

ARTICLE

Winning Trial Graphics: An Interview with Sati Harutyunyan

[Sean Gates](#)Apr 30, 2024  9 min read[Demonstratives](#)

Summary

- Sati Harutyunyan is a partner at Jenner & Block, who was on the winning trial team in *Kraft Global Foods Inc. v. United Egg Producers, Inc.*
- Sati and her colleagues represent a group of well-known global food companies who were the plaintiffs in this case—Kraft Foods Global, Inc., The Kellogg Co., General Mills, Inc., and Nestle USA, Inc.
- In addition to discussing details about the legal theories behind an alleged industry-wide conspiracy to fix the price of eggs, Sati also describes the challenges involved in explaining antitrust claims to a jury and tips for parties involved in complex antitrust trials—as well as how a picture can be worth not just a thousand words but also \$17.7 million.

Authors



Sean Gates
Charis Lex PC

Committees

This content was
produced by:

[Antitrust Litigation
Committee →](#)



Corinna Kern via Getty Images

Sean Gates sits down for an interview with Sati Harutyunyan, who shares insights and key takeaways from her experience on the *Kraft Global Foods Inc. v. United Egg Producers, Inc.* trial team that won a jury verdict in late 2023. In addition to discussing details about the legal theories behind an alleged industry-wide conspiracy to fix the price of eggs, Sati also describes the challenges involved in explaining antitrust claims to a jury and tips for parties involved in complex antitrust trials—as well as how a picture can be worth not just a thousand words but also \$17.7 million.

Background

Sati Harutyunyan is a partner at Jenner & Block, who was on the winning trial team in [Kraft Global Foods Inc. v. United Egg Producers, Inc.](#), No. 11-cv-8808 (N.D. Ill. Dec. 1, 2023). Sati and her colleagues represent a group of well-known global food companies who were the plaintiffs in this case—Kraft Foods Global, Inc., The

Related Content

[Pretrial Practice | The Practice of Law | Trial Practice & Evidence](#)

Persuasive

Foundations: Doing the “Exhibit Dance”

Jan 23, 2024

[The Practice of Law | Trial Practice & Evidence](#)

Get It Admitted

Some Other Way

Dec 19, 2023

[The Practice of Law | Trial Practice & Evidence](#)

Steps in Introducing Exhibits

Dec 06, 2023

[Trial Practice & Evidence](#)

Fact Checking from a Trial Perspective

Oct 26, 2023

[Pretrial Practice | The](#)

Kellogg Co., General Mills, Inc., and Nestle USA, Inc. The plaintiffs alleged that several major egg producers and two egg industry trade associations conspired to violate antitrust laws by restricting the number of eggs in the United States, thereby increasing prices through the coordinated slaughter and molting of hens and the coordinated exports of eggs. According to the plaintiffs, the defendants also used an animal welfare program known as the UEP Certified Program as a pretext for their anticompetitive conduct, with competitors coordinating efforts to achieve higher prices through longer-term restrictions on the egg-laying hen flock.

In November 2023, the jury found the defendants—United Egg Producers, Inc., United States Egg Marketers, Inc., Cal-Maine Foods, Inc., and Rose Acre Farms, Inc.—had conspired in violation of the antitrust laws. And in December, the jury awarded the plaintiffs \$17.7 million.

Interview

Sean: Sati, congratulations on the win. Tell us a little more about the key issues at trial. What was the plaintiffs' theory, and what were the key defense issues?

Sati: Thank you, Sean! And thanks for having me. The key issue in this case was whether the two largest egg producers in the country and two industry trade associations conspired to restrict the domestic supply of eggs in order to increase the price of eggs and egg products. There were a number of ways the defendants worked together to restrict the supply of

[Practice of Law | Trial Practice & Evidence](#)

[A Helpful Primer for the Young](#)

[Litigator](#)

May 19, 2023

[Trial Practice & Evidence](#)

[Visual Presentation Helps Juries See the](#)

[Law](#)

Apr 24, 2023

eggs. They coordinated exports of large amounts of eggs to other countries. They coordinated molting and slaughter schedules among themselves. And they adopted certain practices and rules as part of an industry-wide animal welfare program that were actually designed and implemented as supply restrictions. Our main theory at trial, in its simplest form, was that competitors are required to act alone and unilaterally—not in cooperation with one another. Nothing prevented any of the defendants from acting unilaterally to increase cage space for hens, slaughter and molt hens on a particular schedule, or even export eggs at a loss. But the law does not allow competitors to come together and agree to implement these measures in a coordinated fashion with the goal of increasing prices. And of course, the laws do not allow trade associations to facilitate this kind of agreement by and between competitors.

