

(ENDORSED)  
FILED

JUL 16 2014

David H. Yaruse, J.C. Clerk of the Superior Court  
County of Santa Clara, California

By:

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9 (For list of additional Plaintiff counsel  
See attached Appendix A)

10 Attorneys for Plaintiff

11  
12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 IN AND FOR THE COUNTY OF SANTA CLARA

14 THE PEOPLE OF THE STATE OF CALIFORNIA,  
15 Plaintiff,

16 vs.

17 SYSCO CORPORATION, a Delaware Corporation;  
SYSCO SAN FRANCISCO, INC.,  
A California Corporation; SYSCO CENTRAL  
18 CALIFORNIA, INC., a California Corporation;  
SYSCO LOS ANGELES, INC., a Delaware  
19 Corporation; SYSCO RIVERSIDE, INC., a Delaware  
Corporation; SYSCO SACRAMENTO, INC., a  
20 Delaware Corporation; SYSCO SAN DIEGO, INC., a  
Delaware Corporation; and SYSCO VENTURA,  
21 INC., a Delaware Corporation.  
22 Defendants.

CASE NO.

114CV268078

**COMPLAINT FOR CIVIL  
PENALTIES, INJUNCTION,  
AND OTHER EQUITABLE  
RELIEF**

23  
24 The People of the State of California (the "People") appear by and through the following  
25 District Attorneys, who bring this action in the name of the People and, pursuant to Health and  
26 Safety Code Section 111900, on behalf of the California Department of Public Health (the  
27 "Department"): Jeffrey F. Rosen, District Attorney of Santa Clara County, by Francisca B. Allen,  
28 Deputy District Attorney; Nancy E. O'Malley, District Attorney of Alameda County, by Matthew

1 L. Beltramo, Deputy District Attorney; Edward S. Berberian, District Attorney of Marin County,  
2 by Andres H. Perez, Deputy District Attorney; Dean Flippo, District Attorney of Monterey  
3 County, by John F. Hubanks, Deputy District Attorney; Gary Lieberstein, District Attorney of  
4 Napa County, by Catherine C. Borsetto; Tony Rackauckas, District Attorney of Orange County,  
5 by Tracy E. Hughes, Deputy District Attorney; Bob Lee, District Attorney of Santa Cruz County,  
6 by Kelly J. Walker, Assistant District Attorney; Stephen S. Carlton, District Attorney of Shasta  
7 County, by Anand B. Jesrani, Deputy District Attorney; Donald A. du Bain, District Attorney of  
8 Solano County, by Diane M. Taira, Deputy District Attorney; and Jill R. Ravitch, District  
9 Attorney of Sonoma County, by Matthew T. Cheever, Deputy District Attorney.

10 The People allege on information and belief the following:

11 **JURISDICTION AND VENUE**

12 1. Acting to protect the general public from unlawful business practices and from  
13 untrue and misleading representations, the People bring this action pursuant to the Sherman Food,  
14 Drug and Cosmetic Law, Health and Safety Code §§ 109875 *et seq.*, § 111900, and § 111905, (the  
15 "Sherman Food Law") and Business & Professions Code §§17200, 17203, 17204, 17205, 17206,  
16 17500, 17535, and 17536, seeking (a) to enjoin Defendants from engaging in food safety  
17 violations, unfair and unlawful business practices, and false advertising as alleged herein, (b) to  
18 impose civil penalties and award restitution as a means of addressing the violations alleged herein,  
19 and (c) to recover the Department's investigation costs.

20 2. Defendants have advertised, marketed, solicited sales, conducted business and  
21 committed violations of law, as alleged herein, in each of the 58 Counties of the State of  
22 California. Thus, venue is proper in Santa Clara County.

23 **DEFENDANTS**

24 3. Defendant SYSCO CORPORATION, (hereinafter referred to as "Sysco") is a  
25 Delaware corporation with its principal place of business at 1390 Enclave Parkway, Houston,  
26 Texas 77077.

27 4. Defendant Sysco San Francisco, Inc., is a California corporation with its principal  
28 place of business at 5900 Stewart Avenue, Fremont, California 94538.

1           5.       Defendant Sysco Central California, Inc., is a California corporation with its  
2 principal place of business at 136 Mariposa Road, Modesto, California 95354.

3           6.       Defendant Sysco Los Angeles, Inc., is a Delaware corporation with its principal  
4 place of business at 20701 Currier Road, Walnut, California 91789.

5           7.       Defendant Sysco Riverside, Inc., is a Delaware corporation with its principal place  
6 of business at 15750 Meridian Parkway, Riverside, California 92518.

7           8.       Defendant Sysco Sacramento, Inc., is a Delaware corporation with its principal  
8 place of business at 7062 Pacific Avenue, Pleasant Grove, California 95668.

9           9.       Defendant Sysco San Diego, Inc., is a Delaware corporation with its principal place  
10 of business at 12180 Kirkham Road, Poway, California 92064.

