

Exhibit 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

ALICE H. ALLEN and LAURANCE E. ALLEN,
d/b/a Al-lens Farm, VINCE NEVILLE,
GARRET SITTS and RALPH SITTS, JONATHAN
and CLAUDIA HAAR, and DONNA HALL on
behalf of themselves and others
similarly situated,

Plaintiffs,

-vs-

5:09-cv-00230-cr

DAIRY FARMERS OF AMERICA, INC., DAIRY
MARKETING SERVICES, LLC, and DEAN
FOODS,

Defendants.

Videotape Deposition of GARRET SITTS,
Plaintiff, held at the offices of BOND,
SCHOENECK & KING, Syracuse, New York, on
01/19/2011, before PAMELA PALOMEQUE,
Registered Professional Reporter and Notary
Public in and for the State of New York.

DIGITAL EVIDENCE GROUP
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Washington, DC 20004
(202) 232-0646

1 question, I'll assume that you understood it. Is that
 2 fair?
 3 A. Yes.
 4 Q. It's important that your answers are oral
 5 today so that the Court Reporter can transcribe them.
 6 Can you be sure to give oral answers instead of nodding
 7 or shaking your head?
 8 A. I'll try.
 9 Q. We'll take regular breaks, about every hour or
 10 so, but if you need a break in between then, you can just
 11 say so and we'll take a break. The only time you can't
 12 take a break is when a question is pending. Is that
 13 fair?
 14 A. Yeah.
 15 Q. Do you understand that you are under oath
 16 today?
 17 A. Yes.
 18 Q. Do you understand that your answers must be
 19 truthful?
 20 A. Yes.
 21 Q. Is there any reason why you could not give
 22 truthful and accurate answers today?

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1 A. Not to my knowledge.
 2 Q. Have you discussed your appearance here today
 3 with anyone?
 4 A. Yes.
 5 Q. Who were those people?
 6 A. Family, counsel.
 7 Q. When you say "family," who specifically in
 8 your family?
 9 A. Well, it wasn't about -- we didn't discuss --
 10 I mean, the discussion was I had to go to Syracuse to
 11 give a deposition. I mean, that's -- that's -- I mean,
 12 that was the conversation.
 13 Q. Okay. You didn't discuss the substance of
 14 your testimony today?
 15 A. No. Not if that's what you're getting at, no.
 16 Q. Can you please state and spell your name for
 17 the record?
 18 A. Garret Sitts, G-A-R-R-E-T, S-I-T-T-S.
 19 Q. What is your home address?
 20 A. 13501 Route 357, Franklin, New York 13775.
 21 Q. Can you give us a brief overview of your
 22 educational background?

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1 A. Yeah.
 2 Q. Do you have a high school degree?
 3 A. Yes.
 4 Q. Where is that from?
 5 A. Franklin Central School.
 6 Q. Did you continue onto college?
 7 A. No.
 8 Q. Can you give us a brief overview of your
 9 employment background?
 10 A. Yes.
 11 Q. Where have you worked?
 12 A. At the farm, at the family farm my whole life.
 13 Q. Does your family farm have a name?
 14 A. Sittsco, all one word, Holsteins.
 15 Q. How many years has the family farm had the
 16 name Sittsco Holsteins?
 17 A. It's just a name. I mean, it's not a --
 18 incorporated or anything like that. It's just a name.
 19 Probably the last five years.
 20 Q. Before the last five years, how did you refer
 21 to the farm?
 22 A. Just family farm.

