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1999 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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1-20-1999

## Jacob Blinder & Sons v. Gerber Prod Co

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Filed January 20, 1999

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

Nos.: 97-5609 and 98-5125

In Re: Baby Food Antitrust Litigation

JACOB BLINDER & SONS, INC., WISEWAY SUPER FOOD  
CENTER, INC., SUPER CENTER, INC., UNITED  
BROTHERS FINER FOODS, INC., L. L. HARRIS  
WHOLESALE GROCERY, PETER J. SCHMITT & CO., 3932  
CHURCH STREET SUPERMARKET, INC., ARLEEN FOOD  
PRODUCTS CO., INC., RUBIN BROOKS AND SONS, INC.,  
Appellants

(D.C. Civil No. 92-cv-05495)

JACOB BLINDER & SONS, INC., on behalf of itself and all  
others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) fka BEECH-NUT-NUTRITION fka BEECH-NUT  
FOODS CORPORATION (now dissolved) fka  
BAKER/BEECH-NUT CORPORATION (now dissolved) BCN  
CORPORATION, (now dissolved) fka BEECH-NUT  
CORPORATION; NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 92-cv-05495)

PETER J. SCHMITT CO., on behalf of itself

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) aka BEECH-NUT-NUTRITION aka BEECH-NUT  
FOODS CORPORATION (now dissolved) aka  
BAKER/BEECH-NUT CORPORATION (now dissolved) BCN  
CORPORATION, (now dissolved) aka BEECH-NUT  
CORPORATION; NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-00047)

WISEWAY SUPER FOOD CENTER, INC., on behalf of itself  
and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) aka BEECH-NUT-NUTRITION aka BEECH-NUT  
FOODS CORPORATION (now dissolved) aka  
BAKER/BEECH-NUT CORPORATION (now dissolved) BCN  
CORPORATION, (now dissolved) aka BEECH-NUT  
CORPORATION; NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-00048)

SUPER CENTER, INC., on behalf of itself and all others  
similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) aka BEECH-NUT-NUTRITION aka BEECH-NUT  
FOODS CORPORATION (now dissolved) aka  
BAKER/BEECH-NUT CORPORATION (now dissolved) BCN  
CORPORATION, (now dissolved) aka BEECH-NUT  
CORPORATION; NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-00049)

UNITED BROTHERS FINER FOODS, INC., on behalf of  
itself and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) aka BEECH-NUT-NUTRITION aka BEECH-NUT  
FOODS CORPORATION (now dissolved) aka  
BAKER/BEECH-NUT CORPORATION (now dissolved) BCN  
CORPORATION, (now dissolved) aka BEECH-NUT  
CORPORATION; NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-00050)

L. L. HARRIS WHOLESALE GROCERY, a partnership, on

behalf of itself and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION, (now  
dissolved) aka BEECH-NUT-NUTRITION CORPORATION  
(now dissolved) aka BEECH-NUT FOODS CORPORATION  
(now dissolved) aka BAKER/BEECH-NUT CORPORATION  
(now dissolved) BNC CORPORATION, aka BEECH-NUT  
CORPORATION; (now dissolved); NESTLE  
HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-00051)

3932 CHURCH STREET SUPERMARKET, INC., an Illinois  
Corporation, on behalf of itself and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION,  
(formerly known successively as Baker/Beech-Nut  
Corporation, Beech Nut Foods Corporation, and Beech  
Nut Nutrition Corporation) (now dissolved); BNC  
CORPORATION, (formerly known as Beech-Nut  
Corporation) (now dissolved); NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-0320)

ARLEEN FOOD PRODUCTS CO., INC., on behalf of itself  
and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION,  
(formerly known successively as Baker/Beech-Nut  
Corporation, Beech-Nut Foods Corporation, and Beech-  
Nut Nutrition Corporation) (now dissolved) BNC  
CORPORATION, (formerly known as Beech-Nut  
Corporation) (now dissolved); NESTLE HOLDINGS, INC.;

(Newark New Jersey Civil No. 93-cv-0407)

RUBIN BROOKS AND SONS, INC., on behalf of himself  
and all others similarly situated

v.

GERBER PRODUCTS COMPANY; H.J. HEINZ COMPANY;  
RALSTON PURINA COMPANY; BNNC CORPORATION,  
(formerly known successively as Baker/Beech-Nut  
Corporation, Beech-Nut Foods Corporation and Beech-Nut  
Nutrition Corporation) (now dissolved); BNC  
CORPORATION, (formerly known as Beech-Nut  
Corporation (now dissolved); NESTLE HOLDINGS, INC.

(Newark New Jersey Civil No. 93-cv-00802)

Jacob Blinder & Sons, Inc., Wiseway Super Food Center,  
Inc., Super Center, Inc., United Brothers Finer Foods,  
Inc., L. L. Harris Wholesale Grocery, Peter J. Schmitt &  
Co., 3932 Church Street Supermarket, Inc., Arleen Food  
Products Co., Inc., Rubin Brooks and Sons, Inc.,  
Appellants in No. 98-5125

ORDER

The slip opinion in the above entitled matter filed  
January 12, 1999 is herewith amended as follows:

1. Page 14, first full paragraph, line 2 -- delete "at  
least a day" and replace with "sometime."
2. Page 15, paragraph 2 -- delete last sentence  
commencing with "(3)."
3. Page 7, paragraph 2, line 8 -- delete "SS" and  
substitute "Sections."
4. Page 13, first paragraph, line 12 -- delete "between"  
and substitute "among."
5. Page 36, line 9 -- extend "Nov." to "November."
6. Page 40, paragraph 3, line 8 -- insert "that" after  
"concluded."
7. Page 43, paragraph 2, line 1 -- delete  
"subsequently."
8. Page 50, last paragraph, line 2 -- delete "three of."
9. Page 51, paragraph 4, line 5 -- capitalize "S" in  
"section."

10. Page 52, paragraph 2, line 7 -- delete "S" and substitute "Section."

BY THE COURT,

/s/ Max Rosenn

Circuit Judge

Dated: January 20, 1999

A True Copy:

Teste:

Clerk of the United States Court of Appeals  
for the Third Circuit