

STATE OF MAINE

SUPERIOR COURT

DISTRICT COURT

HANCOCK, ss.

Location \_\_\_\_\_

Docket No. \_\_\_\_\_

Docket No. \_\_\_\_\_

STATE OF MAINE and WALTER WHITCOMB,  
COMMISSIONER, DEPARTMENT OF AGRICULTURE,  
FOOD AND RURAL RESOURCES Plaintiff<sub>s</sub>

v.

SUMMONS

DAN BROWN  
d/b/a GRAVELWOOD FARMS Defendant

42 Gravelwood Farm Lane Address  
Blue Hill ME 04614

The Plaintiff has begun a lawsuit against you in the (~~District~~) (Superior) Court, which holds sessions at (street address) 50 State Street, in the Town/City of Ellsworth, County of Hancock, Maine. If you wish to oppose this lawsuit, you or your attorney **MUST PREPARE AND SERVE A WRITTEN ANSWER** to the attached Complaint **WITHIN 20 DAYS** from the day this Summons was served upon you. You or your attorney must serve your Answer, by delivering a copy of it in person or by mail to the Plaintiff's attorney, or the Plaintiff, whose name and address appear below. You or your attorney must also file the original of your Answer with the court by mailing it to the following address: Clerk of (~~District~~) (Superior) Court, 50 State Street, Ellsworth, Maine 04605-1992  
(Mailing Address) (Town, City) (Zip)

before, or within a reasonable time after, it is served.

**IMPORTANT WARNING**

**IF YOU FAIL TO SERVE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU IN YOUR ABSENCE FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR EMPLOYER MAY BE ORDERED TO PAY PART OF YOUR WAGES TO THE PLAINTIFF OR YOUR PERSONAL PROPERTY, INCLUDING BANK ACCOUNTS AND YOUR REAL ESTATE MAY BE TAKEN TO SATISFY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS LAWSUIT, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.**

If you believe the plaintiff is not entitled to all or part of the claim set forth in the Complaint or if you believe you have a claim of your own against the Plaintiff, you should talk to a lawyer. If you feel you cannot afford to pay a fee to a lawyer, you may ask the clerk of court for information as to places where you may seek legal assistance.

Date: November 3, 2011

(Seal of Court)  
Michele Lambert  
Clerk

Mark Randlett, Assistant Attorney General  
(Attorney for) Plaintiff  
6 State House Station Address  
Augusta ME 04333-0006  
207-626-8588 Telephone

STATE OF MAINE  
HANCOCK, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

STATE OF MAINE and )  
WALTER WHITCOMB, COMMISSIONER, )  
MAINE DEPARTMENT OF )  
AGRICULTURE, FOOD AND )  
RURAL RESOURCES, )

Plaintiffs )

v. )

DAN BROWN )  
d/b/a GRAVELWOOD FARM )  
of Blue Hill, Hancock County, Maine, )

Defendant )

**COMPLAINT FOR  
INJUNCTIVE RELIEF AND  
CIVIL MONETARY PENALTIES**

**INTRODUCTION**

1. This is an action seeking injunctive relief and civil penalties for violations of Maine law arising out of the unlicensed distribution and sale of milk and food products by the Defendant.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 4 M.R.S. § 105, 7 M.R.S. § 2907 and 22 M.R.S. § 2165.

3. Venue is proper in Hancock County because the Defendant resides in that county and because the events giving rise to the causes of action took place in that county.

**PARTIES**

4. Plaintiff, State of Maine (the "State") is a sovereign state and brings this action by and through its Attorney General pursuant to 5 M.R.S. § 191 as the chief law enforcement officer of the State.

5. Walter Whitcomb is the Commissioner of the Maine Department of Agriculture, Food and Rural Resources (the "Department") and, as such, is charged with the enforcement of all statutes delegating responsibility to him or the Department. 7 M.R.S. § 2.

6. Defendant Dan Brown resides in Blue Hill, Maine, and operates a business under the name of Gravelwood Farm in that town.

### **STATUTORY BACKGROUND**

7. Pursuant to 7 M.R.S. § 2901-C, no person may act as a milk distributor without obtaining a milk distributor's license from the Department.

8. Pursuant to 7 M.R.S. § 2900(8), a milk distributor is any person who offers for sale, or sells to another person, any milk or milk products in their final form.

9. Pursuant to 7 M.R.S. § 2908-A, any person who acts as a milk distributor without a milk distributor's license from the Department commits a civil violation, punishable by a fine of not less than \$250 and not more than \$500.

10. Pursuant to 7 M.R.S. § 2902-B, no person may sell unpasteurized milk or a product made from unpasteurized milk unless the product container is labeled as "not pasteurized."

11. Pursuant to 7 M.R.S. § 2908-A, any person who sells unpasteurized milk or a product made from unpasteurized milk in a container that is not labeled as "not pasteurized" commits a civil violation, punishable by a fine of not less than \$250 and not more than \$500.

12. Pursuant to 7 M.R.S. § 2910-A, in addition to any other remedy for the enforcement of sections 2901-C and 2902-B, the Superior Court may issue an injunction restraining any person from any further violation of those statutes.

13. Pursuant to 22 M.R.S. § 2167, no person may operate a food establishment unless licensed for that purpose by the Department.

14. Pursuant to 22 M.R.S. § 2152(4-A), a food establishment is defined as a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold.

15. Pursuant to 22 M.R.S. § 2152(4), “food” means articles used for food or drink for man or other animals.

16. Pursuant to 22 M.R.S. § 2167, any person who operates a food establishment without being licensed by the Department commits a civil violation punishable by a fine of not more than \$500 for each offense.

