

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

**DAVID STULTS and  
BARBARA STULTS,**

Plaintiffs,

v.

**AMERICAN POP CORN COMPANY,**

Serve at:

Carlton P. Smith  
One Fun Place  
Sioux City, Iowa 51108

**CONAGRA FOODS, INC.,**

Serve at:

Prentice Hall Corporation System  
505 5<sup>th</sup> Avenue, Suite 729  
Des Moines, Iowa 50309

**GENERAL MILLS, INC.,**

Serve at:

590 Park Street, Suite 6  
Capitol Professional Building  
St. Paul, Minnesota 55103

**GIVAUDAN FLAVORS CORPORATION,**

Serve at:

CT Corporation System  
1300 East 9<sup>th</sup> Street  
Cleveland, Ohio 44114

**INTERNATIONAL FLAVORS &  
FRAGRANCES INC.,**

Serve at:

521 West 57<sup>th</sup> Street  
New York, New York 10019

**SENSIENT FLAVORS LLC,**

Serve at:

CT Corporation System  
8040 Excelsior Drive, Suite 200  
Madison, Wisconsin 53717

Case No. C11-4077-MWB

**JURY TRIAL DEMANDED**

<b>BUSH BOAKE ALLEN INC.,</b>	)
<u>Serve at:</u>	)
Prentice Hall Corporation	)
33 North LaSalle Street	)
Chicago, Illinois 60602	)
	)
and	)
	)
CT Corporation System	)
208 South LaSalle Street, Suite 814	)
Chicago, Illinois 60604	)
	)
<b>SYMRISE INC.,</b>	)
<u>Serve at:</u>	)
Corporation Service Company	)
505 5 <sup>th</sup> Avenue, Suite 729	)
Des Moines, Iowa 50309	)
	)
<b>CHR. HANSEN, INC.,</b>	)
<u>Serve at:</u>	)
National Registered Agents, Inc.	)
604 Locust Street	)
Des Moines, Iowa 50309	)
	)
<b>FIRMENICH INC.,</b>	)
<u>Serve at:</u>	)
Corporation Service Company	)
2711 Centerville Road, Suite 400	)
Wilmington, Delaware 19808	)
	)
<b>JOHN DOES 1-20,</b>	)
	)
Defendants.	)

### **COMPLAINT**

Plaintiffs David Stults and Barbara Stults (“Plaintiffs”), by and through counsel, and for their causes of action against Defendants American Pop Corn Company (“American Pop Corn”), ConAgra Foods, Inc. (“ConAgra”), General Mills, Inc. (“General Mills”), Givaudan Flavors Corporation (“Givaudan”), International Flavors & Fragrances Inc. (“IFF”), Sensient Flavors LLC (“Sensient”), Bush Boake Allen Inc. (“BBA”), Symrise Inc. (“Symrise”), CHR. Hansen, Inc. (“CHR Hansen”), Firmenich Inc. (“Firmenich”), and John Does 1-20, state as follows:

### **JURISDICTION AND VENUE**

1. Jurisdiction exists pursuant to 28 U.S.C. § 1332. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a).

2. The amount in controversy exclusive of interest and costs exceeds Seventy-Five Thousand Dollars (\$75,000.00).

3. Plaintiffs David Stults and Barbara Stults are husband and wife residing in Michigan.

4. Defendant American Pop Corn is an Iowa company with a principal place of business outside of Michigan.

5. Defendant ConAgra is a Delaware corporation with a principal place of business outside of Michigan.

6. Defendant General Mills is a Delaware corporation with a principal place of business outside Michigan.

7. Defendant Givaudan is a Delaware corporation with a principal place of business outside of Michigan.

8. Defendant IFF is a New York corporation with a principal place of business outside of Michigan.

9. Defendant Sensient is a Delaware limited-liability company with a principal place of business outside of Michigan.

10. Defendant BBA is a Virginia and/or New York corporation with a principal place of business outside of Michigan. In 2000, Defendant IFF merged with Defendant BBA. In this transaction: (1) IFF expressly or impliedly agreed to assume BBA's liabilities and debts, (2) the

transaction amounted to a merger of the corporations, and (3) IFF is merely a continuation of BBA.