11          10.       Defendant Sysco Ventura, Inc., is a Delaware corporation with its principal place of  
12 business at 3100 Sturgis Road, Oxnard, California 93030.

13          11.       Defendants Sysco San Francisco, Sysco Central California, Sysco Los Angeles,  
14 Sysco Riverside, Sysco Sacramento, Sysco San Diego, and Sysco Ventura are wholly-owned  
15 subsidiaries of Defendant Sysco and are *broadline*<sup>1</sup> operating companies in the business of  
16 marketing, selling and distributing food products throughout California. These defendants are  
17 collectively referred to in this Complaint as the "Sysco OpCo Defendants." Defendant Sysco and  
18 the Sysco OpCo Defendants are collectively referred to in this Complaint as "DEFENDANTS."

19          12.       Whenever reference is made in this Complaint to any act of DEFENDANTS, such  
20 allegation shall be deemed to mean that DEFENDANTS, and their employees, agents, officers,  
21 directors and representatives did or authorized such acts while actively engaged in the  
22 management, direction, or control of the affairs of said DEFENDANTS and while acting within  
23 the scope and course of their duties.

24          13.       Whenever reference is made in this complaint to any act of Defendant Sysco or any  
25 act of all or any Sysco OpCo Defendants, such allegation shall be deemed to mean that each

26 \_\_\_\_\_  
27 <sup>1</sup> According to Sysco, *broadline* operating companies distribute a full line of food products and a  
28 wide variety of non-food products to both independent and chain restaurant customers and other  
"away-from-home" locations such as healthcare and educational facilities.

1 defendant acted individually and jointly with all the other Defendants and engaged in or caused  
2 the violations of law hereinafter alleged as if they were specifically named in such allegation.

3 **GENERAL ALLEGATIONS**

4 14. At all times mentioned in this Complaint, DEFENDANTS, and each of them, have  
5 been and are currently engaged in the business of advertising, marketing, selling, storing, holding,  
6 delivering, transporting, manufacturing, packaging and/or distributing food products, which  
7 include, but are not limited to, dairy products, meats, poultry, frozen foods, seafood, canned food,  
8 dry food, produce, and beverages. These food items are offered for sale, transported, sold and  
9 delivered to restaurants, hotels, hospitals, schools, cafeterias, activity centers and other places of  
10 business in California, for consumption by California consumers.

11 15. The Sysco OpCo Defendants, and each of them, for at least the last four years, held  
12 perishable food and other food products, including, but not limited to, dairy products, meats,  
13 poultry, frozen foods, seafood, canned food, dry food, produce and beverages in at least 22  
14 unregistered public storage units, sheds, cargo containers, and other similar structures  
15 (“Unregistered Sites”) throughout California.

16 16. The Unregistered Sites did not contain any or adequate refrigeration units, allowing  
17 the food to reach temperatures above 45 degrees Fahrenheit, and/or were insanitary.

18 17. The Sysco OpCo Defendants, and each of them, also allowed employees,  
19 specifically “marketing associates”, to transport perishable food and other food products from  
20 these Unregistered Sites to their customers in personal (non-commercial) vehicles without proper  
21 refrigeration during the transportation, and under circumstances exposing such food to the risk of  
22 contamination.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATIONS OF THE SHERMAN FOOD, DRUG AND COSMETIC LAW**  
25 **(HEALTH AND SAFETY CODE SECTIONS 110460, 110461, 110465, 110470, 110620,**  
**110760, 110960, )**

26 18. The People re-allege and incorporate by reference Paragraphs 1 through 17 of this  
27 Complaint as though fully set forth herein.

28

1           19.     Beginning at an exact date unknown to the People, but within four years prior to  
2 the filing of this Complaint, DEFENDANTS, and each of them, engaged, throughout the state of  
3 California, in a course of conduct that violated certain sections of the Sherman Food Law, and  
4 specifically the People allege as follows:

5                   (A) That DEFENDANTS, and each of them, transported in non-commercial  
6 vehicles potentially hazardous refrigerated food at a temperature above 45 degrees Fahrenheit in  
7 violation of California Health and Safety Code § 110960.

8                   (B) That DEFENDANTS, and each of them, held potentially hazardous  
9 refrigerated food at a temperature above 45 degrees Fahrenheit in violation of California Health  
10 and Safety Code § 110960.

11                  (C) That DEFENDANTS, and each of them, sold [or offered for sale] food that  
12 was adulterated in violation of California Health and Safety Code § 110620.

13                  (D) That DEFENDANTS, and each of them, delivered food that was adulterated in  
14 violation of California Health and Safety Code § 110620.

15                  (E) That DEFENDANTS, and each of them, held processed food in a food  
16 processing facility that was not duly registered in violation of California Health and Safety Code §  
17 110461.

18                  (F) That DEFENDANTS, and each of them, held processed food in a facility  
19 within the State of California without possessing a valid registration from the California  
20 Department of Public Health in violation of California Health and Safety Code § 110460.

21                  (G) That DEFENDANTS, and each of them, did not have a separate registration  
22 for each place of packing or holding in violation of California Health and Safety Code § 110465.