The defendants' theories were that the cage space restrictions were customer driven, the exports were too sporadic to amount to an antitrust violation, and the early slaughter and molting of hens did not affect the price of eggs.

Sean: Tell us about the trial. How many days did it take? How many witnesses were involved? How many, and what type, of experts testified?

Sati: The trial was bifurcated into two phases: liability and damages. We started with jury selection on October 17, 2023, and received the jury verdict on damages on December 1, 2023. Give or take a few days off between the two phases and Thanksgiving, trial went for about a month and a half. The same jury stayed with us through both phases and was attentive

and engaged throughout the proceedings. The jurors' interest was impressive given the length of the trial and complexity of the issues. Close to twenty witnesses testified. Because the defendants' conspiracy dated back to the early 2000s, not all of the witnesses could appear live, meaning that some witnesses were presented via video deposition or live read-in of prior testimony. We tried to minimize the number of recorded witnesses, however, to keep the jurors' interest in the case. Three economic experts testified—two for the defendants and one for the plaintiffs. The defendants also presented expert testimony from an animal scientist.

Sean: What were the biggest challenges in telling your story to the jury?

Sati: First, the age of the case and the conspiracy presented unique challenges with witness availability and recollections of events. But this also allowed us to draw the jury's focus to the documents defendants generated and statements they made at the time of the conspiracy, as opposed to retrospective arguments and narratives about how events transpired. This ended up being a powerful tool because we could point to the defendants' many statements at the time of key events that demonstrated the defendants' and their coconspirators' agreement to work together to increase domestic egg prices.

Another challenge was the complex nature of the matter. This case dealt with antitrust law, which is not a walk in the park for most jurors. The jury heard testimony from multiple economic experts. From our expert, the jury heard about a statistical regression

analysis and an econometric model designed to show that the market would have looked like but for the price impact of the UEP Certified Program. And while the case was about economic issues, animal husbandry practices did underlie the case in a way that required us to distill for the jury what was relevant and what was not. Attorneys on both sides had to funnel complex legal concepts into arguments the jury could understand.

Sean: Let's turn to your trial graphics. What's your philosophy regarding trial graphics in antitrust cases? How important do you think the graphics were in this particular case?

Sati: I'm a big fan of using graphics to help articulate and persuade across all kinds of cases. Graphics don't always need to be fancy, and they certainly should not be verbose. But if you use the graphics to give your audience a visual depiction of points you are conveying orally, you add depth to your analysis and perhaps engage with someone in your audience you may have otherwise missed. That connection is critical in the jury setting.

In this case, graphics were particularly important—and this goes back to the challenges I outlined earlier. First, several hundred exhibits were admitted during trial. Documentary evidence and the defendants' own statements during the time of the conspiracy were a big part of the case. It would have been extremely difficult to keep the jury focused on and organized around the critical documents without visuals. Second,

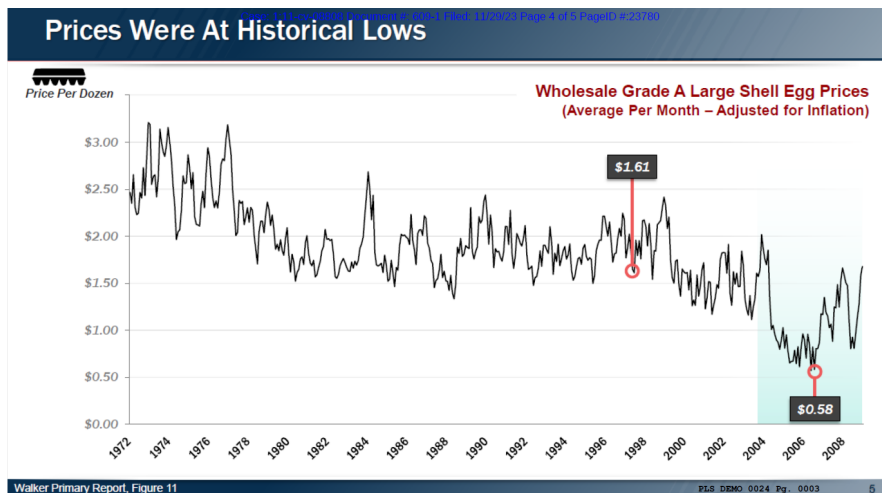
a price-fixing scheme involving multiple defendants and co-conspirators is not something most people can hear about once and grasp right away. The graphics were key to our presentation of the case in digestible pieces for the jury. We used them to tie every element of the case to the next.

