

and the delivery for introduction into interstate commerce of *pecan oil*, which was adulterated under 501 (a) (1) in that the article consists in part of filthy substances.

The complaint alleged that the *pecan oil* was manufactured from material which consisted of pecan meats, pecan shells, curculio larvae, coleoptera insects, floor sweepings, broom straws, cigarette butts, pieces of paper, and burnt matches, and that examination disclosed that the *pecan oil* contained a mixture of pecan oil, curculio larvae oil, and oil soluble extractives from insects, cigarette butts, and other extraneous material.

The complaint alleged also that the defendants had in their possession a quantity of adulterated *pecan oil* which would in the usual and ordinary course of business be shipped in interstate commerce. The complaint alleged further, on information and belief, that the defendants would continue to introduce and cause to be introduced and deliver and cause to be delivered into interstate commerce adulterated *pecan oil* unless restrained by the court,

The article was alleged also to be adulterated under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: On 7-8-54, the court entered a temporary restraining order enjoining the defendants from introducing or causing to be introduced or delivering or causing to be delivered, for introduction into interstate commerce, *pecan oil* adulterated as alleged in the complaint. On the same date, an order was entered directing the defendants to show cause why a preliminary injunction should not issue. On 7-16-54, with the consent of the defendants, a preliminary injunction was issued pending a hearing on the merits.

On 11-18-54, the defendants having consented in the entry of a decree, the court entered a decree perpetually enjoining and restraining the defendants from directly, or indirectly, introducing or causing to be introduced, or delivering or causing to be delivered, for introduction into interstate commerce, *pecan oil*, or any other such article which was adulterated as alleged in the complaint. The decree provided further that the defendants be perpetually enjoined and restrained from directly, or indirectly, introducing or causing to be introduced, or delivering or causing to be delivered, for introduction into interstate commerce, any stock on hand of *pecan oil* adulterated within the meaning of 402 (a) (3) and 501 (a) (1).

DRUGS ACTIONABLE BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS*

4593. Various drugs. (Inj. No. 260.)

COMPLAINT FOR INJUNCTION FILED: 3-19-53, S. Dist. Ill., against Schlicksup Drug Co., Inc., Peoria, Ill., to enjoin the interstate shipment of adulterated and misbranded drugs.

CHARGE: The complaint alleged that the defendant was engaged in manufacturing, selling, and introducing into interstate commerce various drugs which were adulterated within the meaning of 501 (c), and misbranded within the meaning of 502 (a).

The complaint alleged further that the adulterated and misbranded condition of the drugs resulted from deficiencies in the ingredients of the drugs and the presence of ingredients in amounts in excess of those declared on the label. For example, defendant's "Triple Sulfas Alkaline" labeled as con-

*See also No. 4583.

taining in each fluid ounce "Sulfadiazine 15 grs. Sulfamerazine 15 grs. Sulfamethazine 15 grs." contained 32 percent less than the declared amount of total sulfas, and the article contained no sulfamethazine; the "Elixir D. Desoxyephedrine Alcohol" contained 7 percent less d-desoxyephedrine hydrochloride and 60 percent less alcohol than labeled; the "Vitamin B Elixir" contained 22 percent less vitamin B₁ than declared on the label; the "Acephenacil No. 5 * * * Acetylsalicylic Acid 2 Grs." contained 24 percent less aspirin than labeled; the "Elixir Thiobrombarb" contained 29 percent less potassium bromide, 25 percent less potassium sulfocyanate, and 18 percent less alcohol than declared on the label; some of the "Triple Sulfas Alkaline" contained 26 percent more than the labeled amounts of total sulfas; and the "Elixir Phenobarbital and Bromides" was 12 percent deficient in bromides and 18 percent deficient in alcohol.

The complaint alleged further that the defendant was well aware that its activities were violative of the Act. Inspections were made of the defendant's plant at Peoria, Ill., by inspectors of the Food and Drug Administration seven different times between 8-8-52 and 1-9-53, at which times the defendant was informed of the lack of control over the manufacturing, packaging, and labeling of the drugs and of the confusion and disorder existing in the plant which would result in errors of composition and labeling; and warned that such conditions also would result in the drugs being adulterated and misbranded. On 11-13-52, the shipment of "Acephenacil No. 5 * * * Acetylsalicylic Acid 2 Grs.," previously referred to, was seized and condemned and ordered destroyed.

The complaint alleged also that despite the warnings conveyed to the defendant by the plant inspections and the seizure, the defendant continued to introduce into interstate commerce adulterated and misbranded drugs.

DISPOSITION: On 3-19-53, a temporary restraining order was entered enjoining the defendant against the interstate shipment of adulterated and misbranded drugs. The matter came on for hearing before the court on 3-25-53, and at the conclusion of the testimony, the matter was taken under advisement by the court pending the submission of briefs by counsel.

On 10-21-53, the court handed down its findings of fact and conclusions of law and, in accordance therewith, entered an order for a temporary injunction. The injunction enjoined the defendants during the further pendency of the suit or until further order of the court from introducing into interstate commerce drugs adulterated because their strength differed from that which they were represented to possess, or misbranded because of false and misleading statements in the labeling of the drugs with respect to the quantity of ingredients contained therein.

4594. Ocu-Lav eyewash. (F. D. C. No. 36898. S. No. 50-450 L.)

QUANTITY: 12 cases, each containing 25 cartoned btls., at New York, N. Y.

SHIPPED: 6-16-54, from Jersey City, N. J., by G & W Laboratories, Inc.

LABEL IN PART: (Ctn. and btl.) "Feel it Work! Ocu-Lav Eye Wash * * * Active Ingredients Natural Oils of Wintergreen and Eucalyptus, Sodium Borate, Menthol, Thymol, Boric Acid."

LIBELED: 7-19-54, S. Dist. N. Y.

CHARGE: 501 (c)—the purity and quality of the article when shipped fell below that which it was represented to possess since it was for use in the eyes and was contaminated with living micro-organisms; and, 502 (a)—the bottle