?

23 A. Nothing is coming to mind at this point
24 in time.

25 Q. If you had to pick one of the factors, 10:52:53

1 the loyalty program?

2 A. It's possible. As with anything, if
3 it -- you know, if it was a coupon that was -- or
4 some kind of deal for a loyalty membership, then
5 yeah, and I purchased that particular cut of beef, 11:34:25
6 I got it.

7 But I don't know specifically a number of
8 times or anything along those lines.

9 Q. And you said you're not sure if ShopRite
10 has, like, a points system as part of their 11:34:46
11 loyalty program; is that correct?

12 A. Yeah. I don't know if they do.

13 Q. What supermarket stores or grocery
14 store-specific type stores do you purchase beef
15 from? 11:35:11

16 A. Grocery stores. These -- Costco,
17 ShopRite, Stop & Shop. Occasionally others but
18 those are my primaries.

19 Q. Let's talk kind of currently so I can
20 understand kind of your current purchasing habits. 11:35:33

21 Do you have a prime -- a one or two or
22 three primary stores that you would go to on a
23 weekly basis or a monthly basis?

24 A. Yeah. That would be Costco, Stop & Shop
25 and ShopRite. 11:35:49

1 Q. And do you go to all three of those about
2 the same frequency, or is there one that you
3 typically buy most of your groceries at?

4 How does that work?

5 MR. OWEN: Object to form. 11:36:02

6 THE WITNESS: Primarily, I guess ShopRite
7 and Costco would be my two go-tos.

8 Stop & Shop is in the loop but not my

9 primary.

10 (Reporter clarifying.) 11:36:22

11 MR. MUELLER: No. We can go ahead and

12 take down the exhibit. Thank you.

13 BY MR. MUELLER:

14 Q. How do you decide to go to ShopRite

15 versus Stop & Shop? 11:36:35

16 A. ShopRite is in the town I work in, and

17 it's -- there's another one on my way home. It's

18 more of like in my loop, and some of their prices

19 tend to be better on things like toilet paper

20 and -- or things along those lines. 11:36:58

21 Q. So previously, we talked about shopping
22 at a grocery store about one to three times per
23 week.

24 A. Mm-hmm.

25 Q. When you're thinking about that 11:37:07

1 Do you know if any of the ground beef you
2 purchased at ShopRite was processed from dairy
3 cattle or fed cattle raised from meat production?

4 A. I do not know specifically.

5 Q. And now let's go to steaks. We were in 11:46:16
6 the middle of kind of discussing this, but let's
7 start this line of questioning over.

8 What types -- what cuts of steaks do you
9 normally purchase from ShopRite?

10 A. Cuts of steak would be things like a New 11:46:29
11 York strip, a flank steak, beef loin. Possibly a
12 porterhouse occasionally.

13 Q. Over the last ten years, can you think of
14 any other cuts of steak that you purchased on a
15 regular basis other than the New York strip, 11:46:57
16 porterhouse, flank steak or a beef loin?

17 A. Consistently, no. I can't think of
18 anything else.

19 Q. Can you think of any other cuts of steak
20 that you purchased from ShopRite over the last ten 11:47:12
21 years at all?

22 A. Filet mignon. Possibly a ribeye.

23 Q. Anything else?

24 A. Steaks, no. Not that I can think of, I
25 don't. 11:47:44

1 Q. During a typical month or week if that's
2 easier, about how many pounds of steak do you
3 typically purchase from ShopRite?

4 A. Probably between three and five.

5 Q. Is that three and five pounds -- 11:48:11

6 A. Pounds.

7 Q. -- of steak per week or per month?

8 A. Per week. I would think, yeah. Makes
9 sense.

10 Q. And of the cuts of steak that we have 11:48:29
11 discussed, are there any in particular that stand
12 out as your go-to, your predominant cut of steak,
13 or is it a mix each week?

14 A. Either -- either the New York strip,
15 sometimes the -- and then like a flank steak. 11:48:52
16 Those tend to be the ones.

17 Q. How about the New York -- oh, sorry. Go
18 ahead.

19 A. Occasionally a London broil. I don't
20 know, that might pop up in there. Forgot about 11:49:07
21 that cut.

22 Q. Let's talk about the New York strip.
23 Do you know what grade of New York strip
24 you purchase on a typical basis?

25 A. I doubt -- most likely -- I would say 11:49:17

1 most likely an A, but I can't be certain.

2 Q. Same question with like -- let's go to
3 the flank steak.

4 Do you know what grade of flank steak you
5 could typically purchase? 11:49:39

6 A. Again, usually it's what's in the case.
7 So it's usually I would assume an A. I don't -- I
8 don't know 100 percent.

9 Q. Of any of the types of steak that we've
10 discussed, are you aware of the grade of cuts that 11:49:57
11 you typically purchase?

12 A. No. I assume that they are A, based on
13 the -- them being in the case.

14 Q. Do you know what, like, the different
15 grades of steak are? 11:50:17

16 A. I know there's like --

17 MR. OWEN: Object to form.

18 THE WITNESS: -- an A, AA. But other
19 than, that I'm not schooled in that.

20 BY MR. MUELLER: 11:50:32

21 Q. So thinking of the roughly three to five
22 pounds per week of steak that you purchase, would
23 you say that has changed over the last ten years?'

24 A. No. I'd say that's pretty consistent.

25 Q. Do you know if any of the cuts of steak 11:50:45

1 that you purchased from ShopRite specifically was
2 processed by one of the defendants?

3 A. I don't believe it's labeled on that. So
4 no, I don't know.

5 Q. Do you know if any of the steaks that you 11:50:59
6 purchase from ShopRite was processed from
7 grass-fed cattle or grain-fed cattle?

8 A. I don't know.

9 Q. Do you know if any of the steaks that
10 you've purchased from ShopRite was processed from 11:51:16
11 dairy cattle or fed cattle raised for meat
12 production?

13 A. I don't know. I don't believe it's on
14 the label.

15 Q. I think the last type of beef that you 11:51:31
16 regularly purchase from ShopRite was roasts.

17 What cuts or types of roast do you
18 typically buy from ShopRite?

19 A. Like a chuck roast. That would be our
20 primary, a pot roast. 11:51:46

21 Q. And would you say that that's been your
22 primary roast to purchase from ShopRite for the
23 last ten years?

24 A. Yes.

25 Q. Can you -- over the last ten years, can 11:51:58

1 you think of any other type of roast that you've
2 purchased on a consistent basis?

3 A. Not off the top of my head, no.

4 Q. Over the last ten years, can you think of
5 any types of roast that you've purchased from 11:52:11
6 ShopRite at all?

7 A. Yeah. Like a larger filet mignon to
8 roast. Ribeye, like a large ribeye roast, but
9 that's about it.

10 Q. Can you estimate about how many times 11:52:25
11 over the last ten years you've purchased one of
12 those larger roasts, like a larger filet mignon or
13 a larger ribeye?

14 A. Like a ribeye or a filet mignon, maybe
15 two or three times a year. 11:52:49

16 Q. During a typical month or week, again, if
17 that's easier, about how many pounds of chuck
18 roast do you purchase?

19 A. During a month, probably twice a month,
20 and that's probably about three pounds each. So 11:53:16
21 six pounds in a month.

22 Q. And has that quantity of chuck roast
23 changed over the last ten years?

24 A. Probably not.

25 Q. Are you familiar with what grade of chuck 11:53:35

1 roast you typically purchase from ShopRite?

2 A. I assume their As. I'm not a hundred
3 percent sure.

4 Q. Do you know if any of the roasts that
5 you've purchased from ShopRite was processed by 11:54:02
6 one of the defendants in this action?

7 A. I don't know. It's not on the label.

8 Q. Do you know if any of the roasts that
9 you've purchased from ShopRite was processed from
10 grass-fed cattle or grain-fed cattle? 11:54:17

11 A. I don't know.

12 Q. Do you know if any of the roasts that
13 you've purchased from ShopRite was processed from
14 dairy cattle or fed cattle raised for meat
15 production? 11:54:31

16 A. I don't know.

17 Q. Thinking just of ShopRite, other than
18 anything that we've discussed so far, can you
19 think of any other types of beef or cuts of beef
20 or beef products that you've purchased on a 11:54:47
21 regular basis over the last ten years?

22 A. Stew meat. Like, you know, when they cut
23 into smaller cubes.

24 I don't know the -- off the top of my
25 head, I don't know what the cut is called. I 11:55:03

1 just -- I call it stew meat.

2 Q. And if you had to estimate, about how
3 often you purchased that in a week or month,
4 similar to what we talked about before?

5 A. From ShopRite, maybe once a month. 11:55:21

6 Q. And do you have an idea of about how much
7 quantity you purchase once per month?

8 A. So if I'm making a stew, it's probably,
9 based on my family, about three pounds of stew
10 meat. 11:55:45

11 Q. And would you say that that quantity has
12 been -- strike that.

13 Would you say that the quantity of stew
14 meat that you have purchased on a monthly basis
15 has been about the same over the last ten years? 11:55:59

16 A. Probably. Maybe a little bit more
17 lately, but you know, as the children have aged,
18 that's probably increased.

19 Q. Do you know if any of the stew meat that
20 you purchased from ShopRite was processed by one 11:56:25
21 of the defendants in this action?

22 A. Don't know.

23 Q. Do you know if any of the stew meat that
24 you've purchased from ShopRite was purchased from
25 grass-fed cattle or grain-fed cattle? 11:56:36

1 A. I don't know.

2 Q. Do you know if any of the stew meat that
3 you've purchased from ShopRite was processed from
4 dairy cattle or fed cattle raised for meat
5 production? 11:56:47

6 A. I don't know.

7 Q. Other than the stew meat and things we've
8 discussed already, any other types of beef or beef
9 products that you've purchased on a regular basis
10 from ShopRite? 11:57:03

11 A. Not that I can think of.

12 Q. Let's switch to Stop & Shop.
13 Do you purchase beef or beef products
14 from Stop & Shop?

15 A. Occasionally, yes. 11:57:15

16 Q. What beef products do you purchase from
17 Stop & Shop?

18 A. It would be things similar to what I
19 would purchase at ShopRite: So steaks, roasts,
20 stew meat, ground beef. 11:57:31

21 Q. So thinking -- let's talk first
22 currently, where ShopRite is your current kind of
23 primary grocery store.

24 Do you purchase these other beef products
25 from Stop & Shop on a regular basis? 11:58:12

1 A. Maybe once a month. Twice a month. But
2 not on my weekly.

3 Q. And if you do purchase beef products from
4 Stop & Shop current -- under your current kind of
5 situation, does that replace beef products that 11:58:30
6 you would purchase at ShopRite, or would that be
7 in addition to beef products you would purchase
8 from ShopRite?

9 A. Most likely replace. Occasionally be in
10 addition to. 11:58:43

11 Q. Do you recall what cuts of steak you
12 typically purchase from Stop & Shop over the last
13 ten years?

14 A. That would be the same. So New York
15 strip. Porterhouse occasionally. Beef loin. And 11:59:08
16 then flank steak. Occasional ribeye.

17 Q. Same thing with roast.
18 Do you recall what cuts of roast you
19 typically buy from Stop & Shop over the last ten
20 years? 11:59:31

21 A. Same. Like a chuck roast, most likely.

22 Q. Ground beef, kind of the cut of ground
23 beef or the fat percentage breakdown, do you
24 recall --

25 A. 90/10 -- sorry. 11:59:43

1 That would be probably the 90/10 or the
2 85/15.

3 Q. And then stew meat, is that similar; that
4 you just purchase a package that says "stew meat"
5 on it? 11:59:54

6 A. (Witness moving head up and down.)

7 Q. And as far as -- I think you may have
8 mentioned this, but as far as like volume and
9 quantity of beef that you purchased from Stop &
10 Shop, is that roughly the same as what you would 12:00:05
11 purchase from ShopRite if -- if that's where you
12 did your shopping for the week?

13 A. Yes. So if it was on the weekly shop,
14 yes, that would just be a replacement of; so it
15 would be consistent with the amounts. 12:00:16

16 Q. Do you know about how often you purchased
17 beef at Stop & Shop in addition to what you
18 already purchased for your weekly shop at
19 ShopRite?

20 A. I would estimate maybe once a month. 12:00:35

21 Q. And what are some reasons why you might
22 do an additional shop for beef or beef products at
23 Stop & Shop over what you already purchased from
24 ShopRite?

25 A. Usually it's a need. Someone in the 12:00:59

1 family decided to make themselves something and
2 just upped the volume of food consumption.

3 Q. Have you ever decided not to purchase a
4 beef product or beef from ShopRite with the idea
5 that you would purchase it from Stop & Shop later 12:01:26
6 that week?

7 A. Yeah. If I didn't have, like, space in
8 the freezer, or I was running, then, yeah, like,
9 oh, I'll just get it later. You know, I'll get it
10 somewhere else. 12:01:41

11 Q. Is that a -- is that situation a regular
12 occurrence or is that more of an infrequent
13 occurrence?

14 MR. OWEN: Object to form.

15 THE WITNESS: That's more infrequently. 12:01:50
16 I wouldn't be going straight home. So I
17 wouldn't purchase meat to have in the car.

18 BY MR. MUELLER:

19 Q. Similar to similar questions that I asked
20 about ShopRite. 12:02:04

21 Do you know the grade of any of the beef
22 that you purchased from Stop & Shop?

23 A. I would assume A, based on it being in
24 the case. Nothing is marked, you know, below
25 that. 12:02:19

1 BY MR. MUELLER:

2 Q. When was the last time you purchased beef
3 at ShopRite?

4 A. On Sunday, September 2nd.

5 Q. Do you keep the receipts from ShopRite 12:06:43
6 when you purchase beef?

7 A. Yes, I do.

8 Q. And what have you been doing with those
9 receipts?

10 A. I have been turning them over to my 12:06:59
11 attorneys.

12 Q. Are those receipts also available on --
13 in digital form, for example, a ShopRite app?

14 A. I don't know for sure.

15 Q. Have you ever ordered beef to be 12:07:18
16 delivered from ShopRite through a delivery
17 service, whether directly from the store or
18 through a third-party app, such as Uber Eats?

19 A. No.

20 Q. Let's talk about Stop & Shop for a 12:07:32
21 moment.

22 Do you recall any general trends in the
23 prices you've paid for beef that you've purchased
24 at Stop and Shop over the past ten years?

25 MR. OWEN: Object to form. 12:07:46

1 Going back to ShopRite. Do you have any
2 opinion as to why the prices at ShopRite for beef
3 have -- have gone up over the past ten years?

4 MR. OWEN: Object to form.

5 THE WITNESS: Yeah, I -- same reason. I 12:10:03
6 believe that certain companies have colluded
7 to manipulate the market and pass the cost on
8 to consumers.

9 BY MR. MUELLER:

10 Q. And so is it likewise true that you're 12:10:12
11 not sure whether there has been -- companies
12 collude to pass on -- to manipulate the market for
13 non-beef grocery items from ShopRite?

14 MR. OWEN: Objection to form.

15 THE WITNESS: I don't know about that. 12:10:34

16 BY MR. MUELLER:

17 Q. And similarly, are you not sure whether
18 companies have colluded to pass on -- to
19 manipulate the market and pass on price increases
20 for non-beef, non-grocery items at ShopRite? 12:10:43

21 MR. OWEN: Object to form.

22 THE WITNESS: I don't know about that.

23 BY MR. MUELLER:

24 **Q. Let's talk about Costco.**

25 **Do you purchase beef from Costco? 12:10:53**

1 A. Yes.

2 Q. What kind of beef do you purchase from
3 Costco?

4 A. Similar to what I would purchase at Stop
5 & Shop or ShopRite: Steaks, roasts, ground beef. 12:11:05

6 Q. Thinking about steak specifically, is it
7 the same cuts of steaks, or is it different cuts
8 of steaks that you purchase from Costco?

9 A. Same cuts.

10 Q. And roast, is that typically chuck roast 12:11:30
11 that you purchase from Costco, as well?

12 A. Yes.

13 Q. And ground beef, typically the same cut
14 or fat percentage of ground beef that you purchase
15 from Costco? 12:11:50

16 A. Yes.

17 Q. About how often do you purchase ground
18 beef from Costco?

19 A. Probably once a month.

20 Q. And when you purchase ground beef from 12:12:06
21 Costco, is that in addition to what you would
22 normally purchase from either ShopRite or Stop &
23 Shop for your weekly shop?

24 A. No; in replacement of.

25 Q. And about how -- how much ground beef do 12:12:26

1 you purchase from Costco when -- when that's where
2 you purchase your ground beef for a shop?

3 A. Usually over five pounds.

4 Q. Moving on to steaks.

5 About how often do you purchase steaks 12:12:53
6 from Costco?

7 A. Similar. Once a month.

8 Q. And when you purchase steaks from Costco
9 about once a month, about how much steak do you
10 purchase at a given time? 12:13:08

11 A. Based on the way they package, it would
12 probably be over three pounds.

13 Q. And roasts. About how often do you
14 purchase roasts from Costco?

15 A. It would be in the same. Once a month. 12:13:32

16 Q. And when you purchase roast from Costco
17 about once a month, about how much -- what volume
18 of roast do you typically purchase?

19 A. Again, based on packaging, it would be
20 probable about six pounds. 12:13:50

21 Q. And so I think you mentioned this.
22 When you purchase beef from Costco,
23 that's typically a replacement for what you would
24 normally purchase in a given week; is that
25 correct? 12:14:10

1 A. It could be in -- usually a replacement,
2 sometimes in addition to or both.

3 Q. And I'll let you pick the time period,
4 whether it's weekly, monthly, yearly.

5 About how often do you purchase beef from 12:14:27
6 Costco that is in addition to what you would
7 normally purchase in a weekly shop?

8 A. Number of times or quantity? Sorry.

9 Q. Let's start with number of times.

10 A. I'd say once a month there's additional 12:14:51
11 beef purchased from Costco.

12 Q. And kind of same question.

13 But when it's kind of a substitute, about
14 how often do you purchase beef from Costco that's
15 meant to be a replacement for your weekly shop? 12:15:05

16 A. Probably once -- yeah, about once a --
17 once a month it would be -- some of the beef would
18 be in addition to, and some of it would be
19 replacement.

20 Q. Do you know any of the grades of the beef 12:15:23
21 that you purchased from Costco?

22 A. Grade A and occasionally a AA, I believe
23 I've seen.

24 Q. And when you say "Grade A" and a "AA," do
25 you remember what products that would be for? 12:15:41

1 A. That would be on steaks, like a strip
2 steak.

3 Q. And so speaking specifically for roasts,
4 do you recall any grades of roasts that you
5 purchased from Costco? 12:15:57

6 A. No.

7 Q. And what about -- same question for
8 ground beef. Do.

9 You recall any grades of ground beef?

10 A. No. 12:16:06

11 Q. Going back to kind of the frequency that
12 we talked about, about how often you purchase beef
13 at Costco, has that been roughly the same since
14 you became a member in 2015?

15 A. I think it probably increased during 12:16:21
16 COVID, and then has kind of fallen off. So there
17 may have been ebbs and flows.

18 But probably peak during COVID, and then
19 falling lately.

20 Q. When you say "falling lately," do you 12:16:40
21 mean returning to pre-COVID levels?

22 A. Yes, returning to pre-COVID levels.

23 Q. Do you know if any of the beef that
24 you've purchased at Costco was processed by one of
25 the defendants in this action? 12:16:55

1 BY MR. MUELLER:

2 Q. When was the last time you purchased beef
3 at Costco?

4 A. Within the past month.

5 Q. Do you keep the receipts when you 12:19:22
6 purchase beef at Costco?

7 A. Yes.

8 Q. And what have you been doing with the
9 receipts that you purchase from Costco --

10 A. I -- 12:19:35

11 Q. Let me clarify. That was a terrible
12 question.

13 What do you do with the receipts for beef
14 purchased from Costco?

15 A. I save them. I pass them -- I send them 12:19:44
16 to my lawyers, my attorneys.

17 Q. Have you ever ordered beef to be
18 delivered from Costco either through Costco
19 directly or through a third-party delivery
20 service, such as Uber Eats? 12:20:00

21 A. No.

22 Q. Are there any other grocery stores, other
23 than Costco, Stop & Shop and ShopRite that we've
24 discussed so far, are there any other grocery
25 stores where you have typically purchased beef in 12:20:15

1 the last ten years?

2 A. Consistently or occasionally?

3 Q. Let's start with consistently.

4 A. No.

5 Q. What about occasionally? 12:20:26

6 A. Sure.

7 Q. And what are those?

8 A. Stew Leonards and Wegmans.

9 Q. Start with Stew Leonards.

10 How often would you estimate you've 12:20:45

11 purchased beef from Stew Leonards over the past

12 ten years?

13 A. In a ten-year period, maybe five times.

14 Q. Is there a particular type of beef that

15 you purchase at Stew Leonards, or has it been a 12:21:02

16 variation of beef products?

17 A. Probably like a filet mignon, a roast,

18 but that's about it.

19 Q. And what factors influence your decision

20 to purchase beef at Stew Leonards? 12:21:25

21 A. Just, like, an occasion. It's like a

22 weird kind of grocery store, so we go there. And

23 if it's -- you know, if the filet mignon is there,

24 then sometimes my children will convince me to

25 purchase it for them. 12:21:47

1 purchased from Stew Leonards was processed by one
2 of the defendants in this action?

3 A. I do not know.

4 Q. Do you know any of the brand of beef that
5 you purchase from Stew Leonards? 12:23:10

6 A. I do not know.

7 Q. I believe you mentioned Wegmans.

8 Over the past ten years, about -- could
9 you estimate about how often you've purchased beef
10 or beef products from Wegmans? 12:23:27

11 A. Over ten years, two or three times.

12 Q. And what kind of beef products do you
13 recall purchasing from Wegmans those two or three
14 times?

15 A. Probably ground beef and steak. 12:23:44

16 Q. And what factors influence your decision
17 to purchase beef from Wegmans on those occasions?

18 A. It was the grocery store near where my
19 son was in college.

20 Q. Do you recall whether the beef that you 12:24:00
21 purchased at Wegmans was a particular brand?

22 A. No.

23 Q. Do you recall anything about the grade of
24 the beef that you purchased from Wegmans?

25 A. No. 12:24:25

1 STATE OF CALIFORNIA)
2 (Ss.
3 COUNTY OF LOS ANGELES)
4

5 I, RENEE HARRIS, do hereby certify that I
6 am a licensed Certified Shorthand Reporter, duly
7 qualified and certified as such by the State of
8 California;

9 That prior to being examined, the witness named
10 in the foregoing deposition was by me duly sworn
11 to testify to tell the truth, the whole truth, and
12 nothing but the truth;

13 That the said deposition was by me recorded
14 stenographically;

15 And the foregoing pages constitute a full,
16 true, complete and correct record of the testimony
17 given by the said witness;

18 That I am a disinterested person, not
19 being in any way interested in the outcome of said
20 action, or connected with, nor related to any of
21 the parties in said action, or to their respective
22 counsel, in any manner whatsoever. DATED: 9/12/24
23



24 Renee Harris, CSR, CCR, RPR
CA CSR No. 14168
25 NJ CCR No. 30XI00241200
FL Notary No. 1708946

Appendix C-20
Robert Trepper
(North Carolina)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE VIDEO-RECORDED 30(b)(1) DEPOSITION OF
ROBERT TREPPER

Taken via Zoom
On Wednesday, August 7, 2024
At 10:31 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified In: Utah/Nevada/California/Idaho/Washington

1 take down this exhibit.

