

SETTI AGREEMENT

This Settlement Agreement is entered into as of March 28, 1990, by and among Grove Fresh Distributors, Inc. ("**Grove Fresh**"), Flavor Fresh Foods Corp. ("**Flavor Fresh**"), and Everfresh Inc. ("**Everfresh**").

WHEREAS, Grove Fresh is in the business of distributing fruit juices and other beverages, including 100% pure orange juice from concentrate (sometimes referred to hereafter as "**orange juice**^M); and

WHEREAS, Flavor Fresh is in the business of, among other things, distributing fruit juices and other beverages, including orange juice; and

WHEREAS, the orange juice distributed by Flavor Fresh is marketed under a variety of labels, including, since 1986, the "**Flavor Fresh**" label; and

WHEREAS, Everfresh is in the business of, among other things, packing orange juice for itself and for others; and

WHEREAS, Everfresh has from time to time packed orange juice for Flavor Fresh, under the "**Flavor Fresh**" label; and

WHEREAS, Grove Fresh has brought a lawsuit in the Northern District of Illinois alleging that certain orange juice sold at retail under the "**Flavor Fresh**" label has been mislabeled (Grove Fresh Distributors, Inc. v. Flavor Fresh Foods, Inc., No. 89 C 1114 [the "**Flavor Fresh Case**"]); and

WHEREAS, Grove Fresh has brought a lawsuit in the Northern District of Illinois alleging that certain orange juice packed by Everfresh has been mislabeled (Grove Fresh Distributors, Inc. v. Everfresh Juice Co., 89 C 1113 [the "**Everfresh Case**"]); and

WHEREAS, Flavor Fresh tendered the defense of the Flavor Fresh suit to Everfresh, and Everfresh accepted such tender; and

WHEREAS, Flavor Fresh asserted as a defense that the time period covered by Grove Fresh's complaint begins after August 10, 1988 ("the Time Period Defense"); and

WHEREAS, Grove Fresh moved to strike Flavor Fresh's Time Period Defense, and on March 8, 1990, the court granted Grove Fresh's motion; and

WHEREAS, Flavor Fresh has alleged as an affirmative defense that Grove Fresh's juice products do not comply with applicable federal law; and

WHEREAS, Grove Fresh is willing to settle that portion of the Flavor Fresh Case that relates to "Flavor Fresh" orange juice packed by entities other than Everfresh, so long as: (a) Grove Fresh can pursue in other litigation, including the pending Everfresh Case, all claims arising out of "Flavor Fresh" orange juice packed by Everfresh; and (b) Everfresh agrees not to assert the Time Period Defense with respect to "Flavor Fresh" orange juice packed by Everfresh; and

WHEREAS, the orange juice packed by Everfresh under the "Flavor Fresh" label is also in issue in the Everfresh Case;

It is agreed as follows:

1. Immediately upon execution of this Agreement, Grove Fresh and Flavor Fresh and their respective attorneys will sign an Agreed Motion to Dismiss the Flavor Fresh Case with prejudice, in the form attached to this Agreement as Exhibit A. The parties

will then jointly present this agreed motion to the court and take all steps which may be required to obtain dismissal of the Flavor Fresh Case with prejudice on or before March 28, 1990.

2. The dismissal of the Flavor Fresh Case shall not bar Grove Fresh from pursuing in other litigation, including the pending Everfresh Case, claims it may have against Everfresh arising out of the "Flavor Fresh" orange juice packed by Everfresh. Everfresh agrees that in other litigation, it will not assert the Time Period Defense with respect to "Flavor Fresh" orange juice packed by Everfresh. Everfresh expressly reserves the right to assert the Time Period Defense as to all other orange juice packed by it.

3. On or before March 28, 1990, Flavor Fresh will deliver to the office of John P. Messina, attorney for Grove Fresh, a check in the amount of seventy thousand dollars (\$70,000), payable to Grove Fresh and John P. Messina.

4. Grove Fresh and its attorneys, officers, directors, shareholders, and employees hereby covenant not to sue Flavor Fresh or any of its present or former attorneys, officers, directors, shareholders, employees or affiliates (collectively, "Covenantees") for or on account of any claim of any nature whatsoever from the beginning of time to March 28, 1990, the date of this agreement.

This paragraph 4 is a covenant not to sue, and not a release. This covenant shall not in any way be construed as releasing or discharging any alleged joint tortfeasor of the Covenantees.

