

**DiMARE HOMESTEAD, INC. v. KOAM PRODUCE, INC.
PACA Docket No. R-00-0159.
Decision and Order filed November 16, 2000.**

Misrepresentation and Mistake - adjustment contracts void on grounds of.

Federal inspections - credibility rebutted by bribery of federal inspectors.

Burden of proof - not met where federal inspections found unconvincing due to bribery of inspectors.

Where there was no showing that the particular inspections on the Hunts Point market of the tomato shipments at issue were falsified, but the inspections were performed by inspectors who pleaded guilty to accepting bribes for the falsification of inspection certificates, and the inspections were performed at the place of business of the buying firm whose employee pleaded guilty to the bribery of federal inspectors, it was held that the failure of the buying firm to disclose the bribery of the federal inspectors to the seller to whom it submitted the inspections as a basis for adjustments to the original contracts amounted to a misrepresentation, and that the adjustment agreement was void on that basis. It was also held that the seller made a mistake as to a basic assumption on which the adjustments were made, and that the adjustment agreements were also void on the basis of that mistake.

Under the original f.o.b. contract the buyer who accepted the tomatoes had the burden of proving a breach on the part of the seller. Although under the Act federal inspections are prima facie evidence of the truth of the statements recorded therein, it was held that such prima facie evidence is rebuttable, and that the credibility of the inspections was rebutted by the guilty pleas of the inspectors coupled with the implication of the buyer in the bribery of inspectors. It was found that the federal inspections were unconvincing under the circumstances of this case; and it was also found that testimony from the buyer's employees was an insufficient basis on which to conclude that the seller breached the contract of sale. The seller was awarded the original contract price.

George S. Whitten, Presiding Officer.
Mike D. Bess, Orlando, FL, for Complainant.
Paul T. Gentile, New York, NY, for Respondent.
Decision and Order issued by William G. Jenson, Judicial Officer.

Preliminary Statement

This is a reparation proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*). A timely complaint was filed in which Complainant seeks an award of reparation in the amount of \$4,800.00 in connection with transactions in interstate commerce involving tomatoes.

No Report of Investigation was filed by the Department. A copy of the formal complaint was served upon Respondent which filed an answer thereto denying liability to Complainant.

The amount claimed in the formal complaint does not exceed \$30,000.00, and therefore the documentary procedure provided in the Rules of Practice (7 C.F.R. § 47.20) is applicable. Pursuant to this procedure, the verified pleadings of the parties are considered a part of the evidence in the case as is any report of investigation filed by the Department. In addition, the parties were given an opportunity to file evidence in the form of sworn statements, however, neither party did so. Both parties filed briefs.

Before the time for the filing of briefs expired, and pursuant to section 47.7 of the Rules of Practice, the Deputy Administrator filed what is referred to in the Rules as a supplemental report of investigation, and a copy thereof was served upon the parties. As required by the Rules each party was then given opportunity to file affidavit evidence in rebuttal to the supplemental report of investigation, and both Complainant and Respondent filed supplemental evidence.

Findings of Fact

1. Complainant, DiMare Homestead, Inc., is a corporation whose address is 258 N. W. 1st Avenue, Florida City, Florida 33034.

2. Respondent, Koam Produce, Inc., is a corporation whose address is 238 NYC Terminal Market, Bronx, New York 10474. At the time of the transactions involved herein Respondent was licensed under the Act.

3. On or about April 17, 1999, Complainant sold to Respondent under its invoice number 2102, and shipped from loading point in Florida, on a truck bearing tag number AT10398-NC, to Respondent at the Hunts Point Market in Bronx, New York, one truck lot consisting of 800 cartons of DiMare brand 5x6 and larger tomatoes in 25 pound cartons at \$7.85 per carton, or \$6,280.00, plus \$23.50 for a temperature recorder, or a total of \$6,303.50, f.o.b.

4. On or about April 17, 1999, Complainant sold to Respondent under its invoice number 91077, and shipped from loading point in Florida, on a truck

bearing tag number AT10398-NC, to Respondent at the Hunts Point Market in Bronx, New York, one truck lot consisting of 240 cartons of light pink plum tomatoes in 25 pound cartons at \$6.90 per carton, and 560 cartons of pink plum tomatoes in 25 pound cartons at \$6.90 per carton, or a total of \$5,520.00, f.o.b.