2 BY MS. AKALAONU:

3 Q. Mr. Trepper, in a typical month, how often
4 do you go shopping for groceries?

5 A. Weekly.

6 Q. And just to clarify, by "weekly," do you
7 mean once a week?

8 A. Yes.

9 Q. Has that changed over the last ten years?

10 A. No.

11 Q. Do you buy beef for your own consumption at
12 home?

13 A. Yes.

14 Q. Do you buy beef for just yourself or also
15 for others?

16 A. For myself and my spouse.

17 Q. And how often are you buying beef to consume
18 at home for yourself and your spouse?

19 A. That depends. We -- we typically buy in a
20 little bit more bulk when we find things on sale than
21 we would just on a weekly basis.

22 Q. And has that changed over the last ten
23 years?

24 A. Well, we're more aware of deals because of
25 the high price.

1 Q. And Fresh Market.

2 Besides those three, is there any other
3 supermarket where you purchased beef often?

4 A. No.

5 Q. Okay. So starting with Harris Teeter, which
6 locations of Harris Teeters do you grocery shop
7 for -- for beef from?

8 A. Mostly the store that's closest to us.

9 Q. And generally, where is that located?

10 A. In Cary.

11 Q. Is there any other Harris Teeter that you
12 typically purchase beef from?

13 A. I wouldn't say typically, but we have at --
14 another Harris Teeter that's also in Cary, but a
15 little further away.

16 Q. Do you know generally, like, what street
17 it's located on?

18 A. They're both Kildaire Farm Road. But one is
19 in a bigger shopping center, Crescent Green is the
20 name of the -- actually, the larger store that's
21 further away. But still relatively close.

22 Q. And what specific type of beef products do
23 you typically buy from Harris Teeters?

24 A. Roast, short ribs. That's pretty much it.

25 Q. Ground beef?

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of Robert Trepper, commencing on August 7, 2024, at 10:03 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- Review and signature was requested.
- Review and signature was waived.
- Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 13th day of August, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-21
Michelle Oversen
(North Dakota)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF
ANTITRUST LITIGATION

Case No. 0:20-cv-01319
(JRT/JFD)

This Document Relates To:

CONSUMER INDIRECT
PURCHASER PLAINTIFF
ACTION

Case No. 0:22-md-03031
(JRT/JFD)

****HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER****
ZOOM DEPOSITION OF MICHELLE OVERSEN
(Reported Remotely via Video & Web videoconference)
Killdeer, North Dakota (Deponent's location)
Tuesday, July 9, 2024
Volume 1

STENOGRAPHICALLY REPORTED BY:
REBECCA L. ROMANO, RPR, CSR, CCR
California CSR No. 12546
Nevada CCR No. 827
Oregon CSR No. 20-0466
Washington CCR No. 3491
JOB NO. 6792325
PAGES 1 - 246

1 A. We may make a trip to Dickinson 30 miles 08:51:31
2 away once a week but not specifically. And in town
3 you just run uptown for everything, Dollar General
4 or the grocery store.

5 Q. And so you -- you mentioned in terms 08:51:57
6 of -- you go grocery shopping in Dickinson.

7 That may be once a week; is that correct?

8 A. Yeah, not -- yes, but not even. I mean,
9 if we run to town for something we will stop at
10 Walmart or the grocery store and get something no 08:52:11
11 doubt.

12 Q. And so would it be fair to say like in
13 a -- a typical month you might go grocery shopping
14 in Dickinson maybe three or four times; is that
15 fair to say? 08:52:25

16 A. Yes, yes.

17 Q. And in terms of your local area in
18 Killdeer, how many -- how many times a week would
19 you say you would go grocery shopping?

20 A. Twice. 08:52:41

21 Q. And has that -- has that changed over the
22 last ten years in any way?

23 A. No.

24 Q. So in the last ten years you've typically
25 gone to Dickinson for groceries maybe three or four 08:53:04

1 times a month; is that fair to say? 08:53:07

2 A. Yes.

3 Q. And then in the last ten years in a

4 typical month -- no, strike that.

5 In the last tens years in a typical week 08:53:22

6 you might go somewhere locally maybe twice a week

7 for groceries; is that correct?

8 A. Odds and ends, yes.

9 Q. And when you say "odds and ends," what

10 does that mean? 08:53:38

11 A. You just are missing something and you

12 run to the store to get it and -- and you keep

13 grabbing more. If it's on sale you buy more so

14 that's a bad habit.

15 Q. And do you buy beef for your own 08:54:00

16 consumption at home?

17 A. Only when you have -- the kids all come

18 home and probably have a steak fry. Then you have

19 to go buy more because you don't have that much in

20 your freezer but otherwise, no. 08:54:15

21 Q. So only when your kids come home for a

22 steak fry.

23 How often does that happen?

24 A. Maybe once or twice a year. But like

25 over the Fourth we went and bought 12 steaks for 08:54:32

1 the lake and then if you're in town you might buy a 08:54:36
2 pack of steaks or something just because they look
3 good and you don't have anything in the freezer
4 left. That's about it.

5 Q. And then besides when your kids come home 08:55:03
6 for the steak fry --

7 A. Holidays is when you usually do that
8 stuff.

9 Q. Is there anyone else besides then your
10 kids that you're -- your kids and your husband that 08:55:14
11 you would be buying steak for?

12 A. No.

13 Q. And in terms of having this steak fry or
14 cooking beef during the holidays, has that changed
15 at all in terms of the last ten years, or has it -- 08:55:32

16 A. No.

17 Q. Have all your family members generally
18 eaten beef on a consistent basis since 2014?

19 MR. OWEN: Object to form.

20 Q. (By Ms. Akalaonu) You can answer. 08:55:53

21 A. Yes, my daughter has four kids. They buy
22 beef also in Minot area.

23 Q. And does this daughter, the one that has
24 four kids, does she also live in Killdeer?

25 A. She lives in Velva, North Dakota. That's 08:56:13

1 ago, five years ago? 09:30:06

2 A. Five years ago.

3 Q. And then do you generally purchase the
4 same amount of beef to cook at home over the course
5 of a year? 09:30:27

6 A. Yes. Once a year you get a quarter beef.

7 Q. And when around the year do you purchase
8 that quarter beef?

9 A. I don't have a specific time. It's when
10 they are ready to butcher, I suppose, and they ask 09:30:50
11 all their friends if they want some. No specific
12 time.

13 Q. And then is there a time period over the
14 last ten years where you were purchasing more beef
15 to cook at home? 09:31:14

16 A. Yes, maybe over the counter when your
17 kids are still in the house, you know, if that make
18 sense.

19 Q. Would that be around five years ago as
20 well? 09:31:27

21 A. Yes.

22 Q. Do you purchase more or less beef around
23 the holidays?

24 A. Depending on what you are serving so
25 maybe, yes. 09:31:51

1 Q. When you say "depending on what you are 09:31:59
2 serving," what does that mean?
3 A. We have tried prime rib in the past. And
4 if there is a hole in the foil pan, the whole house
5 smokes. 09:32:12
6 Q. And do you tend to cook or -- strike
7 that.
8 Do you tend to purchase and cook prime
9 rib at every holiday?
10 A. No. 09:32:22
11 Q. Which holidays do you purchase and cook
12 prime rib?
13 A. Christmas, it would be.
14 Q. Would you say that prime rib is something
15 that you have purchased for Christmas over the last 09:32:36
16 ten years pretty consistently?
17 A. No.
18 Q. Besides prime rib, what other type of
19 dishes would you be -- strike that.
20 Besides prime rib, is there any other 09:32:52
21 type of beef products that you would be purchasing
22 during Christmas to cook?
23 A. No.
24 Q. Is there any other type of protein that
25 you would be purchasing to cook for Christmas? 09:33:08

1 A. Turkey or ham, I guess. 09:33:13

2 Q. In the last ten years, how often would
3 you say that you purchased and cooked a beef
4 product for Christmas?

5 A. Two or three times. 09:33:35

6 Q. Is there any other holiday during the
7 year where you are purchasing more beef than you
8 typically would?

9 A. Repeat that.

10 Q. Is there any other holiday during the 09:33:49
11 year where you would be purchasing more beef than
12 you typically would?

13 A. Yes.

14 MR. OWEN: Object to form.

15 THE DEPONENT: Yes. 09:34:01

16 Q. (By Ms. Akalaonu) You can answer.

17 A. Yeah, he makes ribs on the grill, so...

18 Q. And when does -- I am presuming when you
19 say "he" do you mean your husband?

20 A. Yes. 09:34:16

21 Q. In terms of when he cooks ribs on the
22 grill, when is that during the year?

23 A. During grilling season the most of
24 course, so...

25 Q. So would that be summer? 09:34:30

1 A. Yes. 09:34:31

2 Q. And then does he tend to grill ribs also
3 Fourth of July weekend?

4 A. Not necessarily. It was steaks this
5 year, so it's -- we went to the rodeo and you buy 09:34:45
6 hamburgers there.

7 Q. And when you say you went to the rodeo,
8 you went to the rodeo for Fourth of July?

9 A. Yes.

10 Q. Okay. Is that something that you and 09:35:06
11 your husband do every year?

12 A. We haven't gone for many years, but the
13 little grandsons wanted to go, so they went to
14 their first rodeo.

15 Q. In the last ten years, how often would 09:35:18
16 you say you have been to the rodeo?

17 A. Four.

18 Q. In those four times, how often are you
19 purchasing beef when you go to the rodeo?

20 A. It's a big deal to get a hamburger at the 09:35:40
21 rodeo, so every time.

22 Q. Do you -- do you or your husband buy more
23 beef during football season?

24 A. No, it's generally chicken wings. That
25 he would make, not me. 09:36:10

1 fair to say there's instances where it's -- 09:48:00

2 there's -- sorry, strike that.

3 So that example you gave about the roast

4 and going to a local store, is it fair to say that

5 there's times when the convenience or the proximity 09:48:12

6 of where --

7 A. Yes.

8 Q. -- the beef is factors in?

9 A. Yes. I like to make a Coke roast so

10 that's -- I want a decent cut of meat that's not 09:48:24

11 fatty or...

12 Q. And how often do you make that type of

13 roast?

14 A. Depending on if somebody is home and it's

15 a quick meal with a bun in -- once a month. Not 09:48:41

16 even, but...

17 Q. Is there a specific type of store that

18 you like to go to buy that meat?

19 A. No.

20 Q. But you mentioned that you liked -- 09:48:56

21 strike that.

22 For that roast you mentioned that you

23 like to purchase a decent cut of meat?

24 A. Yes, not just a plain chuck roast. A

25 good sirloin roast that's really nice and meaty, 09:49:08

1 you know... 09:49:12

2 Q. And in that instance how would you
3 determine like what store sells like good sirloin
4 or a decent cut?

5 A. The local grocery store, or if you're in 09:49:27
6 Dickensian you may pick one up at Walmart or the
7 grocery store there.

8 Q. And then you mentioned sales as well.
9 How do you learn of sales regarding beef?

10 A. Sales flyers, grocery store sale flyers. 09:49:49

11 Q. And how do you get those sales flyers?

12 A. At the actual store or -- yeah, at the
13 actual store if you have to go in there. Ours
14 comes online, but I don't like looking at it that
15 way, so I will go get the paper version. 09:50:11

16 Q. And how often do you go to get the paper
17 version?

18 A. Not even once a week, but if I'm there I
19 remember to grab one. It's too handy to run in to
20 get something and you might grab it, so... 09:50:26

21 Q. And from which stores do you run in to to
22 get the sales flyers?

23 A. The local Killdeer or SuperValu. I think
24 the other stores advertise on Facebook. So you
25 might catch something there to get your attention 09:50:56

1 and go in there if you're there. 09:51:00

2 Q. And is it the same local Killdeer
3 SuperValu stores that are advertising on Facebook
4 or is it other stores?

5 A. Or TV, I guess. I see Family Fare is on 09:51:12
6 TV, Cash Wise maybe on TV and the local store has
7 Facebook and paper flyer.

8 Q. Have you ever gone out of your way to buy
9 beef from a different store specifically because
10 of -- you were specifically looking for a certain 09:51:40
11 type of beef product to purchase?

12 MR. OWEN: Object to form.

13 Q. (By Ms. Akalaonu) You can answer.

14 A. No, but my husband doesn't like buying
15 from Walmart by chance. There's a better kind 09:51:50
16 there, so I thought that's okay, but he'll go to
17 the other one, Cash Wise, where they have it fresh
18 in the meat case.

19 Q. Does customer service at the stores
20 factor in at all to where you purchase beef? 09:52:19

21 A. No.

22 Q. Does the selection of beef options at the
23 stores factor at all into where you decide to
24 purchase beef?

25 A. The bigger store will have more options, 09:52:36

1 A. Maybe three years. I do not know 10:11:12
2 exactly. It's not that old of a store, but it's
3 possibly three years give or take.

4 Q. I know you had mentioned that you and
5 your husband did not get the Costco membership for 10:11:25
6 the purpose of purchasing beef.

7 A. No, no.

8 Q. But in the three years that you have had
9 that Costco membership, have you went to Costco and
10 purchased beef -- 10:11:39

11 A. Yes.

12 Q. -- products during that time period?

13 A. Yes. They have a bulk package of four or
14 five steaks and they look really nice, so you have
15 to buy one and stick them in the freezer. 10:11:51

16 Q. And to the best of your understanding,
17 can you explain to me how the Costco membership
18 program works?

19 MR. OWEN: Object to form.

20 Q. (By Ms. Akalaonu) You may answer. 10:12:07

21 A. You just pay maybe \$60 for a plain --
22 what's the word -- membership, and they like to buy
23 protein stuff, protein bars or drink or I buy Tums.
24 It wasn't for the purchase of buying beef. It was
25 just to check it out. And if you buy bulk soap or 10:12:31

1 something like that, so... 10:12:35

2 Q. To your understanding does the Costco
3 membership involve any type of like point system?

4 A. We have never received anything. I am
5 not aware of anything above -- I have never read 10:12:46
6 anything about it.

7 Q. And to your understanding does the Costco
8 membership involve any provision of like discounts
9 in terms of purchasing items?

10 A. They have sales on some products. 10:13:04
11 Otherwise I don't know.

12 Q. And do you have an account number for
13 your Costco membership?

14 A. I do not. My card is upstairs in a
15 drawer. I have never used my card. 10:13:27

16 Q. And in those -- in the three years since
17 you mentioned that Costco has been in Bismarck, how
18 often do you shop at Costco?

19 A. We don't get to Bismarck that often. But
20 if we are there, we tend to stop because there's 10:13:51
21 always something you can pick up snackwise or
22 other.

23 Q. In a typical year how often would you say
24 that you have gone to Costco in the last
25 three years? 10:14:04

1 A. Maybe four times a year, times two. 10:14:06

2 Q. In those four times a year that you have
3 gone and in the last three years, how often do you
4 purchase beef when you go to Costco?

5 A. Maybe every other time roughly. I grab a 10:14:23
6 chicken.

7 MS. AKALAONU: Thank you, Zef. You can
8 take down this exhibit.

9 Q. (By Ms. Akalaonu) And I know we are
10 coming up against the hour again. 10:14:46

11 Did you, Ms. Oversen, want to take a
12 five-minute break or are you okay going forward?

13 A. I am okay.

14 MS. AKALAONU: Anyone else need a
15 five-minute break? 10:14:59

16 Okay. We are good to go.

17 Q (By Ms. Akalaonu) So Ms. Oversen, do you
18 purchase beef from supermarkets like Kroger or
19 Family Fare, Cash Wise, Hugo's or Target?

20 A. We have Family Fare and Cash Wise in 10:15:18
21 Dickinson. I've never purchased any beef at
22 Family Fare by chance, but we have grabbed
23 something at Cash Wise. Like I said, the fresh
24 steaks.

25 Q. And just -- sorry, to repeat that for me. 10:15:36

1 So you are saying you don't purchase meat 10:15:37
2 at Family Fare but you do at Cash Wise?
3 A. Family Fare is out of the way. Which --
4 I just have never bought any meat there yet.
5 Q. Okay. When you say "out of the way," do 10:15:52
6 you mean like it's farther away from you?
7 A. It's just on the edge of town. It's just
8 because we stop at Cash Wise that's -- no reason.
9 Q. And besides the Family Fare and Cash Wise
10 in Dickinson, are there any other supermarkets like 10:16:15
11 that that you purchase beef from?
12 A. Not in Dickinson, no.
13 Q. Okay. In Killdeer are there any
14 supermarkets?
15 So not -- 10:16:27
16 A. Just one small town grocery store.
17 Q. Okay. So that's like a small
18 neighborhood store?
19 A. Yes.
20 Q. Okay. I will ask you about that one 10:16:35
21 later.
22 So in terms of supermarkets though, it's
23 really Family Fare and Cash Wise?
24 A. Yes.
25 Q. Okay. And then I believe you mentioned 10:16:44

1 Like a Walmart? 10:16:52

2 A. Yes.

3 Q. Okay. And you purchase beef there on

4 occasion as well?

5 A. Yes. 10:16:59

6 Q. Is the Walmart in Dickinson?

7 A. Yes.

8 Q. So I would like to go through each of

9 these three stores that you mentioned, the

10 Family Fare, Cash Wise and Walmart, and sort of 10:17:26

11 understand your purchasing history at those stores.

12 So we can start with Family Fare. And

13 then you mentioned that you go to the one in

14 Dickinson.

15 Is there any other Family Fare besides 10:17:43

16 the one in Dickinson that you go to?

17 A. No.

18 Q. Is there only one Family Fare located in

19 Dickinson or are there --

20 A. There's actually two. 10:18:03

21 Q. You only go to one or do you go to both?

22 A. My mother-in-law lives close to one, so

23 we ran there to get her something. But

24 otherwise -- if you go to Menards, you might stop

25 there if... 10:18:16

1 Dan's County Market? 10:27:27

2 A. They have probably been out of there for
3 more than ten years, but if I seen a roast, it
4 looked nice, I would buy it. I -- just a spur of
5 the moment thing probably. 10:27:43

6 Q. So when you say Dan's -- when you say
7 it's been probably out of there for the -- more
8 than ten years, what do you mean?

9 A. They closed and then a different chain
10 came in. 10:27:54

11 Q. Do you recall what year they closed?

12 A. I do not know.

13 Q. But you believe that they closed more
14 than ten years ago?

15 A. Yes. 10:28:10

16 Q. Okay. Again, to confirm, in terms of the
17 current store, Family Fare, you haven't purchased
18 beef products from there in the last ten years?

19 A. No.

20 Q. Okay. So then in terms of Cash Wise, 10:28:35
21 what's part- -- specific type of beef products do
22 you typically buy from Cash Wise?

23 A. Steaks.

24 Q. Any other type of beef products?

25 A. We've probably bought hamburger patties 10:28:59

1 in a box. Well, he has bought fresh patties too, 10:29:01
2 but I didn't like them with cheese chunks in there,
3 bacon or whatever. I don't care for them.
4 Q. And when you say "he," I am presuming
5 your husband? 10:29:15
6 A. Gary, yes, sorry.
7 Q. And so besides steaks and then the
8 hamburger patties in a box or at times the fresh
9 patties, is there any other type of beef products
10 that you purchase from Cash Wise? 10:29:25
11 A. I could have bought a roast there. I am
12 not aware offhand. I could have.
13 Q. Any briskets?
14 A. Yes, they buy brisket. It could be
15 from -- oh, there's a little meat shop in town. 10:29:54
16 Unless my son gets it from Bismarck, yes, they have
17 purchased brisket.
18 Q. Have you purchased brisket from the
19 Cash Wise in Dickinson?
20 A. That, I don't know offhand. 10:30:12
21 Q. So with the steaks that you purchased
22 from Cash Wise, what type or kinds of steaks do you
23 typically buy from Cash Wise?
24 A. Ribeye or New York strip, whatever is
25 cheaper at the moment maybe because they are all 10:30:36

1 high. But this time it was New York strips. 10:30:39

2 Q. And also too in terms of the Cash Wise in
3 Dickinson, is there more than one Cash Wise in
4 Dickinson?

5 A. No, no. 10:30:52

6 Q. During a typical month, about how many
7 pounds of ribeye steak would you say you purchase
8 from Cash Wise?

9 A. Randomly if we are going to the lake
10 or -- it's hard to answer that one. No given time, 10:31:19
11 no given amount. Whatever is -- the occasion is
12 maybe. Birthday or something like that.

13 Is that what you want to know?

14 Q. Yes, no, that's helpful.

15 I would say like I guess then just during 10:31:42
16 the typical month, but you are stating that it
17 depends on what's occurring during that month.

18 That would impact how many pounds of
19 ribeye steak you might purchase from Cash Wise?

20 A. Yes. You want to hear a dumb story? 10:31:53

21 My brother worked for US Foods, so we
22 bought a case of crab. Well, that's for March,
23 April, May birthdays. When my birthday comes in
24 June, I said we can afford hamburger. Duh.

25 Q. So the early birthdays got the crab, but 10:32:10

1 you got hamburger. 10:32:13

2 A. I got hamburger -- well, it was a joke,
3 but yeah. We could afford hamburger by then. It
4 was like a case of crab.

5 Q. Oh, goodness. Thank you for that. 10:32:20

6 And so then in a typical month, how many
7 pounds of New York strip steak would you say you
8 purchase from Cash Wise?

9 A. Depending on the occasion. We are not
10 going to go buy them just -- we probably do if we 10:32:34
11 are there and feel like grilling something that
12 night. But no given amount or anything.

13 Q. And is the amount of ribeye steak that
14 you purchase from Cash Wise, has that changed or
15 fluctuated in any way over the last ten years? 10:32:52

16 A. Yes, because you have kids that have kids
17 and they bring somebody else home with them.
18 Dating somebody that -- that will make a
19 difference.

20 Q. So in the last ten years, would you say 10:33:06
21 that you've purchased more amounts of ribeye steak
22 over the years or less?

23 A. More.

24 Q. And then same question regarding New York
25 strip steak. 10:33:22

1 Would you say over -- 10:33:23

2 A. Yes.

3 Q. -- the last ten years --

4 A. Sorry.

5 Q. And by "yes" do you mean you've purchased 10:33:27

6 more over the last ten years?

