

| | | | |
|--|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address) John H. Gomez (SBN 171485) Gomez Iagmin Trial Attorneys 655 W. Broadway Suite 1700 San Diego, CA 92101 TELEPHONE NO.: 619-237-3490 FAX NO.: 619-237-3496 | | FOR COURT USE ONLY CONFORMED COPY OF ORIGINAL FILED Los Angeles Superior Court JUN 03 2013 John A. Clarke, Executive Officer/Clerk BY <u>Victor Sino-Cruz</u> , Deputy | |
| ATTORNEY FOR (Name): Plaintiff Lynda Brackenridge SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill St. MAILING ADDRESS: 111 North Hill St. CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District: Stanley Mosk Court House | | CASE NUMBER: BC510638 JUDGE: DEPT: | |
| CASE NAME: Lynda Brackenridge v. Townsend Farms Corporation, et al. | | | |
| CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) | | Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) | |

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

| | | |
|--|--|---|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PIP/D/W/D (23) Non-PIP/D/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

| | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |


3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 3

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 3, 2013
 John H. Gomez
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

TOWNSEND FARMS CORPORATION, COSTCO WHOLESALE CORPORATION, ; and DOES 1-50, inclusive.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

LYNDA BRACKENRIDGE, an individual.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

JUN 03 2013

John A. Clarke, Executive Officer/Clerk

BY  Deputy
Victor Sino-Cruz

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es)

Los Angeles Superior Court, Central Division

Stanley Mosk Courthouse

111 North Hill Street

Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

BC510633

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

John H. Gomez, Esq. (SBN: 171485)

Gomez Iagmin Trial Attorneys

655 W. Broadway, Suite 1700, San Diego, CA 92101 (619) 237-9632

DATE: June 3, 2013

(Fecha)


(Secretario)

VICTOR SINO-CRUZ

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

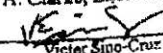
JUN 03 2013

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under:

| | |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify): | |
4. ☐ by personal delivery on (date):

JUN 03 2013

John A. Clarke, Executive Officer/Clerk
BY  Deputy
Victor Sino-Cruz

1 John H. Gomez (SBN 171485)
2 GOMEZ IAGMIN TRIAL ATTORNEYS
3 655 W. Broadway, Suite 1700
4 San Diego, California 92101
5 Telephone: (619) 237-3490/Fax: (619) 237-3496

6 Ron Simon, Texas. Bar No. 00788421
7 SIMON & LUKE, L.L.P.
8 2929 Allen Parkway, 42nd Floor
9 Houston, Texas 77019
10 Telephone: (713) 335-4900/Fax: (713) 335-4949
11 (Pending Pro Hac Vice)

12 Attorneys for Plaintiff

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 IN AND FOR THE COUNTY OF LOS ANGELES

| | | |
|--|---|-----------------------|
| 15 LYNDIA BRACKENRIDGE, an individual, |) | Case No. BC 510633 |
| 16 Plaintiff, |) | (Unlimited Civil) |
| 17 vs. |) | COMPLAINT FOR DAMAGES |
| 18 TOWNSEND FARMS CORPORATION, |) | DEMAND FOR JURY TRIAL |
| 19 COSTCO WHOLESALE CORPORATION, |) | |
| 20 and DOES 1 through 50, inclusive, |) | |
| 21 Defendants. |) | |

22 Plaintiff, by and through her attorneys of record Simon & Luke, L.L.P. and Gomez Iagmin,
23 hereby alleges as follows:

24 PRELIMINARY ALLEGATIONS

25 1. Plaintiff LYNDIA BRACKENRIDGE (hereinafter "Plaintiff") is an adult and resident of
26 Lakewood, California.

27 2. Defendant TOWNSEND FARMS (hereinafter "Defendant") is an Oregon corporation
28 headquartered in Fairview, Oregon. It may be served through its agent for service of process, BLEC
Registered Agent Services, Inc., 5300 Meadows Road, Suite 200, Lake Oswego, Oregon 97035.

3. COSTCO WHOLESALE CORPORATION is a Washington corporation whose
principal place of business is in California. It may be served through its agent for service of process,

1 CT Corporation System, 818 W. Seventh Street, Los Angeles, California 90017.

2 4. Plaintiff does not know the true names and capacities, whether corporate or otherwise,
3 of those Defendants sued herein as DOES 1 through 50, inclusive, and Plaintiff prays leave that when
4 the true names of said Defendants are ascertained Plaintiff may amend this complaint to insert the
5 same with appropriate allegations. Plaintiff is informed and believes, and upon such information and
6 belief, alleges that each of the Defendants designated herein by such fictitious names are responsible in
7 some manner for the events described herein, and caused injuries and damages to Plaintiff.

8 **JURISDICTION AND VENUE**

9 5. Plaintiff hereby incorporates paragraphs 1 through 4 above.

10 6. This Court has jurisdiction and venue over Defendant because Defendant does
11 significant business in the State of California and because the events giving rise to this litigation
12 occurred in Los Angeles County, California.

13 **GENERAL ALLEGATIONS**

14 7. Plaintiff hereby incorporates paragraphs 1 through 6 above.

