

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

**GROVE FRESH DISTRIBUTORS, INC.**

Plaintiff

v.

CASE NO:

**EVERFRESH JUICE COMPANY**

and

**HUGO POWELL, Individually**

Defendants

\* \* \* \*

**INTERROGATORIES**

TO: **EVERFRESH JUICE COMPANY, Defendant**

FROM: **GROVE FRESH DISTRIBUTORS, INC., Plaintiff**

PURSUANT TO Federal Rules of Civil Procedure, Rules 26 and 33, Plaintiff, Grove Fresh Distributors, Inc., propounds the following Interrogatories upon the Defendant, Everfresh Juice Company, to be answered separately, in writing, and under oath, in accordance with the Federal Rules of Civil Procedure and the Rules of the United States District Court for the Northern District of Illinois.

## INSTRUCTIONS

A. In accordance with Rule 33(a), your response shall set forth the Interrogatory and its Answer and "shall be answered separately and fully in writing, or shall state fully the grounds for refusal to answer any Interrogatory." The response shall be signed by you.

B. Also, in accordance with Rule 26, your Answers shall include all information available to you or through your agents, representatives or attorneys.

C. Pursuant to Rule 26(e), these Interrogatories are continuing in character so as to require you to promptly amend or supplement your Answers if you obtain further material information.

D. If, pursuant to Rule 33(c), you elect to specify and produce business records of yours in answer to any Interrogatory, then in accordance with that Rule, your "specifications shall be in sufficient detail to permit the interrogating party to locate and identify, as readily as you can, the records from which the answer may be ascertained."

E. If in answering these Interrogatories, you encounter any ambiguities constituting either a question, instruction or

definition, set forth the matter deemed ambiguous and the construction used in answering.

F. If an act, event, transaction, occasion, instance, matter, course of conduct, course of action, person or writing is mentioned or referred to in response to more than one (1) of these Interrogatories, the party to whom these Interrogatories are addressed need not completely identify and describe it or him in every such instance, provided a complete identification is supplied in one such instance, and in each other such instance, a specific reference to the place, paragraph and page number in the Answers to these Interrogatories where it, he or she is fully identified and described, is made.

G. Provide the following information, in chronological order, with respect to each oral communication concerning the subject matter, in whole or in part, of any of these Interrogatories:

- (1). Who as present.
- (2). The dates thereof.
- (3). Where the same occurred, e.g., if in direct person to person conversation, the place from which each person involved actually participated.
- (4). What was said by each person involved during each such conversation and the order in which it was said, identifying what was said with the person speaking.

H. Whenever, in response to these Interrogatories, reference is made to a natural person, state the full name, present residential and business address and the present or last known business position and affiliation.

#### DEFINITIONS AND EXPLANATIONS

(a) The term "person" includes any individual, joint stock company, incorporated association or society, municipal or other corporation, the State, its agencies or political subdivisions, any court, or any other governmental entity.

(b) In accordance with Rule 33, the terms "you" and "your" include the person(s) to whom these Interrogatories are addressed, and all of that person's agents, representatives or attorneys.

(c) In accordance with Rule 33(c) and 34(a), the term "document" or "documents", includes all "writings, drawings, graphs, charts, photographs, recordings, and other data compilations from which information can be obtained or translated, if necessary, by you, through detection devices into reasonably usable form".

(d) The terms "identity", "identify" or "identification" when used in reference to a natural person, require you to state

that person's full name, last known address, home and business telephone numbers, and present business affiliation. When used in reference to a person other than a natural person, the terms "identity", "identify" or "identification", require you to describe the nature of such person (that is, whether it is a corporation, partnership, etc. under the definition of "person" above), and to state that person's last known address, telephone number and principal place of business. Once any person has been identified properly, it shall be sufficient thereafter when identifying that same person to state the name only.

(e) With respect to a document that exists, and is currently in your and/or your attorneys' or agents' possession, custody or control, state the type of document, together with its title or subject matter(s), and the date of writing, creation or publication, the identity of the person(s) for whom the document was prepared and to whom it was delivered, mailed, or otherwise received, and the present custodian and current location of that document. With respect to a document known to have existed but no longer existing, state the type of document, its last known custodian, and the date on, and circumstances under which the document was lost, destroyed, or otherwise became unavailable, and the identity of the person who authorized the destruction of the document. With respect to a document, which was once in the possession, custody or control of you and/or your attorneys but no longer in your possession, custody or control, state the type of document, the date on, and circumstances under, which the

document was disposed of, destroyed, surrendered, or otherwise removed from the possession, custody or control of you and/or your attorneys, the identity of its present custodian and the location of such document, and the identity of the person who authorized the disposal, destruction or surrender of the document.

(f) In answering the following Interrogatories, you are requested to furnish all information that is available to you, including all information in the possession of your attorneys, agents, investigators, representatives, employees, or anyone acting in cooperation, or in concert, with you or on your behalf, including experts consulted or retained. If any such information is withheld by you in answering these Interrogatories, you are to state the legal basis you assert for withholding the information and identify the factual basis for withholding the information.