The defendants also saw the importance of graphics, explaining the intricacies of the egg production process in ways the jury could understand.

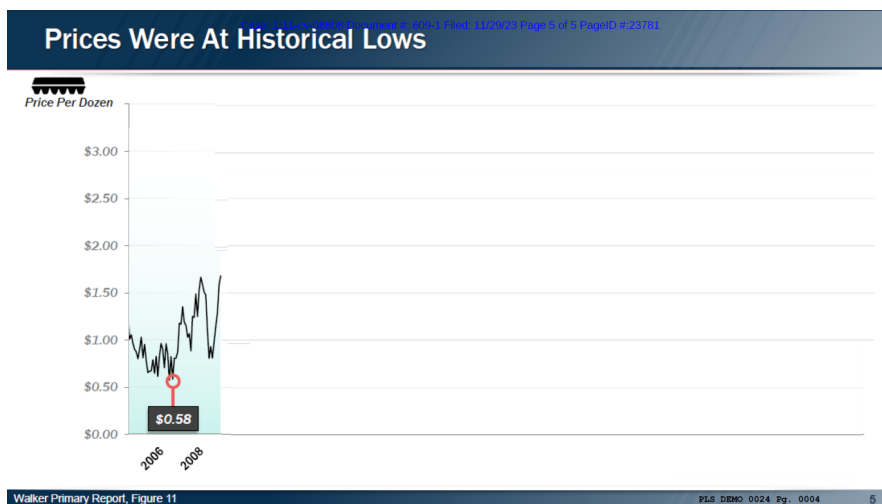
Sean: On the issue of prices, I understand that the defendants' expert had data showing that inflation-adjusted wholesale prices had dropped over time. That kind of data seems powerfully contrary to the plaintiffs' theory. How did you deal with that data?

Sati: The defendants' expert relied on price data stretching as far back as 1972—decades before the defendants' conspiracy began—to opine that a conspiracy to raise prices was inconsistent with trends showing significant price decreases over the years (graph 1). But the damages period in our case was far more limited. You're right that scaled back this far, the data appears not to support the plaintiffs' theory. There are many reasons for that, including improved production processes and the high inflation rate in the 1970s. But if you zoom in and focus on the actual damages period in our case (graph 2), the data was consistent with the plaintiffs' theory. So we were not changing the numbers or presenting alternative numbers. Instead, through some very simple cutting-out of the extraneous data points from before the damages period, we could use the defendants' expert's numbers and data in support of our theories in the case. We cut the noise for the jury and focused

them on the portions of the data that were relevant for their damages analysis. So not only were we able to provide helpful guidance to the jury, but we were able to show why the expert was expanding the years to mislead the jury.



Graph 1: The defendant tried to show that prices were low compared to previous decades.



Graph 2: The plaintiff's version of the graph focused on the period of damages.

Sean: The defendants in this trial were two producers and two trade associations. I understand there are dozens if not hundreds of egg producers in the United States. How did you deal with the argument that only four producers could not affect supply and prices?

Sati: Despite two of the defendants being the largest egg producers in the country, a key theme for the defense was to minimize the defendants' and their co-conspirators' roles in the market. To make this point, the defendants used a graphic (image 1) that showed four producers that the jury found to have participated in the conspiracy (each a small red barn) scattered among hundreds of other identically sized gray barns (the other non-defendant, non-identified conspirator producers). In response, similar to what I described earlier with the defendants' expert data, we presented a slightly different version of the same information. We used a similar graphic (image 2) but we depicted the red barns as being far larger than the gray barns because the defendants and named co-conspirators were some of the largest producers in the industry. We were not dealing with four tiny barns—we were dealing with massive factory farm operations controlling significant portions of the industry. We also reminded the jury that the defendants' presentation conspicuously ignored two key players: the defendant trade associations that facilitated and were central to the defendants' conspiracy. These trade associations were responsible for developing, promoting, and facilitating implementation of all aspects of the conspiracy. So we brought the jury back to the trade associations being the hub of this hub-and-spoke conspiracy and we used the same graphic (image 3) throughout trial for the

jury to visualize that hub.