5. Grove Fresh agrees to indemnify Flavor Fresh from any loss, liability, damage or expense incurred by Flavor Fresh by reason of any claim asserted by Jeffrey C. Hines, Esq., of Baltimore, Maryland, or by Robert A. Langendorf, Esq., of Chicago, Illinois, to any portion of the payment made pursuant to paragraph 4 of this Agreement.

6. If Grove Fresh settles the Everfresh Case, and as part of such settlement Grove Fresh makes agreements on the following subjects:

(a) disclosing to third parties any information or documents concerning or relating to the Everfresh Case;
or

(b) providing Everfresh or its attorneys with copies of all documents in Grove Fresh's possession relating in any way to the defendants in the Everfresh Case,

then in such event, Grove Fresh shall enter into an amendment to this Agreement whereby it grants to Flavor Fresh covenants similar in scope and effect as those granted to Everfresh.

7. Orange juice bearing the "Flavor Fresh" label and sold at retail shall be subject to random testing for a period of 24 months following the entry of the order of dismissal described above in paragraph 1. The collecting and testing of the samples shall be done by Analytical Chemical Services, P.O. Box 531, Fulton, Maryland 20759, or any successor in interest. The original of each test report shall be delivered to Flavor Fresh, with copies to Flavor Fresh's attorney, Grove Fresh, and Grove Fresh's attorney.

Flavor Fresh shall be solely responsible for the costs of collecting and testing the random samples called for by this paragraph 7, up to a maximum of 12. Flavor Fresh shall confirm its obligation under this paragraph 7 in a writing addressed to Analytic Chemical Services with a copy to Grove Fresh, in the form attached hereto as Exhibit B.

8. In the event that any test conducted pursuant to paragraph 7, above, shows that a "Flavor Fresh" sample is mislabeled in any respect, and Grove Fresh brings a suit on such mislabeled sample, then in such event Flavor Fresh and all of its present officers, directors, shareholders, and affiliates hereby appoint Steven M. Kowal, Esq., or any successor duly designated pursuant to paragraph 16, below, as its or his or her agent for purposes of service of process in such suit.

9. Flavor Fresh makes the following agreements concerning discovery in the Everfresh Case:

(a) Flavor Fresh and its present officers, directors, shareholders, employees and affiliates waive service of process for purposes of Grove Fresh's discovery in the Everfresh Case, and hereby consent to be subject to discovery in the Everfresh Case pursuant to notice served upon Steven Kowal or his duly designated successor.

(b) Flavor Fresh will produce, upon fourteen (14) days written notice, one or more officers, directors, agents, or other persons who consent to testify on behalf of Flavor Fresh concerning subjects 1 and 2 (as they pertain to all Everfresh orange juice products), 3,

and 4 set forth in the Notice of Deposition served on or about December 1, 1989, a copy of which is attached hereto as Exhibit C. Grove Fresh reserves the right to examine Flavor Fresh on subjects 5 and 6, subject to the agreement of Everfresh's counsel or order of the court.

10. On March 20, 1990, Grove Fresh's counsel and Everfresh's counsel met pursuant to local General Rule 12k to resolve Everfresh's objections to Grove Fresh's First Amended Interrogatories to Everfresh (the "Interrogatories," a copy of which is attached hereto as Exhibit D) and Grove Fresh's First Document Request to Everfresh (the "Document Request," a copy of which is attached hereto as Exhibit E). Subject to the understandings reached at this meeting, which are set forth in a letter from Grove Fresh's counsel to Everfresh's counsel dated March 21, 1990, Everfresh has agreed as follows:

(a) to serve Grove Fresh with amended answers to the Interrogatories by Monday, April 9, 1990;

(b) to produce for inspection and copying all documents responsive to the Document Request by Monday, April 9, 1990; and

(c) to produce, on or before April 26, 1990 one or more officers, directors, agents, or other persons who consent to testify on behalf of Everfresh concerning the subjects set forth in the two Notices of Deposition served on or about December 1, 1990, copies of which are attached hereto as Exhibits F and G.

11. Grove Fresh and its attorneys warrant and represent that they have not relinquished, assigned or transferred, in whole or in part, directly or indirectly, any of the claims, controversies, causes of action, debts, torts, damages, costs, attorneys⁸ fees, obligations or liabilities covered by the covenant not to sue and discharge in paragraph 4 of this Agreement.