(g) If an Interrogatory cannot be answered in full, it should be answered to the extent possible, with an explanation as to why the remainder cannot be answered and a statement as to the nature of the information or knowledge that cannot be furnished.

(h) These Interrogatories are to be regarded as continuing in nature. You are requested to provide, by way of Supplementary Answers thereto, such additional information as you, or any other

person on your behalf, may hereafter obtain which changes or supplements your Answers to these Interrogatories.

(i) Wherever any words are used herein in the singular form, they shall be construed as though they were in the plural form in all cases where they would so apply, and wherever words are used in the plural form, they shall be construed as though they were in the singular form in all cases where they would so apply.

INTERROGATORY NUMBER ONE (1)

If you contend that "Everfresh 100% Orange Juice from Concentrate", which is the subject of this action, contains no sugar or any other adulterants, and meets the standard of identity required for orange juice from concentrate, state the basis for your contention and attach, hereto, copies of any documentation supportive of that contention, including test results, quality control reports and analysis.

INTERROGATORY NUMBER TWO (2)

State in complete detail the exact composition of "Everfresh 100% Orange Juice from Concentrate", as represented.

INTERROGATORY NUMBER THREE (3)

State whether you have received any complaints with regard to the presence of sugar, or any other adulterant, in "Everfresh 100% Orange Juice from Concentrate", from any source. If your answer is in the affirmative, identify the source, date and nature of said complaint, in complete detail.

INTERROGATORY NUMBER FOUR (4)

State whether you have ever received a notice of investigation from any federal regulatory agency regarding the presence of sugar, or any other adulterant, in "Everfresh 100% Orange Juice from Concentrate", or for the failure to meet the proper standards of identity required for orange juice from concentrate. If so, state the name of the agency, the date of the notice of the investigation, the name, address and title of the investigator, the nature of the notice of investigation and its present status.

INTERROGATORY NUMBER FIVE (5)

State, in complete detail, your manufacturing and marketing system for "Everfresh 100% Orange Juice from Concentrate", including in your Answer, the place of manufacture, the method of manufacture, the method of transportation from the point of



manufacture to the point of wholesale distribution, the name of the wholesale distributor, the method of distribution from wholesale to retail, the wholesale price, the retail price, and the method of refrigeration, if any, used throughout the manufacturing or marketing process.

INTERROGATORY NUMBER SIX (6)

State the cost of production, per unit, of "Everfresh 100% Orange Juice from Concentrate", including: (a) the profit before tax for the product calculating from each year since the original introduction of the product to the present; (b) the profit as a total based on gross sales marketed within the Chicago metropolitan market; and (c) state the cost of the product to the distributor and the amount at which the distributor sells the product.

INTERROGATORY NUMBER SEVEN (7)

If you contend that you have not falsely represented the product, "Everfresh 100% Orange Juice from Concentrate", state all facts upon which you rely, including how you represented the product in question to wholesalers and on what basis said representation was made.

INTERROGATORY NUMBER EIGHT (8)

With regard to sales, in both quantity and dollar volume, from the time of the original introduction of the product into the Chicago metropolitan market to the present; state the total of such sales to distributors, wholesalers, and retailers and the names of same, respectively.

INTERROGATORY NUMBER NINE (9)

State the price of the product, from the time of original introduction to the present, to the wholesaler, to the retailer, to the ultimate consumer. Identify and attach hereto copies of all documentation upon which you base your answer to this Interrogatory.

INTERROGATORY NUMBER TEN (10)

State with, reference to each wholesaler, retailer, or other customer, except the ultimate consumer, to whom you have supplied "Everfresh 100% Orange Juice from Concentrate", his name, address and capacity; the inclusive dates you supplied him with product; the amount of product same was supplied with; the price at which the product was sold by you, whether there exists any contract controlling or concerning the retail or wholesale price of the product, and, if so, state the terms of the contract and attach hereto a copy of same.

INTERROGATORY NUMBER ELEVEN (11)

Is any other person, firm, corporation or other business organization authorized or licensed to process or manufacture "Everfresh 100% Orange Juice from Concentrate" for you, under your label? If so, state the name and address of each such person, firm or business, name and address of the chief operating officer of each such firm or business, and the basis or terms upon which said operation is or was conducted.

INTERROGATORY NUMBER TWELVE (12)

Were any tests conducted in your plant or laboratory, or in any other location, by you or anyone acting for you, to determine whether sugar or any other adulterant was contained in "Everfresh 100% Orange Juice from Concentrate", or whether the product failed to meet the standard of identity for orange juice from concentrate? If so, for each test, state the description, date and place where conducted; the name or other means of identification and address of each person who took part in such testing; and whether there were any written reports of the results of any such test, providing the name and address of the person who is in custody of such results.

INTERROGATORY NUMBER THIRTEEN (13)

Have there been any changes in the methods of the manufacturing processes involved in the production of "Everfresh 100% Orange Juice from Concentrate", or any change in the method of labeling or marketing this product, since receiving knowledge of Plaintiff's claim? If so, state the changes that were made and any reason for said changes.