17. Pursuant to 22 M.R.S. § 2172(1)(D), the Attorney General may seek to enjoin any violation of 22 M.R.S. § 2167.

### **FACTUAL BACKGROUND**

18. On January 30, 2011, an inspector for the Department observed the Defendant selling or offering to sell milk and milk products, along with other food products, at the Woodlawn Farmers Market in Ellsworth, Maine. The Defendant was not licensed by the Department as a milk distributor or as a food establishment and represented to the inspector that he had no intention of obtaining either license.

19. On June 10, 2011, an inspector from the Department again observed the Defendant selling or offering to sell milk products, along with other food products, at the Blue Hill Farmers Market in Blue Hill, Maine. The Defendant continued to be unlicensed by the Department as either a milk distributor or a food establishment and, again, represented to the inspector that he had no intention of obtaining either license.

20. On July 26, 2011, an inspector from the Department observed the Defendant selling or offering to sell milk and milk products, along with other food products, from a farm stand at Gravelwood Farm on Route 178 in Blue Hill, Maine. The Defendant continued to be unlicensed by the Department as either a milk distributor or a food establishment. The inspector took samples of milk, cottage cheese and butter from the farm stand for laboratory testing.

21. The milk and cottage cheese and butter samples taken by the inspector on July 26, 2011 were tested by the Maine Milk Quality Laboratory and were found to be in violation of the standard for milk and milk products under the Department's rules. The milk and cottage cheese samples, in particular, had bacteria counts ten to fifteen times greater than allowable limits.

22. On August 11, 2011, the Department sent a letter to the Defendant advising him that it is unlawful to sell milk and milk products, and other food products, without being licensed by the Department, and informed the Defendant of the health risks involved with the sale of these products. The Department demanded that the Defendant stop the sale of the products until he is properly licensed, and offered to work with him to expedite the process. The Department received no response from the Defendant.

23. On September 15, 2011, inspectors from the Department again observed the Defendant selling or offering to sell milk and milk products, along with other food products, at the farm stand at Gravelwood Farm on Route 178 in Blue Hill, Maine. The Defendant continued to be unlicensed by the Department as either a milk distributor or a food establishment.

24. During their visits to the Gravelwood Farm stand on July 26 and September 15, 2011, the Department inspectors observed milk packaged for sale in plastic "Ocean Spray" bottles which showed wear and dents. The bottle did not contain a label stating the milk was "not pasteurized," which was required as they contained unpasteurized milk for sale.

25. On October 27, 2011, inspectors from the Department again observed the Defendant selling or offering to sell milk and milk products, along with other food products, at the farm stand at Gravelwood Farm on Route 178 in Blue Hill, Maine. The Defendant continued to be unlicensed by the Department as either a milk distributor or a food establishment.

**COUNT I**  
**(Violation of 7 M.R.S. § 2901-C)**

26. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1-25 of this Complaint.

27. The Defendant has sold or offered to sell milk or milk products to other persons, without a milk distributor's license, in violation of 7 M.R.S. § 2901-C.

28. The Defendant's violation of 7 M.R.S. § 2901-C has been continuous and is ongoing.

**COUNT II**  
**(Violation of 7 M.R.S. § 2902-B)**

29. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1-28 of this Complaint.

30. The Defendant has sold or offered to sell unpasteurized milk in a container that is not labeled as "Not Pasteurized" in violation of 7 M.R.S. § 2902-B.

31. The Defendant's violation of 7 M.R.S. § 2902-B has been continuous and is ongoing.

**COUNT III**  
**(Violation of 22 M.R.S. § 2167)**

32. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1-31 of this Complaint.

33. The Defendant has operated a food establishment without being licensed for that purpose in violation of 22 M.R.S. § 2167.

34. The Defendant's violation of 22 M.R.S. § 2167 has been continuous and is ongoing.

**RELIEF REQUESTED**

WHEREFORE, the Plaintiff respectfully requests:

1. That judgment be entered against the Defendant on the above Counts;
2. That an injunction be issued, pursuant to 7 M.R.S. § 2910-A, restraining the Defendant from further selling or offering to sell milk or milk products without a milk distributor's license in violation of 7 M.R.S. § 2901-C;
3. That an injunction be issued, pursuant to 7 M.R.S. § 2910-A, restraining the Defendant from further selling or offering to sell unpasteurized milk in containers not bearing the label warning "not pasteurized" in violation of 7 M.R.S. § 2902-B;
4. That an injunction be issued, pursuant to 22 M.R.S. § 2172(1)(D), restraining the Defendant from further operating a food establishment without a food establishment license in violation of 22 M.R.S. § 2167;
5. That, pursuant to 7 M.R.S. § 2908-A, fines be assessed against the Defendant for each violation of 7 M.R.S. § 2901-C.
6. That, pursuant to 7 M.R.S. § 2908-A, fines be assessed against the Defendant for each violation of 7 M.R.S. § 2902-B;
7. That, pursuant to 22 M.R.S. § 2167, fines be assessed against the Defendant for each violation of 22 M.R.S. § 2167;

8. That the Court award the Department its costs in accordance with 7 M.R.S. § 13;

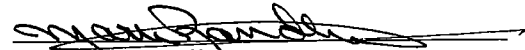
and

9. That the Court order such further relief as the Court deems proper, just and appropriate under the circumstances.

Dated: November 3, 2011

Respectfully submitted,

WILLIAM J. SCHNEIDER,  
Attorney General



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