12. Grove Fresh, Flavor Fresh, and Everfresh each warrant and represent that the persons executing this Agreement on behalf of their respective corporations are authorized and capable to execute this Agreement, and are under no disability or limitation that would prevent in any way enforcement of this Agreement.

13. This Agreement is binding upon and inures to the benefit of the parties and each of their respective representatives, assigns and successors in interest.

14. This Agreement incorporates all of the terms and provisions of the parties⁰ agreement, and supersedes all other agreements or understandings between the parties. This Agreement may not be changed or modified in any way except by a written document signed by the parties.

15. No amendment or waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

16. All notices, requests, demands and other communications relating to this Agreement shall be sent by registered or certified mail, postage prepaid, as follows:

If to Flavor Fresh:

Steven M. Kowal
Burditt, Bowles & Radzius
333 West Wacker Drive
Suite 2500
Chicago, Illinois 60606

with a copy to:

James E. Benton
Flavor Fresh Foods Corporation
4401 South Oakley Avenue
Chicago, Illinois 60609

If to Grove Fresh:

John P. Messina
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603

with a copy to:

Cecil Troy
Grove Fresh Distributors, Inc.
7553 South Chicago Avenue
Chicago, Illinois 60649

If to Everfresh:

Hugo Powell
Everfresh Inc.
3333 North Mt. Prospect Road
Franklin Park, Illinois 60131

with a copy to:

David J. Stetler
McDermott, Will & Emery
111 West Monroe Street
Suite 1900
Chicago, Illinois 60603

Any party may change its designations for purposes of this paragraph 16 by giving written notice to the other parties.

17. This Agreement shall be governed by and construed in accordance with the laws of Illinois.

18. This agreement is a compromise of a disputed civil claim for money damages and neither this Agreement nor any payment made pursuant thereto are to be construed as an admission of liability on the part of any party hereto.

19. It is agreed that the parties hereto will keep in strictest confidence the terms and conditions of this Agreement. However, Grove Fresh shall be relieved of this obligation if Flavor Fresh breaches its obligation under paragraph 7, above, to pay for the costs of the random tests of "Flavor Fresh[™]" orange juice.

20. This instrument consists of ten (10) typewritten pages, inclusive of signature pages. This instrument may be executed in up to three counterparts, each of which shall be deemed to be an original, but all together which shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

GROVE FRESH DISTRIBUTORS, INC.

By: _____

Its: _____


FLAVOR FRESH FOODS CORPORATION

By: _____

Its: _____

EVERFRESH INC.

A

By: 

Its: President & CEO

James E. Benton

Agreed and acknowledged by the undersigned attorneys in the
Case:

John P. Messina

MCDERMOTT, WILL & EMERY

By: 
Bruce H. Weitzman

BURDITT, BOWLES & RADZIUS

By: _____
Steven M. Kowal

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC.,)	
an Illinois corporation,)	
)	
Plaintiff,)	
	)	No. 89 C 1114
vs.)	
)	
FLAVOR FRESH FOODS, INC.,	)	Judge Bua
et al.,)	
)	
Defendants.)	

AGREED MOTION TO DISMISS

The plaintiff and defendants, by their respective attorneys,
jointly move to dismiss this case with prejudice in accordance
with the draft order attached hereto as Exhibit 1.

GROVE FRESH DISTRIBUTORS, INC.	FLAVOR FRESH FOODS CORP. and JAMES E. BENTON
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BY: _____
John P. Messina, Esq.
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603
(312) 630-1105

BY: _____
David J. Stetler, Esq.
McDERMOTT, WILL & EMERY
111 West Monroe
Chicago, Illinois 60603
(312) 984-7744

James E. Benton
Flavor Fresh Foods Corp.
4401 South Oakley Avenue
Chicago, Illinois 60609

March 28, 1990

Dr. Allan Brause
Analytical Chemical Services
P.O. Box 531
Fulton, Maryland 20759

Dear Dr. Brause:

I am writing to advise you that Flavor Fresh Foods Corp. and Grove Fresh Distributors, Inc. have entered into an agreement ("Agreement") concerning, among other things, the random testing of 100% pure orange juice from concentrate bearing the "Flavor Fresh^u" label that is sold at retail (hereafter referred to as "Flavor Fresh Orange Juice").