5. Following arrival of the tomatoes mentioned in Findings of Fact 3 and 4, Respondent accepted the two lots, and called for a federal inspection. On April 20, 1999, at 5:45 a.m., a federal inspection of the two lots of tomatoes was made, and a certificate, No. K-679517-3, was issued by federal inspector Elias Malavet, which disclosed in relevant part as follows:

LOT: A
 TEMPERATURES: 52 to 53°F
 PRODUCT: Tomatoes
 BRAND/MARKINGS: "DiMare" 5+6 + 1gr
 ORIGINS: FL
 LOT ID.: 129DY
 NUMBER OF CONTAINERS: 800 Cartons
 INSP. COUNT: N

LOT: B
 TEMPERATURES: 51 to 52°F
 PRODUCT: Plum Tomatoes
 BRAND/MARKINGS: "Di Roma" 25lbs
 ORIGINS: FL
 LOT ID.: -
 NUMBER OF CONTAINERS: 800 Crts
 INSP. COUNT: N

LOT	AVERAGE DEFECTS	including SER. DAM.	Including V. S. DAM.	OFFSIZE/DEFECT	OTHER
A	04 %	00 %	00 %	Sunken Discolored Areas (0 to 11%)	Average Approximately 85% light red and red.
	14 %	14 %	14 %	Soft (11 to 18%)	
	00 %	00 %	00 %	Decay	
	18 %	14 %	14 %	Checksum	
B	04 %	00 %	00 %	Sunken Discolored Areas (0 to 13%)	Average Approximately 90% light red and red.
	11 %	11 %	11 %	Soft (0 to 21%)	
	00 %	00 %	00 %	Decay	
	15 %	11 %	11 %	Checksum	

GRADE:

REMARKS: Count on lot B Reported at Applicant's Request.

6. On the basis of the damage reported in the federal inspection quoted above the parties agreed to an allowance being granted to Respondent of \$1.50 per carton on the 800 cartons of 5x6 tomatoes and \$1.00 per carton on the 800 cartons of Plum tomatoes, or a total of \$2,000.00 on the two lots of tomatoes covered by Findings of Fact 3 and 4.

7. On or about April 19, 1999, Complainant sold to Respondent under its invoice number 2107, and shipped from loading point in Florida, on a truck bearing tag number WBL11E-FL, to Respondent at the Hunts Point Market in Bronx, New York, one truck lot consisting of 800 cartons of DiMare brand 5x6 and larger tomatoes in 25 pound cartons at \$7.85 per carton, or \$6,280.00, plus \$23.50 for a temperature recorder, or a total of \$6,303.50, f.o.b.

8. Following arrival of the load mentioned in Finding of Fact 7, Respondent accepted the tomatoes, and called for a federal inspection. On April 23, 1999, at 5:30 a.m., a federal inspection of the lot of tomatoes was made, and a certificate, No. K-679880-5, was issued by federal inspector Elias Malavet, which disclosed in relevant part as follows:

LOT: A
 TEMPERATURES: 52 to 53°F
 PRODUCT: Tomatoes
 BRAND/MARKINGS: "Dimare" 5x6 & lgr
 ORIGINS: FL
 LOT ID.: FL 129DY
 NUMBER OF CONTAINERS: 800 Cartons
 INSP. COUNT: N

LOT	AVERAGE DEFECTS	including SER. DAM.	Including V. S. DAM.	OFFSIZE/DEFECT	OTHER
A	17 %	17 %	17 %	Soft (13 to 21%)	
	04 %	00 %	00 %	Sunken discolored Areas (0 to 9%)	Average Approximately 85% light red and red.
	00 %	00 %	00 %	Decay	
	21 %	17 %	17 %	Checksum	

GRADE:

9. On the basis of the damage reported in the federal inspection quoted above the parties agreed to an allowance being granted to Respondent of \$1.50 per carton, or \$1,200.00 on the lot of tomatoes covered by Finding of Fact 7.

10. On or about April 24, 1999, Complainant sold to Respondent under its invoice number 2189, and shipped from loading point in Florida, on a truck bearing tag number XG21954-PA, to Respondent at the Hunts Point Market in Bronx, New York, one truck lot consisting of 800 cartons of DiMare brand 5x6 and larger tomatoes in 25 pound cartons at \$8.85 per carton, or \$7,080.00, plus \$23.50 for a

temperature recorder, or a total of \$7,103.50, f.o.b.

