

**DISPOSITION:** April 28, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

**12172. Misbranding of canned tomatoes. U. S. v. 891 Cases \* \* \*. (F. D. C. No. 22704. Sample No. 55310-H.)**

**LIBEL FILED:** March 20, 1947, Southern District of Georgia.

**ALLEGED SHIPMENT:** On or about October 19, 1946, by the Elkins Canning Company, from Fayetteville, Ark.

**PRODUCT:** 891 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Waycross, Ga.

**LABEL, IN PART:** "White River Valley Brand Extra Standard Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was below standard in quality by reason of its low drained weight.

**DISPOSITION:** April 23, 1947. Glynn Distributors, Brunswick, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Federal Security Agency.

**12173. Misbranding of canned tomatoes. U. S. v. 374 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 22117, 22198. Sample Nos. 51677-H, 72924-H.)**

**LIBELS FILED:** December 23, 1946, and January 24, 1947, District of Minnesota and Southern District of Ohio. The libel filed on December 23, 1946, was amended January 2, 1947.

**ALLEGED SHIPMENT:** On or about September 9 and 17, 1946, by the Lutz Canning Co., from Delphi, Ind.

**PRODUCT:** 374 cases at St. Paul, Minn., and 1,887 cases at Cincinnati, Ohio. Each case contained 6 cans of tomatoes. The product was invoiced as "Fancy Tomatoes," and no written labeling agreement existed between the shipper and the consignee.

**NATURE OF CHARGE:** Misbranding, Section 403 (e), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (g) (2), it purported to be and was represented as canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear as required, the name of the food specified in the definition and standard; and, Section 403 (h) (1), it fell below the standard of quality by reason of an excess of tomato peel, and it was not labeled to show that it was substandard.

**DISPOSITION:** February 13 and 24, 1947. The Lutz Canning Co., Indianapolis, Ind., and the Fall Creek Canning Co., Inc., Pendleton, Ind., claimants for the St. Paul and Cincinnati lots, respectively, having consented to the entry of decrees, judgments of condemnation were entered. The product was ordered released under bond, conditioned that it be labeled in compliance with the law, under the supervision of the Federal Security Agency.

**12174. Misbranding of canned tomatoes. U. S. v. 950 Cases \* \* \*. (F. D. C. No. 22142. Sample No. 53918-H.)**

**LIBEL FILED:** January 7, 1947, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about October 18, 1946, by the Blue Cross Products Co., from Little Rock, Ark.

**PRODUCT:** 950 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Cleveland, Ohio.

**LABEL, IN PART:** (CANS) "Smith's Beauty Hand Packed Tomatoes \* \* \* Distributed by Smith Canning Company Fayetteville, Ark."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the quality of the article fell below the standard by reason of its low drained weight.

**DISPOSITION:** February 6, 1947. The Blue Cross Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.