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1 Q. So if I refer to it today as Sitts Farm, will
 2 it be clear to you what I'm talking about?
 3 A. Absolutely.
 4 Q. How many years have you worked on Sitts Farm?
 5 A. Lived there my whole life. Probably since '93
 6 I graduated.
 7 Q. Have you heard the term Federal Milk Marketing
 8 Order?
 9 A. Yes.
 10 Q. Is Sitts Farm located in a Federal Milk
 11 Marketing Order?
 12 A. Yes.
 13 Q. Which one?
 14 A. Order 1.
 15 Q. How many owners does Sitts Farm have today?
 16 A. Two.
 17 Q. Who are those owners?
 18 A. My parents and I.
 19 Q. When you say your parents, do both of your
 20 parents have an ownership interest in the farm?
 21 A. Yes.
 22 Q. So do you view it as there being three owners?

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1 America, and MMI is Milk Marketing, Incorporated.
 2 Q. What years were you a member of Eastern
 3 Cooperative?
 4 A. That was my parents did that so I don't know
 5 the exact date but it was in real late '80s, real early
 6 '90s, in that neighborhood.
 7 Q. Did you also have a membership in Eastern
 8 Cooperative or was it just your parents?
 9 A. It was my father.
 10 Q. Was your father the person who had the
 11 membership interest in MMI?
 12 A. Yes.
 13 Q. Was your father the person who had the
 14 membership in DFA?
 15 A. I believe.
 16 Q. Did you also have a membership in DFA?
 17 A. No.
 18 Q. Do you know why your dad decided to join
 19 Eastern Cooperative?
 20 MR. BROWN: Objection to form.
 21 A. What was the question again?
 22 Q. Do you know why your dad joined Eastern
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1 Cooperative?
 2 MR. BROWN: Objection to form.
 3 A. I believe it was because he was unhappy with
 4 test results. I'm not -- can't speak for him.
 5 Q. What do you mean by "unhappy with test
 6 results"?
 7 MR. BROWN: Objection to form.
 8 A. There again, I mean, this decision that he
 9 made, I was early teens. I --
 10 Q. What years was Sitts Farm a member of DFA?
 11 A. From the beginning because MMI merged with a
 12 couple other co-ops and formed DFA. '9 -- late '90s.
 13 Q. Am I correct that you are not a member of DFA
 14 today?
 15 A. Correct.
 16 Q. What year did you stop being a member of DFA?
 17 MR. BROWN: Objection to form.
 18 Q. What year did your dad stop being a member of
 19 DFA?
 20 A. October '08 maybe.
 21 MR. BROWN: Can you read back the answer
 22 to that last question?
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1 (Whereupon, the last answer given was
 2 then read back the Reporter.)
 3 MS. WEBB: Can you mark that Exhibit 81?
 4 (Whereupon, Exhibit No. 81 was marked for
 5 identification, this date.)
 6 Q. Mr. Sitts, you've been handed a document
 7 that's been marked as Exhibit 81. Do you recognize this
 8 document?
 9 A. Yes.
 10 Q. This was produced from your files; is that
 11 right?
 12 A. I believe so.
 13 Q. What is this document?
 14 A. It's a letter that was sent to DFA requesting
 15 to terminate our membership.
 16 Q. Do you see the date on that letter is
 17 September 10th, 2007 --
 18 A. Yes.
 19 Q. -- at the top?
 20 A. Yes.
 21 Q. And it says: Dear Mr. Virgil, I, Ralph Sitts,
 22 producer number 168026, wish to terminate my contract
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1 with Eastern/MMI/Dairy Farmers of America effective as
 2 soon as legally possible or November 1st, 2007, whichever
 3 comes first. Sincerely, Ralph Sitts.
 4 Did I read that correctly?
 5 A. Yes. Can I go back and make a correction?
 6 Q. Yes. Does that refresh your recollection as
 7 to when your dad terminated his membership in DFA?
 8 A. Correct. Yes. It was '07.
 9 MR. BROWN: Shelley, when you get a
 10 chance, can we just take five when it's
 11 logical in your outline?
 12 MS. WEBB: Sure. Let me do one more and
 13 we'll do a break. Can you mark that as 82,
 14 please?
 15 (Whereupon, Exhibit No. 82 was marked for
 16 identification, this date.)
 17 BY MS. WEBB:
 18 Q. Mr. Sitts, you've been handed a document -- a
 19 document that's marked as Exhibit 82. Do you recognize
 20 this document?
 21 A. Yes.
 22 Q. Was this produced from your files?
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1 A. I don't know. Probably had so many files I --
 2 I believe it did. I mean, we have a -- I'm sure in my
 3 files there was copies of this.
 4 Q. Do you see that -- can you tell me what this
 5 is?
 6 A. What I would -- what this letter is in front
 7 of me?
 8 Q. Yes.
 9 A. Exhibit 82?
 10 Q. Yes.
 11 A. It's a confirmation letter that they received
 12 our written notice that -- they being DFA received our
 13 written notice of our intent to leave.
 14 Q. And do you see the first paragraph says: Dear
 15 Ralph. Please be advised that Dairy Farmers of America
 16 has received your letter of cancellation. You will be
 17 free to market your milk elsewhere effective
 18 November 1st, 2007 unless you find a place to market it
 19 sooner.
 20 Do you see that?
 21 A. Yes.
 22 Q. Do you recall whether your dad began to market