7 A. Yes, because there's always somebody --

8 like they get married and they have kids and the

9 kids will eat steak, and unmarried ones bring

10 somebody home and yes. 10:33:40

11 Q. And then what brand of steaks do you
12 typically purchase from Cash Wise?

13 A. It's in a meat case with freshly cut, so
14 I have no idea. It's just do you want this many
15 steaks and so... 10:34:07

16 Q. Do you know if the ribeye steak that you
17 purchased from Cash Wise was the -- are any of
18 those processed by one of the defendants in this
19 case?

20 MR. OWEN: Object to form. Foundation. 10:34:25

21 Q. (By Ms. Akalaonu) You can answer.

22 A. I have no idea. I don't imagine that
23 that's listed there, and if it is I've never
24 looked. I don't know. It's just in the fresh meat
25 case, and you tell them how many you want. 10:34:38

1 dairy cattle? 11:33:36

2 MR. OWEN: Object to form. Foundation.

3 Q. (By Ms. Akalaonu) You may answer.

4 A. I do not know.

5 Q. And then also you mentioned that you may 11:33:46

6 possibly have purchased roasts at Cash Wise; is

7 that the case?

8 A. Yes.

9 Q. Do you know how often in the last

10 ten years you may have purchased roasts from 11:33:55

11 Cash Wise?

12 A. I do not know.

13 Q. Okay. Or in a typical year how often

14 would you say you purchased roast from Cash Wise?

15 A. I do not know. 11:34:13

16 Q. Okay. In a typical month, how often

17 would you say you purchased a roast from Cash Wise?

18 A. I don't.

19 Q. Okay. So going back to the question of a

20 year, would you say it's more than twice that you 11:34:33

21 purchase a roast from Cash Wise in a year, a

22 typical year?

23 A. Yes.

24 Q. Okay. Would you say it's more than five

25 times? 11:34:45

1 A. No. 11:34:46

2 Q. Okay. So between two to five times in a
3 typical year?

4 A. Yes.

5 Q. And what type of roast, what type of 11:34:52
6 roast do you typically buy from Cash Wise?

7 A. Sirloin tip, a better cut choice.

8 Q. When you say "better cut choice," can you
9 explain what you mean, please?

10 Is that a brand? 11:35:17

11 A. No, it's just a meatier chunk of meat
12 that a chunk roast will have -- has lots of marble
13 in it or something, fat.

14 Q. And in a typical year during the times
15 that you purchase a roast, those two to five times 11:35:32
16 that you purchase a roast from Cash Wise, do you
17 know how many or about how many pounds of roast you
18 purchase?

19 A. Probably a 3-pound depending on how many
20 people I guess you need to serve. 11:35:51

21 Q. And has that amount changed over the last
22 ten years?

23 A. Yes, with more people involved.

24 Q. So you've purchased more -- a larger
25 amount of roast in the last ten years because 11:36:09

1 THE DEPONENT: I honestly don't know. 11:39:31

2 Q (By Ms. Akalaonu) And when was the last
3 time you purchased a beef product at Cash Wise?

4 A. Just this week, for grilling on Saturday
5 night. 11:39:47

6 Q. And what did you purchase, what beef
7 product did you purchase for grilling?

8 A. Twelve northern [sic] strip steaks.

9 Q. Okay. Those 12 steaks came from --

10 A. New York steak strips, sorry. Northern. 11:39:59

11 Q. And do you keep the receipts when you
12 purchase items from Cash Wise?

13 A. I do. I put them on this little app and
14 then I throw them away. But if it's beef,
15 hopefully it's still sitting in the cupboard if I 11:40:17
16 need to save them.

17 Q. And you mentioned that you store them in
18 an app.

19 What's the name of the app?

20 A. Fetch. 11:40:25

21 Q. And can you explain to me how do you
22 store receipts in that app?

23 A. My daughter showed me. You just take a
24 picture of it, and you might get 25 cents. But if
25 something's in their little category, you get more 11:40:38

1 when I get the packet in the mail, I will mail them 11:41:54
2 back.

3 Q. And then in terms of Cash Wise, does
4 Cash Wise allow you to purchase beef from it
5 through a third-party delivery service or 11:42:21
6 Uber Eats; like is that possible?

7 A. I honestly don't know. I have never done
8 that.

9 Q. And then you mentioned that you also
10 purchase beef from Walmart supermarket; is that the 11:42:38
11 case?

12 A. Yeah, yes.

13 Q. And then what locations of Walmart do you
14 purchase from?

15 A. Dickinson. 11:42:52

16 Q. Anywhere else besides in Dickinson?

17 A. I don't believe I've bought meat any
18 place other than Dickinson Walmart.

19 Q. Okay. And then what specific types of
20 beef products do you typically buy from the 11:43:10
21 Walmart?

22 A. In the past, I have bought steaks. If
23 we are going out to the lake or the occasion. I
24 don't believe -- I have may have bought hamburger
25 in a roll just because it's easy or convenient and 11:43:26

1 not frozen, you know, so that's it. 11:43:29

2 Q. Have you purchased -- ever purchased ribs
3 from Walmart?

4 A. He buys a big rack of ribs. I don't know
5 that he's got any from Walmart, but we've got them 11:43:51
6 from locally here in town or Cash Wise.

7 Q. Okay. So you believe you may have
8 purchased ribs from Cash Wise in the past ten
9 years?

10 A. Yes. 11:44:03

11 Q. How often would you say you've purchased
12 ribs from Cash Wise in the last ten years?

13 A. Three times a year, but not for ten years
14 because he didn't have a grill like that way back
15 then I suppose. And... 11:44:22

16 Q. So when did you get the grill that you
17 mentioned?

18 A. A few years ago. I don't recall the
19 exact date.

20 Q. Was it more than five years ago? 11:44:35

21 A. No.

22 Q. Okay. So within the last five years?

23 A. Yes.

24 Q. Okay. And since you have had that grill,
25 you would say that you've purchased ribs about 11:44:46

1 three times a year from Cash Wise? 11:44:49

2 A. Yes.

3 Q. And what type or kind of ribs do you

4 typically purchase from Cash Wise?

5 A. Baby back ribs that come in the big loin. 11:44:58

6 Q. And when you do purchase ribs, about how

7 many pounds of ribs do you purchase from Cash Wise?

8 A. I don't know what they weigh, but he

9 generally buys two packages.

10 Q. Has that changed over the last five years 11:45:15

11 since he has had the grill?

12 A. No.

13 Q. And what brand of ribs do you typically
14 purchase from Cash Wise?

15 A. They come packaged. I don't know. 11:45:30

16 Q. Okay. Do you know if the ribs that you
17 purchased from Cash Wise, if they were processed by
18 any one of the defendants in this case?

19 MR. OWEN: Object to form. Foundation.

20 THE DEPONENT: I don't know. 11:45:43

21 Q (By Ms. Akalaonu) Do you know if any of
22 the ribs that you purchased from Cash Wise were
23 processed from grass-fed cattle or grain-fed
24 cattle?

25 MR. OWEN: Object to form. Foundation. 11:45:53

1 from Walmart. 11:47:01

2 Q. Okay.

3 A. We have a local rancher that sells beef
4 products, and I think he's got one from him. It's
5 probably still in the freezer. 11:47:11

6 Q. Okay. In then first, in terms of the
7 steaks that you've purchased from Walmart -- sorry,
8 strike that.

9 First, has the type of beef that you
10 purchase from Walmart, has it changed over the last 11:47:38
11 ten years? Like have you purchased different types
12 of beef products, you know, five years ago than you
13 do now?

14 MR. OWEN: Object -- object to form.

15 THE DEPONENT: No. 11:47:55

16 Q. (By Ms. Akalaonu) In terms of steaks,
17 what type of -- type or kind of steaks do you
18 typically buy from Walmart?

19 A. Ribeye or New York strip.

20 Q. In a -- during a typical month, about how 11:48:12
21 many pounds of steak would you say you purchase
22 from Walmart?

23 A. Not very often. So it's like I said,
24 depending on if there's occasion that we have more
25 kids home, or it's something easy to make, I guess. 11:48:31

1 THE DEPONENT: I do not know. 11:58:56

2 Q. (By Ms. Akalaonu) In terms of the Costco
3 that's in Bismarck -- hold on one second.

4 And then are -- sorry, strike that.

5 In terms of the Costco in Bismarck, how 11:59:18
6 often in the last three to four years have you
7 purchased beef from that Costco?

8 A. Four, five times.

9 Q. And you had testified earlier that you
10 had a Costco membership. 11:59:40

11 Is that Costco membership still current,
12 or has it expired?

13 A. It's current.

14 Q. And what specific types of beef products
15 have you purchased from the Costco in Bismarck 11:59:52
16 during those occasions when you shopped there?

17 A. What type of beef? I believe it was
18 ribeyes. They come in a package of four or five,
19 whatever you pick.

20 Q. So ribeye steaks. 12:00:06

21 Have you ever purchased ground beef from
22 that Costco?

23 A. No.

24 Q. Any roasts, have you ever purchased any
25 roasts from that Costco? 12:00:19

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1 A. I think I did one time. They were 12:00:20

2 nice-looking chuck roasts, and it came in a two

3 pack. I believe I did once or twice, if ever.

4 Q. Do you recall around what time period

5 that was that you purchased the roasts? 12:00:34

6 A. I do not.

7 Q. And then besides the ribeye steaks and

8 then the chuck roast once or twice, is there any

9 other beef products that you purchased from Costco?

10 A. No. 12:00:53

11 Q. Any ribs, have you ever purchased ribs?

12 A. I don't know. I -- I don't think so.

13 Q. Any --

14 A. Because you can buy them here, and they

15 come prepackaged so that's -- it doesn't matter 12:01:09

16 where you get them, I guess.

17 Q. And then in terms of the steaks, you

18 mentioned that you bought the ribeye in the package

19 of four, were there any other types of steaks that

20 you purchased from that Costco in Bismarck? 12:01:19

21 A. We could have bought New York strips. I

22 don't recall. It's just whatever they have in

23 their case and you grab a package and...

24 Q. And about how many pounds of steak have

25 you purchased from that Costco in Bismarck during 12:01:40

Page 134

1 the occasions where you purchased beef there? 12:01:44

2 A. I don't know.

3 Q. Has the amount changed in the last three

4 to four years that you have shopped there at

5 Costco? 12:01:54

6 A. Yes, because there's more people

7 involved.

8 Q. So over the years you have purchased more

9 steak from the Costco?

10 A. Well, like I said, they have only been 12:02:05

11 there a few years. But if they look really good

12 and if we know we are going to having company like

13 that, we will buy a package or two.

14 Q. And what brand of steak did you typically

15 purchase from Costco? 12:02:27

16 A. Like what kind of meat?

17 Q. Or brand.

18 A. Not the ribeye.

19 Q. In terms of the ribeye steak that you

20 purchase, is there a certain brand at Costco -- 12:02:37

21 A. No.

22 Q. -- you purchase?

23 A. They are just freshly cut and they were

24 in a package. It doesn't say.

25 Q. Is that the same with the New York steak 12:02:45

1 at -- 12:02:49

2 A. Yes. Yes.

3 Q. Do you know if the steaks that you
4 purchased from Costco in Bismarck, were any of them
5 processed by one of the defendants in the case? 12:02:57

6 MR. OWEN: Object to form. Foundation.

7 Q. (By Ms. Akalaonu) You may answer.

8 A. I do not know.

9 Q. Do you know if any of the steaks that you
10 purchased from the Costco in Bismarck, if they were 12:03:05
11 processed from grass-fed cattle or grain-fed
12 cattle?

13 MR. OWEN: Object to form. Foundation.

14 THE DEPONENT: I do not know.

15 Q. (By Ms. Akalaonu) Do you know if those 12:03:17
16 steaks that you purchased from Costco in Bismarck
17 were processed from dairy cattle or fed cattle?

18 MR. OWEN: Object to form. Foundation.

19 THE DEPONENT: I do not know because I
20 don't carry my glasses, and I couldn't read it 12:03:27
21 anyways, so there.

22 Q. (By Ms. Akalaonu) And then same with the
23 chuck roast.

24 Do you recall if there was any type of
25 brand of chuck roast that you purchased from the 12:03:37

1 your purchases at Costco? 12:06:02

2 A. In your drawer full of stuff.

3 Q. And when --

4 A. I don't keep them forever. I just throw
5 them in there. And then you might check off your 12:06:12
6 credit card list, and then they get in the garbage.

7 Q. Do you know if you still have access to
8 those receipts from your purchases at Costco?

9 A. I would have mailed in what I had, and I
10 don't have anything current, I don't believe. 12:06:27

11 Q. Then in terms of the neighborhood or
12 local grocery stores, what neighborhood or smaller
13 grocery stores do you typically purchase beef from?

14 A. We only have one in Killdeer anymore.
15 It's the SuperValu. 12:06:58

16 Q. And how often do you shop at the
17 SuperValu in Killdeer?

18 A. You run in for a lot of little things.
19 If it's on sale, I will buy it. And I could sell
20 groceries from my cupboard, but yes. Two or three 12:07:19
21 times a week you run in for something.

22 Q. And has that changed in the last ten
23 years?

24 A. Depending if you have kids at home and
25 you have to buy more, so yes. 12:07:36

1 Q. And what specific types of beef products 12:07:43

2 do you typically buy from that SuperValu?

3 A. I believe just roasts. Recently if I

4 needed something, it's only been a roast. Because

5 I do have hamburger left but not much so... 12:07:59

6 Q. So only -- do you purchase steaks from

7 the SuperValu?

8 A. We have, but not regularly we don't. We

9 have to use up what's in the freezer. If you

10 choose to take it out and thaw it, you know. 12:08:20

11 Q. How often in the last year would you say

12 you have purchased steaks from the SuperValu?

13 A. I don't know offhand.

14 Q. Would it be less than five times?

15 A. Yes, yes. 12:08:37

16 Q. Do you typically purchase any -- strike

17 that.

18 Do you typically purchase ribs from the

19 SuperValu?

20 A. Yes, because they come in a prepackaged 12:08:53

21 loin. And he'll generally buy two because if

22 somebody's here, they really like them. So yes.

23 Q. And then do you purchase any ground beef

24 from the SuperValu?

25 A. I haven't had to as of recent because I 12:09:16

1 still have frozen beef hamburger in my freezer, 12:09:18
2 so...

3 Q. And then has this type of beef that
4 you've purchased from the SuperValu, has it changed
5 over the last ten years? 12:09:30

6 A. The pricewise?

7 Q. Or more so the product.

8 So did you purchase different types of
9 beef products five years ago, seven years ago than
10 you do today? 12:09:47

11 A. No.

12 Q. Okay. And then for the roast, what type
13 of roast do you purchase from the SuperValu?

14 A. It was a sirloin tip I believe.

15 Q. In a typical month, how many pounds of 12:10:12
16 that roast would you say that you purchase from
17 SuperValu?

18 A. It's not very often. I -- I still have
19 some in the freezer. So if I need something bigger
20 than what I have, I will have gotten one. But 12:10:29
21 generally not very much.

22 Q. Has the amount of roast that you
23 purchased in the last ten years, has it changed
24 over the last ten years?

25 A. Yes. 12:10:43

1 Q. In terms -- in what -- strike that. 12:10:46

2 In what ways?

3 A. More people. Easiest for me is to cook a

4 Coke roast and they can have shredded beef

5 sandwiches because it's simple. 12:11:01

6 Q. So with more people you have had to

7 purchase more roast over the last ten years?

8 A. Yes.

9 Q. And then what brand of roast do you

10 typically purchase from the SuperValu? 12:11:14

11 A. There's no brand on it. It's just the

12 type you buy and the cost, that's it. I don't know

13 if it says it, what kind of beef it is or not.

14 Q. Do you know if the roast that you

15 purchase from SuperValu, if it was processed by one 12:11:29

16 of the defendants in this case?

17 MR. OWEN: Object to form. Foundation.

18 THE DEPONENT: I do not know.

19 Q. (By Ms. Akalaonu) Do you know if it was

20 processed from grass-fed cattle or grain-fed 12:11:40

21 cattle?

22 MR. OWEN: Object to form. Foundation.

23 THE DEPONENT: I do not know.

24 Q. (By Ms. Akalaonu) And do you know if it

25 was processed from dairy cattle or fed cattle? 12:11:48

1 MR. OWEN: Object to form. Foundation. 12:11:52

2 THE DEPONENT: I do not know.

3 I am going to be saying this in my sleep
4 tonight.

5 Q (By Ms. Akalaonu) And then in terms of 12:12:02

6 the steaks that you purchase from SuperValu, what

7 type of steaks do you typically purchase from

8 there?

9 A. Whatever they have enough of on hand.

10 It's a small store, and depending on the time of 12:12:14

11 day, they might be empty. Ribeye or New York

12 strip, I guess.

13 Q. And how many pounds of steak do you

14 typically purchase in a month from SuperValu?

15 A. No given amount. It's been a while, 12:12:33

16 so...

17 Q. What brand of steaks do you purchase from

18 the SuperValu?

19 A. There is no brand on it that I am aware

20 of. 12:12:46

21 Q. Do you know if the steaks that you
22 purchase from the SuperValu were processed by one
23 of the defendants in the case?

24 MR. OWEN: Object to form. Foundation.

25 THE DEPONENT: I do not know. 12:12:57

1 Q. (By Ms. Akalaonu) And do you know if 12:12:59
2 the -- those steaks that you purchased from
3 SuperValu, if they were processed from grass-fed
4 cattle or grain-fed cattle?

5 MR. OWEN: Object to form. Foundation. 12:13:09

6 THE DEPONENT: I do not know.

7 Q. (By Ms. Akalaonu) Do you know if they
8 were processed from dairy cattle or fed cattle?

9 MR. OWEN: Object to form. Foundation.

10 THE DEPONENT: I did not know. 12:13:18

11 Q. (By Ms. Akalaonu) In terms of the ribs
12 that you talked about purchasing from the
13 SuperValu, what type of ribs do you typically
14 purchase from the SuperValu?

15 A. They are baby back ribs in a 12:13:35
16 prepackaged -- prepackaged. I think they say maybe
17 St. Louis or something like that. It could be a
18 brand name. But I -- I have never opened one, so I
19 don't know. I don't look that close.

20 Q. And during a typical month, about how 12:13:50
21 many pounds of ribs do you purchase from SuperValu?

22 A. There's no set every month. It's when
23 the occasion -- occasion rises, you might go buy
24 ribs because it's something he can grill. He likes
25 to not burn. 12:14:10

1 Q. And in the -- the prepackaged ribs that 12:14:13
2 you purchased, do you know what brand of ribs you
3 typically purchase from SuperValu?

4 A. I don't know. I don't pay attention to
5 that because I've never helped him do that so... 12:14:24

6 Q. Do you know if the ribs that you
7 purchased from SuperValu, if they are processed by
8 one of the defendants in this case?

9 MR. OWEN: Object to form. Foundation.

10 THE DEPONENT: I do not know. 12:14:35

11 Q. (By Ms. Akalaonu) Do you know if it was
12 processed from grass-fed cattle or grain-fed
13 cattle?

14 MR. OWEN: Object to form. Foundation.

15 THE DEPONENT: I do not know. 12:14:45

16 Q. (By Ms. Akalaonu) Do you know if it was
17 processed from dairy cattle or fed cattle?

18 MR. OWEN: Object to form. Foundation.

19 THE DEPONENT: I do not know.

20 Q. (By Ms. Akalaonu) Do you recall any 12:14:56
21 general trends in the prices that you had to pay
22 for beef that you've purchased at the SuperValu
23 over the last ten years?

24 MR. OWEN: Object to form.

25 THE DEPONENT: Yes, he -- if he wants to 12:15:09

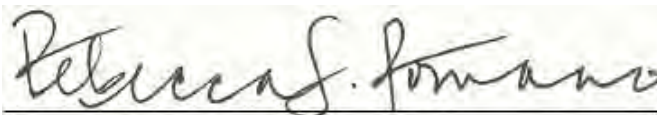
1 I, Rebecca L. Romano, a Registered
2 Professional Reporter, Certified Shorthand
3 Reporter, Certified Court Reporter, do hereby
4 certify:

5 That the foregoing proceedings were taken
6 before me remotely at the time and place herein set
7 forth; that any deponents in the foregoing
8 proceedings, prior to testifying, were administered
9 an oath; that a record of the proceedings was made
10 by me using machine shorthand which was thereafter
11 transcribed under my direction; that the foregoing
12 transcript is true record of the testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a Federal
15 Case, before completion of the proceedings, review
16 of the transcript [X] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee
19 of any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name. Dated: July 16, 2024

22
23 
24

Rebecca L. Romano, RPR, CCR
25 CSR. No 12546

Appendix C-22
Dan Campbell (Oregon)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF ANTITRUST
LITIGATION,

No. 22-md-3031 (JRT/JFD)

This Document Relates to:
All Actions

/

*** HIGHLY CONFIDENTIAL ***

Remote Video-recorded Deposition of DAN
CAMPBELL, the witness herein, appearing remotely
from Corvallis, Oregon at 9:03 a.m., Pacific
Daylight Time, on WEDNESDAY, MAY 29, 2024, before
Renee Harris, California Certified Shorthand
Reporter No. 14168, New Jersey CCR
No. 30XI00241200, Registered Professional
Reporter, and FL Notary No. 1708946

JOB NO. 6719613
PAGES: 1 - 187

1 be part of fresh and frozen beef. Yes.

2 Q. What do you understand the term "boxed
3 beef" to mean?

4 A. I don't know the answer to that question.

5 Q. Do you have an understanding of the 09:17:39
6 phrase "case-ready beef"?

7 A. Can you repeat that.

8 Q. Do you have an understanding of the
9 phrase "case-ready beef" and what that means?

10 A. I don't know that. No. 09:17:50

11 Q. And what do you understand the term "fed
12 cattle" to mean?

13 A. Cattle that were raised for the purpose
14 of slaughter for meat.

15 Q. Who has been the primary purchaser of 09:18:06
16 groceries in your household for the past ten
17 years?

18 A. Me. That would be me.

19 Q. So for the past ten years or presently,
20 you're still the primary -- 09:18:20

21 A. Yes.

22 Q. -- purchaser?

23 A. Yes.

24 Q. In a typical month, how often do you go
25 shopping for groceries? 09:18:28

1 A. I would say we probably go once a

2 month -- or once a week. Excuse me.

3 Q. Who --

4 A. I say, "we." It would be me, but yes.

5 I beg your pardon? 09:18:44

6 Q. Has that changed over the last ten years?

7 A. No.

8 Q. Do you buy beef for your own consumption

9 at home?

10 A. Yes, ma'am. 09:18:59

11 Q. Do you buy beef for just yourself or also

12 for others?

13 A. Well, I purchase it for our use. Others

14 share in it. As we would have a family event, I

15 may take over steaks or, you know, if we have 09:19:10

16 people over. But not for purchase or sale to

17 anybody else. No.

18 Q. So to share with your family or at

19 dinner?

20 A. Or house guests or group gatherings, that 09:19:24

21 kind of thing.

22 Q. And is it just you at your household, or

23 are there others that permanently live there?