The Agreement provides that Flavor Fresh Orange Juice shall be subject to random testing for a period of 24 months following March 28, 1990. The Agreement specifically provides that the collecting and testing of the samples shall be done by Analytical Chemical Services, P.O. Box 531, Fulton, Maryland 20759, or any successor in interest. The Agreement also provides that the original of each test report shall be delivered to Flavor Fresh, with copies to the following individuals:

Steven M. Kowal, Esq. [Flavor Fresh's attorney]
Burditt, Bowles & Radzius
333 West Wacker Drive
Suite 2500
Chicago, Illinois 60606

John P. Messina, Esq. [Grove Fresh's attorney]
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603

Cecil Troy
Grove Fresh Distributors, Inc.
7553 South Chicago Avenue
Chicago, Illinois 60649

Flavor Fresh is solely responsible for the costs of collecting and testing the random samples called for by the Agreement, up to a maximum of 12. In other words, Analytical Chemical Services should submit its invoices for the random tests described in this letter directly to Flavor Fresh. I hereby affirm Flavor Fresh's agreement to pay the invoices for the random tests described in this letter.

Dr. Allan Brause
March 28, 1990
Page 2

Flavor Fresh's obligation to pay for the tests described in this letter expires on March 28, 1992, or after the the 12th test has been completed, whichever comes first.

If you have any questions, do not hesitate to contact me.

Very truly yours,

FLAVOR **FRESH** FOODS CORP.

By: _____
James E. Benton,
President

cc: John P. Messina, Esq.
Steven M. Kowal, Esq.
David J. Stetler, Esq.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC., an Illinois corporation,)	
)	
Plaintiff,	1	
vs.	)	No. 89 C 1114
)	
FLAVOR FRESH FOODS, INC., et al.,	)	Judge Bua
)	
Defendants.)	

RULE 30(b)(6) NOTICE TO FLAVOR FRESH FOODS, XNC.

TO: Bruce H. **Weitzman**, Esq.
McDERMOTT, WILL & EMERY
111 West Nonroe
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on December 15, 1989, at **9:30** a.m., pursuant to Fed. R. Civ. P. **30(b)(6)**, plaintiff Grove Fresh Distributors, Inc. will take the deposition of defendant Flavor Fresh Foods, Inc. The deposition will take place at 135 South LaSalle Street, Suite 1960, Chicago, Illinois, 60603, before a certified shorthand reporter authorized to administer oaths. The defendant will be required to designate one or more officers, directors, or other persons willing to testify on its behalf on the subjects listed below. The defendant will also be required to produce the documents described below. The deposition will continue from day-to-day until concluded.

Definitions

A. The **term** "orange juice products" means 100% orange juice concentrate, and 100% orange juice from concentrate.

B. The **terms** "**adulteration**" or "**adulterate**," when used in reference to products that are labeled and sold as orange juice products, **means** the manufacture of such products **with** ingredients other **than** those permitted by the standard of identity under the

applicable federal laws and regulations. When used in reference to orange juice products that are labeled and sold with the Florida seal of approval, the terms mean the manufacture of such products with ingredients other than those permitted by the laws and regulations of the state of Florida.

C. **"Flavor Freshⁿ** means defendant Flavor Fresh Foods, Inc. (including any predecessor in interest) and all of its officers, directors, employees, agents, and attorneys. The terms "you" and **"your"** refer to Flavor Fresh, as **so defined**.

D. 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**."

E. The time period covered by this notice is January 1, 1980 to the present.

Subjects

1. The names of all of your employees who had knowledge of the adulteration of your orange juice products.

2. The formulas and procedures you used for adulterating orange juice products.

3. All communications between you and **Everfresh** Juice Co., or any of its predecessors in interest, on the subject of adulterated **orange** juice products.

4. The names of all persons or entities who packaged orange juice products for sale in Illinois, Wisconsin, Michigan or **Indiana**.

5. The names of all persons ~~or~~ entities who participated in the manufacture, distribution or sale of adulterated orange juice products in Illinois, Wisconsin, Michigan or Indiana.

6. The names of all persons who have knowledge of the manufacture, distribution or sale of adulterated orange juice products in **Illinois**, Wisconsin, Michigan or Indiana.

Documents

All documents that refer or relate to your manufacturing, distributing or selling **adulterated** orange juice products.

GROVE FRESH DISTRIBUTORS, INC.