11. Defendant Symrise is a New Jersey corporation with a principal place of business outside of Michigan.

12. Defendant CHR Hansen is a Wisconsin corporation with a principal place of business outside of Michigan.

13. Defendant Firmenich is a Delaware corporation with a principal place of business outside of Michigan.

14. Defendants John Does 1-20 are various manufacturers and/or suppliers of microwave popcorn, butter flavoring, and/or other products containing diacetyl and/or pentanedione that caused and/or contributed to the injuries alleged below, the identities of which are currently unknown to Plaintiffs.

#### **GENERAL ALLEGATIONS**

15. Defendants American Pop Corn, ConAgra, and General Mills (collectively "Microwave Popcorn Defendants") manufactured, sold, distributed, and/or otherwise placed into the stream of commerce microwave popcorn containing butter flavoring products and other products containing diacetyl and/or pentanedione within the ordinary course of their business.

16. Defendants Givaudan, IFF, Sensient, BBA, Symrise, CHR Hansen, and Firmenich (collectively "Flavoring Defendants") manufactured, sold, distributed, and/or otherwise placed into the stream of commerce butter flavoring that contained diacetyl and/or pentanedione in their ordinary course of business, which was used in microwave popcorn.

17. Microwave Popcorn Defendants manufactured microwave popcorn in Iowa using flavors manufactured and/or supplied by Flavoring Defendants.

18. From 1991 to 2009, Plaintiff David Stults purchased, prepared, and consumed microwave popcorn sold by Microwave Popcorn Defendants that contained butter flavorings with added diacetyl, pentanedione, and/or other hazardous chemicals manufactured and/or sold by Flavoring Defendants.

19. Plaintiff David Stults was exposed to diacetyl and/or pentanedione vapors released by Defendants' products during the ordinary and expected use of such products.

20. Exposure to diacetyl and/or pentanedione can cause human disease and injury, including, but not limited to: bronchiolitis obliterans, respiratory disease, severe lung impairment, shortness of breath, and fatigue.

21. At all relevant times, Plaintiffs were unaware of the hazards of Defendants' microwave popcorn and/or flavoring products and their ingredients.

22. As a direct and proximate result of Defendants' conduct, Plaintiff David Stults has suffered and continues to suffer permanent injuries to the person, body and health, including, but not limited to: bronchiolitis obliterans; severe and progressive damage to the respiratory system; extreme shortness of breath; and significantly reduced life expectancy.

23. Plaintiff David Stults has further suffered, and will suffer in the future, pain, discomfort, fears, anxiety, loss of sleep, and other mental and emotional distress directly and proximately caused by Defendants' conduct.

24. As a direct and proximate result of Defendants' conduct, Plaintiff David Stults has incurred, and will incur in the future, liability for physicians, surgeons, nurses, hospitals, x-rays, and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time.

25. As a further direct and proximate result of the stated conduct of Defendants, Plaintiff David Stults has incurred and will incur loss of income, wages, profits, and commissions, a diminishment of earning potential and other pecuniary losses, the full nature and extent thereof being unknown to Plaintiffs at this time.

### **COUNT I – STRICT LIABILITY**

26. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-25 above as if fully set forth herein.

27. At all relevant, times, Defendants designed and/or manufactured microwave popcorn and/or butter flavoring for use in microwave popcorn.

28. At all relevant times, Defendants' microwave popcorn and/or butter flavoring were in a defective condition in that they cause human disease and injury, including, but not limited to: bronchiolitis obliterans, respiratory disease, severe lung impairment, shortness of breath, and fatigue.

29. At all relevant times, the defective condition of Defendants' microwave popcorn and/or butter flavoring was unreasonably dangerous to the user or consumer, including Plaintiff David Stults, when used in a reasonably foreseeable use and Plaintiff in fact used Defendants' products as intended and/or in a reasonably foreseeable manner.

30. At all relevant times, Defendants were engaged in the business of manufacturing microwave popcorn and/or butter flavoring.

31. Defendants' products were expected to and did reach Plaintiff David Stults without substantial change in condition and the defect existed at the time of sale.

32. As a direct and proximate result of said defect, Plaintiff David Stults has suffered damages as more specifically set forth above.

33. Defendants' conduct was willful, wanton, malicious, and/or in reckless disregard for the rights of others, including the rights of Plaintiffs, and punitive and exemplary damages should be assessed against Defendants.

WHEREFORE, Plaintiffs request judgment against Defendants, jointly and severally, for all past, present, and future compensatory damages, costs, prejudgment and post-judgment interest, punitive damages, and such other relief as this Court deems just and proper.

### **COUNT II – NEGLIGENCE**

34. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-33 above as if fully set forth herein.