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1 his milk elsewhere on November 1st, 2007?
 2 A. No, he didn't.
 3 Q. I'm sorry?
 4 A. He did not.
 5 Q. Do you recall the date that your dad's DFA
 6 membership terminated?
 7 A. Yes.
 8 Q. What date was that?
 9 A. November 1st.
 10 Q. 2007?
 11 A. Hmm, mm. Yes.
 12 MS. WEBB: Okay. We can take a break.
 13 THE VIDEOGRAPHER: We'll go off record at
 14 10:19.
 15 (A recess was then taken.)
 16 THE VIDEOGRAPHER: We're back on record
 17 at 10:27.
 18 BY MS. WEBB:
 19 Q. Mr. Sitts, do you know what processing plant
 20 or plants the milk from Sitts Farm was sent to when your
 21 dad was a member of DFA.?
 22 A. I don't believe there was a spot designated on

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1 my milk check or my milk check stubs that told me where
 2 my milk was sent. I had an idea by asking the milk truck
 3 driver where he was headed today. That's the only way I
 4 knew where my milk went.
 5 Q. What was your idea as to where your milk was
 6 being sent.
 7 A. Wherever they told me that they were sending
 8 it, the driver.
 9 Q. Was there one plant that it went to more often
 10 than others?
 11 MR. BROWN: Objection to form.
 12 A. I don't know an answer to that. I can't -- I
 13 don't know.
 14 Q. What are all of the plants, to your knowledge,
 15 that your milk went to, based on your conversations with
 16 the milk truck driver?
 17 A. There was Kraft. This is the same plant that
 18 changed the name so many times. I don't know what they
 19 go by now, it was Ultra Dairy at one point and then
 20 Morningstar, and I think they changed their name again.
 21 Sometimes went to Garelick. I believe East Greenbush and
 22 Albany. They're the ones that the drivers told me they

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1 were going to.
 2 Q. You mentioned the Kraft plant. Where was the
 3 Kraft plant located?
 4 A. In Walton, New York.
 5 Q. Do you know where the Morningstar plant was
 6 located?
 7 A. I don't know. I don't know the township.
 8 Q. Do you know approximately where?
 9 A. It might be Walton, New York. It might be
 10 Delhi, New York. I don't know where the town lines or
 11 address break is.
 12 Q. Is the Garelick plant you referred to the one
 13 in Franklin, Massachusetts?
 14 A. Yes.
 15 Q. And the East Greenbush plant, is that located
 16 outside of Albany?
 17 A. I believe.
 18 Q. Then when you mentioned Albany in your answer,
 19 were you referring to a different plant in Albany or was
 20 that -- were you referring to the East Greenbush plant.
 21 A. When I say Albany, I mean Albany, the city;
 22 Albany, our State Capitol.