BY: John P. Messina Attorney

John P. Messina, Esq.
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603-4303
(312) 630-1105

Jeffrey C. Hines, Esq.
2206 North Charles Street
Lower Level
Baltimore, Maryland 21218
(301) 366-1550

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC., an Illinois corporation,)	
)	
Plaintiff,)	
)	
vs.	)	No. 89 C 1113
)	
EVERFRESH JUICE COMPANY, et al.,	)	Judge Zagel
)	
Defendants.)	

**PLAINTIFF'S FIRST AMENDED SET OF
INTERROGATORIES TO DEFENDANT EVERFRESH JUICE CO.**

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.

INSTRUCTIONS

A. If you elect to specify and produce business records of yours in answer to any Interrogatory, then in accordance with Rule 33(c), 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."

B. 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.

DEFINITIONS AND **EXPLANATIONS**

(a) **The** term "orange juice product^w means 100% orange juice concentrate, and 100% orange juice from concentrate.

(b) ~~The~~ term **"orange** juice drink product^w means any orange juice product that, in addition to containing orange juice and water, has other, declared ingredients.

(c) The **terms "adulteration"** or "adulterate," when used in reference to products that are labeled and sold as orange juice products, **means** the manufacture of such products with ingredients other than those permitted by the standard of identity under the applicable federal laws and regulations. ~~When~~ used in reference to orange juice products that are **labeled** and sold with the **Florida** seal of approval, the terms mean the manufacture of **such** products with ingredients other than those permitted by the laws and regulations of the state of Florida.

(d) ~~The~~ time period covered by these interrogatories is January 1, 1983 to the present.

(e) **"Everfresh"** means defendant Everfresh Juice Company and its parent, Everfresh, Inc. (including any predecessors in interest) and all of their respective officers, directors, employees, agents, and attorneys. In accordance with Rule 33, the terms "youⁿ" and **"your"** refer to Everfresh.

(f) ~~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."**

(g) ~~The~~ terms **"identity"** or "identify," when used in reference ~~to~~ a natural person, require you to state that person's full name, last **known** address, home and business telephone **num-**

bers, and present business affiliation. When used in reference to a person other than a natural person, the terms 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.

(h) The term "**identify**," when used in reference to documents, requires you to do as follows:

(i) 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.

(ii) With respect to a document known to have existed but no longer existing, or no longer in your custody, possession or control, state the type of document, its last known **custodian**, and the date on, and circumstances under which the document was lost, destroyed, surrendered or **otherwise** disposed of, and the identity of the person who authorized the destruction, surrender or disposal of the **document**.

(i) 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 **ac-**

ting 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.

INTERROGATORIES

1. Identify every person who is or was an officer, director, or shareholder of Everfresh.

2. State the address of every packaging plant owned or operated by Everfresh.

3. At any time during the period from January 1, 1983 to the present, did you, in the course of importing or exporting orange juice products and orange juice drink products, misrepresent to customs officials in either the United States or Canada that an orange juice product was an orange juice drink product, or vice versa? If the answer is "yes," provide the following information as to each misrepresentation:

(a) the date it was made;

(b) the quantity of products that were the subject of the misrepresentation;

(c) the duty that was paid on the misrepresented products;

(d) the duty that would have been due or paid if the misrepresentation had not been made;

(e) the identity of all persons who have knowledge of the misrepresentation; and

(f) the date on which each of the persons identified in your **answer** to subparagraph (e) first learned of the misrepresentation.

4. **Identify** all documents that refer or relate to the misrepresentations that are the subject of interrogatory no. 3.

5. Did you adulterate orange juice at any time during the period from January 1, 1983 to the present? If the answer is **"yes,"** state the period of time during which you adulterated orange juice.

6. If the answer to interrogatory no. 5 is **"yes,"**

(a) identify the plants or other facilities where the orange juice was adulterated;

(b) identify every past or present officer, director, and employee of Everfresh who has any knowledge of the adulteration; and

(c) for each person identified in your answer to subparagraph (b), state the date on which he or she first learned of the adulteration.

7. If the answer to interrogatory no. 5 is **"yes,"** describe the formula used to manufacture the adulterated orange juice. If more than one formula was used, describe each such formula, and state the period of time during which it was used.

8. For each of the ingredients (including water and 100% orange juice concentrate) in the formulas described in the answer to interrogatory no. 7, give the following information:

(a) the identity of the vendors from whom you purchased such ingredients, and

(b) the purchase price of each ingredient.

9. Identify all documents that refer or relate to your adulteration of orange juice.

10. State whether you have received any complaints about the presence of sugar, or any other adulterant, in orange juice **from** concentrate you have manufactured. If your answer is **"yes,"** identify the source, date and nature of each complaint, in complete detail.