35. Microwave Popcorn Defendants designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled, and/or sold microwave popcorn intended to be cooked in a microwave oven, to be tasted, and to have a pleasant aroma or smell.

36. Microwave Popcorn Defendants' products contained butter flavoring, including flavoring ingredients, that, when used as intended, were highly likely to cause or substantially contribute to the following human illnesses, injuries, and conditions:

- a. bronchiolitis obliterans;
- b. respiratory disease;
- c. severe impairment of lung function; and
- d. other types of diseases and injuries associated with butter flavorings and their constituents.

37. Flavoring Defendants designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled, and/or sold butter flavoring using diacetyl and/or pentanedione as an added ingredient intended to be used in microwavable consumer food

products, including microwave popcorn, and were also intended to be heated and to have a pleasant aroma or smell.

38. Flavoring Defendants' butter flavoring products, when used as intended, were highly likely to cause or substantially contribute to the following human illnesses, injuries, and conditions:

- a. bronchiolitis obliterans;
- b. respiratory disease;
- c. severe impairment of lung function; and
- d. other types of diseases and injuries associated with butter flavorings and their constituents.

39. At all material times, the ordinary consumer, including Plaintiff David Stults, did not know of the likelihood of, the severity of, or the extent of the risks from Defendants' microwave popcorn and/or butter flavorings.

40. Defendants, at all material times, had the following duties and breach the following duties to consumers, including Plaintiff David Stults:

- a. the duty to warn all foreseeable users, including consumers, of Defendants' microwave popcorn and/or butter flavoring products of the likelihood, probability, and/or foreseeability that the harms listed herein would or might occur if the products were used as intended;
- b. the duty to acquire, maintain, and apply the best scientific knowledge available in the field of microwave popcorn and/or butter flavoring design, development, manufacture, testing, packaging promotion, marketing,

distribution, labeling, and/or sale of microwave popcorn and/or butter flavorings;

- c. the duty to test, design, manufacture, and sell microwave popcorn and/or butter flavoring that, when used as intended, were reasonably safe for all foreseeable users and consumers such as Plaintiff David Stults;
- d. the duty to make feasible improvements in design, composition, or manufacture of microwave popcorn and/or butter flavoring that would eliminate or decrease the risk of inhalation hazards to users and consumers such as Plaintiff David Stults;
- e. the duty to disclose to all foreseeable users and consumers the results of their own scientific research and other scientific research known to them indicating that the use of microwave popcorn and/or butter flavoring and their constituents cause serious risks of harm;
- f. the duty to warn all foreseeable users and consumers of the known dangers of microwave popcorn and/or butter flavoring and their constituents;
- g. the continuing duty to warn all foreseeable users and consumers of their microwave popcorn and/or butter flavoring products concerning defects of which Defendants acquired knowledge after the product was manufactured or sold;
- h. the duty to provide the post-marketing warning or instruction that a manufacturer and/or seller exercising reasonable care would have provided concerning the risk, in light of the likelihood that the products

would cause injuries to consumers such as Plaintiff David Stults and in light of the likely seriousness of such injuries;

- i. the duty to exercise due care and the ordinary, reasonable, technical skill and competence that is required of designers, manufacturers, processors, distributors, marketers, sellers, suppliers, and others in a similar situation, including, without limitation: the duty to test food products and food flavors and ingredients, the duty to acquire and maintain the knowledge of an expert to design, manufacture, process, distribute, market, sell, and/or supply products free from defects and/or latent defects, and the duty to adequately warn of product defects and/or hazards, which duty continued even after the sale of said products.

41. As a direct and proximate result of Defendants' negligence, Plaintiff David Stults has suffered damages as more specifically set forth above.

42. Defendants' conduct was willful, wanton, malicious, and/or in reckless disregard for the rights of others, including the rights of Plaintiffs, and punitive and exemplary damages should be assessed against Defendants.

WHEREFORE, Plaintiffs request judgment against Defendants, jointly and severally, for all past, present, and future compensatory damages, costs, prejudgment and post-judgment interest, punitive damages, and such other relief as this Court deems just and proper.

### **COUNT III – BREACH OF IMPLIED WARRANTIES**

43. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-42 above as if fully set forth herein.

44. By placing their products in the stream of commerce, Defendants impliedly warranted that their products were reasonably fit for their intended uses, that their products were of merchantable quality, that they were not defective, that they would function as safely as ordinary users would expect when used in an intended or reasonably foreseeable manner, and that their products would not cause serious disease, harm, or death.

