

12336. Misbranding of canned peaches. U. S. v. 206 Cases * * *. Tried to the court. (F. D. C. No. 22937. Sample No. 68147-H.)

LIBEL FILED: April 17, 1947, Northern District of Oklahoma.

ALLEGED SHIPMENT: On or about October 23, 1946, by the Bentonville Canning Co., from Bentonville, Ark.

PRODUCT: 206 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Tulsa, Okla.

LABEL, IN PART: "Flavoful Brand Water Pack Yellow Free Peaches," and "Flavoful Brand Water Pack Yellow Free Peaches * * * Mixed Pieces Irregular Size and Shape."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity had been prescribed by the regulations, and its label failed to bear as required by such definition and standard the name of the optional peach ingredient present in the article, namely, halves; and, Section 403 (h) (1), the article was substandard in quality and its label failed to bear a statement that it was below standard. (All units of the article were not untrimmed or so trimmed as to preserve normal shape and its label failed to bear a statement that it fell below such standard.)

DISPOSITION: September 26, 1947. The Bentonville Canning Co., claimant, having filed an answer denying that the product was misbranded, the case came on for trial before the court. After the introduction of evidence and after argument of counsel, the court made findings that the portion of the product labeled "Mixed Pieces Irregular Size and Shape" were not misbranded within the meaning of the regulations defining canned peaches and establishing a standard of identity or misbranded within the meaning of Section 403 (h) (1), but that the remainder of the product was misbranded within the meaning of Section 403 (g) (2). Accordingly, judgment of condemnation was entered against the entire lot of the product and it was ordered that the portion of the product labeled "Mixed Pieces Irregular Size and Shape" be returned to the consignee and that the portion of the product found to be misbranded be released to the claimant under bond for relabeling, under the supervision of the Federal Security Agency.

12337. Misbranding of canned peaches. U. S. v. 149 Cases * * *. (F. D. C. No. 22934. Sample No. 58792-H.)

LIBEL FILED: April 18, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about November 21, 1946, by Hudson-Duncan & Co., from Forest Grove, Oreg.

PRODUCT: 149 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Seattle, Wash.

LABEL, IN PART: "Pride of Oregon Brand * * * Old Fashioned Freestone Peaches Yellow Peeled Halves in Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned peach halves because of excessive variation in size of the units and excess of peel.

DISPOSITION: June 9, 1947. Hudson-Duncan & Co., Portland, Oreg., 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.

12338. Misbranding of canned peaches. U. S. v. 138 Cases * * *. (F. D. C. No. 23116. Sample No. 90636-H.)

LIBEL FILED: May 15, 1947, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 31, 1946, by the Pacific Grape Products Co., from Empire, Calif.

PRODUCT: 138 cases, each containing 6 6-pound, 10-ounce cans, of peaches at Norfolk, Va.

LABEL, IN PART: "Dignity Brand Yellow Freestone Sliced Peaches in Light Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard since it was canned peach slices in containers of 20 or