11. Following arrival of the load mentioned in Finding of Fact 10, Respondent accepted the tomatoes, and called for a federal inspection. On April 23, 1999, at 5:30 a.m., a federal inspection of the lot of tomatoes was made, and a certificate, No. K-680040-3, was issued by federal inspector Michael Tsamis, which disclosed in relevant part as follows:

LOT: A
 TEMPERATURES: 53 to 55°F
 PRODUCT: Tomatoes
 BRAND/MARKINGS: "DiMare" 25 lbs. 5x6
 ORIGINS: FL
 LOT ID.: 129-EEGR70
 NUMBER OF CONTAINERS: 800 Cartons
 INSP. COUNT: N

LOT	AVERAGE DEFECTS	including SER. DAM.	Including V. S. DAM.	OFFSIZE/DEFECT	OTHER
A	14 %	14 %	14 %	Soft (3 to 27%)	Average approximately 5% turning and pink, 80% red to light red color
	00 %	00 %	00 %	Decay	
	14 %	14 %	14 %	Checksum	

GRADE:

12. On the basis of the damage reported in the federal inspection quoted above the parties agreed to an allowance being granted to Respondent of \$1.00 per carton, or \$800.00 on the lot of tomatoes covered by Finding of Fact 10.

13. On or about April 26, 1999, Complainant sold to Respondent under its invoice number 91197, and shipped from loading point in Florida, on a truck bearing tag number TLM7538-OH, to Respondent at the Hunts Point Market in Bronx, New York, one truck lot consisting of 800 cartons of pink Plum tomatoes in 25 pound cartons at \$7.90 per carton, or \$6,320.00, f.o.b.

14. Following arrival of the load mentioned in Finding of Fact 13, Respondent accepted the tomatoes, and called for a federal inspection. On April 28, 1999, at 1135 p.m., a federal inspection of the lot of tomatoes was made, and a certificate, No. K-680205-2, was issued by federal inspector Thomas Vincent, which disclosed in relevant part as follows:

LOT: A
 TEMPERATURES: 54 to 55°F
 PRODUCT: Plum Tomatoes
 BRAND/MARKINGS: "DiRoma" 25 lbs. Net Wt.
 ORIGINS: FL
 LOT ID.: None
 NUMBER OF CONTAINERS: 800 Cartons

INSP. COUNT: N

LOT	AVERAGE DEFECTS	including SER. DAM.	Including V. S. DAM.	OFFSIZE/DEFECT	OTHER
A	10 %	10 %	10 %	Soft (2 to 18%)	Decay in early stages
	02 %	02 %	02 %	Decay	Average Approx. 90% light red & red
	12 %	12 %	12 %	Checksum	

GRADE:

15. On the basis of the damage reported in the federal inspection quoted above the parties agreed to an allowance being granted to Respondent of \$1.00 per carton, or \$800.00 on the lot of tomatoes covered by Finding of Fact 13.

16. The informal complaint was filed on December 1, 1999, which was within nine months after the causes of action herein accrued.

Conclusions

The background to this proceeding involves the nine USDA fruit and vegetable inspectors who were arrested in October of 1999 for taking bribes from employees of thirteen produce firms on the Hunts Point Market, Bronx, New York. All nine of the inspectors have pleaded guilty in Federal Court. Some of the employees of the 13 produce firms have also pleaded guilty, one has been acquitted in a jury trial, one has been convicted, and others are being prosecuted. On February 25, 2000, Marvin Steven Friedman, an employee of Respondent, pleaded guilty to all counts of an indictment in the United States District Court for the Southern District of New York. The indictment charged Mr. Friedman with ten counts of making cash payments to a USDA fruit and vegetable inspector, between April 6, and July 1, 1999, in order to influence the outcome of the inspection of fresh fruits and vegetables conducted at Koam Produce Inc., Respondent herein.

There is no showing on this record that falsified inspections were issued as to the specific lots of tomatoes listed in the findings of fact. However, the lots of tomatoes involved in this proceeding were all inspected by one of the convicted inspectors at the place of business of Koam Produce, Inc., on the Hunts Point Market, and Koam negotiated a reduction in the price of the tomatoes on the basis of the excessive damage shown by the federal inspections.

