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**FILED**

MAR 25 1960

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY CLERK

5 *In the* UNITED STATES DISTRICT COURT  
6 SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

7 UNITED STATES OF AMERICA,

8 Plaintiff,

Civil No. 336-60-WM

9 *v.*  
10 VON'S GROCERY COMPANY and  
11 SHOPPING BAG FOOD STORES,

12 Defendants.

13 COMPLAINT *1/5* filed March 25, 1960

14 The United States of America, plaintiff, by its attorneys, acting  
15 under the direction of the Attorney General of the United States, brings  
16 this Civil Action to obtain equitable relief against the above-named  
17 defendants and complains and alleges as follows:

18 JURISDICTION AND VENUE *1/5*

19 1. This complaint is filed and this action instituted against the  
20 defendants under Section 15 of the Act of Congress of October 15, 1914,  
21 c. 323, 38 Stat. 736, as amended by the Act of December 29, 1950, c. 1184,  
22 64 Stat. 1125, entitled "An Act to supplement existing laws against un-  
23 lawful restraints and monopolies and for other purposes," commonly known  
24 as the Clayton Act, in order to prevent and restrain the violation by  
25 the defendants, as hereinafter alleged, of Section 7 of said Act.

26 2. Both defendants transact business and are found within the  
27 Southern District of California.

28 DEFENDANTS *1/5*

29 3. Von's Grocery Company, hereinafter referred to as "Von," is  
30 made a defendant herein. Von, a corporation organized and existing  
31 under the laws of the State of Delaware, maintains its principal offices  
32 in Los Angeles, California.

FILE ENFORCEMENT (RETTED)

1  
2 4. Shopping Bag Food Stores, hereinafter referred to as "Shopping  
3 Bag", is made a defendant herein. Shopping Bag, a corporation organized  
4 and existing under the laws of the State of California, maintains its  
5 principal offices in El Monte, California.

6  
7 TRADE AND COMMERCE

8  
9 5. There is a steady stream of commerce involved in the distri-  
10 bution of groceries and related products from producers located through-  
11 out the United States to consumers residing in the Los Angeles market-  
12 ing area. Chains of supermarkets have become important factors in this  
13 flow of commerce. Such chains operate purchasing offices which are  
14 in contact with suppliers located throughout the United States to pur-  
15 chase and effect the shipment of substantial quantities of groceries  
16 and related products from producing facilities located in the various  
17 States to the chains' distribution centers and supermarkets in the  
18 Los Angeles area. Products shipped to the chains' distribution centers  
19 continue in the flow of commerce in trucks owned and operated by the  
20 chains to their supermarkets for distribution to the ultimate consumer.

21  
22 6. In 1958 20 leading chains of supermarkets operating in the  
23 Los Angeles area purchased, distributed and sold groceries and related  
24 products having a retail value in excess of \$1.1 billion and accounted  
25 for more than 50% of all grocery sales in the area. These chains  
26 competed intensively with each other and with other corporations  
27 and firms engaged in the purchase, distribution and sale of groceries  
28 and related products in the Los Angeles area.

29  
30 7. Von is one of the leading chains of supermarkets in the  
31 Los Angeles area. It was incorporated in Delaware in 1958 and is  
32 the successor of incorporated and unincorporated business entities  
33 which have been engaged in the purchase, distribution and sale of a  
34 complete line of groceries and related products since 1932.

1           8. In the 1959 fiscal year Von operated 28 complete supermarkets  
2 in the Los Angeles area which had total annual sales of more than \$85  
3 million. All of Von's supermarkets are of the self-service, cash-and-  
4 carry type. The average annual sales of these supermarkets are in  
5 excess of \$3 million per store.

6           9. Von also owns and operates a modern distribution center in  
7 a 216,000 square foot building located on a 20-acre tract of land in  
8 the Los Angeles area. This distribution center provides facilities  
9 to receive and re-ship groceries and related products to Von's super-  
10 markets throughout the Los Angeles area. Von owns and operates ap-  
11 proximately 33 tractors and 39 trailers which it uses for transporting  
12 merchandise from the distribution center to its various supermarkets.  
13 In the course of its business Von purchases, receives and distributes  
14 for re-sale in its supermarkets a substantial volume of groceries and  
15 related products which are produced outside the State of California.