23                  (H) That DEFENDANTS, and each of them, did not submit a registration  
24 application annually and pay the required registration fee in violation of California Health and  
25 Safety Code § 110470.

26                  (I) That DEFENDANTS, and each of them, sold misbranded food in violation of  
27 California Health and Safety Code § 110760.

28

1 (J) That DEFENDANTS, and each of them, delivered misbranded food in  
2 violation of California Health and Safety Code § 110760.

3 (K) That DEFENDANTS, and each of them, held misbranded food in violation of  
4 California Health and Safety Code § 110760.

5 (L) That DEFENDANTS, and each of them, failed to follow good food  
6 manufacturing practices regulations as set forth in Health and Safety Code § 110105.

7 20. As a result of these actions, DEFENDANTS are subject to civil penalties pursuant  
8 to Health and Safety Code § 111915, costs of investigation and prosecution pursuant to Health and  
9 Safety Code § 111905, and injunctive relief pursuant to Health and Safety Code § 111900.

10 **SECOND CAUSE OF ACTION**  
11 **VIOLATION OF BUSINESS AND PROFESSIONS CODE**  
12 **SECTION 17500 (UNTRUE OR MISLEADING STATEMENTS)**

13 21. The People re-allege and incorporate by reference Paragraphs 1 through 20 of this  
14 Complaint as though fully set forth herein.

15 22. Beginning at an exact date that is unknown to the People, but within three years  
16 prior to the filing of this Complaint, Defendant Sysco, with the intent to induce commercial food  
17 businesses to purchase Sysco food products for resale to the general public, and with the intent to  
18 induce the general public to purchase Sysco food products from commercial food businesses,  
19 made or caused to be made statements throughout the State of California which were untrue and/or  
20 misleading. These untrue and misleading statements, which Defendant Sysco knew or reasonably  
21 should have known were untrue or misleading, are unlawful under Business & Professions Code  
22 § 17500. They include, but are not limited to, the following claims and statements that appeared  
23 primarily on Defendant Sysco's web site:

24 (A) “We will continually seek out new ways to ... distribute food in a  
25 manner that not only preserves and protects the environment, but  
26 strengthens our ability to deliver the best possible quality to our  
27 customers. In this way, we ensure a healthy future not just for our  
28 planet, but for our businesses and end users alike.”

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- (B) “Our own Sysco brand family encompasses a wide selection of foods and restaurant supply products, all backed by our own high quality standards and oversight.”
- (C) “Quality is more than a promise. It’s assured.”
- (D) “You can always rely on Sysco to deliver consistent quality with every order. That’s because we have more than 100 QA professionals committed to maintaining the most stringent standards in terms of food quality, consistency and food safety. That’s by far the largest and most active QA department in the industry. But Sysco’s commitment to quality extends well beyond a strong QA Department. We have more than 40,000 employees—from drivers and Marketing Associates to loaders and receivers—that are fully invested in providing the highest quality products and services available today.”
- (E) “We go to great lengths to ensure that our suppliers and our state-of-the-art distribution warehouses maintain the highest standards, often above and beyond government regulations. Additionally, we routinely monitor product quality and food safety systems to ensure compliance and customer satisfaction.”
- (F) “To many in the food industry, our efforts may seem extreme. Even obsessive. To us, it’s all in a day’s work. Because at Sysco, our QA Department is dedicated to one mission: to deliver great products that meet the most stringent standards in terms of quality, safety and consistency.”
- (G) “With Sysco, quality is assured—from fresh to finish.”

23. As a result of the untrue and/or misleading statements described in Paragraph 22, above, Defendant Sysco is subject to injunctive relief and civil penalties under Business & Professions Code §§ 17535 and 17536.





1           4.       That DEFENDANTS, and each of them, be ordered to pay as a civil penalty,  
2 damages in the sum of One Thousand Dollars (\$1,000) per day for each violation pursuant to  
3 Health and Safety Code § 111915.

4           5.       That the DEFENDANTS, and each of them, be ordered to pay restitution to all  
5 persons, who purchased, used, or consumed products that were held, transported, advertised,  
6 and/or sold in violation of the laws of the State of California pursuant to Business and Professions  
7 Code §§ 17203 and 17535.

8           6.       That DEFENDANTS, and each of them, be ordered to pay the Department's  
9 reasonable costs incurred in investigating and prosecuting this action pursuant to Health and  
10 Safety Code § 111905.

11           7.       That the People recover their costs of suit herein.

12           8.       That the People be given such other and further relief the Court deems proper.

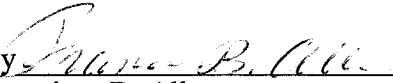
13  
14 Dated: July 16, 2014

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County of Santa Clara

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By   
Francisca B. Allen  
Deputy District Attorney

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Dated: July 16, 2014


BOB LEE  
District Attorney  
County of Santa Cruz

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By   
Kelly J. Walker  
Assistant District Attorney

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**APPENDIX A**

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