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1 Q. What plant in Albany are you referring to?
 2 A. There again, I don't know the exact address
 3 but East Greenbush, it's above Albany or near Albany.
 4 I'm not sure if it -- address is Albany.
 5 Q. During the time your dad was a member of DFA,
 6 do you know whether the milk from your farm ever went to
 7 Elmhurst Dairy?
 8 A. Yes.
 9 Q. And that's a "yes," it did go to Elmhurst
 10 Dairy; is that right, just to make sure the record is
 11 clear?
 12 A. Yes.
 13 Q. Where is Elmhurst Dairy located?
 14 A. There's two locations.
 15 Q. What are those locations?
 16 A. It's Elmhurst Dairy or Worcester Creameries
 17 and they're the same I believe. One is in Roxbury,
 18 New York and one is in Jamaica, Queens, New York,
 19 New York.
 20 Q. Do you know which one is in Jamaica?
 21 A. I believe they go by the name of Elmhurst.
 22 Q. Can you spell that for me?

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1 A. No.
 2 Q. What letter does it start with?
 3 A. E.
 4 Q. Oh, that's Elmhurst. What was the other one
 5 you mentioned? You said there's an Elmhurst Dairy and
 6 also some other name.
 7 A. I've heard it called Elmhurst Dairy. I mean,
 8 they own the trailers that my milk goes on and it says
 9 Elmhurst Dairies on it. My milk check comes from
 10 Worcester Creameries.
 11 Q. Do you have an understanding as to whether
 12 Elmhurst Dairy and Worcester Creamers are the same thing,
 13 same entity?
 14 A. I believe they are.
 15 Q. So am I correct that your understanding is
 16 that there are two processing plants, one in Jamaica,
 17 New York and the other in Roxbury, New York?
 18 A. Correct.
 19 Q. Do you know what federal order the plant in
 20 Jamaica is located in?
 21 A. Jamaica, New York?
 22 Q. Yes.

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1 A. Order 1 I believe.
 2 Q. Do you know what federal order, if any, the
 3 Elmhurst plant in Jamaica, New York pools its milk on?
 4 A. No.
 5 Q. Do you know what federal order the plant in
 6 Roxbury, New York is located in, if any?
 7 A. Order 1.
 8 Q. And do you know what federal order that plant
 9 pools its milk on, if any?
 10 A. I do not. It would make sense that it would
 11 be Order 1 though. Being that they're physically located
 12 in Order 1, they should pool in Order 1 but I do not know
 13 that for certain.
 14 Q. Do you know how far away Jamaica, New York is
 15 from your farm?
 16 A. It depends on traffic.
 17 Q. Do you know how many miles?
 18 A. Four hours, four and a half hours.
 19 Q. Is it about 200 miles from your farm?
 20 A. I would say it's more maybe, in the
 21 neighborhood.
 22 Q. So it's somewhere in the neighborhood of just

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1 over 200 miles?
 2 A. (Nodding.) Yes, sorry.
 3 Q. Do you know how far the plant in Roxbury,
 4 New York is from your farm?
 5 A. No, I do not. Closer than Jamaica Queens.
 6 Q. Do you know if it's 100 miles or closer?
 7 A. It's under a hundred.
 8 Q. And of all of the plants that we have
 9 discussed so far, Kraft, Morningstar, Garelick, East
 10 Greenbush and Elmhurst Dairy in Jamaica and Roxbury, do
 11 you have any knowledge as to whether your milk, during
 12 the years that your dad was a DFA member, went to any of
 13 those plants more than others?
 14 A. No, I do not.
 15 Q. Have you ever heard the terms Class 1, 2, 3
 16 and 4 used to describe the end use of milk?
 17 A. Yes.
 18 Q. Do you know what type of products were
 19 produced at each of the plants that you just listed?
 20 A. No, I do not.
 21 Q. Do you have any idea what class of products
 22 your milk was used to make?