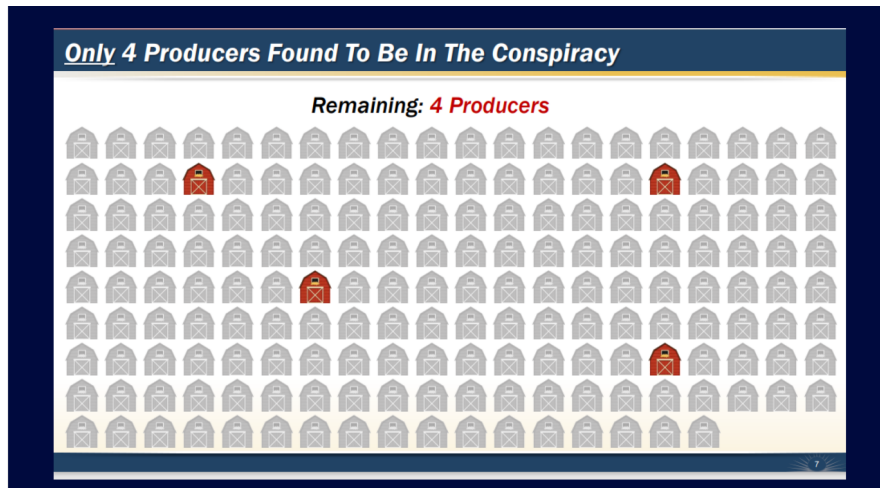


Image 1: The defendant showed four producers to have participated in the conspiracy (each a small red barn) scattered among hundreds of others

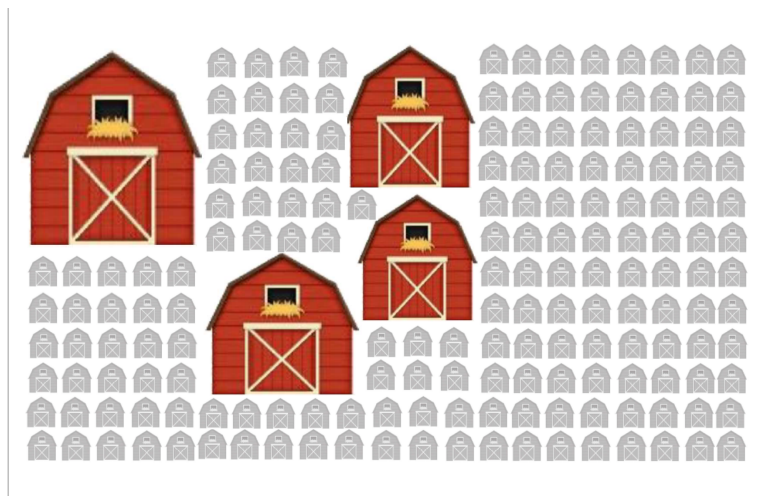


Image 2: Plaintiffs depicted the red barns as larger than the gray barns because the conspirators were some of the largest producers in the market.