16          10. Shopping Bag is also one of the leading chains of super-  
17 markets in the Los Angeles area. It has operated under its present  
18 name since 1947, and is the successor to incorporated and unincorporated  
19 business entities which have been engaged in the purchase, distribution  
20 and sale of a complete line of groceries and related products in the  
21 Los Angeles area since 1933. In the 1959 fiscal year Shopping Bag  
22 operated 38 complete supermarkets in the Los Angeles area which had  
23 total annual sales of over \$84 million. All of Shopping Bag's super-  
24 markets are of the self-service, cash-and-carry type. The average annual  
25 sales of these supermarkets are more than \$2.1 million per store.

26          11. Shopping Bag also operates a substantial distribution center  
27 to receive and re-ship groceries and related products to its super-  
28 markets. To facilitate distribution through its supermarkets of  
29 the products received at its distribution center, Shopping Bag owns  
30 and operates a fleet of trucks, trailers and automobiles comprising  
31

1 about 166 units in all. In the course of its business Shopping Bag  
2 purchases, receives and distributes for re-sale in its supermarkets a  
3 substantial volume of groceries and related products which are pro-  
4 duced outside the State of California.

5 12. In dollar sales Von was the third largest retailer of gro-  
6 ceries and related products in the Los Angeles area and Shopping Bag  
7 was the fifth largest in 1958. In terms of the total number of markets  
8 operated, Shopping Bag was sixth largest and Von was eighth largest.  
9 Combined, Von and Shopping Bag, with approximately 8% of total grocery  
10 store sales, will be the second largest chain of supermarkets in the  
11 Los Angeles area in terms of dollar sales and number of supermarkets.

12 OFFENSE CHARGED

13 13. Under a merger agreement between Von and Shopping Bag, dated  
14 January 25, 1960, and effective March 28, 1960, all assets and prop-  
15 erties of Shopping Bag will be transferred to Von and all outstanding  
16 Shopping Bag stock will be converted into Von common stock. This ac-  
17 quisition by Von of Shopping Bag's assets and properties will violate  
18 Section 7 of the Clayton Act in that the effect, with respect to the  
19 above-described trade and commerce, may be substantially to lessen com-  
20 petition or to tend to create a monopoly, among other ways, as follows:

21 (a) Actual and potential competition between Von and  
22 Shopping Bag in the purchase, distribution and sale of groceries  
23 and related products may be eliminated.

24 (b) Actual and potential competition generally in the  
25 purchase, distribution and sale of groceries and related products  
26 may be substantially lessened.

27 (c) Shopping Bag will be eliminated as a substantial in-  
28 dependent competitive factor in the purchase, distribution and  
29 sale of groceries and related products.

30 (d) Von's competitive advantages over smaller sellers of  
31 groceries and related products may be enhanced to the detriment  
32 of actual and potential competition.

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5

1 (e) Independent retailers of groceries and related products  
2 may be deprived of a fair opportunity to compete with the combined  
3 resources of Von and Shopping Bag.

4 (f) The number of competing entities in the Los Angeles area  
5 available to producers and wholesalers of groceries and related  
6 products will be lessened.

7 (g) Mergers and acquisition on the part of other chains  
8 of supermarkets in the Los Angeles area may be fostered, thus caus-  
9 ing a further substantial lessening of competition and tendency  
10 toward monopoly in the trade and commerce heretofore described.

11 (h) Concentration of ownership, management, and control  
12 of supermarkets in a few large corporations may be increased.

13 14. Defendants threaten to carry out the above-described Merger  
14 Agreement and plaintiff believes it will be carried out and that it will  
15 have continuous unlawful effects unless the relief hereinafter prayed for  
16 is granted.

17 PRAYER

18 WHEREFORE, plaintiff prays:

19 1. That the proposed acquisition by Von of the properties and  
20 assets of Shopping Bag, described herein, be adjudged a violation of  
21 Section 7 of the Clayton Act.

22 2. That the defendants Von and Shopping Bag, their officers,  
23 directors, agents and all other persons acting on their behalf be enjoined  
24 from carrying out the Merger Agreement or any similar plan or agreement.

25 3. That a preliminary injunction issue against defendants prevent-  
26 ing and restraining them from taking any action in furtherance of the  
27 Merger Agreement or any similar plan or agreement pending final adjudication  
28 of the merits of this complaint.

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4. That plaintiff have such other and further relief as the Court may deem just and proper.

5. That plaintiff recover the costs of this suit.

*Wm P Rogers* <sup>3/4</sup> *James J Coyle* ↑  
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