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1 A. As a rule, majority of the time it went for
 2 Fluid Grade A as the norm.
 3 Q. How do you know that?
 4 A. Because we were certified. That's what we
 5 were -- there are different standards, sanitation
 6 standards for Grade A milk; Class 2, Class 3, so on, and
 7 we were inspected for and met the criteria for fluid milk
 8 would be my answer to that.
 9 Q. You said fluid Grade A milk was the norm. Do
 10 you know approximately what percentage of the time your
 11 milk was used to make a Class 1 fluid product?
 12 A. After the milk left my farm, I had no idea
 13 where it went or what was done with it.
 14 Q. Again, staying with the time frame of when
 15 your dad was a DFA member, do you know whether the amount
 16 that Sitts Farm was paid for its milk depended on the
 17 class of product that the milk was used for?
 18 MR. BROWN: I'm sorry could you read back
 19 the question?
 20 (Whereupon, the pending question was then
 21 read.)
 22 A. Yeah.

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1 Q. Do you know whether you got paid more during
 2 the time your dad was a DFA member to -- if your milk was
 3 used for fluid Class 1 purposes than for other purposes?
 4 MR. BROWN: Objection, form.
 5 A. I believe that's a law.
 6 Q. Your understanding is that you were paid more
 7 than --
 8 A. I believe it's a law.
 9 MR. BROWN: Objection to form.
 10 Q. What is the law that you're referring to?
 11 A. If your milk goes for fluid -- can you repeat
 12 the question before?
 13 Q. Sure. During the time that your dad was a DFA
 14 member, do you know whether you were paid more if your
 15 milk was used for Class 1 fluid purposes than if it was
 16 used to produce some other class of product?
 17 MR. BROWN: Objection to form.
 18 A. I didn't understand the question the first
 19 time. So after you repeated it, I feel more comfortable
 20 with, no, I don't.
 21 Q. After your dad left DFA in 2007, how did you
 22 market the milk from Sitts Farm?

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1 A. I don't understand what you're asking. How --
 2 how we marketed the milk or to whom?
 3 Q. To whom did you market the milk?
 4 A. Elmhurst, Worcester Creameries.
 5 Q. Do you still market the milk from Sitts Farm
 6 to Elmhurst/Worcester Creameries today?
 7 A. Correct. Correct.
 8 Q. If I just referred to it as Elmhurst, would
 9 you understand that I'm referring to Elmhurst/Worcester
 10 Creameries?
 11 A. You'll do the same?
 12 Q. Yes.
 13 A. Yes.
 14 Q. Who made the decision to market your milk to
 15 Elmhurst in 2007?
 16 A. It was a joint decision.
 17 Q. Between you and your dad?
 18 A. Correct.
 19 Q. Why did the two of you jointly decide to
 20 market your milk to Elmhurst?
 21 A. We both were unhappy with the way we were
 22 treated by our co-op and we decided that -- we researched

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1 Elmhurst as best we could, and on the surface they didn't
 2 have any ties to DFA, so we decided to try our luck with
 3 them.
 4 Q. You said that you researched Elmhurst Dairy as
 5 best as you could?
 6 A. Correct.
 7 Q. What did you do specifically to research them?
 8 A. Asked questions.
 9 Q. Who did you ask questions to?
 10 A. Fieldmen that worked for Elmhurst.
 11 Q. Do you remember any of their names?
 12 A. Just first names.
 13 Q. What are they? What are those first names?
 14 A. Steve, Jerry.
 15 Q. Were those the only two field men you spoke
 16 to?
 17 A. Yes.
 18 Q. And what questions did you ask them?
 19 A. This is a long time ago. I don't remember
 20 specific questions.
 21 Q. Do you remember --
 22 A. In general they were to the effect of does

