

**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<sub>1</sub>), 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<sub>1</sub>).

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

the argument of counsel, an order was entered directing that the libel be dismissed.

**15300. Adulteration of spaghetti sauce with meat and mushrooms. U. S. v. 93 Cases \* \* \*. (F. D. C. No. 27439. Sample No. 32086-K.)**

**LIBEL FILED:** June 27, 1949, Northern District of California.

**ALLEGED SHIPMENT:** On or about March 2 and 9, 1946, from Philadelphia, Pa.

**PRODUCT:** 93 cases, each containing 48 10½-ounce cans, of spaghetti sauce with meat and mushrooms at Santa Clara, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** August 22, 1949. Default decree of condemnation and destruction.

### INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 15251 TO 15300

#### PRODUCTS

	N. J. No.		N. J. No.
Apple chops, dried	15281	Pea beans	15286
Beans, pea	15286	Peaches, canned	15280
Biscuit mix	15262	Pears, canned	15280
Bran	15261	Phosphated flour	15254
Butter	15263-15268	Pie filling	15299
Cereals and cereal products		Private Formula tablets	15297
	15251-15262	Rice	15257-15259
Cherries, canned	15279, 15280	Roman Meal (bakers mixture)	15260
Cod liver oil	15294	Rye flour	15256
Corn, canned	15287	Salmon, canned	15276
Crab meat	15277, 15278	Sauerkraut, canned	15289
Dairy products	15263-15268	Self-rising flour	15254, 15255
Eggs	15269-15272	Shellfish. <i>See</i> Fish and shellfish.	
frozen whole	15270-15272	Spaghetti sauce with meat and mushrooms	15300
Figs, dried	15282	Spinach, canned	15288
Fish and shellfish	15273-15278	Strawberry preserves	15283-15285
Flounder, frozen	15274	Tomato(es), canned	15290
Flour	15251-15256	catsup	15291
Fruits and vegetables	15279-15293	paste	15292
fruit, canned	15279, 15280	puree	15293
dried	15281, 15282	Tullibeas, frozen	15275
preserves	15283-15285	Vegetables. <i>See</i> Fruits and vegetables.	
tomatoes and tomato products		Vitamin, mineral, and other products of special dietary significance	15294-15298
	15290-15293	Whitefish	15273
vegetables and vegetable products	15286-15289		
Multi-Vi Liquid	15298		
Multi-Vitalins tablets	15296		
Oil, cod liver	15294		