11. State whether you have ever received a notice of investigation from any federal or state regulatory agency regarding the presence of sugar, or any other adulterant, in orange juice from concentrate you have manufactured, 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.

12. **Identify** each wholesaler, retailer, or other customer, except the ultimate consumer, to whom you have supplied orange juice from concentrate, and state:

(a) the inclusive dates you supplied the customer with product;

(b) the quantity of product sold to the customer, stated annually;

(c) the prices at which the product was sold to the **customer;**

(d) whether there exists any contract controlling or concerning the retail or wholesale price of the product, and, if so, **the** terms of such contract.

13. Identify all customers to whom you sold adulterated orange juice, and for each such customer, state whether you disclosed to **it** the fact that the orange juice was adulterated.

14. **Identify** all experts whom you intend to call as witnesses at trial in this case. **As** to each such expert, provide a biographical outline of his or her 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.

15. State whether you have ever advertised orange juice products bearing your label. If so, provide the following information for each advertisement:

(a) the identity of the medium through which the advertising was conducted;

(b) the dates on which the advertisement appeared in print or was broadcast over radio or television; and

(c) the identity of **the** persons who have custody, **possession** or control of the text or other form of the advertisement.

16. State whether any of the advertisements described in your answer to interrogatory no. 15 was placed in the United States mail. If so, provide the following information for each **such** advertisement:

(a) the date the advertisement **was** placed in the mail,
and

(b) the identity of each addressee of such mailing.

DATED: December 1, 1989

GROVE FRESH DISTRIBUTORS, INC.

By: 
One of Its Attorneys

John P. Messina, Esq.
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603
(312) 630-1105

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC., an Illinois corporation,)	
)	
Plaintiff,)	
)	
vs.	)	No. 89 C 1113
)	
EVERFRESH JUICE COMPANY, et al.,	)	Judge Zagel
)	
Defendants.)	

PLAINTIFF'S FIRST REQUEST FOR DOCUMENTS

Plaintiff Grove Fresh Distributors, **Inc. ("Grove Fresh")** hereby requests that defendant Everfresh Juice Company produce for inspection and copying the documents described below.

DEFINITIONS AND EXPLANATIONS

A. The term **"orange** juice products^m means 100% orange juice concentrate, and 100% orange juice from concentrate.

B. The term "orange juice drink product^m means any orange juice product that, in addition to containing orange juice and water, has other, declared ingredients.

C. The terms **"adulteration"** or "adulterate," when used in reference to products that are labeled and sold as orange juice products, means the manufacture of such products with ingredients other than those **permitted** by the standard of identity under the applicable federal laws and regulations. When used in reference to orange juice products that are labeled and sold with the Florida seal of approval, the terms mean **the** manufacture of such products **with** ingredients other than those permitted by the laws and regulations of the state of Florida.

D. The time period covered by these requests is January 1, 1983 to the present.

E. **"Everfresh"** means defendant **Everfresh** Juice Co. and its parent, Everfresh, Inc. (including any predecessors in interest) and all of their respective officers, directors, employees, agents, and attorneys. The terms **"you"** and **"your"** refer to Everfresh thusly defined.

F. The term **"document"** or **@@documents^H** 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.

G. **"Interrogatory"** refers to Plaintiff's First Set of **Amended Interrogatories** to Defendant Everfresh Juice Co.

H. In responding to these requests, you are requested to furnish all documents 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 documents are withheld by you in responding to these requests, you are to state the legal basis you assert for withholding the documents, and identify the factual basis for withholding the documents.

Documents Requested

1. All documents that refer or relate to the misrepresentations that are the subject of Interrogatory no. 3.
2. All documents that refer or relate to your adulteration of orange juice products.
3. All documents identified in your answer to Interrogatory no. 4.

4. All documents identified in your answer to Interrogatory no. 9.

5. All documents that refer or relate to the formulas described in your answer to Interrogatory no. 7.


6. All documents that refer or relate to the complaints identified in your answer to Interrogatory no. 10.

7. All documents that refer or relate to the notices of investigation identified in your answer to Interrogatory no. 11.

8. All documents that refer or relate to any advertisements of orange juice products manufactured or distributed by Everfresh.

DATED: December 1, 1989

GROVE FRESH DISTRIBUTORS, INC.