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1 Elmhurst and DFA have any kind of business relationship?
 2 Do they work together?
 3 Q. What did the fieldmen tell you in response to
 4 those questions?
 5 A. "No."
 6 Q. Aside from the two fieldmen from Elmhurst you
 7 spoke to, did you speak to anyone else affiliated with
 8 Elmhurst Dairy in 2007, before you started to ship your
 9 milk there?
 10 A. Aside from the two fieldmen? No.
 11 Q. Aside from your conversations with these two
 12 fieldmen, did you do anything else to research Elmhurst
 13 Dairy?
 14 A. Yes.
 15 Q. What were those things?
 16 A. I talked to farmers that were sending milk to
 17 them, independent.
 18 Q. Who were the farmers who you knew at that time
 19 who were sending milk to Elmhurst as independents?
 20 A. You want all of them?
 21 Q. Yes.
 22 A. There's Roger Ackley; there's Ronan Robinson.

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1 Q. I'm sorry?
 2 A. Ronan Robinson, Rick Holdridge, Andy Post.
 3 That's -- I mean, there may have been more. I -- that
 4 was just a casual -- I mean, it wasn't like -- it was
 5 just a casual conversation, more like: You ship to
 6 Elmhurst? Are you happy? Is there anything you don't
 7 like about them? I mean, there may have been more
 8 people. I don't know. I can't recall.
 9 Q. What answers did they give you to those
 10 questions?
 11 MR. BROWN: Objection, form.
 12 A. They all pretty much said that they were
 13 happy. The -- there wasn't really a difference in the
 14 price they were paid but they weren't being charged dues
 15 and fees and high hauling costs, so they were happier in
 16 that aspect.
 17 Q. When you say there was no real difference in
 18 the price they were paid, what prices are you comparing
 19 there? The price they were paid as opposed to what other
 20 price?
 21 A. Mailbox prices.
 22 Q. Are you talking about mailbox prices that

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1 co-op members received?
 2 A. I don't understand what you're asking.
 3 Q. You said there was no real difference in the
 4 price they were paid.
 5 A. Compared to -- those people I named, they were
 6 all either DFA members or DMS members. So they were
 7 comparing Elmhurst to where they were previously.
 8 Q. Okay. So all of these people had previously
 9 been members of DFA or had shipped their milk through
 10 DMS; is that correct?
 11 MR. BROWN: Objection to form.
 12 A. Yeah, with the exception of one maybe.
 13 Q. Okay. Which one was that?
 14 A. Ronan Robinson.
 15 Q. And then, to your knowledge, the other three
 16 you mentioned, Mr. Ackley, Holdridge and Post, they left
 17 DFA or DMS and then began to ship directly to Elmhurst as
 18 independent farmers; is that correct?
 19 MR. BROWN: Objection to form.
 20 A. I don't feel comfortable speaking for them. I
 21 mean, you'd have to ask them how it played out for them.
 22 I --

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1 Q. I thought you said one of the reasons why you
 2 selected them was because they were independent farmers
 3 who were shipping to Elmhurst; was that correct?
 4 A. Currently, yes.
 5 Q. Do you know whether they were at 2007
 6 independent farmers shipping to Elmhurst?
 7 MR. BROWN: Objection to form.
 8 A. I don't know. It would make sense that they
 9 were because that's -- I mean, if I talked to them about
 10 how they felt about Elmhurst and I started sending milk
 11 in October, to Elmhurst, of '07, I would have to say that
 12 before I started, they -- I mean, logically.
 13 Q. Okay. So getting back to the -- what we were
 14 talking about, the difference in prices that they were
 15 paid, so they told you that there was no real difference
 16 in the price they were paid, being independents shipping
 17 to Elmhurst, as compared to the price they were paid when
 18 they were with DFA or DMS; is that correct?
 19 A. They told me that the difference was a couple
 20 cents and it depended on a lot of factors. It could have
 21 been a couple cents plus, couple cents minus. It
 22 depended on a lot of things but it was close.

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