Complainant seeks to recover by this reparation action the amount of the adjustments on the five lots of tomatoes, totaling \$4,800.00. Complainant asserts that the adjustment claims were allowed by Complainant at a time when Complainant was unaware of the bribery that was occurring on the Hunt's Point Market. Implicitly, Complainant asks that the allowances be set aside on the grounds of misrepresentation or mistake. In other words, it is contended that

Respondent's withholding from Complainant of the information that it possessed about the bribery of federal inspectors caused Complainant to have a confidence in the federal inspections of the subject tomatoes that Complainant otherwise would not have had. Since Complainant's confidence in the federal inspections was central to its willingness to negotiate the adjustments, Complainant feels that the adjustment negotiations were grounded on misrepresentation and/or Complainant's mistake as to a basic assumption on which the adjustments were made.

We will first treat the subject of misrepresentation as a possible ground for the voiding of the adjustment agreements. The Restatement (Second) of Contracts, section 159, defines misrepresentation as "an assertion that is not in accord with the facts." Section 164(1) states that:

If a party's manifestation of assent is induced by either a fraudulent or a material misrepresentation by the other party upon which the recipient is justified in relying, the contract is voidable by the recipient.

. . . .

Section 161 relates the circumstances under which non-disclosure is equivalent to an assertion:

A person's non-disclosure of a fact known to him is equivalent to an assertion that the fact does not exist in the following cases only:

(a) where he knows that disclosure of the fact is necessary to prevent some previous assertion from being a misrepresentation or from being fraudulent or material.

. . . .

The Comment to section 161 states: "[t]he notion of disclosure necessarily implies that the fact in question is known to the person expected to disclose it." However, the Comment also makes it clear that clause (a) of section 161 is not limited in its coverage to non-disclosure by the actual person who negotiated the transaction, and section 1-201(27) of the Uniform Commercial Code (referenced as applicable in the Comment to section 161) shows that knowledge of the pertinent fact can be imputed to a corporation under appropriate circumstances.¹ In the circumstances at issue in

¹Paragraph (27) of § 1-201 of the UCC affirms that knowledge received by an organization is effective for a particular transaction "from the time when it is brought to the attention of the individual conducting that transaction, *and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence.*" (Emphasis supplied.) According to

this case, Respondent's non-disclosure that it was making payments to a federal inspector is the same as an affirmative misrepresentation where Respondent knew that the Complainant would not know that the inspection certificate could be fraudulent or a misrepresentation unless Complainant knew of the bribery. Absent that knowledge, Complainant would take the statements on the inspection as a basis for agreeing to adjustments on the contract price.

Section 16 of the Act provides that:

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person.

The only benefit (other than to the person receiving the bribes) deriving from the falsification of inspections would be to the purchaser of the inspected produce, and not, directly at least, to any individual employee of the purchaser. The October 1999 edition of The Blue Book, published by the Produce Reporter Co., Carol Stream, Illinois, (of which we take official notice), lists Kimberly Park as President of Koam Produce, Inc. The listing states "Buying and sales handled by C.J. Park, Chang Y. Park & Charles Lamendola Marvin Friedman, Vegetables & Fruit." A general phone and fax number is given for the business, but residence and cell phone numbers are listed only for C.J. Park and Friedman. Although there is no explicit testimony in the record that Friedman was authorized by Koam to bribe the federal inspectors, we conclude that the bribing of the federal inspectors was within his inherent agency power, and was done by Friedman within the scope of his

paragraph (27):

An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

This definition of "due diligence" shows that the pertinent knowledge under consideration here (the bribery of federal inspectors) would have certainly been brought to the attention of the party conducting the tomato transactions if Respondent had exercised due diligence. This is so because the information was obviously significant, and because the person with unquestioned knowledge of the bribery, Marvin Steven Friedman, by reason of his position of responsibility in the firm, had ample reason to know that all Respondent's purchase transactions in which an adjustment would be negotiated on the basis of an inspection would be materially affected by the information.

employment.² Respondent is thus deemed responsible under the Act for the bribery in which its employee participated.