BY: 
One of its attorneys

John P. Messina, Esq.
135 South LaSalle Street
Suite 1960
Chicago, Illinois 60603-4303
(312) 630-1105

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC., an Illinois corporation,)	
)	
Plaintiff,)	
)	
vs.	)	NO. 89 C 1114
)	
FLAVOR FRESH FOODS, INC., et al.,	)	Judge Bua
)	
Defendants.)	

RULE 30 (b) (6) NOTICE TO EVERFRESH INC.

TO: Bruce H. Weitzman, Esq.
McDERMOTT, WILL & EMERY
111 West Monroe
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on December 18, 1989, at 1:30 p.m., pursuant to Fed. R. Civ. P. 30(b)(6), plaintiff Grove Fresh Distributors, Inc. will take the deposition of Everfresh, Inc. The deposition will take place at 135 South LaSalle Street, Suite 1960, Chicago, Illinois, 60603, before a certified shorthand reporter authorized to administer oaths. The deponent will be required to designate one or more officers, directors, or other persons willing to testify on its behalf on the subjects listed below. The deponent will also be required to produce the documents described below. The deposition will continue from day-to-day until concluded.

Definitions

A. The term "orange juice productsⁿ means 100% orange juice concentrate, and 100% orange juice from concentrate.

B. The term "orange juice drink productⁿ means any orange juice product that, in addition to containing orange juice and water, has other, declared ingredients.

C. The terms "adulterationⁿ or "adulterate," when used in reference to products that are labeled and sold as orange juice products, means the manufacture of such products with ingredients other than those **permitted** by the standard of identity under the applicable federal laws and regulations. When used in reference to orange juice products that are labeled and sold with the **Florida** seal of approval, the **terms** mean the manufacture of such products with ingredients other than those permitted by the laws and regulations of the state of Florida.

D. **"Flavor Fresh^w** means defendant **Flavor** Fresh Foods, Inc. (including any predecessor in interest) and all of its officers, directors, employees, agents, and attorneys.

F. **"Everfresh"** means the deponent and its predecessors in interest, and all of its officers, directors, shareholders and agents. The terms **"you"** and **"your"** refer to Everfresh, as so defined.

G. 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."**

H. The time period covered by this notice is January 1, 1980 to **the** present.

Subjects

1. The corporate relationships between and among the following entities: deponent; Everfresh Juice Co.; Holiday Juice, **Ltd.**; **JZ** Juice, **Co.**; John Labatt, Ltd.; and John Labatt, Inc. (hereafter referred **to** collectively as **"the** Everfresh Entitiesⁿ).

2. Whether orange juice products manufactured by any of the Everfresh Entities were adulterated and if so, the identity of the entities which adulterated orange juice, and the period of time during which they manufactured and sold adulterated orange juice. .

3. The identities of all officers, directors or agents of **the Everfresh** Entities that have knowledge of the adulteration activities of any of the Everfresh Entities.

4. Whether any customers of the Everfresh Entities requested that the Everfresh Entities adulterate orange juice products.

5. Whether Flavor Fresh supplied any of the Everfresh Entities with adulterated orange juice concentrate.

6. The names of all of your employees who had knowledge of the adulteration of your orange juice products.

7. The names of all persons or entities who packaged orange juice products for sale in Illinois, Wisconsin, Michigan or Indiana.

8. **The** names of all persons or entities who participated in the manufacture, distribution or sale of adulterated orange juice products in Illinois, Wisconsin, Michigan or Indiana.

9. The names of all persons who have knowledge of the manufacture, distribution or sale of adulterated orange juice products in Illinois, Wisconsin, **Michigan** or Indiana.

10. The reasons for your termination of D. F. **Kotwicki** as an officer and employee.

11. Whether, in the course of importing or exporting orange juice products and orange juice drink products, any of the

Everfresh Entities misrepresented to customs officials in either the United States or Canada that an orange juice product was an orange juice drink product, or vice versa, and if so, the identity of all persons who have knowledge of such **misrepresentations**.

Documents

(a) All documents that refer or relate to the manufacture, distribution or sale of adulterated orange juice products by any of the Everfresh Entities.

(b) All documents that refer or relate to any misrepresentations by any of the Everfresh **Entities** to customs officials in either the United States or Canada that an orange juice product was an orange juice drink product, or vice versa.

GROVE FRESH DISTRIBUTORS, INC.