24 A. It's my wife and I only at this point in

25 time. But we have kids, grand kids, great grand 09:19:39

1 maybe.

2 Q. Switch it up.

3 Any other dietary restrictions related to
4 the consumption of beef?

5 A. No. I know my doctor would like me to 09:21:12
6 eat less beef, but I'm healthy so far so eat more
7 meat.

8 THE VIDEOGRAPHER: Counsel, did you want
9 the document up on the screen?

10 MS. WOLF: We can take that down. Thank 09:21:22
11 you.

12 THE VIDEOGRAPHER: Thank you.

13 BY MS. WOLF:

14 Q. And has the dietary restrictions changed
15 over the last ten years, or has that been 09:21:31
16 consistent?

17 A. My wife is eating smaller portions now,
18 but it's remained consistent.

19 Q. I think you answered this earlier, but
20 have you ever purchased beef and then resold it to 09:21:45
21 others?

22 A. No, I haven't.

23 Q. And how often would you say you cook beef
24 for those other than you and your wife in the
25 instances we talked about, like family gatherings, 09:22:02

Page 19

1 social events?

2 A. I would say -- let's say once a month.

3 Q. And can you estimate generally how many

4 folks you're cooking for at these events?

5 A. Well, we have 13 when our family can all 09:22:17

6 get together. So sometimes it's a fair amount of

7 people.

8 We meet with a group of young married or

9 soon-to-be young married, and that's a group of 12

10 that we occasionally will gather for a meal. And 09:22:32

11 we rotate houses that we meet at.

12 Q. So about once a month, you're cooking for

13 12 or 13 people?

14 A. Yes, sometimes twice a month.

15 Q. Okay. 09:22:47

16 A. Holidays get a little busier, of course.

17 So...

18 Q. Any other times you're generally cooking

19 for people other than you and your wife, like a

20 fundraiser? 09:23:00

21 A. No.

22 Q. Community events, anything like that?

23 A. No.

24 Q. And how often do you generally go out to

25 eat at sit-down restaurants? 09:23:10

1 go to fast casual restaurants?

2 A. Occasionally, I'll have a fajita, which I
3 hope is beef.

4 But I also have a time when I have
5 chicken or pork products. 09:31:15

6 Q. Assuming you go maybe once a month to a
7 fast casual restaurant, would you say you order
8 beef half the time?

9 A. I would say, no.

10 If we went 12 times a year, I would say 09:31:34
11 four of those times I would have beef, so maybe a
12 third.

13 Q. Has that changed over the last ten years?

14 A. No.

15 Q. How much beef would you say you buy to 09:31:47
16 cook or eat at home during a typical week?

17 A. So we probably have it two dinners a
18 week. And we typically cook enough that there's
19 left overs for a lunch the next day.

20 So let's say a two-pack of steaks would 09:32:08
21 be a dinner plus lunch the next day.

22 Q. So about six meals, assuming you and your
23 wife are both eating?

24 A. Yes.

25 Q. Has that changed over the last ten years? 09:32:27

1 A. Yeah. We used to probably have it three
2 times.

3 Q. Why did that change?

4 A. The price of beef got to be expensive,
5 and we had to look for other ways or different 09:32:43
6 cuts of meat.

7 Q. What cuts of meat do you typically
8 purchase?

9 A. We typically like steaks, so tri-tip, rib
10 steak is a favorite. Gatherings would be a rib 09:32:58
11 roast. We like cube steak. Hamburger if it's the
12 90 percent beef, 10 percent fat.

13 I think that describes it, occasionally
14 ribs.

15 Q. Do you generally purchase the same amount 09:33:23
16 of beef to cook or eat at home generally over the
17 course of a year?

18 A. So I answer you correctly in -- in what
19 you're asking, can you repeat that?

20 Q. Yeah. 09:33:40
21 Do you -- are there times of years where
22 you buy more or less beef?

23 A. Yes. So just earlier -- I guess it was
24 on Friday or Saturday I went to the grocery store.
25 I had seen they advertised rib steaks at a good 09:33:56

1 price. I brought -- I bought three packs of two
2 steaks, so six steaks. And all three of those
3 packages went into the freezer because we were
4 already -- already had meal planned for that
5 evening. 09:34:10

6 And so when we get ready to eat those,
7 we'll pull out a two-pack or depending if we are
8 having company over.

9 So that will be -- those six steaks will
10 be -- provide a number of meals for us, so 09:34:23
11 probably nine meals over the course of a month.

12 Q. So when you see it on sale, you might buy
13 more?

14 A. Yes. Yeah.

15 Q. Do you buy more or less beef around the 09:34:37
16 holidays?

17 A. Yes, typically because of entertaining.

18 Q. Are there certain holidays in which you
19 generally purchase more beef?

20 A. Typically Christmas, somebody's birthday, 09:34:49
21 that kind of thing.

22 Q. Do you buy more beef during the summer to
23 barbecue?

24 A. It depends on what the price is. I'm
25 pretty frugal, so if there's good prices, I'll 09:35:11

1 buy, and we'll freeze.

2 So -- but we do a lot -- we barbecue

3 year-round. So I'll say summer really doesn't

4 have much of an impact other than if we have

5 gatherings that -- summertime always calls out to 09:35:29

6 have more gatherings, so -- and that often is more

7 hamburgers or a chicken or combination.

8 Q. What about during football season?

9 A. Well, I love football. But I don't have
10 TV channels that get me football, and I'm busy 09:35:52
11 enough that I don't commit the time other than
12 listening to it on the radio while I'm doing some
13 other work. So...

14 Q. And has the amount of beef you've
15 purchased annually changed over the last ten 09:36:10
16 years, or is it usually about the same every year?

17 A. It's slowed down because of the price.

18 And I will say that is because the sales
19 for beef just seemed to slow down for a long
20 period of time shortly after, I'll say, pre-COVID. 09:36:32

21 And then during COVID, there was
22 obviously supply because of the, I'll say,
23 trucking. That -- as all the grocery store
24 shelves -- shelves seemed to be more rare, and
25 there was not any deals to be found on beef. 09:36:51

1 are looking at that in Oregon right now.

2 But we occasionally will shop at
3 Albertsons. In Texas, they have a store that we
4 have shopped at before.

5 As I go and do this disaster relief, 10:35:47
6 occasionally, we will stop in -- at a local store
7 to purchase food that's not a Fred Meyer/Kroger
8 family that still will have a beef product or have
9 something that we want to buy.

10 Small markets in Hawaii, that sort of 10:36:08
11 thing. But that's not a general process for us.

12 Q. Okay. So what types -- we going to go
13 through each supermarket.

14 What types of beef products do you
15 typically buy from WinCo? 10:36:29

16 A. WinCo is more typically going to be
17 tri-tip, cube steak. Steaks occasionally but not
18 very often. As I said, they don't really have
19 sales, although they will have what they call
20 "extra savings" at times, but you don't know it 10:36:52
21 ahead of time. We do probably our broadest,
22 general shopping at WinCo.

23 Yeah, tri-tip -- and we buy lamb products
24 from them at times. Yeah. That would be the
25 WinCo. 10:37:14

1 Q. Has the type of beef that you purchased
2 at WinCo changed over the past ten years?

3 A. I've begun to shop more at Fred Meyer in
4 the last year, probably, because I've been paying
5 closer attention to their -- to their ad and, 10:37:38
6 again, because they advertise.

7 So I probably used to be mostly Safeway
8 and a little bit of WinCo. And now it's Safeway,
9 Fred Meyer get about equal. And WinCo probably is
10 third place when it comes to beef purchases. 10:37:55

11 Q. So the type of steak that -- or the type
12 of beef that you purchase from WinCo has not
13 necessarily changed.

14 Just the frequency has decreased?

15 A. That's correct. 10:38:09

16 Q. During a typical month, about how many
17 pounds of tri-tip do you generally purchase
18 from -- from WinCo?

19 A. Oh, that's hard to define. It's hard to
20 find a three-pound tri-tip, but let's say six -- 10:38:34
21 six pounds in two months, maybe.

22 Q. Has that changed over the last ten years?

23 A. Probably. I probably have purchased more
24 tri-tip in the last three or four years than I did
25 prior to that, one for availability and one 10:38:53

1 because it's a lesser cut -- cost of beef but can
2 be made good, flavorful, tender.

3 Q. Can you recall what brand of tri-tip you
4 generally purchase?

5 A. It's just whatever the meat case -- or 10:39:17
6 the -- you know, the grocery freezer has.

7 Q. Do you know if it was processed by one of
8 the defendants?

9 A. I do not know that. No.

10 Q. Do you know if it was processed from a 10:39:30
11 grass-fed cattle or a grain-fed cattle?

12 MR. OWEN: Objection. Form.

13 THE WITNESS: Those usually aren't on
14 tri-tip that I've ever seen. So I don't know
15 that answer. 10:39:48

16 Though I would say no, I have not -- I
17 have not seen it and thought about it.

18 BY MS. WOLF:

19 Q. Do you know if the tri-tip you purchased
20 from WinCo is processed from dairy cattle or fed 10:39:58
21 cattle?

22 MR. OWEN: Objection. Form.

23 THE WITNESS: Not unless it was
24 identified.

25 And I don't recall it being identified. 10:40:10

1 BY MS. WOLF:

2 Q. And you said you also purchased -- was it
3 cube steaks?

4 A. Cube steak.

5 Q. From -- got it. 10:40:21

6 From WinCo?

7 A. Yes.

8 Q. Do you know what grade it generally is?

9 A. I don't.

10 Q. Can you estimate in a typical month how 10:40:37

11 many pounds of cube steak you buy from WinCo

12 monthly?

13 A. Well, they aren't very big in the way

14 they package them. And so I would say maybe two

15 or three pounds in a month -- two or three pounds 10:40:56

16 every two months.

17 Q. Do you think that's changed in the past

18 ten years?

19 A. Yes. I've probably done it more

20 frequently in the last two years, maybe. 10:41:11

21 Q. Why is that?

22 A. I think availability in the store.

23 For -- many years ago, we would buy a lot of it.

24 And now I've just begin to see that they have more

25 cube steak. 10:41:26

1 I don't think that Safeway even has cube
2 steak. So -- and we like it as a -- an occasional
3 dinner.

4 Q. Do you know the brand of cube steak that
5 you generally buy? 10:41:44

6 A. I don't.

7 Q. Do you know if it was processed by one of
8 the defendants?

9 A. I do not know that answer.

10 MR. OWEN: Objection. 10:41:50

11 BY MS. WOLF:

12 Q. Do you know if it was processed from
13 grass-fed cattle or grain-fed cattle?

14 MR. OWEN: Objection. Form.

15 THE WITNESS: I can only assume that they 10:42:03
16 would put a sticker on it, and it would be a
17 higher price if it has that.

18 I don't know, but I would say I've not
19 noticed it on any cube steak I've purchased.

20 BY MS. WOLF: 10:42:14

21 Q. And do you know if the cube steak from
22 WinCo is processed from dairy cattle or fed
23 cattle?

24 A. I don't know.

25 Q. And you said you also purchased steak 10:42:29

1 occasionally from WinCo; is that correct?

2 A. Occasionally.

3 Q. What cut of steak do you usually

4 purchase?

5 A. It's probably done rare enough that I am 10:42:41

6 not sure I can -- or rarely enough that I'm not

7 sure I could say how often or what type.

8 I don't know, maybe petite sirloin.

9 Q. Do you ever notice the grade?

10 A. I don't. 10:43:12

11 Q. Approximately how often do you purchase

12 petite sirloins from WinCo?

13 A. Once every two months. It was probably

14 the place we went during the time when beef prices
15 were just never on sale. We probably saw WinCo 10:43:34

16 beef more often and ate more WinCo beef because

17 they typically -- is a lower-priced place.

18 And I might also add, when you ask about

19 the -- I've eaten enough beef and bought enough

20 beef to look at it and be able to say -- a steak, 10:43:57

21 like, This is going to be a chewy steak, or I

22 don't want this, or, Hmmm, this is nice.

23 The lip on a prime rib -- I mean, excuse

24 me, a rib steak, That's got a good lip.

25 Or, No wonder these are X price, and I 10:44:10

1 know how to walk away.

2 Or, Okay, that's just the way it's going

3 to be.

4 Q. So you don't necessarily notice the

5 grade, but you can tell when something is going to 10:44:20

6 be better or worse?

7 A. I would say that's correct. Yeah.

8 Occasionally, I'm surprised, but usually I guess

9 pretty well.

10 Q. So you mentioned that you previously 10:44:33

11 noticed that when beef availability was lower,

12 WinCo seemed to have more or the best prices; is

13 that right?

14 A. That's correct.

15 Q. So has the amount of petite sirloins that 10:44:47

16 you've purchased at WinCo changed over the past

17 ten years?

18 A. Yeah. I would say it's kind of been more

19 like a wave. Sometimes I do shop WinCo for beef,

20 and other times -- we go into WinCo easily once a 10:45:12

21 week. And I would say 80 percent of the time, I

22 don't even look for beef there.

23 So it's more when there's nothing on sale

24 at either of the other places, and we are planning

25 on hosting, entertaining, or we don't have 10:45:29

1 something that we have for -- a particular desire
2 for a meal.

3 Then I'll -- I'll probably shop more at
4 the WinCo. I said petite sirloin. It could be
5 sirloin. I don't recall buying rib steaks there. 10:45:43
6 I have purchased prime rib from them before.

7 Q. So would you say when you're purchasing
8 steaks, it's once every two months, and it's
9 either petite sirloin or sirloin?

10 A. I can't really recall on that. We -- we 10:46:08
11 buy -- we buy a fair amount of meat, so to
12 remember the exact cut and the exact -- how often
13 is tougher.

14 They have typically good listed prices
15 for prime rib around the holidays, Thanksgiving, 10:46:25
16 Christmas, and I definitely have made purchases
17 then.

18 But they typically are not my first stop
19 for steak, but they are -- their petite sirloins
20 are okay, sirloin steaks, but tri-tip. 10:46:42

21 Q. For the petite sirloins, do you know if
22 it was processed by one of the defendants?

23 A. I don't know that.

24 MR. OWEN: Objection. Form.

25 ///

1 search out or pay attention to, I guess.

2 BY MS. WOLF:

3 Q. Do you know if the sirloins you buy from
4 WinCo are grass-fed or grain-fed?

5 MR. OWEN: Objection. Form. Foundation. 10:48:24

6 THE WITNESS: I don't know that answer.

7 BY MS. WOLF:

8 Q. And do you know whether the sirloin from
9 WinCo is from a dairy cattle or a fed cattle?

10 MR. OWEN: Objection. Form. Foundation. 10:48:39

11 THE WITNESS: No, I don't. Don't know.

12 BY MS. WOLF:

13 Q. And for -- you also mentioned you
14 occasionally buy prime rib from WinCo; is that
15 right? 10:48:51

16 A. That's correct.

17 Q. Is that approximately the same frequency
18 as the petite sirloins and the sirloins?

19 A. No. I would say it would be once, maybe
20 twice a year if -- I mean, it also depends on who 10:49:01
21 else might have the same product.

22 You know how turkeys are on sale at
23 Thanksgiving at all the different stores? Same
24 thing with prime rib.

25 So whoever has the price and I'll say the 10:49:22

1 quality and a good-looking piece of prime rib,
2 that's usually what we'll do.

3 Q. So to clarify, you generally buy prime
4 rib once or twice a year, but it's not necessarily
5 always from WinCo? 10:49:38

6 A. That's correct. Yeah.

7 Q. When you do buy prime rib, how much do
8 you typically buy?

9 A. A serving so that whoever is planning on
10 coming, there's going to be, you know, half to 10:50:01
11 three-quarter pound.

12 My son and I are bigger steak eaters, and
13 there's always got to be some left over. So let's
14 say, six, eight pounds.

15 Q. Has that changed over the past ten years? 10:50:17

16 A. I would say if there was any change, it
17 would be that when -- you know, there's sometimes
18 when you say, Okay, we are going to get prime rib.
19 We are going to have to bite the bullet. It's
20 going to be more expensive. We just don't end up 10:50:40
21 having as much of a chunk that we hope to be
22 leftovers.

23 So we try to be more accurate on, you
24 know, how group -- how big the group is.

25 Q. So you might just buy a little bit less? 10:50:52

1 A. Yeah. We might buy the 7-pounder for --
2 you know, when we have 12, 13, 14 people, the kids
3 aren't going to eat too much, and we still want to
4 eat lots.

5 But there's not much left over. 10:51:12

6 Q. When --

7 A. It's cube steak that night.

8 Q. When you -- when you purchased prime rib,
9 do you know if it's processed by one of the
10 defendants? 10:51:24

11 MR. OWEN: Objection. Form. Foundation.

12 THE WITNESS: I don't know that.

13 BY MS. WOLF:

14 Q. Do you know if it's grass or grain fed?

15 MR. OWEN: Objection. Form. Foundation. 10:51:35

16 THE WITNESS: I'm going to say no because
17 I look at a prime rib pretty carefully before
18 I end up selecting one. And I would have
19 noticed, I think, if it said those things on
20 the prime rib. 10:51:52

21 The other ones, I don't look at labels so
22 much.

23 BY MS. WOLF:

24 Q. Do you know when you buy prime rib
25 whether it's from dairy or fed cattle? 10:51:58

1 MR. OWEN: Objection. Form. Foundation.

2 THE WITNESS: I don't know, but curiosity
3 killed the cat. I'll have to look on my next
4 break.

5 BY MS. WOLF: 10:54:53

6 Q. Do you know if the ground beef at WinCo
7 is from grass or grain-fed cattle?

8 MR. OWEN: Objection. Form. Foundation.

9 THE WITNESS: I do not know.

10 BY MS. WOLF: 10:55:10

11 Q. And you might be able to guess my
12 question.

13 But do you know if the ground beef from
14 WinCo is from dairy or fed cattle?

15 MR. OWEN: Objection. Form. Foundation. 10:55:17

16 THE WITNESS: I do not know that answer.

17 BY MS. WOLF:

18 Q. And you mentioned ribs as well.

19 Are those beef ribs?

20 A. Sometimes. We -- 10:55:35

21 Q. Oh --

22 A. We like pork ribs better than beef ribs,
23 personally.

24 But we have purchased both.

25 Q. How often do you purchase beef ribs from 10:55:45

1 WinCo?

2 A. I'll say once a year.

3 Q. Has that changed over the past ten years?

4 A. Probably the last two or three years, I

5 began to enjoy them more.

10:56:01

6 But, again, I think between my wife and

7 I, we prefer the pork ribs over the beef ribs.

8 Q. When you buy beef ribs, how many pounds

9 do you typically buy?

10 A. I will say a rack. I'm not sure how many

10:56:15

11 pounds are on a rack, you know, one section. So I

12 don't know how many pounds that would be.

13 Q. When you buy ribs -- beef ribs from

14 WinCo, do you know if it was processed by one of

15 the defendants?

10:56:36

16 MR. OWEN: Objection. Form. Foundation.

17 THE WITNESS: I don't know that answer,

18 but, again, you're going to have me looking

19 at all my meat I purchased to see where it

20 came from now.

10:56:46

21 BY MS. WOLF:

22 Q. Do you know if it's from grass or

23 grain-fed cattle?

24 A. I do not know.

25 MR. OWEN: Objection. Form. Foundation.

10:56:55

1 A. Yes.

2 Q. What types of beef do you typically
3 purchase from Fred Meyer?

4 A. Fred Meyer has been one that we more
5 recently began to purchase from in Oregon. And I 11:03:25
6 explain that from the standpoint of we shopped it
7 a lot when we lived in Arizona because it was the
8 closest local supermarket.

9 So Fred Meyer has really been when it's
10 been beef that has been on sale. 11:03:46

11 So as we see it on a digital coupon, a
12 membership price, that's the time that would draw
13 us to Fred Meyer.

14 Q. So you typically only shop for beef there
15 when you see some sort of advertisement or sale? 11:04:02

16 A. Yes, ma'am.

17 Q. Got it.

18 And what type of beef do you typically
19 purchase from Fred Meyer?

20 A. It's going to be tri-tip, steak, maybe we 11:04:13
21 bought a prime rib there. I don't know. Again,
22 that's that holiday thing that whoever -- whoever
23 has it. And...

24 Q. How much tri-tip do you typically buy
25 from Fred Meyer? 11:04:35

1 A. If it's on sale and if -- at the time we
2 buy it.

3 Is that what you mean?

4 Q. Let's say in a month.

5 Do you buy it at all generally? 11:04:44

6 A. This is -- some of this is hard to
7 describe because we -- you know, somewhere between
8 Fred Meyer, Safeway, WinCo, we will buy two or
9 three -- three or four prime -- tri-tips during
10 that time. 11:05:07

11 And, again, really, it's just around
12 where the price is and where it is when we have a
13 family need for it, or, you know, we want to have
14 that for a meal.

15 But, again, I would say we eat tri-tip 11:05:21
16 once a month.

17 So purchase of it would be maybe at Fred
18 Meyer once every three months.

19 Q. Has that changed over the last ten years?

20 A. Yes, because we just really started 11:05:41
21 looking at their meat prices and watching their
22 digital ads in the last couple years -- two years
23 maybe.

24 Q. So since 2022 is when you started to shop
25 at Fred Meyer for beef? 11:05:54

1 A. Let's say generally.

2 That store -- my son shops at that store

3 more often than I do or at the local Fred Meyer.

4 And he occasionally will call me and say, Hey,

5 they have brisket on sale at Fred Meyer or 11:06:12

6 tri-tip. Or he likes skirt steak. I'm not a

7 particular fan of that.

8 And so those are times when I'll go look

9 and see, but now we more often look at their

10 digital ad. 11:06:30

11 Q. Got it.

12 When you buy tri-tip at Fred Meyer, do

13 you know if it was processed by one of the

14 defendants?

15 MR. OWEN: Objection. Form. Foundation. 11:06:43

16 THE WITNESS: I don't know that answer.

17 BY MS. WOLF:

18 Q. Do you know whether it comes from grass

19 or grain-fed cattle?

20 MR. OWEN: Objection. Form. Foundation. 11:06:52

21 THE WITNESS: No, I don't know that.

22 BY MS. WOLF:

23 Q. And do you know whether it comes from

24 dairy or fed cattle?

25 MR. OWEN: Objection. Form. Foundation. 11:07:03

1 Q. Has the price of nonbeef products at Fred
2 Meyer increased since you started shopping there?

3 A. Yes.

4 MR. OWEN: Objection. Form.

5 BY MS. WOLF: 11:12:31

6 Q. And why do you think the price of beef
7 that you purchased at Fred Meyer has gone up?

8 MR. OWEN: Objection. Form. Calls for
9 speculation.

10 THE WITNESS: I'll say partially because 11:12:41
11 of availability but also of the inflation.

12 BY MS. WOLF:

13 Q. And when was the last time you purchased
14 beef from Fred Meyer?

15 A. This past week. 11:12:59

16 Q. Do you keep the receipts for when you
17 purchase beef at Fred Meyer?

18 A. Yes, try to.

19 Q. And did you ever get beef delivered from
20 Fred Meyer, either through the store directly or 11:13:17
21 Uber Eats?