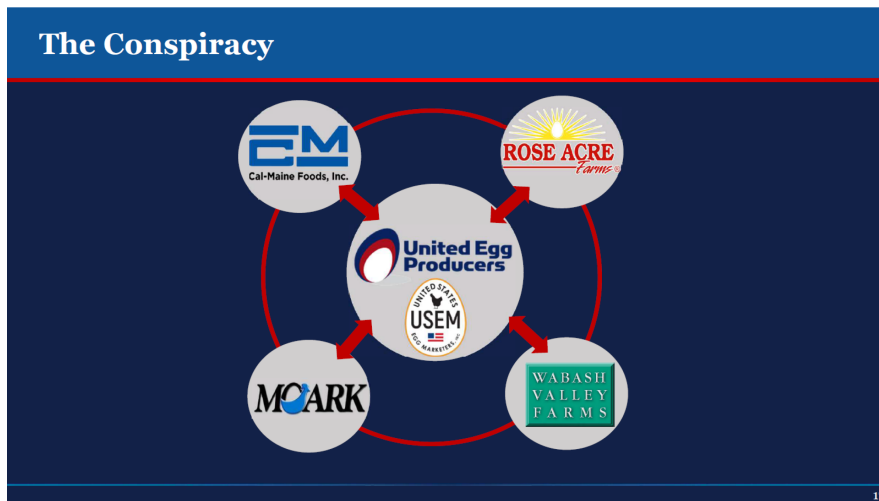




Image 3: The plaintiffs brought the jury back to the idea of trade associations being the hub of this hub-and-spoke conspiracy.

Sean: One of the defenses, as I understand it, was that customers wanted the industry to adopt standards for animal welfare, including cage size. How did you address that issue?

Sati: You are right that this was a major defense theme at trial. The defendants told a story about their actions as reasonable industry practices and that in fact, their customers were actively demanding increased cage space for hens. On the surface, this was a sympathetic story, but the evidence told a different story. As I mentioned earlier, we could point to documentary evidence—think information in newsletters, emails, PowerPoint presentations, board meeting minutes, etc.—to show that the defendants' actions were not driven by consumer demand. Rather, they were supply restrictions that needed maximum participation from the industry. We presented graphics showing critical testimony from senior

executives for two of the defendants showing that the defendants and their co-conspirators had to act together if they were to succeed in their goal of increasing prices. If any one of the producers took these actions on their own, they wouldn't be competitive. But if they acted together, prices could go up industry-wide. (Images 4, 5, and 6.)

The Customers Cared About Price

Marcus Rust

Q. Now, sir, between 2000 and 2002, did you or anyone, to your knowledge, from Rose Acre tell any customer that having birds in cages that were less than 60 inches was not defendable in terms of animal welfare

A. I don't think they ever asked that question.



* * *

Q. Well, is – given your answer, sir, was it the practice of Rose Acre in terms of dealing with its customers to only provide information if they asked?

A. You'd done it to their specifications. **The only thing most customers cared about was the price they bought at.**

Image 4

No Incentive Unless Competitors Colluded

Dolph Baker

Q. And you wouldn't have needed the animal welfare committee to tell you to go up to 56.14 square inches per hen; you could have done that on your own, correct?

A. It would be difficult to be competitive doing that on our own.

Q. That's because that would raise your price of eggs because it would reduce your flock, correct?

A. It would raise our cost.

Image 5: Testimony showing that the defendants and their co-conspirators had to act together if they were to succeed.

No Incentive Unless Competitors Colluded



Marcus Rust

Q. And you were opposed to that, particularly as it would have applied to either Michael Foods or -- I think you referred to as the Minnesota Iowa Group?

A. Yes. We wanted to be on the same competitive playing field.

Q. You thought letting them do that, they would be cheaters?

A. Yes. They would have an advantage over us.

Image 6: Testimony showing that the defendants and their co-conspirators had to act together if they were to succeed.

Sean: Sati, thanks so much for sharing with us. What's your advice to teams going into complex antitrust trials?

Sati: It's my pleasure, Sean. On the advice piece, we all know that a trial team can't succeed without outstanding presentation of evidence and argument. But it's easy to overlook effective project and time management, which can be just as important when it comes to putting your best foot forward before the court and the jury. So you need to have a plan and be nimble in how you implement it. Any other number of things can go differently than planned. The only way to pivot effectively is to be prepared and to consider contingencies. Recognize your team members' strengths and deploy each member where they add the greatest value. Know that no one person will be the hero, and every team member's role is critical.

Authors



Sean Gates

Charis Lex PC

Sean Gates is a trial lawyer who represents companies in antitrust and commercial litigation. He is a former “big law” partner who decided to cut a different path. After 20 years with some of the leading national firms...

[View Bio →](#)

Published by the American Bar Association ©2024. Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association.

ABA American Bar Association |

<https://www.americanbar.org/groups/litigation/resources/newsletters/antitrust/winning-trial-graphics-interview-sati-harutyunyan/>

ABA American Bar Association |

</content/aba-cms-dotorg/en/groups/litigation/resources/newsletters/antitrust/winning-trial-graphics-interview-sati-harutyunyan/>