BY: 
one of its attorneys

DATED: December **1**, 1989

John P. Messina, Esq.
135 **South LaSalle** Street
Suite 1960
Chicago, Illinois 60603-4303
(312) 630-1105

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC. ,
an Illinois corporation,

Plaintiff,

vs.

FLAVOR FRESH FOODS, INC.,
et al.,

Defendants.

No. 89 C 1114

Judge Bua

AMENDED RULE 30(b)(6) NOTICE TO EVERFRESH JUICE CO.

TO: Bruce H. Weitzman, Esq.
McDERMOTT, WILL & EMERY
111 West Monroe
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on December 18, 1989, at 9:30 a.m., pursuant to Fed. R. Civ. P. 30(b)(6), plaintiff Grove Fresh Distributors, Inc. will take the deposition of Everfresh Juice co. The deposition will take place at 135 South LaSalle Street, Suite 1960, Chicago, Illinois, 60603, before a certified shorthand reporter authorized to administer oaths. The deponent will be required to designate one or more officers, directors, or other persons willing to testify on its behalf on the subjects listed below. The deponent will also be required to produce the documents described below. The deposition will continue from day-to-day until concluded.

Definitions

A. The term "orange juice products" means 100% orange juice concentrate, and 100% orange juice from concentrate.

B. The term "orange juice drink product" means any orange juice product that, in addition to containing orange juice and water, has other, declared ingredients.

C. The terms **"adulteration"** or **"adulterate,"** when used in reference to products that are labeled and sold as orange juice products, means the manufacture of such products with ingredients other than those permitted by the standard of identity under the applicable federal laws and regulations. When used in reference to orange juice products that are labeled and sold with the Florida seal of approval, the terms mean the manufacture of such products with ingredients other than those permitted by the laws and regulations of the state of Florida.

D. **"Flavor Fresh"** means defendant Flavor Fresh Foods, Inc. (including any predecessor in interest) and all of its officers, directors, employees, agents, and attorneys.

F. **"Everfresh"** means the deponent and its predecessors in interest, and all of their officers, directors, shareholders and agents. The terms **"you"** and **"your"** refer to Everfresh, as so defined.

G. 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."**

H. The time period covered by **this** notice is January 1, 1980 to the present.

Subjects

1. Whether the orange juice products you manufactured for Flavor Fresh were adulterated.
2. Whether Flavor Fresh or any of its officers, directors

or agents **knew** that the orange juice products you manufactured were adulterated, and if so, the names of such persons.

3. Whether Flavor Fresh requested that you adulterate orange juice products.

4. Whether Flavor Fresh supplied you with adulterated orange juice concentrate.

5. The names of all of your employees who had knowledge of the adulteration of your orange juice products,

6. The formulas and procedures you used for for adulterating orange juice products.

7. The names of all persons or entities who packaged orange juice products for sale in Illinois, Wisconsin, Michigan or Indiana.

8. The names of all persons or entities who participated in the manufacture, distribution or sale of adulterated orange juice products in Illinois, Wisconsin, Michigan or Indiana.

9. The names of all persons who have knowledge of the **manufacture**, distribution or sale of adulterated orange juice products in **Illinois**, Wisconsin, Michigan or Indiana.

10. The reasons for your termination of James **Boden** as an officer **and** employee.

11. The reasons **for** your **termination** of D. F. **Kotwicki** as an officer and employee.

12. Whether, in the course of importing or exporting orange juice products and orange juice drink products, you misrepresented to customs officials in either the United States or Canada **that** an orange juice product was an orange juice drink

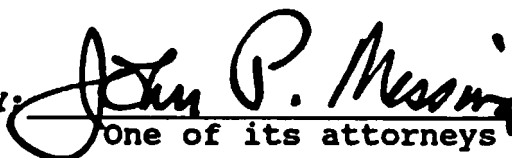
product, or vice versa, and if so, the identity of all persons who have knowledge of such misrepresentations.

Documents

(a) All documents that refer or relate to your manufacturing, distributing or selling adulterated orange juice products.

(b) All documents that refer or relate to any misrepresentations to customs officials in either the United States or Canada that an orange juice product was an orange juice drink product, or vice versa.

GROVE **FRESH DISTRIBUTORS, INC.**

BY:  One of its attorneys

DATED: December 1, 1989

John P. **Messina, Esq.**
135 South **LaSalle** Street
Suite 1960
Chicago, Illinois 60603-4303
(312) 630-1105