INTERROGATORY NUMBER FOURTEEN (14)

State the name and address of the person answering these Interrogatories, and each person supplying information necessary for the answering of these Interrogatories, including their business address, title and position within your organization.

INTERROGATORY NUMBER FIFTEEN (15)

Pursuant to Federal Rules of Civil Procedure, identify all experts whom you intend to call as witnesses at trial in this case. As to each such identified expert, provide a biographical outline of the expert's education, publications, work experience and like credentials which you assert qualify the witness to serve as an expert witness at trial; state the subject area in which the expert is expected to testify; the substance of the findings and opinions to which the expert is expected to testify; and summarize the grounds for each opinion the expert is expected

to give at trial, attaching hereto copies of all reports provided by said experts.

**INTERROGATORY NUMBER SIXTEEN (16)**

Identify each person or entity which you have retained or utilized to investigate the facts relating to Plaintiff's Complaint. As to each such person or entity identified, state the terms for, and purpose of, your engagement; identify all witnesses with whom each identified person and entity has conducted an interview as part of his, or its investigation; set forth the date of each such interview/investigation; and state the substantive content of the interview/investigation.

**INTERROGATORY NUMBER SEVENTEEN (17)**

State whether you have ever advertised "Everfresh 100% Orange Juice from Concentrate". If so, state the name of the medium through which the advertising was conducted, the date on which the advertisement appeared, and provide copies thereof. For each advertisement appearing on television or radio, state the name, address, channel number, the date said advertisement was broadcast, the number of times it was broadcast on each date, and the name and address of the person who has custody of a copy of the text of each advertisement.

INTERROGATORY NUMBER EIGHTEEN (18)

For each advertisement appearing in a newspaper publication, advertising circular, sign, or poster, state the date of distribution or display, the number distributed, the method of distribution, the area of distribution, and the name and address of the person who has custody of a copy of the advertisement.

INTERROGATORY NUMBER NINETEEN (19)

Were any of the foregoing advertisements placed in the United States mail. If so, state, in full detail, the date the advertisement was placed in the mail, identifying the advertisement which was placed in the mail, the name and address of the recipient for each such advertisement, and the person who has charge/control of advertising for you. Please attach copies hereto of all such advertisements placed in the mail.

INTERROGATORY NUMBER TWENTY (20)

In any Interrogatory for which the Answer was based on documentation, records, or other writings, please sufficiently identify those records, documentations and other writings in order that they may be properly subject to subpoena. Please attach hereto copies of those records, reports, documentations

and all other writings used in the preparation of your Answers to these Interrogatories.

INTERROGATORY NUMBER TWENTY-ONE (21)

Do you deny the truth of the assertion that the selling price of "Everfresh 100% Orange Juice from Concentrate" is significantly below Plaintiff's cost of purchase from his manufacturer, and that this difference is due to the presence of sugar or other adulterants in your product. If so, please state all facts upon which you rely.

INTERROGATORY NUMBER TWENTY-TWO (22)

State, in complete detail, the nature and scope of all quality control activity in your plant, stating the functions of all personnel associated with quality control including their names, addresses and functions.

INTERROGATORY NUMBER TWENTY-THREE (23)

State the names and addresses (business and residence) of each employee of your company operating in the Chicago metropolitan market from 1985 to the present time and for those who are no longer associated with your company, state the reasons for termination.

INTERROGATORY NUMBER TWENTY-FOUR (24)

State the name of any person who ordered sugar, or any other adulterant, in the product, "Everfresh 100% Orange Juice from Concentrate"; including the firm or person supplying the sugar/adulterants and the dates and amounts of sugar/adulterants purchased during the time in question.

INTERROGATORY NUMBER TWENTY-FIVE (25)

In regard to the Answers provided to these Interrogatories, state the names of all persons having knowledge of your contentions; the name of each person assisting in answering these Interrogatories and the name of each person you expect or propose to call to testify as to each contention; attaching hereto all documents which refer to, relate or reflect any of the information called for by the above Interrogatories.

INTERROGATORY NUMBER TWENTY-SIX (26)

Describe in detail the business of Everfresh Juice Company, including in your Answer the date of any incorporation thereof, if applicable.



INTERROGATORY NUMBER TWENTY-SEVEN (27)

Identify all officers, directors, and/or stockholders of Everfresh Juice Company, including with each, the position held by them.

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JEFFREY C. HINES, ESQUIRE  
2206 North Charles Street  
Baltimore, Maryland 21218  
(301) 366-1550

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this            day of February, 1989, a copy of the foregoing Interrogatories to Defendant Everfresh Juice Company was mailed, first class, postage prepaid, to Defendant, Everfresh Juice Company, 3333 North Mt. Prospect Road, Franklin Park, Illinois 60131; and to Defendant, Hugo Powell, C/O Everfresh Juice Company, 3333 North Mt. Prospect Road, Franklin Park, Illinois 60131.

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JEFFREY C. HINES, ESQUIRE