22 A. No.

23 Q. And the last supermarket that we talked
24 about was Safeway.

25 What type of beef do you typically 11:13:41

1 purchase from Safeway?

2 A. Steaks, hamburger, and, again, that

3 occasional prime rib for particular times.

4 Q. Do you buy tri-tip from Safeway?

5 A. Yes. Yes, ma'am. 11:14:06

6 Q. Do you buy cube steaks from Safeway?

7 A. I don't think we have ever bought cube

8 steaks. In fact, I'm not sure that they have cube

9 steaks, but they don't run sales on it.

10 Q. Got it. 11:14:22

11 During a typical month, about how many

12 pounds of tri-tip do you buy from Safeway?

13 A. A typical month.

14 If I could say over the course of a year,

15 probably eight pounds. 11:14:45

16 Q. Over the course of a year, you buy eight

17 pounds of tri-tip?

18 A. Yeah. So that would be -- let's say a

19 four-pound tri-tip -- I'm thinking about four

20 pounds, we -- a couple times a year. 11:15:04

21 Q. Has that changed over the last ten years?

22 A. Yes. I probably increased in the amount

23 of tri-tip because the prices of the other beef

24 was often higher -- lesser -- lesser grade cut or

25 lesser quality cut of beef than the steaks. 11:15:27

1 Q. So in the past ten years, you think
2 you've started to purchase more tri-tip from
3 Safeway?

4 A. I would say probably, yes.

5 Q. Due to the price of other cuts of meat? 11:15:40

6 A. Yes.

7 Q. When did you start purchasing more
8 tri-tip? Can you recall?

9 A. I would say it's somewhere around that
10 pre-COVID years, 2016 -- '15, '16, '17, somewhere 11:15:57
11 in there.

12 Q. And that stayed consistent -- and the
13 amount of try tip that you've purchased from
14 Safeway has stayed consistent since then?

15 A. Only because we began to enjoy that cut 11:16:16
16 of meat and figured out how to make it be a
17 good -- make a good steak for a little bit lesser
18 amount of money.

19 But, again, it really is who has the best
20 price on the meat that week or for the period of 11:16:31
21 time.

22 Q. When you buy tri-tip from Safeway, do you
23 know whether it was processed by one of the
24 defendants?

25 MR. OWEN: Objection. Form. Foundation. 11:16:45

1 THE WITNESS: I don't know that.

2 BY MS. WOLF:

3 Q. Do you know whether it's processed from
4 grass or grain-fed cattle?

5 MR. OWEN: Objection. Form. Foundation. 11:16:55

6 THE WITNESS: No, I don't.

7 BY MS. WOLF:

8 Q. Do you know if it came from a dairy or
9 fed cattle?

10 MR. OWEN: Objection. Form. Foundation. 11:17:02

11 THE WITNESS: I don't know.

12 BY MS. WOLF:

13 Q. And for steaks, do you know which cut you
14 typically buy from Safeway?

15 A. I probably would say probably most often 11:17:17
16 sirloin because it's probably what they have on
17 sale the most, second to rib steak.

18 Q. Do you know how much sirloin you
19 typically buy from Safeway in a month?

20 A. If I average it over a year, I would say 11:17:37
21 probably two pounds a month.

22 Q. From Safeway in particular?

23 A. Yes, uh-huh.

24 Q. Has that been the same for the past ten
25 years?

11:17:59

1 MR. OWEN: Objection. Form. Foundation.

2 THE WITNESS: No, I don't.

3 BY MS. WOLF:

4 Q. Do you know when it's processed from a

5 dairy or fed cattle?

11:19:26

6 A. No, I don't.

7 Q. So other than tri-tip and sirloin, you

8 mentioned you also purchased rib steak from

9 Safeway; is that right?

10 A. Yes.

11:19:45

11 Q. How often do you typically purchase rib

12 steak from Safeway per month?

13 A. As often as they have good sales because

14 it's one of our favorite.

15 Let's say once a month over the course of

11:20:07

16 a year.

17 Q. How many pounds do you typically buy when

18 you purchase it?

19 A. If it's a good price, then I'll typically

20 buy four pounds, two packages. That's usually

11:20:20

21 what their minimum is -- I mean, their maximum,

22 two packages.

23 Q. So you typically buy four pounds of rib

24 steak a month per year from Safeway?

25 A. And I will say that -- and related to

11:20:40

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1 THE WITNESS: I saw a head nodding on my
2 screen, huh, Renee?

3 MR. OWEN: Maybe up to the court
4 reporter, too.

5 Maybe just a ten-minute break. 11:32:53

6 THE WITNESS: That would be fine.

7 MS. WOLF: Great. Let's do ten minutes
8 then.

9 THE VIDEOGRAPHER: And we are off the
10 record. It's 11:33 a.m. 11:33:01

11 (Short break taken.)

12 THE VIDEOGRAPHER: We are back on the
13 record. It's 11:45 a.m.

14 BY MS. WOLF:

15 Q. Mr. Campbell, we've talked a little bit 11:45:16

16 about the types of beef that you buy from grocery

17 stores, like WinCo, Safeway, and Fred Meyer.

18 Do you know what the brand of cube steak

19 is that you generally buy from WinCo?

20 A. No, I don't know that. 11:45:36

21 Q. Do you know what brand the petite sirloin

22 is that you usually buy from WinCo?

23 A. No. All those meats are like the other

24 one. They are just in a store, wrapped in a label

25 with a poundage and a weight. And it has some 11:45:59

Page 109

1 other writing on there, but I don't know that it
2 does or doesn't indicate any of that information.

3 Q. So for the sirloin, prime rib, ground
4 beef, and beef ribs that you buy from WinCo, it's
5 all marked as -- or you don't know the brand, 11:46:18
6 rather?

7 MR. OWEN: Objection. Form.

8 THE WITNESS: No, I don't know that
9 brand.

10 BY MS. WOLF: 11:46:31

11 Q. Is the same true for the tri-tip, the
12 sirloins, petite sirloins, rib steaks, and ground
13 beef that you buy from Fred Meyer?

14 A. Yes.

15 Q. So you don't know the brand on those 11:46:47
16 meats?

17 A. No, I don't.

18 Q. Outside of WinCo, Fred Meyer, and
19 Safeway, are there other supermarket chains that
20 you generally purchase beef from? 11:47:10

21 A. Not generally, no.

22 Q. Do you shop at -- you said you shop at
23 Costco, and you have purchased beef there; is that
24 correct.

25 A. Yes, just not generally. It's -- one 11:47:31

HIGHLY CONFIDENTIAL

1 STATE OF CALIFORNIA)
2 (Ss.
3 COUNTY OF LOS ANGELES)
4

5 I, RENEE HARRIS, do hereby certify that I
6 am a licensed Certified Shorthand Reporter, duly
7 qualified and certified as such by the State of
8 California;

9 That prior to being examined, the witness named
10 in the foregoing deposition was by me duly sworn
11 to testify to tell the truth, the whole truth, and
12 nothing but the truth;

13 That the said deposition was by me recorded
14 stenographically;

15 And the foregoing pages constitute a full,
16 true, complete and correct record of the testimony
17 given by the said witness;

18 That I am a disinterested person, not
19 being in any way interested in the outcome of said
20 action, or connected with, nor related to any of
21 the parties in said action, or to their respective
22 counsel, in any manner whatsoever. DATED: 5/29/2024

23 
24

Renee Harris, CSR, CCR, RPR CA CSR No. 14168
NJ CCR No. 30XI00241200
FL Notary No. 1708946

Appendix C-23
Lindsey Lamoi
(Rhode Island)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No.:
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE VIDEO-RECORDED DEPOSITION OF
LINDSEY LEMOI

Taken on Tuesday, July 30, 2024
Taken via Zoom
10:02 a.m. - 12:40 p.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington
California CSR No. 14451

1 household is you and your fiancé. 11:23:45

2 A. Correct. 11:23:48

3 Q. Who is the primary purchaser of groceries 11:23:52

4 for your household? 11:23:54

5 A. Myself. 11:23:56

6 Q. And you have been the primary purchaser of 11:24:02

7 groceries for your household for the entire relevant 11:24:04

8 period? 11:24:07

9 A. Yes. 11:24:08

10 Q. Okay. In a typical month, how often do you 11:24:09

11 go grocery shopping? 11:24:12

12 A. Probably once a week. Sometimes more. 11:24:16

13 Q. Has that been consistent throughout the 11:24:23

14 relevant period? 11:24:26

15 A. Yes. 11:24:26

16 Q. Do you buy beef for your household's 11:24:31

17 consumption? 11:24:35

18 A. Yes. 11:24:37

19 Q. Has your beef consumption changed in any 11:24:38

20 significant way since 2013? 11:24:40

21 A. There was a time during COVID where I think 11:24:47

22 we were buying more, but I think that's it. 11:24:49

23 Q. Got it. 11:24:54

24 And you buy beef for consumption for others 11:24:56

25 in your household too; right? 11:24:59

1 A. I would say, like, for a party or a potluck 11:26:05
2 at work or something. 11:26:12

3 Q. Right. So you testified that in a typical 11:26:16
4 month, you would -- you go grocery shopping once a 11:26:19
5 week, sometimes more; is that right? 11:26:22

6 A. Yes. 11:26:25

7 Q. In a typical month, how much would you say 11:26:26
8 your household spends on beef purchases and grocery 11:26:29
9 shopping? 11:26:35

10 MS. DUPREE: Objection to form. 11:26:37

11 THE WITNESS: Should I guess? 11:26:46

12 BY MR. BARNAS: 11:26:47

13 Q. Yes. Give us your best approximation. 11:26:48

14 A. I guess I'd have to say somewhere around 11:26:53
15 \$200. 11:26:58

16 Q. Per month? 11:27:01

17 A. Yeah. 11:27:02

18 Q. Okay. Are there periods in a given average 11:27:03
19 year where you purchase an increased amount of beef 11:27:07
20 at the grocery store? 11:27:12

21 A. Maybe during holidays. For instance, 11:27:15

22 New Year's -- for New Year's Eve, we do, like, a 11:27:18

23 roast typically. Things like that. 11:27:22

24 Q. Is that a yearly tradition, the New Year's 11:27:27

25 Eve roast? 11:27:30

1 A. Yeah. 11:27:33

2 Q. Okay. 11:27:34

3 A. Depends on -- you know, there's other -- 11:27:34

4 during the fall, we eat a lot of -- a lot of stews 11:27:36

5 and thing like that. It really just depends. 11:27:39

6 Q. Mm-hmm. 11:27:43

7 Do you buy more beef during the summer? 11:27:43

8 A. We grill a lot, so ... 11:27:48

9 Q. So that \$200 approximation you gave, that is 11:27:57

10 typical, but you may spend more during the summer and 11:28:00

11 New Year's; correct? 11:28:03

12 A. Yeah, it vary -- it could vary, but I would 11:28:04

13 say 200 is a good base. 11:28:06

14 Q. Okay. Do you buy more beef during football 11:28:08

15 season? 11:28:11

16 A. I don't -- we don't really follow football, 11:28:12

17 so ... 11:28:15

18 Q. Okay. In a typical month, how much would 11:28:16

19 you say your household spends on beef purchases in 11:28:23

20 dining out? 11:28:26

21 A. Hmm. That's a tough one. I don't know. 11:28:32

22 150 a month. Might go out twice a month or some -- 11:28:41

23 you know, it depends. 11:28:51

24 Q. Is that typical to go -- dine out twice a 11:28:53

25 month? 11:28:56

1 A. You -- you mean by my taste specifically? 11:36:25

2 Q. Let's start with you, and then your 11:36:27

3 household, yes. Let's start with you. 11:36:29

4 A. What -- you want me to just name some of my 11:36:35

5 favorite cuts of beef? 11:36:38

6 Q. Yes. Are there specific cuts of beef that 11:36:40

7 you prefer over others? 11:36:42

8 A. Yes. 11:36:43

9 Q. And what are those? 11:36:44

10 A. I -- I prefer filet. 11:36:45

11 Q. Got it. 11:36:48

12 And what about your fiancé? 11:36:49

13 A. He likes ribeye. 11:36:54

14 Q. Okay. 11:36:56

15 A. If we're talking favorites, then he likes 11:37:03

16 ribeye. Yeah. 11:37:06

17 Q. What brands of beef do you purchase? 11:37:23

18 A. It's usually just the store brand. 11:37:28

19 Q. So whatever grocery store you go to, you 11:37:36

20 don't really pay attention to the brand. 11:37:38

21 Is that fair to say -- 11:37:39

22 A. Well, no, usually -- like, sometimes it's a 11:37:41

23 butcher. You know, sometimes it's at the meat 11:37:43

24 counter. Sometimes -- it's -- it varies. 11:37:45

25 Q. Let's go back to the general factors you 11:37:59

1 consider when deciding where to purchase beef from. 11:38:01

2 A. Mm-hmm. 11:38:05

3 Q. What about a grocery store's selection? 11:38:06

4 MS. DUPREE: Objection to form. 11:38:09

5 THE WITNESS: So would a grocery store's 11:38:17

6 selection make me more inclined to shop there? 11:38:19

7 BY MR. BARNAS: 11:38:23

8 Q. Yes. 11:38:24

9 A. Yes. 11:38:26

10 Q. What about a grocery store's customer 11:38:27

11 service? 11:38:29

12 A. Yeah, that's important to me. 11:38:30

13 Q. Can you name any of the store-brand beef 11:38:43

14 products that you typically purchase? 11:38:48

15 A. Various types of cuts of meat from ground to 11:38:56

16 top round, bottom round, sirloin, strip, you know, 11:39:03

17 skirt. I could go on and on. 11:39:07

18 Q. But -- but can you name the brand name 11:39:10

19 that's -- that's labeled on these beef products? 11:39:12

20 MS. DUPREE: Objection to form. 11:39:17

21 THE WITNESS: It's usually just the sticker 11:39:22

22 from the counter. Like -- no, I don't -- I have no 11:39:24

23 idea, no. 11:39:27

24 BY MR. BARNAS: 11:39:28

25 Q. Got it. 11:39:29

1 MS. DUPREE: Objection to form. 11:41:58

2 THE WITNESS: Well, I -- you know, I don't 11:42:02

3 buy chicken from the deli. Usually, what I buy from 11:42:05

4 the deli is pork, roast beef, or turkey. That's 11:42:10

5 pretty much it. Or, like, salami or -- you know, I 11:42:16

6 mean, I don't really venture out too -- too much. 11:42:23

7 BY MR. BARNAS: 11:42:30

8 Q. Let me slightly change my question. 11:42:31

9 Let's say you're standing -- you're going to 11:42:33

10 a grocery store, not -- not the specific deli 11:42:35

11 section. You're going to a grocery store. 11:42:39

12 Walk me through your thought process on how 11:42:41

13 you compare different proteins in the grocery store, 11:42:44

14 not just at the deli counter. 11:42:48

15 MS. DUPREE: Objection to form. 11:42:50

16 THE WITNESS: It would really just be what I 11:43:00

17 was wanting to eat at that time. I don't -- I don't 11:43:02

18 really feel like I compare beef with ham or turkey 11:43:03

19 with -- with whatever. 11:43:07

20 BY MR. BARNAS: 11:43:07

21 Q. Right. So maybe -- can you recall an 11:43:07

22 instance when you went to a grocery store to buy 11:43:09

23 beef, but for some reason you ended up buying another 11:43:12

24 protein instead? 11:43:15

25 A. No. 11:43:17

1 coupon subscription service. 11:46:41

2 So the answer is no? 11:46:44

3 A. No. 11:46:45

4 Q. Got it. 11:46:45

5 MR. BARNAS: Let's just go off the record 11:46:57

6 for two minutes, please. 11:46:58

7 MS. DUPREE: Okay. 11:47:01

8 VIDEOGRAPHER: And we're off the record. 11:47:02

9 It's 11:46 a.m. 11:47:03

10 (Short recess taken.) 11:47:05

11 VIDEOGRAPHER: We're back on the record. 11:52:41

12 It's 11:52 a.m. 11:52:45

13 BY MR. BARNAS: 11:52:46

14 Q. Ms. Lemoi, during the relevant period, did 11:52:54

15 you purchase beef from supermarket chains? 11:52:57

16 A. Yes. 11:53:03

17 Q. Which ones? 11:53:04

18 A. Stop & Shop, Shaw's, PriceRite, BJ's. I 11:53:07

19 think that's it. 11:53:16

20 Q. What was -- what was the store you named 11:53:20

21 after Stop & Shop? 11:53:22

22 A. PriceRite. 11:53:25

23 Q. Show -- show rice? What -- 11:53:30

24 A. I'm sorry? 11:53:32

25 Q. You named Stop & Shop, and then after Stop & 11:53:32

1 Shop you named something like "show rice"? 11:53:34

2 A. No. PriceRite. 11:53:38

3 Q. Oh, PriceRite. Okay. 11:53:40

4 A. Yeah. 11:53:42

5 Q. So you named Stop & Shop, PriceRite, and 11:53:43

6 BJ's? 11:53:46

7 A. Oh, Shaw's. 11:53:47

8 Q. Shaw's. Okay. Thank you. 11:53:51

9 Let's just take these one by one. 11:53:54

10 What do you like the most about shopping at 11:53:56

11 Stop & Shop? 11:53:59

12 A. They're right near my house. 11:54:00

13 Q. Near your house. 11:54:02

14 What specific types of beef products did you 11:54:06

15 purchase from Stop & Shop? 11:54:09

16 A. Various types of cuts of -- of meat from 11:54:13

17 steak to beef ribs to top round, bottom round, beef 11:54:17

18 bacon, any -- any kind of beef. 11:54:23

19 Q. Okay. 11:54:27

20 A. Ground beef, filet, skewered beef, steak 11:54:29

21 tips. All kinds of stuff. 11:54:34

22 Q. And if I understand your previous testimony, 11:54:49

23 you would typically buy just the store-brand product; 11:54:51

24 is that right? 11:54:57

25 A. Typically from the meat counter, yes. 11:54:59

1 Q. What do you like about shopping at Shaw's? 11:55:08

2 A. They're usually cheaper than Stop & Shop. 11:55:14

3 Q. Specifically the beef products? 11:55:20

4 A. Yeah. 11:55:22

5 Q. And what about at Shaw's? What specific 11:55:27

6 types of beef products did you purchase from Shaw's? 11:55:30

7 A. The same type that I just named for Stop & 11:55:32

8 Shop. 11:55:35

9 Q. What do you like -- 11:55:37

10 A. And there's more than that. I mean, I could 11:55:38

11 list every single, you know, item that I've bought, 11:55:40

12 but we'd be here for a while, so ... 11:55:43

13 Q. Right. 11:55:46

14 So you mentioned your favorite cut of beef 11:55:47

15 was filet; is that right? 11:55:49

16 A. Yes. 11:55:51

17 Q. And your fiancé's favorite cut of -- or your 11:55:52

18 fiancé's favorite cut of beef was ribeye -- or is 11:55:57

19 ribeye. 11:56:00

20 A. Yes. 11:56:01

21 Q. But nonetheless, you purchase a wide variety 11:56:04

22 of beef products. 11:56:07

23 Is that fair to say? 11:56:09

24 A. Yes. 11:56:10

25 Q. Okay. What do you like shopping -- what do 11:56:11

1 you like the most about shopping at PriceRite? 11:56:14

2 A. They are the cheapest, I find. 11:56:18

3 Q. Cheaper than Shaw's and Stop & Shop? 11:56:21

4 A. Yes. 11:56:24

5 Q. And you would -- and generally speaking, you 11:56:27

6 purchase the same beef products that you previously 11:56:36

7 mentioned? 11:56:39

8 A. Yes. 11:56:39

9 Q. What do you like about shopping at BJ's? 11:56:41

10 A. You can buy in bulk. 11:56:44

11 Q. You can buy in bulk. 11:56:46

12 And the same beef products that just listed? 11:56:53

13 A. Yes, but it would be, like, bigger -- like 11:56:55

14 sides of beef instead of just one steak. It would be 11:56:57

15 a whole side of beef that you would cut into steaks 11:57:00

16 instead. Or a strip of filet rather than just one -- 11:57:03

17 you know. 11:57:12

18 Q. And your experience in procurement and 11:57:22

19 cooking in the restaurant and food service industry, 11:57:26

20 how does that impact the way you purchase beef for 11:57:27

21 your own personal consumption? 11:57:30

22 MS. DUPREE: Objection to form. 11:57:34

23 THE WITNESS: Can you reiterate? 11:57:36

24 BY MR. BARNAS: 11:57:38

25 Q. How does your experience in cooking and 11:57:42

1 procurement in the restaurant industry impact the way 11:57:46
2 you purchase beef for your own personal consumption? 11:57:51
3 MS. DUPREE: Same objection. 11:57:55
4 THE WITNESS: I don't think it does. 11:57:56
5 BY MR. BARNAS: 11:57:57
6 Q. It has no -- it has no impact at all? 11:57:57
7 A. I don't think it does. 11:58:00
8 Q. Who -- who cooks in the household? 11:58:22
9 A. Either myself or my fiancé. 11:58:26
10 Q. During the relevant period, did you purchase 11:58:31
11 beef from wholesale clubs like Sam's Club or Costco? 11:58:33
12 A. Yes. BJ's is a wholesale club. 11:58:38
13 Q. During the relevant period, did you purchase 11:59:02
14 beef from neighborhood grocery stores? 11:59:07
15 A. Yes. 11:59:10
16 Q. Can you name those? 11:59:10
17 A. Specifically, Venda. 11:59:12
18 Q. Venda? 11:59:16
19 A. There's a place called Venda Ravioli. They 11:59:16
20 have specialty meats and cheeses and pasta. There's 11:59:20
21 a couple -- I live [REDACTED] I 11:59:23
22 don't know if you're familiar with the area, but it's 11:59:26
23 like Little Italy, so there's a lot of little grocery 11:59:29
24 stores and specialty stores like that, so ... 11:59:31
25 Q. What -- what do you like about shopping at 11:59:35

