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April 21, 1991

BY MESSENGER

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Re: **Grove Fresh v. Everfresh**
Grove Fresh v. Flavor Fresh

Gentlemen:

Enclosed are the following items:

- (1) Grove Fresh's Memorandum In Support Of Its Motion For An Evidentiary Sanction Regarding Everfresh's Use Of Diethyl Pyrocarbonate
- (2) Grove Fresh's Memorandum In Support Of Its Motion For An Evidentiary Sanction Concerning Everfresh's Scapegoat Defense
- (3) Grove Fresh's Statement Of Uncontested Facts That Should Be Deemed Admitted Pursuant To Rule 11 and Rule 37(a)(2)(A)
- (4) Appendices I through IV

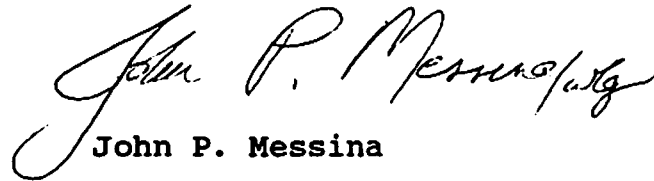
We have filed all of the above materials with the Clerk of Court with the Exception of Appendix IV. That Appendix contains items that the defense has designated as confidential pursuant to the umbrella protective order entered in June 1990. That order does not provide for filing allegedly confidential documents under seal. We do not intend to file Appendix IV under seal. Nevertheless, we will defer filing Appendix IV with the Clerk of Court for ten days so that you have an opportunity to seek whatever relief you deem appropriate. If we do not receive such a motion by the end of the day on Monday, May 6, 1991, we will file the Appendix the following morning.

If you do seek to place any of the items in Appendix IV under seal, we will vigorously oppose your motion for two reasons. First, none of the items in that Appendix contain any trade secrets or confidential research, development or commercial information within the meaning of Fed.R.Civ.P. 26(c)(7). Second,

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the defense has abused the confidentiality order by designating as confidential all but 200 or so of the 30,000 pages of documents that have been produced to date. It is simply incredible for Everfresh to assert that all 30,000 pages are genuinely confidential. Given this all or nothing approach, and given the failure to ever explain how any of the 30,000 pages genuinely require confidential treatment, we believe that none of the documents in the Appendix should be placed under seal.

Sincerely,



John P. Messina

/jm

cc: Michael J. Weber, Esq.
Royal B. Martin, Esq.
Mr. Cecil Troy
Dorothy B. Zimbrakos, Esq.
(Enclosures 1-3)