15 **About Hepatitis A Virus**

16 8. *Hepatitis A* (formerly known as *infectious hepatitis*) is an acute infectious disease of
17 the liver caused by the *hepatitis A* virus (*HAV*), a virus usually spread by the fecal-oral route, with
18 infection often being traced to conditions of poor sanitation. In addition, the *HAV* virus is highly
19 resilient, and is resistant to detergent, acid (pH 1), solvents (e.g., ether, chloroform), drying, and
20 temperatures up to 60 °C. It can survive for months in fresh and salt water, as well as in frozen
21 products.

22 9. Following ingestion, *HAV* enters the bloodstream through the epithelium of
23 the oropharynx, or intestine. The blood carries the virus to its target, the liver, where it multiplies
24 within hepatocytes and Kupffer cells. As a result, virions are secreted into the bile and released in
25 stool. *HAV* is excreted in large quantities approximately 11 days prior to appearance of symptoms or
26 anti-*HAV* IgM antibodies in the blood. The incubation period is 15–50 days, with a mortality rate of
27 one-in-two hundred.

1 10. It is an acute illness, which means that the symptoms can come on suddenly and
2 sharply, causing a range of clinical problems from mild illness with no symptoms to more severe
3 illness. Typical symptoms include fatigue, nausea, vomiting, abdominal pain or discomfort (especially
4 in the area of the liver beneath the lower ribs on the right side), loss of appetite, low-grade fever, dark
5 urine, muscle pain, and yellowing of the skin and eyes (jaundice). But *HAV* is also one of several
6 types of hepatitis viruses that can cause inflammation that affects a liver's ability to function, and in
7 some cases can cause liver failure, chronic liver disease, or even death.

8 **The HAV Outbreak**

9 11. On May 31, 2013, U.S Centers for Disease Control and Prevention ("CDC") announced
10 that it was collaborating with public health officials in several states and the U.S. Food and Drug
11 Administration ("FDA") to investigate a multistate outbreak of at least 30 *Hepatitis A Virus (HAV)*
12 infections. According to the CDC, the first outbreak infection presented with symptoms of *HAV* on
13 April 29th. And while the victims have all been adults, this *HAV* outbreak has disproportionately
14 affected women (65% of those identified).

15 12. So far, there have been at least 9 hospitalizations of the 30 cases identified, or over 30%
16 of all reported cases. Given the significant lag time between infection and reporting (incubation
17 periods range from two weeks to seven weeks) many more infections are likely to be identified in the
18 coming months.

19 13. In the course of its investigation, the CDC has traced the *HAV* infections to
20 consumption of Townsend Farms Organic Anti-Oxidant Blend frozen berries sold throughout the
21 Western United States. Among the 30 *Hepatitis A* victims identified so far, residents have been
22 identified in the following states and counties: California (Humboldt, Orange, Riverside, San
23 Bernardino, and San Diego Counties), New Mexico (Bernalillo County), Arizona (Maricopa County),
24 Colorado (Adams, Boulder, Clear Creek, Eagle and Jefferson Counties) and Nevada (Washoe and
25 Clark Counties).

26 14. According to the CDC, initial laboratory studies of specimens from two *HAV* virus
27 victims have been isolated, being identified as genotype 1B, a strain rarely seen in the Americas but
28 which circulates in North Africa and the Middle East.

1
2 15. Also according to the CDC, two recent outbreaks of *HAV* in Europe in 2013 and in
3 British Columbia in 2012, were also linked to frozen berries. In the British Columbia outbreak, the
4 infection was traced to pomegranate seeds from Egypt. In the current outbreak, Townsend Farms
5 frozen berry mix contains pomegranate seeds from Turkey.

6 **Plaintiff's Hepatitis A Illness**

7 16. Plaintiff purchased Defendants' frozen fruit blend at a nearby Costco retail
8 establishment in Lakewood, California. On or about May 22, she began to experience fatigue, chills,
9 muscle and joint aches, and loss of appetite. Over the next few days, she began to experience
10 additional symptoms, including vomiting and dry heaves, darkened urine, and yellowing of the eyes
11 and skin. She was taken to her local doctor's office where she submitted blood and urine samples and
12 was given IV fluids for dehydration.

13 17. On May 30, her doctors informed her that her liver enzymes were severely elevated, and
14 she was immediately scheduled for an ultrasound later that day. On May 31, after her test results
15 showed severe liver inflammation, she was admitted to Long Beach Memorial Hospital for continued
16 IV therapy, anti-nausea medication, testing, and monitoring.

17 18. On June 1, her hepatologist informed her that she had contracted Hepatitis A, and that
18 she would need to be isolated from other patients.

19 19. Ms. Brackenridge remains hospitalized in isolation at Long Beach Memorial Hospital in
20 guarded condition.

21 20. Prior to her Hepatitis A illness, Ms. Brackenridge led an otherwise healthy, active
22 lifestyle, which included hiking, kayaking, climbing, and other rigorous outdoor activities.

23 **FIRST CAUSE OF ACTION**

24 **(Strict Products Liability)**

25 21. Plaintiff hereby incorporates paragraphs 1 through 20 above.

26 22. At all times, Defendants were in the business of importing, manufacturing, distributing,
27 and marketing its frozen fruit mix product ("fruit mix").
28