1 Venda? 11:59:37

2 A. The quality. 11:59:38

3 Q. The quality. 11:59:39

4 And what beef products would -- did you 11:59:42

5 purchase from Venda? 11:59:45

6 A. They would have been specialty cuts. 11:59:47

7 Q. Can you name any of the specialty cuts? 11:59:54

8 A. Specifically, like filet. 11:59:56

9 Q. Filet. 11:59:59

10 And by filet -- when -- when you say "filet" 12:00:04

11 today, you mean the steak cut. 12:00:07

12 A. The cut -- the -- the actual filet of beef. 12:00:10

13 Yeah, the -- the filet of beef. 12:00:13

14 Q. Okay. 12:00:15

15 A. I -- I believe -- don't they call it the 12:00:16

16 tenderloin? I think it's called the tenderloin, the 12:00:18

17 beef -- the beef tenderloin -- the filet comes from 12:00:21

18 the -- the beef tenderloin, I think, if you're, like, 12:00:22

19 speaking from the cut of the cow. I think -- 12:00:25

20 Q. Right. 12:00:28

21 A. -- that's how it goes. 12:00:28

22 Q. Earlier you mentioned that you would 12:00:46

23 purchase skewers at Stop & Shop and the other grocery 12:00:48

24 stores. 12:00:51

25 And those would be in the meat counter at 12:00:56

1 these grocery stores; is that right? 12:00:58

2 A. Yes. 12:01:00

3 Q. Would there be any kind of -- for example, 12:01:01

4 would -- would those be marinated? 12:01:03

5 A. Sometimes they -- I don't typically like the 12:01:08

6 marinade that they -- I don't like -- I feel like 12:01:12

7 when -- when stores marinade beef like that it's 12:01:15

8 because they're, like, trying to hide the fact that 12:01:17

9 it's about to go. So usually, I'll stick to the 12:01:19

10 non-marinated cuts. 12:01:22

11 Q. I see. 12:01:24

12 So when you -- when you say "skewers," those 12:01:24

13 are just beef cut into smaller pieces on a -- 12:01:28

14 A. Like on a kabob, yes. Yes. 12:01:33

15 Q. Okay. Name of the grocery stores. 12:01:41

16 What about farmers' markets? Did you -- 12:01:46

17 during the relevant period, did you purchase beef 12:01:48

18 from farmers' markets? 12:01:51

19 A. I don't think beef, honestly. I don't think 12:01:53

20 so. 12:01:59

21 Q. During the relevant period, did you purchase 12:01:59

22 beef from butcher shops? 12:02:01

23 A. Not specifically, no. It would be more like 12:02:05

24 a butcher counter at a store. 12:02:08

25 Q. A butcher counter at one of the grocery 12:02:11

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of Lindsey Lemoi, commencing on July 30, 2024, at 10:02 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- (X) Review and signature was requested.
- () Review and signature was waived.
- () Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 5th day of August, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-24
Craig Margulies
(South Dakota)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No.:
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE VIDEO-RECORDED DEPOSITION OF
CRAIG MARGULIES

Taken on Monday, July 29, 2024
Taken via Zoom
9:03 a.m. - 11:38 p.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington
California CSR No. 14451

1 your household during the relevant time period? 10:37:19

2 A. Two. 10:37:20

3 Q. I'm sorry. Was that two? 10:37:24

4 A. Two, yes. 10:37:26

5 Q. Okay. You and your wife? 10:37:31

6 A. Yes. We have no children. 10:37:33

7 Q. Now, who was the primary purchaser of 10:37:35

8 groceries in your house during the relevant time 10:37:37

9 period? 10:37:40

10 A. I can't say as there was a primary one. We 10:37:48

11 both went when we had the time or -- or we could go. 10:37:50

12 Q. All right. 10:37:53

13 A. It -- it would -- 10:37:53

14 Q. I'm sorry. I didn't mean to interrupt you. 10:37:55

15 A. It -- it would vary from week to week who 10:37:57

16 would go and who would not go. 10:37:59

17 Q. So in a typical month, about how often would 10:38:07

18 you or your wife go grocery shopping? 10:38:09

19 A. Two to three. 10:38:15

20 Q. Two to three times a month? 10:38:17

21 A. Yes. 10:38:19

22 Q. Has that changed at all over the last ten 10:38:23

23 years or so? 10:38:26

24 A. Not really. 10:38:30

25 Q. And when you or your wife go grocery 10:38:34

1 shopping, do you buy beef for your own consumption at 10:38:37

2 home? 10:38:43

3 A. Yes. 10:38:43

4 Q. And you buy it for your whole household when 10:38:44

5 you go out? 10:38:47

6 A. For the two of us, yes. 10:38:48

7 Q. Now, at any point during the relevant time 10:38:56

8 period, have you or your wife been a vegetarian, 10:38:57

9 vegan, pescatarian, anything like that? 10:39:01

10 A. No. 10:39:04

11 Q. So you purchased beef for your consumption 10:39:06

12 during the whole relevant time period? 10:39:12

13 A. We do purchase, but erratically and 10:39:14

14 inconsistently. We don't eat a lot of beef. 10:39:19

15 Q. Okay. Well, in an average month -- let's 10:39:22

16 keep it at that -- how much money you would say you 10:39:32

17 spend purchasing beef during an average month? 10:39:35

18 A. I don't know. 10:39:38

19 Q. Are there other proteins that you purchase 10:39:40

20 more often? 10:39:47

21 A. There are other proteins we purchase, not 10:39:48

22 necessarily more often. 10:39:53

23 Q. Is there, in an average month, a protein 10:39:54

24 that you would say you purchase most often? 10:39:57

25 A. No. 10:40:06

1 Q. All right. Now, when you go out to, say, a 10:41:38
2 grocery store, do you go to large supermarket chains 10:41:46
3 or to local grocery stores more often? 10:41:51
4 A. Large. Hy-Vee is our primary source. 10:41:58
5 Q. Okay. Is there a Hy-Vee store near your 10:42:02
6 house? 10:42:08
7 A. Two are within five minutes. 10:42:09
8 Q. Okay. 10:42:12
9 (Siri: Five minutes starting now.) 10:42:12
10 MR. LOUD: Sorry. I think Siri heard you 10:42:19
11 say five minutes. I'm sorry. 10:42:22
12 BY MR. LOUD: 10:42:23
13 Q. Now, how often would you say you go to 10:42:23
14 Hy-Vee rather than another grocery store? 10:42:27
15 A. Maybe -- I -- I don't know what -- the right 10:42:40
16 answer you're asking for. Twice as much? I don't 10:42:43
17 know. I mean, it -- it's just closer, so we go there 10:42:45
18 more often. 10:42:48
19 Q. There's no right answer. I just mean in 10:42:50
20 general. 10:42:52
21 Now, on -- what do you like the most about 10:42:54
22 going to these Hy-Vee stores? Is it the convenience? 10:43:00
23 A. That's certainly one of the -- the main 10:43:05
24 things is convenience and proximity. 10:43:07
25 Q. What are some -- 10:43:12

1 Q. And you'll generally try to purchase Choice 10:46:06
2 or Prime over Select? 10:46:08
3 A. Typically Choice. 10:46:12
4 Q. Typically -- okay. 10:46:15
5 A. But there are some times that I do purchase 10:46:17
6 Select because they're good. 10:46:20
7 Q. Which -- which cuts do you tend to purchase 10:46:21
8 Select? 10:46:23
9 A. Oh, brisket, possibly, or tri-tip. 10:46:24
10 Q. Now, are those types of beef that you would 10:46:31
11 generally slow cook or something like that? 10:46:35
12 A. Brisket is definitely a slow cook. Tri-tip 10:46:42
13 is not so -- not so long -- or not -- you know, it's 10:46:52
14 much quicker. 10:46:53
15 Q. Now, are there any brands of beef that you 10:46:54
16 tend to purchase? 10:46:56
17 A. No. 10:46:59
18 Q. Okay. Now, we talked a lot about Hy-Vee. 10:47:02
19 Are there any other large supermarket chains 10:47:10
20 around you? 10:47:14
21 A. No other large supermarket chains in 10:47:14
22 Sioux Falls. 10:47:19
23 Q. There are no others? 10:47:21
24 A. No, not supermarket. 10:47:23
25 Q. When you say "not supermarket," are -- 10:47:29

1 A. There's -- there's -- there's Costco and 10:47:33
2 Walmart. 10:47:35

3 Q. Okay. 10:47:39

4 A. But -- 10:47:39

5 Q. I'm sorry. I didn't mean to cut you off. 10:47:43

6 A. No, but those aren't strictly supermarkets. 10:47:45

7 Q. Those are wholesale clubs; right? 10:47:52

8 A. I think so. 10:47:55

9 Q. Well, Costco is; right? 10:47:56

10 A. I -- I think so. I -- I -- I don't know how 10:48:00
11 they market themselves. 10:48:02

12 Q. Okay. Well, how often would you purchase 10:48:06
13 from, say, a Costco or a Walmart rather than Hy-Vee? 10:48:10

14 A. I -- I couldn't say how often. It -- 10:48:18
15 sometimes we go to Costco because there's things that 10:48:22
16 we like there better than -- than someplace else. 10:48:25

17 Q. So when you're deciding to go out grocery 10:48:33
18 shopping, will you, say, look at the catalog for 10:48:36
19 Hy-Vee versus Costco or Walmart? 10:48:41

20 A. No. 10:48:43

21 Q. Okay. So how -- how do you decide, you 10:48:46
22 know, which one of these stores has what you're 10:48:49
23 looking to buy? 10:48:53

24 A. Some carry a certain brand of -- of a 10:49:01
25 particular product that we like better than the 10:49:03

1 competitive brand at another store. If we like that 10:49:05
2 better, we'll buy it there, you know. It -- it's 10:49:08
3 mostly based on what we like and where -- and who 10:49:11
4 carries it. 10:49:13

5 Q. And obviously we already talked about this, 10:49:17
6 but when you're talking about what you like, are you 10:49:19
7 referring to quality? 10:49:24

8 A. Quality or a brand or, you know -- I mean, 10:49:26
9 it -- it would be, you know, just based on our 10:49:33
10 personal preference for whatever that product is. 10:49:34

11 Q. Are the prices between the two -- say, 10:49:41
12 between Hy-Vee and Costco, is that a significant 10:49:43
13 factor? 10:49:45

14 A. No. 10:49:46

15 Q. Okay. Are there certain types of beef that, 10:49:49
16 say, a Costco or a Walmart has that Hy-Vee doesn't 10:49:55
17 have that you prefer? 10:49:58

18 A. Not that I'm aware of. 10:50:06

19 Q. Okay. How about certain brands? Are there 10:50:07
20 brands that those stores have that Hy-Vee doesn't 10:50:10
21 have that you prefer? 10:50:12

22 A. No. 10:50:14

23 Q. Now, do you ever go to, like, independent 10:50:16
24 local grocery stores to purchase beef? 10:50:26

25 A. Occasionally. 10:50:27

1 Q. Are there any nearby your house? 10:50:28

2 A. No. 10:50:30

3 Q. About how far would you have to go for one 10:50:33

4 of those? 10:50:35

5 A. Five miles, 6 miles. There's only one. 10:50:40

6 Q. Okay. And what -- what store is that? 10:50:43

7 A. Yeah, Sunshine grocery store. 10:50:46

8 I think there's only one. There's only one 10:50:48

9 that I'm aware of. 10:50:51

10 Q. Okay. Now -- now, how much you decide to go 10:50:52

11 to, say, in -- the Sunshine market, you said, I 10:50:57

12 think? 10:51:02

13 A. It's -- yeah, it's just Sunshine. 10:51:02

14 Q. Okay. How would you decide to go to 10:51:05

15 Sunshine versus a Hy-Vee or a Costco? 10:51:07

16 A. I guess if there was something specifically 10:51:15

17 we had purchased there in the past, maybe if there 10:51:17

18 was a -- a special going on on something, that 10:51:20

19 might -- that might drive us there. But we -- we -- 10:51:24

20 we don't go there hardly ever. 10:51:27

21 Q. Okay. During the relevant time period, do 10:51:30

22 you remember any specific beef products that they had 10:51:34

23 that made you go there rather than, you know, the 10:51:39

24 larger stores that we've been talking about? 10:51:43

25 A. No. 10:51:46

1 in the 2010s. I -- I don't know how long they've 10:59:00
2 been here. I -- I really don't. 10:59:02
3 Q. Okay. So what benefits do you receive as a 10:59:04
4 Costco member? 10:59:11
5 MR. OWEN: Object to form. 10:59:15
6 THE WITNESS: I don't know what benefit we 10:59:17
7 get. 10:59:22
8 BY MR. LOUD: 10:59:24
9 Q. Well, does being a member of Costco allow 10:59:24
10 you to receive any discounts or coupons to purchase 10:59:27
11 beef from Costco? 10:59:31
12 A. No. 10:59:32
13 Q. No. Okay. 10:59:35
14 But you did purchase beef from Costco during 10:59:40
15 the relevant time period; right? 10:59:44
16 A. Yes. 10:59:45
17 Q. Okay. How often do you go out to sit-down 10:59:46
18 restaurants during the relevant time period? 10:59:51
19 A. Twice a month. 11:00:00
20 Q. Twice a month. 11:00:01
21 And do you usually go with your -- with your 11:00:03
22 wife? 11:00:05
23 A. Yes. 11:00:06
24 Q. Okay. Do you ever go out to a sit-down 11:00:07
25 restaurant with, you know, friends or family? 11:00:09

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of Craig Margulies, commencing on July 29, 2024, at 9:03 a.m.

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- (X) Review and signature was requested.
- () Review and signature was waived.
- () Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 3rd day of August, 2024.



Emily A. Gibb, RPR, CSR, CCR

Appendix C-25
Jacquelyn Watson (Tennessee)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF
ANTITRUST LITIGATION

Case No. 0:20-cv-01319
(JRT/JFD)

This Document Relates To:

CONSUMER INDIRECT
PURCHASER PLAINTIFF
ACTION

No. 0:22-md-03031
(JRT/JFD)

ZOOM DEPOSITION OF JACQUELYN WATSON
(Reported Remotely via Web videoconference)
Knoxville, Tennessee (Deponent's location)
Friday, March 29, 2024
Volume 1

STENOGRAPHICALLY REPORTED BY:
REBECCA L. ROMANO, RPR, CSR, CCR
California CSR No. 12546
Nevada CCR No. 827
Oregon CSR No. 20-0466
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JOB NO. 6589588
PAGES 1 - 120

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF
ANTITRUST LITIGATION

Case No. 0:20-cv-01319
(JRT/JFD)

This Document Relates To:

CONSUMER INDIRECT
PURCHASER PLAINTIFF
ACTION

No. 0:22-md-03031
(JRT/JFD)

DEPOSITION OF JACQUELYN WATSON, taken on
behalf of the Defendants Tyson Foods, Inc., and
Tyson Fresh Meats, Inc., with the deponent located
in Knoxville, Tennessee, commencing at 9:59 a.m.,
Friday, March 29, 2024, remotely reported via
Web videoconference before REBECCA L. ROMANO, a
Certified Shorthand Reporter, Certified Court
Reporter, Registered Professional Reporter.

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APPEARANCES(cont 'd)

ALSO PRESENT:

Chelsea Gilchrist, Concierge Technician

/////

1 Q. In a typical month, how often did you go 10:27:31
2 shopping for groceries?
3 A. Is it okay if I go by the week?
4 Q. Sure.
5 A. I would say twice a week. 10:27:52
6 Yeah, I think twice a week probably,
7 maybe more.
8 Q. Has that been consistent over the last
9 ten years?
10 A. I'm not sure. Ten years is long. 10:28:06
11 Q. To the best of your recollection, do you
12 think that you go grocery shopping more often than
13 you did five years ago?
14 A. I think so, based on my family size grew.
15 Q. So would the answer be the same for ten 10:28:27
16 years ago as well?
17 A. Yes.
18 Q. Do you buy --
19 A. Can I ask for clarification?
20 Are you asking for quantity of groceries 10:28:46
21 or frequency of going to the store?
22 What was the question?
23 Q. It was -- thank you for asking.
24 It was frequency. We'll get to --
25 A. Okay. 10:29:02

1 Q. -- quantity and -- we'll get into 10:29:02

2 details, Ms. Watson, about your grocery shopping.

3 Okay. When you grocery shop, do you buy

4 beef for your own consumption at home?

5 A. Yes. 10:29:18

6 Q. Do you buy beef for just yourself or also
7 for others?

8 A. For the family.

9 Q. Who is included in the family?

10 A. My spouse and my four children. 10:29:32

11 Q. How long are your kids?

12 A. 11, 9, 4, and 1.

13 Q. Do all of your family members eat beef?

14 A. Yes.

15 Q. Have all of your family members eaten 10:29:57
16 beef on a consistent basis over the last ten years?

17 MR. OWEN: Objection. Form.

18 You can answer.

19 THE DEPONENT: Okay. I got distracted.

20 What's the question again? 10:30:15

21 Q. (By Ms. Burke) Have all of your
22 family -- have you and all of your family members
23 generally eaten beef on a consistent basis over the
24 last ten years?

25 A. Yes. 10:30:27

1 restaurants, maybe once, twice a month. They were 10:39:44

2 little. They didn't know to ask.

3 I've got older kids now. They ask.

4 Q. How else did the pandemic affect your
5 beef consumption habits? 10:40:01

6 A. I'm not -- I'm not sure.

7 Are you asking did I eat more or less
8 beef?

9 Q. Sure.

10 A. I would say we consume the same amount. 10:40:25

11 Q. So did it just differ on where you got
12 it, cooking versus out?

13 A. I was thinking more about how I prepared
14 it and how I stored it.

15 Q. Can you elaborate on that? 10:40:46

16 A. I did more -- I think -- I think I did
17 more larger purchases, divided, froze, or prepared
18 frozen meals out of fresh beef. And then like -- I
19 did more meal prepping during that time.

20 Q. Okay. How much beef would you say you 10:41:17
21 buy to cook and eat at home during a typical week?

22 A. It would be easier for me to think about
23 monthly, because I buy in bulk.

24 Would that work for you?

25 Q. Sure. 10:41:38

1 A. I -- there are receipts that you can 10:41:46

2 refer to. I'm not sure, but 15 pounds or more.

3 Q. Per month?

4 A. Yes.

5 Q. When you say that there are receipts that 10:42:08

6 I can refer to, where are they from?

7 A. Sam's Club, Walmart.

8 I think it's called Fresh Market. There

9 was a short stretch that I was buying from another

10 store. I think it's called Fresh Market. 10:42:24

11 Q. Did you give those receipts to your
12 attorneys?

13 A. Yes.

14 Q. When did you start saving your receipts?

15 A. I didn't have to make a special effort. 10:42:50

16 I've been -- it's been electrically recorded for --
17 since at least 2014, I believe. 2015? I think it
18 was 2014.

19 Q. Okay. Is that true for all of the
20 grocery stores that you shop at? 10:43:12

21 A. I don't know.

22 I don't -- I don't know about Kroger. I
23 assume so. They have -- I think they've been
24 tracking me since, gosh, when I was employed there
25 20- -- or 2005, probably. It goes back for Kroger. 10:43:29

1 There's another Kroger that I have gone 11:33:24
2 to on Kingston Pike and Cedar Bluff Road.

3 Memory is so hard.

4 It just came to me, Chapman Highway. I
5 don't know of an intersection with that. 11:33:44

6 Q. Okay. That's okay.

7 Could you estimate when the last time
8 that you purchased beef from Kroger was?

9 A. I don't know.

10 Q. It sounds like you purchased beef from 11:34:16
11 Sam's Club; is that accurate?

12 A. Yes.

13 Q. What Sam's Club locations do you purchase
14 beef from?

15 A. Walbrook Road, Knoxville. 11:34:31

16 Q. Is that the only one?

17 A. Yes.

18 Q. What specific types of beef products do
19 you buy from Sam's Club?

20 A. Ground chuck, ground sirloin, frozen beef 11:34:52
21 patties, Angus frozen beef patties, chuck roast,
22 beef stew meat -- I think that's what it's called.

23 I think that's -- that's the majority of
24 what I would get.

25 Q. Have you consistently bought those 11:35:38

1 Q. On the occasions that you have gotten 11:48:54
2 your groceries delivered, do you know if it's
3 through Sam's Club or like a third-party service
4 like Uber Eats or something?

5 A. I don't know what service they use. And 11:49:08
6 I'm -- I think I've only used it once.

7 Q. Okay. Let's talk about Walmart. I'll
8 probably go through basically the same set of
9 questions.

10 Let me back up. 11:49:35

11 Do you purchase beef from Walmart?

12 A. Yes.

13 Q. What locations do you purchase beef from?

14 A. Walbrook, Knoxville.

15 Q. Is that the only one? 11:49:59

16 A. Ever or currently?

17 Q. Currently.

18 A. Yeah.

19 Well, it's possible -- there's a
20 Parkside -- no, what is that called? I don't know. 11:50:15
21 It's out at Turkey Creek. It might be Parkside. I
22 don't know.

23 Sometimes I get groceries from there.

24 Q. Okay. What type of beef products do you

25 buy from Walmart? 11:50:30

1 A. Ground chuck. Ground beef. I've brought 11:50:35
2 frozen beef patties there before. I've bought
3 chuck roasts. I've bought eye of round. I've
4 bought stew meat there.

5 I think that's probably it, yeah. 11:51:07

6 Q. How often do you purchase ground chuck
7 from Walmart?

8 A. I don't know. It's -- it -- it varies
9 depending on just life.

10 Q. Okay. Yeah, that's fair. 11:51:33

11 Could you estimate, in a typical week or
12 month, how much ground chuck you purchase from
13 Walmart?

14 A. If I was -- I think theirs comes in a
15 2.25-pound package. Maybe once in a month. 11:51:54

16 Q. Has that changed over the last ten years?

17 A. Yeah, I think I tend -- I think I've
18 shifted more toward Sam's. And my Walmart
19 purchases are when I drop the ball on Sam's, so
20 it's easier to get a time slot for Walmart. 11:52:27

21 So if I'm buying on the fly, it's
22 Walmart. If I have a plan, it's Sam's Club.

23 Q. Okay. Do you know the brand of ground
24 chuck from Walmart?

25 A. It doesn't have a logo. It's just a 11:52:51

1 yes-or-no answer. 01:25:13

2 A. Yes.

3 Q. Okay. Who instructed you?

4 A. I don't know.

5 Q. Are you aware that the defendants in this 01:25:38

6 case have requested Plaintiffs, named Plaintiffs,

7 to turn over certain documents in this case?

8 A. Can you put it in more plain language.

9 I don't know what that means.

10 Q. Okay. Are you aware that the defendants 01:25:59

11 in this case asked you, as the plaintiff -- or not

12 you specifically, but asked for the plaintiffs'

13 documents in this case?

14 A. Well, I certainly am now. I don't --

15 I -- I think I knew that. It's -- I'm not sure 01:26:24

16 that anybody explicitly had a conversation with me

17 about that, but...

18 Q. Okay.

19 A. Are you asking if I gave consent or -- I

20 feel like I did consent to that. 01:26:44

21 Q. Consent to what?

22 A. Sharing my information.

23 Q. Okay. Do you mean sharing your

24 documents?