Whether the individual inspections involved in this proceeding were falsified is immaterial for our purposes. Respondent asserted to Complainant the results of the federal inspections. Respondent then used those results as a basis for the negotiation of the adjustments. When it engaged in the negotiation of the adjustments it knew that disclosure of its involvement in the bribery of federal inspectors was necessary to prevent the previous assertions, made in the federal inspections, from being material.³ Respondent's non-disclosure of this involvement was, therefore, equivalent to an assertion that no such bribery had taken place, and was a misrepresentation for which the adjustment agreements may be voided.

We will next treat the question whether the adjustment agreements are also voidable on the ground of a mistake by one of the parties. In certain circumstances, if Complainant was mistaken as to a basic assumption that underlay the adjustment agreements, such agreements are voidable at Complainant's option.

The Restatement (Second) of Contracts, section 151, defines "mistake" as "a belief that is not in accord with the facts." Section 153 states:

Where a mistake of one party at the time a contract was made as to a basic assumption on which he made the contract has a material effect on the agreed exchange of performances that is adverse to him, the contract is voidable by him if he does not bear the risk of the mistake under the rule stated in § 154, and

(a) the effect of the mistake is such that enforcement of the contract would be unconscionable, or

(b) the other party had reason to know of the mistake or his fault caused the mistake.

To break this section down into its parts with regard to the circumstances at issue here, Complainant believed that Respondent was not making payments to federal inspectors to affect the outcome of inspections (mistake); that mistake was as to a basic assumption on which Complainant agreed to the adjustments (made the contract); Complainant's belief had a significant (material) effect on the agreed

²See H. Reuschlein and W. Gregory, The Law of Agency and Partnership, § 26, p. 69-71 (second ed. 1989).

³It is obvious that the federal inspections would have instantly become immaterial to the adjustment negotiations if Respondent's involvement in the bribery of federal inspectors had been revealed to Complainant.

adjustments (agreed exchange of performances); that resulted in Complainant agreeing to less than invoice price (adverse to him). In these circumstances, the adjustments are voidable by Complainant if he does not bear the risk of the mistake under the rule stated in section 154.

According to section 154:

A party bears the risk of a mistake when

(a) the risk is allocated to him by agreement of the parties, or

(b) he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient, or

(c) the risk is allocated to him by the court on the ground that it is reasonable in the circumstances to do so.

First, as to clause (a), the risk of the mistake was not allocated to Complainant by any agreement between the parties. Second, as to clause (b) it is clear that Complainant was not aware, at the time the adjustments were made, that he had only limited knowledge with respect to the integrity of the federal inspections. The general limited knowledge that all people share is not in view here. Instead, what is meant by clause (b) is awareness of a specific area of limited knowledge, coupled with a determination to treat that area of limited knowledge as unimportant for purposes of the contract. As we have pointed out:

Any belief that is not in accord with the facts must *always* be due to limited knowledge. If § 154(b) had in view that general awareness of limited knowledge which all reflective humans possess, all parties would always bear the risk of their mistake under §§ 152 and 153 and there would be no law relating to mistake.⁴

And third, as to clause (c) there is nothing in the circumstances of this case that would make it reasonable to allocate the risk of the mistake to Complainant.

Complainant made the adjustments because the federal inspections indicated that Complainant had breached the contract of sale. A basic assumption on which Complainant made the adjustments was the integrity of the federal inspection process applicable to produce inspected at Koam Produce, Inc. Clearly, if Complainant had known that an employee of Koam had bribed federal inspectors, and that the very inspectors who inspected the subject tomatoes were guilty of

⁴*Nalbandian Farms, Inc. v. McDonnell & Blankfard, Inc.*, 46 Agric. Dec. 674, 682 (1987).

accepting bribes to falsify inspections, Complainant would not have been willing to rely upon the inspections performed by those inspectors as a basis for adjusting the contract of sale. We conclude that Complainant, in making the adjustments, made a mistake as to a basic assumption on which it made the adjustments. In view of the involvement of Respondent in the corruption of the inspection process enforcement of the adjustments would be unconscionable. Certainly Respondent knew of the mistake, and in addition it was the fault of Respondent that caused the mistake. We conclude that the adjustments should be voided on the grounds of both misrepresentation and mistake.

