

what in the dark as to what he must meet. The pleadings are intended to advise him of that, and interrogatories are proper to reduce those allegations to very specific form. They should be encouraged for that purpose, but so far as they call upon the pleader to go further, and give, not only the details of his allegations, but the evidence by which he means to prove them, they are liable to abuse. If there develop on the trial a case of genuine surprise, the court, especially where there is no jury, has ample power to protect the party surprised.

"While it has been held that admiralty rule No. 31 as to interrogatories to parties should be as broadly construed as federal rule 33 touching disclosure of an adversary's case (see *The Exermont*, 1 F. R. D. 574; *Citro Chemical Co. v. Bank Line Limited*, 1 F. R. D. 638), the better rule is that interrogatories may not be used to examine the opposite party as to evidence upon which the other will rely to support his own case (*Jensen v. Sinclair Nav. Co.*, 58 F. (2d) 407; *Cargo Carriers v. The Prospect*, 2 F. R. D. 519; *The Arthur Connors*, 35 F. Supp. 775).

"An order will be entered denying the motion filed February 26, 1943."

On April 25, 1944, a motion was filed by the Government for amendment of the libel, to allege that the product consisted in whole or in part of decomposed tomato material, as evidenced by mold, rot fragments, fly eggs, and fly maggots. The claimant subsequently requested that as a condition to the granting of the Government's motion for amendment, terms be imposed requiring the Government to disclose certain analytical data. After hearing the argument of the counsel and after due consideration of briefs submitted, the court, on July 10, 1944, granted the motion without imposition of the terms requested by claimant. The claimant thereafter withdrew its answer to the libel, and on November 18, 1944, judgment of condemnation was entered.

On November 20, 1944, the court ordered that the portion of the product which was found fit for food be released to the Ladoga Canning Co., and that the remainder be delivered to a Federal institution, for use as animal feed.

11466. Adulteration of tomato puree. U. S. v. 500 Cases * * *. (F. D. C. No. 20599. Sample No. 40703-H.)

LIBEL FILED: July 30, 1946, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about June 14, 1946, by the Meyer Canning Co., from Edinburg, Tex.

PRODUCT: 500 cases, each containing 48 10½-ounce cans, of tomato puree at St. Louis, Mo.

LABEL, IN PART: "Gold Inn Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

11467. Adulteration of tomato puree. U. S. v. 23 Cases * * *. (F. D. C. No. 20372. Sample No. 45520-H.)

LIBEL FILED: June 27, 1946, District of Oregon.

ALLEGED SHIPMENT: On or about June 7, 1946, by Wellman-Peck & Co., from San Francisco, Calif.

PRODUCT: 23 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at Portland, Oreg.

LABEL, IN PART: "Wellman Whole Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: October 15, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

11468. Adulteration of tomato puree and tomato juice. U. S. v. 248 Cases, etc. (F. D. C. Nos. 20662, 20663, 20695. Sample Nos. 39995-H, 51261-H, 51262-H, 67310-H, 67311-H.)

LIBELS FILED: August 14 and 22, 1946, Eastern District of Arkansas, Western District of Missouri, and District of Minnesota.

ALLEGED SHIPMENT: On or about June 19, 22, and 26, 1946, by the Reagan Canning Co., from McAllen, Tex.

PRODUCT: 248 cases, each containing 48 10-ounce cans, of tomato puree at Little Rock, Ark.; 34 cases, each containing 48 10-ounce cans, and 390 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at St. Paul, Minn.; and 248 cases, each containing 24 1-pint, 2-fluid-ounce cans, and 73 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Kansas City, Mo.

LABEL, IN PART: "Tomato Puree Reagan's Brand," or "Tomato Juice Reagan's Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), both articles consisted in whole or in part of filthy substances by reason of the presence of fly eggs and maggots, and the puree consisted also in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 25 and December 16, 1946, and March 31, 1947. Default decrees of condemnation and destruction.

11469. Misbranding of tomato puree. U. S. v. 498 Cases * * *. (F. D. C. No. 20693. Sample No. 49606-H.)

LIBEL FILED: August 23, 1946, Western District of Louisiana.

ALLEGED SHIPMENT: On or about July 16, 1946, by the Delta Canning Co., from Raymondville, Tex.

PRODUCT: 498 cases, each containing 48 10½-ounce cans, of tomato puree at Shreveport, La.

LABEL, IN PART: "Frost Brand Tomato Puree."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard for tomato puree since it contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: November 5, 1946. The Delta Canning Co., 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 brought into compliance with the law, under the supervision of the Federal Security Agency.

11470. Adulteration of tomato sauce. U. S. v. 2,984 Cases, etc. (F. D. C. Nos. 20654, 20841. Sample Nos. 56255-H, 67107-H.)

LIBELS FILED: On or about August 22 and September 9, 1946, Western District of Missouri.

ALLEGED SHIPMENT: On or about June 8, 22, and 25, 1946, by the St. Clair Foods Co., Ltd., from McAllen, Tex.

PRODUCT: 4,313 cases, each containing 48 8-ounce cans, of tomato sauce at Kansas City, Mo. Examination showed that both lots contained decomposed tomato material and that 1 lot contained fly eggs and larvae.

LABEL, IN PART: "Royal Rio Spanish Style Tomato Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance and (1 lot) a filthy substance.

DISPOSITION: December 6, 1946. The St. Clair Foods Co., Ltd., having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

NUTS*

11471. Adulteration of brazil nuts, mixed nuts, and shelled filberts. U. S. v. 30 Bags of Brazil Nuts, etc. (and 4 other seizure actions). (F. D. C. Nos. 20431, 21785, 21865, 21948, 21990. Sample Nos. 59918-H, 60527-H, 60528-H, 65449-H, 65456-H, 70500-H.)

LIBELS FILED: Between the dates of July 26 and December 18, 1946, Southern District of California and Eastern and Western Districts of Pennsylvania.

*See also No. 11351.