25 A. Yeah, I know that I wasn't anonymous. 01:27:03

1 I, Rebecca L. Romano, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me remotely at the time and place herein set
6 forth; that any deponents in the foregoing
7 proceedings, prior to testifying, were administered
8 an oath; that a record of the proceedings was made
9 by me using machine shorthand which was thereafter
10 transcribed under my direction; that the foregoing
11 transcript is true record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [X] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

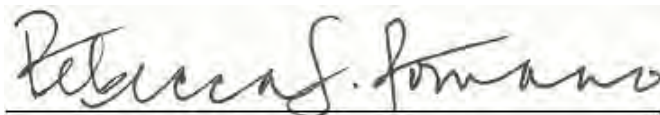
19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21

22 Dated: April 5, 2024

23

24



Rebecca L. Romano, RPR, CCR

25

CSR. No 12546

Appendix C-26
Cindy Abernathy (Utah)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No. :
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

REMOTE 30(b)(1) DEPOSITION OF CINDY ABERNATHY

Taken via Zoom
On Wednesday, January 10, 2024
At 10:01 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington

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Bob Brasch, Veritext Concierge

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I N D E X

CINDY ABERNATHY	PAGE
Examination By Mr. Stratford	6
Examination By Ms. Wolf	113

* * *

E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1 -	Consumer Indirect Purchaser Plaintiffs' Fourth Amended Class Action Complaint	15
Exhibit 2 -	Email Exchange Re: You paid what? [CONSUMERIPP0000019135-19136]	36
Exhibit 3 -	6-22-14 Email to Barbara Blocker [CONSUMERIPP0000019127]	50
Exhibit 4 -	6-26-14 Email from Cindy Abernathy Re: Lead for you [CONSUMERIPP0000019128]	55
Exhibit 5 -	Email Exchanges Between Lau Family Farm and Cindy Abernathy [CONSUMERIPP0000019151-19163]	57
Exhibit 6 -	Copies of Receipts [CONSUMERIPP0000019164-19176]	80
Exhibit 7 -	Counsel for Plaintiffs in the Consumer Indirect Purchaser Class	110

1 of groceries in your household?

2 A. I am.

3 Q. Has that changed at all over the last ten
4 years?

5 A. No.

6 Q. In a typical month, how often do you go
7 shopping for groceries?

8 A. I'd say weekly.

9 Q. Has that been true for the last ten years?

10 A. Yes.

11 Q. And do you buy beef for your own consumption
12 at home?

13 A. Yes.

14 Q. Do you buy beef just for yourself or also
15 for others?

16 A. Just for myself.

17 Q. Has that been true for the last ten years as
18 well?

19 A. Yes.

20 Q. Have you generally eaten beef on a
21 consistent basis for the last ten years?

22 A. My consumption has gone up and down.

23 Q. In -- can you describe in the ways that it's
24 gone up and down?

25 MS. WOLF: Objection. Vague.

1 restaurant, are you typically ordering beef?

2 A. Yes.

3 Q. How much beef would you say that you buy to
4 cook or eat at home during a typical week?

5 A. That fluctuates as well. With the prices
6 lately, I've cut down, but -- did you say how much
7 or -- how much beef in a week I buy?

8 Q. Yeah. How much beef --

9 A. Um --

10 Q. -- to bring home to either cook or to eat at
11 home in a typical week?

12 A. So --

13 MS. WOLF: Objection. Vague as to pounds or
14 dollars.

15 THE WITNESS: I guess, because I'm -- I've
16 been eating out a lot recently, so maybe buying beef
17 a few times a week right now. Maybe two -- two times
18 a week.

19 BY MR. STRATFORD:

20 Q. And it sounds like that changes over the
21 course of time how much you're -- you're sort of
22 buying to make at home; is that right?

23 A. Yes.

24 MS. WOLF: Objection. Misstates prior
25 testimony.

1 Q. (Nods head.)

2 A. Not tried to avoid eating meat. I don't
3 think I've -- any particular reason that I've tried
4 to avoid it. It was more either a pricing issue
5 or -- or eating out -- or eating TV dinners or
6 something.

7 Q. And at the end of this first paragraph, it
8 says:

9 "So...just bought some grass fed chuck roast
10 at the farmer's market."

11 Do you recall who you had bought the
12 grass-fed chuck roast from at the farmers' market?

13 A. No. That's 2014, so I would have been down
14 in the Salt Lake City area. I have no idea.

15 Q. And at the end of that paragraph, it says:

16 "They provide beef to Whole Foods and WF
17 sells it for \$9.99 a pound."

18 Is it your understanding that the -- whoever
19 you were buying the beef from at the farmers' market
20 also sells their beef directly to Whole Foods?

21 MS. WOLF: Objection. Form.

22 You may answer the question, Ms. Abernathy.

23 THE WITNESS: I don't know how I knew that
24 they provided beef to Whole Foods. They must have
25 told me that. But I said it, so they must have told

1 Sorry, Ms. Abernathy. Have you had a chance
2 to review?

3 A. Yes.

4 Q. Okay. So this is an email string between
5 yourself and Lori Anne Lau dated March 1st of 2019.

6 Do you recognize this email?

7 A. I do.

8 Q. Who is Lori Anne Lau?

9 A. That is the name of the farm that sells at
10 the farmers' market here that I couldn't remember
11 before.

12 Q. Okay. Are -- is Lau Family Farms, are -- do
13 you know if they're located in Cache Valley?

14 A. I think they're north of us. I'm not sure
15 if it's in Cache Valley or not.

16 Q. But they are -- are they the ones who go to
17 farmers' markets that you'll attend and purchase beef
18 from?

19 A. Yes. Up here in Cache Valley, yes.

20 Q. And it looks like in this email you're
21 arranging to purchase 3 pounds of boneless short
22 ribs; is that right?

23 A. Yes.

24 Q. Did you actually complete this purchase?

25 A. I believe I did.

1 Q. Has the type of beef that you've purchased
2 at farmers' markets changed over the last ten years?

3 A. Type -- what do you mean by "type"?

4 Q. Yeah. Is it -- is it fair to say that when
5 you're buying beef from a farmers' market, you're
6 buying steak and ground beef; right?

7 A. Usually steak most of the time.

8 Q. Okay. Has that generally been consistent
9 over the last ten years?

10 A. Yes, because I can cook a steak.

11 Q. What cut of steak do you usually buy from
12 farmers' markets?

13 A. I will get a New York strip or porterhouse.
14 I usually cut them and make them into more than one
15 steak.

16 Q. And when you're buying beef from farmers'
17 markets, are those farmers' markets only available
18 during the summer months?

19 A. No. They send emails out that they come to
20 different -- they come to a coffee shop here in town
21 and deliver, and you -- you pay for it in the parking
22 lot.

23 Q. And -- and they do that during the winter
24 months?

25 A. I think so, yes.

1 have gone up for everyone and that they might be
2 charging more.

3 BY MR. STRATFORD:

4 Q. And would that be the result of inflation?

5 A. Or whatever is making prices go up, yeah.

6 Q. Do you recall a time when the price of beef
7 that you've purchased at farmers' market has gone
8 down over the past ten years?

9 A. I don't remember that.

10 Q. Do you ever purchase beef from local butcher
11 shops?

12 A. No.

13 Q. What -- I know we've talked a little bit
14 about Natural Grocers and Smith's.

15 What other grocery stores do you typically
16 purchase beef from?

17 A. Really, the only one left in my area is
18 Macey's.

19 Q. And what specific types of beef products do
20 you typically buy from the grocery stores that you
21 visit?

22 A. The same as the farmers' market. I buy
23 steaks usually.

24 Q. Fair to say you also occasionally buy ground
25 beef from those grocery stores as well?

1 Q. -- is that right?

2 A. Yes.

3 Q. Okay. Do you know if the steaks that you've
4 purchased from grocery stores are processed from
5 dairy cattle?

6 A. I don't know.

7 Q. Do you know if the steaks that you are
8 purchasing from grocery stores are processed from fed
9 cattle?

10 A. I can assume so, since fed cattle is cattle
11 specifically fed for butchering for human
12 consumption, as I understand it.

13 Q. Do you purchase beef from superstores, like
14 Walmart or Target or Whole Foods?

15 A. I purchased from Whole Foods when I was in
16 Salt Lake. I don't have -- in that area. I don't
17 have one near me now. I tend not to buy groceries
18 from Walmart.

19 Q. When you were buying beef from Whole Foods
20 when you were living in Midvale, were you also
21 typically buying steaks and occasionally ground beef?

22 A. Yes.

23 Q. Any other types of beef that you would have
24 purchased from Whole Foods?

25 A. Probably roast.

1 MS. WOLF: I was going to say, Barry, do you
2 have a sense of how much longer you're going to be?
3 Maybe that would help us make our decision.

4 MR. STRATFORD: I think I might be able to
5 finish in a half hour, but I -- certainly no more
6 than an hour.

7 MS. WOLF: Okay.

8 THE WITNESS: I'm fine to continue.

9 MR. STRATFORD: Okay. Let's take just a
10 quick five-minute break, then, and hopefully we can
11 power through in the next hour.

12 MS. WOLF: Sounds good.

13 MR. STRATFORD: Let's go off the record.

14 (Short recess taken.)

15 MR. STRATFORD: Let's go ahead and go back
16 on the record.

17 I'd like to introduce what has been
18 premarked as Exhibit Abernath Exhibit 06.

19 (Exhibit 6 was marked for
20 identification.)

21 MR. STRATFORD: And, Bob, if you wouldn't
22 mind pulling that up.

23 CONCIERGE: Stand by.

24 BY MR. STRATFORD:

25 Q. And, Ms. Abernathy, I'm going to just sort

1 of walk you through page by page on this, but this
2 appears to be the receipts that were produced by your
3 counsel in this litigation.

4 Is that what you understand this is?

5 A. Yes.

6 Q. And what are the circles on these receipts?

7 A. That's the beef products that I bought.

8 Q. And did you draw those circles?

9 A. I did, yeah.

10 Q. How did you go about identifying the beef
11 products on these receipts?

12 A. I was looking for the word "beef" or
13 "steak."

14 Q. Okay. So on this first page, the Natural
15 Grocers receipt, it looks like "THHL G BEEF GFD."

16 Do you know what that is?

17 A. Yes. I think it's Thousand Hills.

18 Q. And is that the brand that we had been
19 talking about earlier that I think we had referred to
20 as Thousand Acres?

21 A. Yes, yes.

22 Q. Okay. Is this a ground beef?

23 A. It looks like ground beef grass-fed.

24 Q. Okay. Is it your understanding that GFD
25 stands for grass-fed?

1 A. I'm assuming it does, yes.

2 Q. Do you know if this product was processed by
3 one of the defendants?

4 A. I do not know that.

5 Q. Is it your understanding that this product
6 was processed from grass-fed cattle?

7 A. Yes. It's -- they mark theirs as grass-fed.

8 Q. Okay. We can jump to the next page. And
9 for the first circle on this, that appears to be
10 sirloin.

11 Is that what you read?

12 A. I think so, yes.

13 Q. And do you know if this sirloin product was
14 processed by one of the defendants?

15 A. I don't know.

16 Q. Do you know if it was processed from
17 grass-fed cattle?

18 A. I don't know for sure.

19 Q. And the second circle on this page, the
20 first portion's not especially legible. But then it
21 says "BUFFAL."

22 Do you understand what that means?

23 A. Yeah. I -- I don't know if it's buffalo and
24 beef mixed, or if I bought buffalo by itself, so I'm
25 not sure.

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REPORTER'S CERTIFICATE

I, the undersigned Certified Shorthand Reporter, holding a valid and current license issued by the State of Utah, do hereby certify:

That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in any way interested in the outcome thereof.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have subscribed my name on this date: January 16, 2024.



Emily A. Gibb

Certified Shorthand Reporter

Appendix C-27
Leigh Tiller (West Virginia)
Declaration

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE: CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:22-MD-3031 (JRT/JFD)

**DECLARATION OF PLAINTIFF
LEIGH TILLER IN SUPPORT OF
CONSUMER INDIRECT
PURCHASER PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

This Document Relates to:

*Consumer Indirect Purchaser Plaintiff
Actions*

I, Plaintiff Leigh Tiller, state under oath, as follows:


1. I make this declaration in support of Consumer Indirect Purchaser Plaintiffs' Motion for Class Certification in the above-captioned related actions. I am familiar with the facts set forth herein, and if called upon to do so, I could and would testify competently to them.

2. During the 2014-2019 class period, I lived in West Virginia. I usually bought beef weekly to every other week from a physical supermarket: Kroger. My beef purchases included: ribeye, sirloin, tenderloin, round steak, rump roast, chuck pot roast, and round roast.

3. I understand my role as a representative of members of the proposed Class involves duties beyond those I would have if this case were brought solely for me. For instance, I understand that I should keep informed about important events in the case. I have committed to doing what counsel asks me to assist in prosecuting the case, such as producing documents, answering interrogatories, and having my deposition taken, and I am willing to testify at the trial if asked to do so.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: September 23, 2024

DocuSigned by:

9A0658A28F311A4
Leigh Tiller

Appendix C-28
Jason Falbo (Wisconsin)
Deposition Testimony Excerpt

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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IN RE: CATTLE AND BEEF)
ANTITRUST LITIGATION) Case No.:
) 22-md-3031 (JRT/JFD)
This Document Relates To:)
Consumer Indirect Purchaser)
Plaintiff Actions)
_____)

VIDEO-RECORDED REMOTE 30(b)(1) DEPOSITION OF
JASON FALBO

Taken via Zoom
On Wednesday, June 12, 2024
At 10:02 a.m.

Reported by: Emily A. Gibb, RPR, CSR, CCR
Certified: Utah, Nevada, California, Idaho Washington

1 Q. Are there higher quality or premium beef 10:48:45
2 products that you prefer to purchase? 10:48:48
3 MS. DUPREE: Objection to form. 10:48:50
4 THE WITNESS: Well, if I'm going to get a 10:48:52
5 steak, I'm going to get a good steak, if that's what 10:48:54
6 you're asking. 10:48:57
7 BY MS. BOLLMAN: 10:48:58
8 Q. What does a "good steak" mean to you? 10:48:58
9 A. Ribeye, porterhouse. 10:49:01
10 Q. Do you prefer to purchase, for example, 10:49:15
11 grass-fed beef? 10:49:18
12 A. To me, beef it is beef. 10:49:20
13 Q. What about Certified Angus Beef? 10:49:22
14 A. Again, beef is beef to me. 10:49:24
15 Q. So you might be looking at the better cuts 10:49:32
16 of meat, but not necessarily any other factors; is 10:49:34
17 that -- am I getting that right? 10:49:41
18 A. That would be a fair statement. 10:49:43
19 Q. Which brands of beef products do you usually 10:49:58
20 buy? 10:50:00
21 A. The ones that come out of the -- the meat 10:50:01
22 department at the grocery store. 10:50:05
23 Q. Do you have any named brands that you 10:50:10
24 typically buy? 10:50:12
25 A. Piggly Wiggly or Meijer, primarily. 10:50:15

1 and the work phone you just gave me, do you have any 11:02:22
 2 other phone numbers? 11:02:25
 3 A. I do not, no. 11:02:27
 4 Q. And at Meijer specifically, have you ever 11:02:33
 5 used those mPerks towards the purchase of beef 11:02:36
 6 products? 11:02:41
 7 A. Yes. 11:02:43
 8 Q. Do you recall a time? 11:02:45
 9 A. Any time we can use any kind of coupon or 11:02:46
 10 deal at Meijers, we'd be punching our phone number 11:02:49
 11 every time we go grocery shopping, whether it's in 11:02:53
 12 person or digitally. 11:02:56
 13 Q. So how often would you say that you're 11:03:02
 14 getting discounts on beef purchased at Meijer? 11:03:06
 15 A. I don't know. 11:03:11
 16 MS. DUPREE: Objection to form. 11:03:12
 17 BY MS. BOLLMAN: 11:03:12
 18 Q. So you don't know how often, but you usually 11:03:15
 19 use the loyalty program and you know that, on 11:03:17
 20 occasion at least, beef products are included? 11:03:21
 21 A. Yes. 11:03:25
 22 Q. And how often do you shop at Meijer? 11:03:41
 23 A. Would be the majority of the time. Piggly 11:03:46
 24 Wiggly is a smaller store. We typically go there 11:03:47
 25 when they're having specific deals we're looking for. 11:03:50

1 So the majority of my grocery shopping would be at 11:03:51

2 Meijer right now. 11:03:54

3 Q. And since you've moved around a little bit, 11:03:55

4 has that changed in the last ten years? 11:03:59

5 A. I don't understand what you're asking. 11:04:00

6 Q. You said you do the majority of your 11:04:03

7 purchasing at Meijer; correct? 11:04:05

8 A. Correct. 11:04:07

9 Q. Has that been true for the last ten years? 11:04:07

10 A. No. 11:04:10

11 Q. So for how long have you been doing the 11:04:18

12 majority of your purchasing at Meijer? 11:04:20

13 A. Majority would be Wisconsin. Illinois we 11:04:23

14 did some, but I had several different choices and 11:04:24

15 there's several different chain groceries stores 11:04:25

16 there. And then when I lived in Roseville, Illinois, 11:04:27

17 Hy-Vee was the only game in town. 11:04:31

18 Q. I'll try to go through all those and 11:04:51

19 understand that in -- in just a minute. 11:04:53

20 Looking at Piggly Wiggly on this list, we've 11:04:59

21 talked about it a little bit, do you know your 11:05:02

22 account number for Piggly Wiggly? 11:05:05

23 A. My phone number. That's the only thing I 11:05:09

24 need to know. 11:05:11

25 Q. And have you ever -- how does the loyalty 11:05:16

1 MS. DUPREE: Objection to form. 11:09:11

2 THE WITNESS: Yes. 11:09:14

3 MS. BOLLMAN: Great. I think we can take 11:09:17

4 this down now. 11:09:19

5 BY MS. BOLLMAN: 11:09:26

6 Q. So before you moved to Wisconsin in 2019, 11:09:26

7 how much beef did you purchase in the state of 11:09:29

8 Wisconsin? 11:09:30

9 A. I don't know. 11:09:32

10 Q. Are you able to estimate? 11:09:34

11 A. No. 11:09:35

12 Q. Before you moved to Wisconsin in 2019, how 11:09:40

13 often did you visit Wisconsin? 11:09:42

14 A. A few times to go snowmobiling. 11:09:47

15 Q. Did you purchase beef on those trips? 11:09:54

16 A. It's definitely possible. 11:09:59

17 Q. What beef did you purchase on those trips? 11:10:02

18 A. I don't remember. 11:10:10

19 Q. Do you remember purchasing beef, or do you 11:10:11

20 just believe it might be possible? 11:10:13

21 A. I believe it would be possible. I don't 11:10:16

22 remember specifics, no. 11:10:17

23 Q. And do you know how much money you spent on 11:10:35

24 beef purchased in the state of Wisconsin before you 11:10:37

25 moved to Wisconsin? 11:10:40

1 A. No. 11:10:41

2 MS. BOLLMAN: We've been going for about an 11:10:46

3 hour. I would suggest like a 5-minute break if 11:10:48

4 that's okay with everyone? 11:10:51

5 THE WITNESS: Yep. A cigarette break time. 11:10:53

6 It's all good to me. 11:10:55

7 MS. BOLLMAN: Great. 11:10:55

8 MS. DUPREE: Let's go off the record. 11:10:56

9 VIDEOGRAPHER: We're off the record. It's 11:10:58

10 11:10 a.m. 11:11:00

11 (Short recess taken.) 11:11:01

12 VIDEOGRAPHER: We're back on the record. 11:20:38

13 It's 11:20 a.m. 11:20:41

14 BY MS. BOLLMAN: 11:20:43

15 Q. Mr. Falbo, during the break, did you speak 11:20:44

16 about your testimony with anyone? 11:20:46

17 A. No. 11:20:48

18 Q. So from our conversation, I understand that 11:20:49

19 generally, since you moved to Wisconsin in 2019, you 11:20:51

20 purchase beef from Meijer about 75 percent of the 11:20:57

21 time and Piggly Wiggly about 25 percent of the time. 11:21:00

22 Do I have that right? 11:21:03

23 A. Correct. 11:21:05

24 Q. Do you purchase from any other supermarkets? 11:21:07

25 A. Occasionally, we get some stuff from Walmart 11:21:15

1 if we're buying other things at Walmart. 11:21:17

2 Q. And then before you moved to Wisconsin in 11:21:27

3 2019, which supermarkets did you purchase beef from? 11:21:29

4 A. Primarily Hy-Vee. 11:21:36

5 Q. Anywhere else? 11:21:51

6 A. Well, in the past when I lived near Jewels 11:21:53

7 or Dominick's, I'd purchase it from there. 11:21:57

8 Q. So when you lived in Illinois, was Jewels 11:22:00

9 and Dominick's your primary supermarkets that you 11:22:02

10 would purchase beef at? 11:22:07

11 A. Correct. 11:22:08

12 Q. And then Hy-Vee was your primary location 11:22:14

13 for purchase -- primary supermarket for purchasing 11:22:16

14 beef while you lived in Iowa? 11:22:19

15 A. Yes. 11:22:21

16 MR. COFFMAN: Objection to form. 11:22:22

17 BY MS. BOLLMAN: 11:22:23

18 Q. All right. I would like to go through each 11:22:35

19 of these and sort of understand your beef purchasing 11:22:36

20 history. 11:22:40

21 So let's start with Meijer. Which locations 11:22:41

22 do you purchase beef from? 11:22:45

23 A. Grafton, Wisconsin. 11:22:48

24 Q. And what specific types of beef products do 11:22:58

25 you typically purchase from Meijer? 11:23:00

1 A. Stuff we eat: Ground beef, steak, roast. 11:23:04

2 Q. Anything else? 11:23:08

3 A. I'm sure there is, but that's our main 11:23:14

4 go-tos. 11:23:16

5 Q. So apologies. You said ground beef, steak, 11:23:25

6 roasts? 11:23:29

7 A. Correct. 11:23:30

8 Q. And has that type of beef that you purchased 11:23:38

9 from Meijer changed since 2019 when you started going 11:23:41

10 to Meijer? 11:23:44

11 A. I don't understand what you're asking me. 11:23:46

12 Q. So you said you typically purchase ground 11:23:48

13 beef, roasts, steaks, from Meijer; correct? 11:23:50

14 A. Correct. 11:23:53

15 Q. And you started going to Meijer around 2019? 11:23:54

16 A. Correct. 11:23:58

17 Q. Okay. So has that type of beef, steak, 11:23:59

18 roasts, ground beef, changed since you started going 11:24:03

19 to Meijer? 11:24:05

20 A. No, that's the typical things that we would 11:24:06

21 buy. 11:24:09

22 Q. So what type of ground beef do you typically 11:24:13

23 buy from Meijer? 11:24:17

24 A. 80/20. 11:24:19

25 Q. During a typical month, how many pounds of 11:24:26

1 ground beef do you purchase from Meijer? 11:24:30

2 A. It would vary. It would be impossible for 11:24:33

3 me to tell you that. 11:24:35

4 Q. Are you able to estimate any time over the 11:24:40

5 past -- since 2019 when you started purchasing at 11:24:42

6 Meijer? 11:24:46

7 A. No. 11:24:46

8 Q. And do you -- do you have a typical brand of 11:25:03

9 ground beef that you purchase from Meijer 11:25:03

10 specifically? 11:25:03

11 A. The one that comes out of the meat 11:25:03

12 department. 11:25:05

13 Q. But no specific brand? 11:25:11

14 A. The Meijer brand. 11:25:13

15 Q. Do you know if that ground beef was 11:25:15

16 processed by one of the defendants? 11:25:20

17 A. No. 11:25:21

18 Q. Do you know if that Meijer brand ground beef 11:25:29

19 was processed from fed cattle or from dairy cattle? 11:25:33

20 A. I do not. 11:25:37

21 Q. So for the steaks that you're buying from 11:25:45

22 Meijer, do you have a specific cut or grade that you 11:25:48

23 typically purchase? 11:25:52

24 A. Typically, we buy a ribeye or porterhouse. 11:25:54

25 Occasional filet mignon. Occasional New York strip, 11:25:57

1 but ribeye typically is our go-to. 11:26:02

2 Q. And during a typical month, how many pounds 11:26:08

3 of steak do you purchase from Meijer? 11:26:10

4 A. It would vary. 11:26:14

5 Q. And is that true since you started 11:26:20

6 purchasing beef from Meijer? 11:26:22

7 A. Yes. 11:26:23

8 Q. And what brand of steak, you know, ribeye, 11:26:26

9 porter, filet mignon, whatever, do you typically 11:26:29

10 purchase from Meijer specifically? 11:26:33

11 A. The one that comes out of the Meijer meat 11:26:35

12 department. 11:26:37

13 Q. Do you know if those Meijer steaks were 11:26:40

14 processed by one of the defendants? 11:26:42

15 A. I do not. 11:26:44

16 Q. Do you know if those Meijer steaks were 11:26:45

17 processed from grass-fed or grain-fed cattle? 11:26:51

18 A. I do not. 11:26:55

19 Q. And do you know if those Meijer steaks were 11:26:56

20 processed from dairy cattle or fed cattle? 11:26:59

21 A. I do not. 11:27:02

22 Q. And then for the roast, what kind of roasts 11:27:13

23 do you typically purchase from Meijer? 11:27:14

24 A. Beef roast, one you either make in the oven 11:27:16

25 or you make in a Crock-Pot. 11:27:19

1 Q. During a typical month, how many pounds of 11:27:23
2 roasts do you purchase from Meijer? 11:27:26
3 A. It would vary. 11:27:28
4 Q. And has that -- is that true since you 11:27:31
5 started purchasing from Meijer? 11:27:34
6 A. Yes. 11:27:35
7 Q. And what kind of -- what brand of roasts do 11:27:39
8 you purchase from Meijer, typically? 11:27:41
9 A. One that comes out of their meat department. 11:27:44
10 Q. And do you know if those Meijer brand roasts 11:27:50
11 were processed by one of the defendants? 11:27:53
12 A. I do not. 11:27:56
13 Q. Do you know if one of those Meijer brand 11:27:57
14 roasts were processed from grass-fed or grain-fed 11:28:00
15 cattle? 11:28:02
16 A. I do not. 11:28:03
17 Q. Do you know if those Meijer brand roasts 11:28:04
18 were processed from dairy cattle or from fed cattle? 11:28:08
19 A. I do not. 11:28:12
20 Q. Do you recall any general trends in the 11:28:17
21 prices you paid for beef purchased at Meijer since 11:28:19
22 you started buying from Meijer? 11:28:21
23 A. Yes. 11:28:23
24 Q. What were those trends? 11:28:24
25 A. They have been increasing in cost. 11:28:27