Although the adjustments are deemed to be voided, the original contracts are still in place. Respondent contends that Complainant breached these contracts by supplying tomatoes that did not meet contract requirements. Respondent submitted the affidavits of two of its employees stating that they personally inspected the tomatoes in the subject lots and observed that they were in fact “not in acceptable condition as evidenced by softness, over ripe condition and poor quality.” Since Respondent accepted the lots of tomatoes it became liable for the full purchase price thereof less any damages resulting from a breach of contract on the part of Complainant.⁵ Respondent had the burden of proving a breach by a preponderance of the evidence.⁶ The Act, section 14(a), provides in relevant part that:

. . . official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act (7 U.S.C. 1 et seq.) as prima-facie evidence of the truth of the statements therein contained.

This provision is no more than the typical statutory exception to the hearsay rule which excludes documents apart the testimony of the person who wrote them.⁷ Prima facie evidence is always subject to rebuttal and contradiction. The guilty pleas of the inspectors, coupled with the implication of Respondent in the bribery of inspectors, rebuts the prima facie evidence presented by the federal inspections submitted in evidence in this proceeding. As the trier of the facts we are

⁵*Norden Fruit Co., Inc. v. E D P, Inc.*, 50 Agric. Dec. 1865 (1991); *Granada Marketing, Inc. v. Jos. Notarianni & Company, Inc.*, 47 Agric. Dec. 329 (1988); *Jerome M. Matthews v. Quong Yuen Shing & Co.*, 46 Agric. Dec. 1681 (1987).

⁶See UCC 2-607(4). See also *The Grower-Shipper Potato Co. v. Southwestern Produce Co.*, 28 Agric. Dec. 511 (1969).

⁷See C. McCormick, Handbook of the Law of Evidence, §§ 291-292, pp. 614-615 (1954).

unconvinced by the statements in the federal inspections which testify to the poor condition of the subject tomatoes. In addition, "[w]e have often discounted testimonial evidence concerning the condition of perishable commodities and stated the necessity of obtaining a neutral inspection showing the exact extent of damage."⁸ We find that Respondent has not met its burden of proving a breach on the part of Complainant. Accordingly, Respondent is liable to Complainant for the balance of the contract price of the five lots of tomatoes, or \$4,800.00.

Section 5(a) of the Act requires that we award to the person or persons injured by a violation of section 2 of the Act "the full amount of damages sustained in consequence of such violations." Such damages include interest.⁹ Since the Secretary is charged with the duty of awarding damages, he also has the duty, where appropriate, to award interest at a reasonable rate as a part of each reparation award.¹⁰ We have determined that a reasonable rate is 10 percent per annum.

Complainant was required to pay a \$300.00 handling fee to file its formal complaint. Pursuant to 7 U.S.C. 499(e)(a), the party found to have violated Section 2 of the Act is liable for any handling fees paid by the injured party.

Order

Within 30 days from the date of this order respondent shall pay to complainant, as reparation, \$4,800.00, with interest thereon at the rate of 10% per annum from June 1, 1999, until paid, plus the amount of \$300.

Copies of this order shall be served upon the parties.

⁸*Mutual Vegetable Sales v. Select Distributors, Inc.*, 38 Agric. Dec. 1359 (1979). See also *Tyre Farm, Inc. v. Dandrea Produce, Inc.*, 45 Agric. Dec. 796 (1986); *G. J. Albert, Inc. v. Salvo*, 36 Agric. Dec. 240 (1977); *Salt Lake Produce Co., Inc. v. Butte Produce Company, Inc.*, 32 Agric. Dec. 1732 (1973); *B. G. Anderson Company, Inc. v. Mountain Produce Co.*, 29 Agric. Dec. 513 (1970).

⁹*L & N Railroad Co. v. Sloss-Sheffield Steel & Iron Co.*, 269 U.S. 217 (1925); *L & N Railroad Co. v. Ohio Valley Tie Co.*, 242 U.S. 288 (1916).

¹⁰See *Pearl Grange Fruit Exchange, Inc. v. Mark Bernstein Company, Inc.*, 29 Agric. Dec. 978 (1970); *John W. Scherer v. Manhattan Pickle Co.*, 29 Agric. Dec. 335 (1970); and *W. D. Crockett v. Producers Marketing Association, Inc.*, 22 Agric. Dec. 66 (1963).