ALLEGED SHIPMENT: On or about June 11, 1949, by the Keith-Victor Pharmacal Co., from St. Louis, Mo.

PRODUCT: Multi-Vitalins tablets. 223 100-tablet bottles, 172 1,000-tablet bottles, 5 6,000-tablet bottles, and 1 5,000-tablet bottle, in possession of the Lincoln Laboratories, Inc., Decatur, Ill. The product had been shipped in a bulk container bearing the statement, among others, that each tablet contained 20 mgs. of niacin. It was repackaged and labeled by the consignee. Examination showed that the product contained less than 20 mgs. of niacin per tablet.

LABEL, IN PART: (Repackaged article) "Multi-Vitalins Red Oval Each Tablet Contains: * * * Niacin 20 Mgs."

NATURE OF CHARGE: Adulteration Section 402 (b) (1), a valuable constituent, niacin, had been in part omitted or abstracted from the article. It was adulterated when introduced into, and while held for sale after shipment in, interstate commerce.

Misbranding, Section 403 (a), the label statement "Each tablet contains: * * * Niacin 20 mgs." was false and misleading as applied to the article, which contained less than 20 mgs. of niacin. Further misbranding, Section 403 (j), the article purported to be, and was represented as, a food for special dietary uses by reason of its vitamin content, and its label failed to bear as prescribed by the regulations a statement of the proportion of the minimum daily requirements of vitamins A, D, B_1, B_2, and C, and the amounts of vitamin B_6, niacin, and calcium pantothenate furnished by a specific quantity of the article when consumed during a period of one day; and its label failed also to bear as required by the regulations the statement that "The need for vitamin B_6 and calcium pantothenate in human nutrition has not been established." The article was misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: October 17, 1949. The Keith-Victor Pharmacal Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

15297. Adulteration and misbranding of Private Formula tablets. U. S. v. 1 Drum * * *. (F. D. C. No. 27661. Sample No. 46081–K.)

LIBEL FILED: On or about August 5, 1949, Western District of Missouri.

ALLEGED SHIPMENT: On or about November 20, 1948, from Chicago, Ill.

PRODUCT: 1 drum containing 30,000 Private Formula tablets at Springfield, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine hydrochloride (vitamin B_1), and niacinamide, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each tablet represents Thiamin HCL 850 USP Units * * * Niacinamide 10 mg." was false and misleading as applied to the article which contained less than those amounts.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: October 6, 1949. Default decree of destruction.

15298. Adulteration and misbranding of Multi-Vi Liquid. U. S. v. 60 Bottles * * *. (F. D. C. No. 27660. Sample No. 25956–K.)

LIBEL FILED: July 23, 1949, District of Minnesota.

ALLEGED SHIPMENT: On or about March 16, 1948, from Newark, N. J.

PRODUCT: 60 30-cc. bottles of Multi-Vi Liquid at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine hydrochloride (vitamin B_1), had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each 0.6 cc. Contains: * * * Thiamine Hydrochloride U. S. P. 1 mg." was false and misleading as applied to the article, which contained less than 1 mg. of thiamine hydrochloride (vitamin B_1).

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: October 7, 1949. A default decree was entered, providing for denaturing of the product for use as animal feed or for its destruction.

MISCELLANEOUS FOODS

15299. Alleged misbranding of pie filling. U. S. v. 306 Cases * * *. (F. D. C. No. 23732. Sample No. 9102-K.)

LIBEL FILED: September 29, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about August 5, 1947, by Quaker Maid Co., Inc., from Brooklyn, N. Y.

PRODUCT: 306 cases, each containing 36 4-ounce packages, of pie filling at Newark, N. J. Examination showed that the product consisted of a light yellow starchy powder, with a small gelatin capsule containing lemon oil and a tablet of citric acid.

LABEL, IN PART: (Packages) "Ann Page Sparkle Mixture For Use with Egg in Making Lemon Flavored Pie Filling Sugar, Corn Starch, Dextrose, Citric Acid, Salt and Essential Oil of Lemon U. S. Certified Color Added."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Mixture For Use with Egg in Making Lemon Flavored Pie Filling Sugar" was false and misleading since it suggested that the article when used with egg, and by the addition of water, would make a complete lemon-flavored pie filling whereas lemon pie filling requires lemon juice and additional sugar.

DISPOSITION: The Great Atlantic and Pacific Tea Company, claimant, filed an answer on October 25, 1948, denying that the product was misbranded and alleging as an affirmative defense that the identity and characteristics of the product were well-known to, and understood by, the consuming public; that consumers knew and understood that sugar to suit must be added to make a lemon pie filling; that lemon juice was not present and was not required since the lemon flavor desired and expected was imparted by the lemon flavor constituents; that consumers differentiated between the product and the semisolid food ready for consumption, i. e. lemon pie filling; that consumers knew what ingredients were required to be added to make lemon pie filling; and that no standard of identity had been promulgated for the kind of food involved in the case. A motion to strike the affirmative defense of the claimant was filed on behalf of the Government for the reason that the matters set forth were redundant, immaterial, and insufficient of defense.

After due consideration, the court on January 12, 1949, ordered that the affirmative defense of the claimant be stricken. Thereafter, a motion to dismiss the libel and for the entry of judgment on the pleadings was made on behalf of the claimant. On April 20, 1949, after consideration of the pleadings and