1 A. You have to register it that way. 11:31:43

2 Q. Do you ever order beef to be delivered from 11:31:50

3 Meijer? 11:31:53

4 A. Yes. 11:31:53

5 Q. How often? 11:31:54

6 A. Majority of our grocery shopping is ordered 11:31:56

7 online and delivered. 11:32:00

8 Q. When you're ordering groceries online, are 11:32:06

9 you using the Meijer website or something like Uber 11:32:08

10 Eats? 11:32:12

11 A. Meijer app. 11:32:15

12 Q. All right. Let's talk about Piggly Wiggly. 11:32:37

13 Which locations do you purchase beef from at 11:32:41

14 Piggly Wiggly? 11:32:46

15 A. Thiensville, Wisconsin, the one that's only 11:32:47

16 a few blocks from my house. 11:32:55

17 Q. Which specific types of beef products do you 11:32:58

18 typically purchase from Piggly Wiggly? 11:33:00

19 A. Whatever would be on sale or we failed to 11:33:04

20 get from Meijer. 11:33:08

21 Q. So you don't have a typical beef purchase 11:33:28

22 from Piggly Wiggly? 11:33:30

23 A. No. 11:33:32

24 Q. So you stated that you generally purchase 11:33:40

25 roasts, ground beef and steak from Meijer. 11:33:41

1	Are those typically the same products you	11:33:45
2	purchase from Piggly Wiggly then as well?	11:33:47
3	A. Yes.	11:33:49
4	Q. And has that been consistent since you	11:33:57
5	started shopping at Piggly Wiggly in 2019?	11:34:00
6	A. Yes.	11:34:03
7	Q. So during a typical month, how many pounds	11:34:16
8	of ground beef do you purchase from Piggly Wiggly?	11:34:18
9	A. I don't know.	11:34:20
10	Q. I'm sorry, I'm having a little hard time	11:34:24
11	hearing you.	11:34:26
12	A. I don't know.	11:34:27
13	Q. Oh, okay. Thank you.	11:34:28
14	And has that changed since you started	11:34:36
15	shopping at Piggly Wiggly?	11:34:38
16	A. No.	11:34:40
17	Q. What brand of ground beef do you typically	11:34:47
18	purchase at Piggly Wiggly?	11:34:50
19	A. The one that comes out of their meat	11:34:51
20	department.	11:34:54
21	Q. Do you know if that Piggly Wiggly ground	11:34:54
22	beef was processed by one of the defendants in this	11:34:56
23	case?	11:35:00
24	A. I do not.	11:35:00
25	Q. Do you know if that ground beef from the	11:35:01

1	Piggly Wiggly meat counter was processed from	11:35:06
2	grass-fed or grain-fed cattle?	11:35:08
3	A. I do not.	11:35:10
4	Q. Do you know if that Piggly Wiggly ground	11:35:12
5	beef was processed from dairy cattle or from fed	11:35:15
6	cattle?	11:35:18
7	A. I do not.	11:35:18
8	Q. Generally, what cut or grade of steaks are	11:35:26
9	you purchasing from Piggly Wiggly?	11:35:29
10	A. The same that I would purchase at Meijer.	11:35:32
11	Q. The ribeyes, the porters, the occasional	11:35:35
12	other cuts?	11:35:38
13	A. Correct.	11:35:39
14	Q. During a typical month, about how many	11:35:45
15	pounds of steaks, you know, ribeyes, porters, other	11:35:47
16	cuts, do you purchase from Piggly Wiggly?	11:35:49
17	A. I do not know.	11:35:51
18	Q. Has that changed over the last -- since 2019	11:35:58
19	when you started shopping at Piggly Wiggly?	11:36:00
20	A. No.	11:36:02
21	Q. What brands of steaks do you typically	11:36:02
22	purchase from Piggly Wiggly?	11:36:04
23	A. The ones that come from their meat	11:36:05
24	department.	11:36:07
25	Q. Do you know if those Piggly Wiggly steaks	11:36:12

1 Wiggly meat department were processed by one of the 11:37:14
2 defendants in this case? 11:37:18
3 A. I do not. 11:37:19
4 Q. Do you know if the roasts from the Piggly 11:37:21
5 Wiggly meat counter were processed from grass-fed 11:37:23
6 cattle or from grain-fed cattle? 11:37:26
7 A. I do not. 11:37:28
8 Q. Do you know if the roasts from the Piggly 11:37:30
9 Wiggly meat counter were processed from dairy cattle 11:37:31
10 or fed cattle? 11:37:34
11 A. I do not. 11:37:36
12 Q. Do you recall any general trends in the 11:37:39
13 prices you paid for beef purchased at Piggly Wiggly 11:37:41
14 since you started shopping there in 2019? 11:37:44
15 A. They have gone up. 11:37:47
16 Q. Has the price of other non-beef products you 11:37:48
17 purchased at Piggly Wiggly also gone up? 11:37:58
18 A. Yes. 11:38:00
19 Q. Do you recall whether the price of beef at 11:38:07
20 Piggly Wiggly has ever gone down? 11:38:08
21 A. I do not. 11:38:10
22 Q. And when was the last time you purchased 11:38:17
23 beef at Piggly Wiggly? 11:38:18
24 A. I do not recall. 11:38:19
25 Q. In the last month? 11:38:21

1 A. Possibly. I just don't recall. 11:38:29

2 Q. That's okay. 11:38:31

3 Do you keep the receipts when you purchase 11:38:33

4 beef from Piggly Wiggly? 11:38:35

5 A. Typically no. 11:38:38

6 Q. Are those purchase -- is your purchase 11:38:40

7 history also available through some online system 11:38:43

8 like it is at Meijer? 11:38:46

9 A. Not that I'm aware of. 11:38:48

10 Q. Do you ever order beef to be delivered from 11:38:54

11 Piggly Wiggly? 11:38:57

12 A. No. 11:38:58

13 Q. I'm very happy to be done saying Piggly 11:39:05

14 Wiggly for the moment, because that is a tongue tie. 11:39:07

15 All right. So let's go back then to Hy-Vee. 11:39:13

16 From what I understand, is Hy-Vee was the primary 11:39:18

17 place -- primary supermarket that you purchased beef 11:39:23

18 from while you lived in Iowa; is that correct? 11:39:27

19 A. Iowa and West Central Illinois, which was 11:39:29

20 Roseville, yes. 11:39:33

21 Q. Okay. 11:39:34

22 So which locations did you purchase beef 11:39:41

23 from, which Hy-Vee locations did you purchase beef 11:39:44

24 from, typically? 11:39:47

25 A. In Iowa, would be Marshalltown, Iowa. In 11:39:48

1 Illinois, it would either be Macomb, Illinois or 11:39:51
2 Galesburg, Illinois. They're about horse apiece 11:39:55
3 apart from where I live. 11:39:59
4 Q. So we have Marshalltown in Iowa and Macomb 11:40:03
5 in Illinois, and I missed the last one? 11:40:06
6 A. Galesburg. We -- we lived smack between 11:40:09
7 both major towns, so ... 11:40:13
8 Q. You said Delsburg? 11:40:21
9 A. Galesburg, G-a-l-e-s-b-u-r-g. 11:40:23
10 Q. I heard a D, okay. Thank you. 11:40:27
11 So let's talk specifically about the 11:40:33
12 Marshalltown, Iowa Hy-Vee location. 11:40:35
13 A. Okay. 11:40:41
14 Q. What specific types of beef products did you 11:40:41
15 typically purchase from -- 11:40:44
16 A. I lost her. 11:40:51
17 There, you're back now. 11:40:55
18 Q. You froze for -- you froze for me as well. 11:40:57
19 Can you hear me? 11:40:59
20 A. I can now, yes. 11:41:01
21 Q. Okay. I will reask my question. Sorry 11:41:02
22 about that. 11:41:05
23 What specific types of beef products did you 11:41:07
24 typically purchase from the Marshalltown, Iowa Hy-Vee 11:41:09
25 location? 11:41:15

1 A. The same that I bought at Meijers: Ground 11:41:15
2 beef, steaks, roast. 11:41:17

3 Q. Is that true also that you primarily 11:41:33
4 purchased ground beef, steaks and roasts from the 11:41:36
5 Macomb and Galesburg, Illinois Hy-Vee locations as 11:41:39
6 well? 11:41:46

7 A. That is correct. 11:41:47

8 Q. So for any of those three Hy-Vee locations 11:42:06
9 that you generally purchased at, what type of ground 11:42:10
10 beef did you typically purchase? 11:42:17

11 A. Typically, 80/20. 11:42:20

12 Q. And did that change at all based on the 11:42:23
13 location, Marshalltown, Macomb or Galesburg? 11:42:25

14 A. It varied depending on what our menu was, 11:42:31
15 what we were hungry for. 11:42:34

16 Q. So based on recipes or preferences at the 11:42:36
17 time? 11:42:39

18 A. And cost, yes. 11:42:41

19 Q. But typically, it was 80/20? 11:42:44

20 A. Correct. 11:42:47

21 Q. Okay. 11:42:48

22 During a typical month, how many pounds of 11:42:51
23 ground beef did you purchase from the Marshalltown, 11:42:54
24 Iowa Hy-Vee? 11:42:58

25 A. Varies. 11:43:00

1 Q. What specific types of beef products would 11:51:32
 2 you typically purchase from Jewel? 11:51:34
 3 A. The same that I mentioned before. Ground 11:51:40
 4 beef, steak, I don't think I was making roast at that 11:51:42
 5 time. I was a lot younger. 11:51:44
 6 Q. All right. We'll take them out of the list 11:51:46
 7 then. 11:51:48
 8 Ground beef and steak, then, typically? 11:51:49
 9 A. Yes. 11:51:51
 10 Q. So let's start with ground beef. For the 11:52:01
 11 ground beef you were purchasing from Jewel, what type 11:52:03
 12 of ground beef was that generally? 11:52:05
 13 A. Generally, 80/20. 11:52:07
 14 Q. During a typical month, how many pounds of 11:52:10
 15 ground beef would you purchase from Jewel? 11:52:12
 16 A. I have no idea. 11:52:14
 17 It was a long time ago. 11:52:16
 18 Q. Do you recall the brand of ground beef you 11:52:20
 19 would typically purchase from Jewel? 11:52:22
 20 A. They probably would have come from the meat 11:52:25
 21 department, just like the rest. 11:52:28
 22 Q. And do you know if the ground beef from the 11:52:32
 23 meat counter at Jewel was processed by one of the 11:52:34
 24 defendants? 11:52:37
 25 A. No. 11:52:38

1 Q. And was this an online order then from 01:01:00
2 Hy-Vee? 01:01:03
3 A. Yes. 01:01:03
4 Q. And was this made directly through Hy-Vee? 01:01:04
5 A. I believe so. 01:01:09
6 Q. And are you able to identify the beef 01:01:15
7 products purchased? 01:01:17
8 MS. BOLLMAN: And we can scroll all the way 01:01:18
9 down so you can see the whole receipt. 01:01:20
10 THE WITNESS: I can see one right now. 01:01:22
11 BY MS. BOLLMAN: 01:01:23
12 Q. And what is that? 01:01:25
13 A. Hy-Vee choice reserve beef ribeye steak. 01:01:31
14 Q. Anything else? 01:01:35
15 A. Scroll back up a little bit. 01:01:35
16 No. 01:01:38
17 Q. Was this Hy-Vee choice reserve beef ribeye 01:01:46
18 steak a typical purchase for you from Hy-Vee? 01:01:49
19 A. Yes. 01:01:54
20 Q. And do you know what the "choice reserve" 01:01:57
21 means? 01:02:02
22 A. I do not. 01:02:02
23 Q. Do you know if this Hy-Vee choice reserve 01:02:09
24 beef ribeye steak was processed by one of the 01:02:13
25 defendants in this case? 01:02:15

1 accurate copy of a Hy-Vee receipt -- of your Hy-Vee 01:06:03
2 receipt from March 27th, 2019? 01:06:07
3 A. Yes. 01:06:10
4 Q. And are you able to identify the beef 01:06:16
5 products from this purchase? 01:06:18
6 A. Not on this page. 01:06:20
7 MS. BOLLMAN: If you could scroll down, get 01:06:23
8 the whole receipt. 01:06:25
9 THE WITNESS: I see two beef purchases. 01:06:29
10 BY MS. BOLLMAN: 01:06:31
11 Q. And what are those? 01:06:32
12 A. Hy-Vee choice reserve beef ribeye steak, and 01:06:34
13 fresh ground beef 80/20. 01:06:38
14 Q. And that Hy-Vee choice reserve beef ribeye 01:06:47
15 steak, is that the same product that we looked at in 01:06:50
16 Exhibit 6? 01:06:53
17 A. I would assume so. 01:06:53
18 Q. And then if we look to the far right column, 01:07:04
19 your final price that you paid for the Hy-Vee choice 01:07:07
20 reserve beef ribeye steak was 11.98. 01:07:11
21 Is that correct? 01:07:13
22 A. It appears that way. 01:07:14
23 Q. And do you recall if that product was 01:07:36
24 standardized packaging or purchased by weight? 01:07:37
25 A. I do not recall. 01:07:41

1 Q. So in Exhibit 6 for that same product, there 01:07:53
2 was a final price of \$12.98. You are not sure if 01:07:55
3 that same product was further discounted here? 01:07:59
4 MS. DUPREE: Objection to form. 01:08:03
5 THE WITNESS: I do not recall. 01:08:05
6 BY MS. BOLLMAN: 01:08:06
7 Q. But it could have been discounted further? 01:08:10
8 A. I don't recall. 01:08:13
9 Q. And it looks like this -- this Hy-Vee choice 01:08:20
10 reserve beef ribeye steak has "sale" under it again; 01:08:22
11 is that correct? 01:08:28
12 A. That's what it says. 01:08:29
13 Q. Your understanding is that this product was 01:08:30
14 also on sale? 01:08:31
15 A. That would appear that way, yes. 01:08:33
16 Q. And is this a typical price that you would 01:08:41
17 pay for that Hy-Vee choice reserve beef ribeye steak? 01:08:43
18 MS. DUPREE: Objection to form. 01:08:48
19 THE WITNESS: I have no idea. 01:08:49
20 BY MS. BOLLMAN: 01:08:50
21 Q. Looking at the ground beef, it looks like 01:08:57
22 the final price you paid was \$4.45. 01:09:00
23 Is that right? 01:09:03
24 A. That's what it says, yes. 01:09:03
25 Q. Do you know if that ground beef was 01:09:13

1 processed by -- by one of the defendants? 01:09:14

2 A. I do not. 01:09:17

3 Q. Do you know if that ground beef was 01:09:20

4 processed from fed cattle? 01:09:23

5 A. I do not. 01:09:24

6 Q. Is that a typical price you would pay for 01:09:26

7 that ground beef? 01:09:29

8 MS. DUPREE: Objection to form. 01:09:31

9 THE WITNESS: I don't recall. 01:09:33

10 MS. BOLLMAN: And if we scroll down a little 01:09:51

11 bit. 01:09:53

12 BY MS. BOLLMAN: 01:09:53

13 Q. And it looks like the delivery address is at 01:09:53

14 [REDACTED] 01:09:56

15 Is that where you were residing on 01:10:00

16 March 27th, 2019? 01:10:03

17 A. Yes. 01:10:04

18 MS. BOLLMAN: Okay. We can take this down. 01:10:11

19 We can pull up Tab 8, and mark that as 01:10:21

20 Exhibit 8. 01:10:26

21 (Exhibit 8 was marked for 01:10:43

22 identification.) 01:10:43

23 BY MS. BOLLMAN: 01:10:44

24 Q. Mr. Falbo, are you able to see Exhibit 8? 01:10:44

25 A. I am. 01:10:47

1 this alleged conspiracy? 02:00:57

2 A. I was overcharged. 02:00:59

3 Q. You were overcharged for what? 02:01:08

4 A. For the beef products that I purchased. 02:01:09

5 Q. And what beef products are those? 02:01:11

6 A. The fresh and frozen ground beef, the roast, 02:01:14

7 the steaks. 02:01:16

8 Q. Anything else? 02:01:23

9 MS. DUPREE: Objection to form. 02:01:26

10 THE WITNESS: No. 02:01:31

11 BY MS. BOLLMAN: 02:01:31

12 Q. And I understand that you said your 02:01:36

13 understanding was that defendants were inflating 02:01:39

14 prices. 02:01:45

15 What actions specifically did defendants 02:01:46

16 take to do that? 02:01:47

17 MS. DUPREE: Objection to form. 02:01:49

18 THE WITNESS: They reduced the amount of 02:01:52

19 cattle they were either getting, producing, buying to 02:01:53

20 artificially drive the prices higher to create a more 02:01:58

21 supply and demand -- intense supply and demand thing, 02:02:01

22 which cost them less but made them more and the 02:02:04

23 prices kept going up. 02:02:08

24 BY MS. BOLLMAN: 02:02:09

25 Q. So they reduced the number of cattle that 02:02:12

1 MS. BOLLMAN: Well, thank you very much, 02:26:48
2 Mr. Falbo. I have no more questions for you unless 02:26:48
3 any of the other defendants have any questions. 02:26:52
4 If not, and if we don't speak again, I very 02:26:58
5 much appreciate your time today. 02:27:00
6 THE WITNESS: Thank you, you as well. 02:27:02
7 MS. DUPREE: Hearing no questions from any 02:27:08
8 of the other defendants, I have just a couple 02:27:10
9 questions for you, Mr. Falbo. 02:27:13
10 02:27:14
11 EXAMINATION 02:27:14
12 BY MS. DUPREE: 02:27:16
13 Q. Again, thanks for your time today. 02:27:16
14 On average, Mr. Falbo, how often would you 02:27:19
15 estimate that your household purchases fresh or 02:27:21
16 frozen beef from the grocery store? 02:27:26
17 A. All the time. 02:27:29
18 Q. And -- and has that -- is that generally 02:27:34
19 more than once a week or less than once a week? 02:27:36
20 A. Usually when -- when we go -- when we do our 02:27:40
21 grocery shopping. 02:27:42
22 Q. And I believe you testified earlier that was 02:27:46
23 about once a week? 02:27:48
24 A. That is correct. 02:27:49
25 Q. And has that generally been true since 02:27:50

1 you've lived in Wisconsin? 02:27:53

2 A. Yes. We purchase less as the prices went 02:27:56

3 up, but we still do purchase it. 02:27:59

4 MS. DUPREE: I don't have any other 02:28:03

5 questions. 02:28:04

6 Ms. Bollman may have a follow-up question 02:28:04

7 related to my question, but I think that that will be 02:28:07

8 it? 02:28:14

9 MS. BOLLMAN: No more questions for me, 02:28:15

10 thank you. 02:28:16

11 MS. DUPREE: Thank you, Mr. Falbo. 02:28:17

12 THE WITNESS: Thank you. 02:28:18

13 VIDEOGRAPHER: Is it okay to go off the 02:28:19

14 record, everybody? 02:28:21

15 MS. BOLLMAN: Yep. 02:28:22

16 VIDEOGRAPHER: Okay. We're off the record. 02:28:22

17 It's 2:28 p.m. 02:28:24

18 (This deposition was concluded at

19 2:28 p.m.)

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REPORTER'S CERTIFICATE

I, EMILY A. GIBB, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT I reported the taking of the deposition of Jason Falbo, commencing on June 12, 2024, at a.m. 10:02

THAT prior to being examined, the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am in no way related to any of the parties, nor I am I financially interested in the outcome of the case.

- (X) Review and signature was requested.
- () Review and signature was waived.
- () Review and signature was not requested.

IN WITNESS THEREOF, I have subscribed my name on this 19th day of June, 2024.



Emily A. Gibb, RPR, CSR, CCR