45. Each Defendant breached said implied warranties because their products were not reasonably fit for their intended uses, were not of merchantable quality, were defective, failed to function as safely as an ordinary user would expect when used in an intended or reasonably foreseeable manner, and were likely to cause serious disease, harm, or death.

46. Plaintiff David Stults used Defendants' products as intended and/or in a reasonably foreseeable manner.

47. Each of the products used by Plaintiff David Stults was manufactured and/or supplied by Defendants.

48. As a direct and proximate result of Defendants' breaches of implied warranties, Plaintiff David Stults has suffered damages as more specifically set forth above.

49. Each of the products used by Plaintiff David Stults caused or substantially contributed to his injuries.

50. Defendants' conduct was willful, wanton, malicious, and/or in reckless disregard for the rights of others, including the rights of Plaintiffs, and punitive and exemplary damages should be assessed against Defendants.

WHEREFORE, Plaintiffs request judgment against Defendants, jointly and severally, for all past, present, and future compensatory damages, costs, prejudgment and post-judgment interest, punitive damages, and such other relief as this Court deems just and proper.

**COUNT IV – LOSS OF CONSORTIUM / CLAIM FOR MEDICAL EXPENSES**

51. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-50 above as if fully set forth herein.

52. As a direct result of the Defendants' aforementioned conduct, Plaintiff Barbara Stults sustained loss of her husband's consortium, society, companionship, comfort, protection, care, attention, advice, counsel, and guidance; loss of her husband's financial support; loss of her husband's services; and has incurred medical and medical monitoring expenses, which will continue to be incurred in the future.

53. Defendants' conduct was willful, wanton, malicious, and/or in reckless disregard for the rights of others, including the rights of Plaintiffs, and punitive and exemplary damages should be assessed against Defendants.

WHEREFORE, Plaintiffs request judgment against Defendants, jointly and severally, for all past, present, and future compensatory damages, costs, prejudgment and post-judgment interest, punitive damages, and such other relief as this Court deems just and proper.


**DEMAND FOR JURY TRIAL ON ALL ISSUES**

54. Plaintiffs demand a trial by jury on all issues and counts in this matter.

Date: August \_\_, 2011

Respectfully submitted,

SMITH & McELWAIN LAW OFFICE

/s/   
MACDONALD SMITH [AT0007391]  
505 5<sup>th</sup> Street, Suite 530  
P.O. Box 1194  
Sioux City, Iowa 51102  
(712) 255-8094  
(712) 255-3825 fax  
E-mail: smitmcel@aol.com

and

HUMPHREY, FARRINGTON & McCLAIN, P.C.  
(filing for *pro hac vice* admission)  
221 W. Lexington, Suite 400  
Independence, Missouri 64050  
(816) 836-5050  
(816) 836-8699 fax

ATTORNEYS FOR PLAINTIFFS

## CIVIL COVER SHEET

Case 5:11-cv-04077-MWB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
DAVID STULTS and BARBARA STULTS,

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
MacDonald Smith, Smith & McElwain, 505 Fifth Street, Suite 530, P.O. Box  
1194, Sioux City, IA 51102; Humphrey Farrington & McClain, P.C., 221  
West Lexington, Suite 400, Independence, Missouri 64050

**DEFENDANTS**  
American Pop Corn Company, et al.,

See attached list for further Defendants.  
County of Residence of First Listed Defendant Woodbury  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED

Attorney's (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREIGN LIABILITY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC §§1 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 990 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAXES/FEES</b> <input type="checkbox"/> 861 HIA (1395B) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SS10 Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1332

Brief description of cause

Personal Injury, Exposure to butter flavoring products containing diacetyl

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**  
above 75,000.00

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions).

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

08/24/2011

SIGNATURE OF ATTORNEY OF RECORD

*R. G. Donald Smith*

FOR OFFICE USE ONLY

MacDonald Smith

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG JUDGE \_\_\_\_\_

Civil Cover Sheet

Page 2

***David Stults and Barbara Stults***

vs.

***Case No.*** \_\_\_\_\_

***American Pop Corn Company, et al.***

***I. Defendants:***

1. American Pop Corn Company
2. Conagra Foods, Inc.
3. General Mills, Inc.
4. Givaudan Flavors Corporation
5. International Flavors & Fragrances Inc.
6. Sensient Flavors LLC
7. Bush Boake Allen Inc.
8. Symrise Inc.
9. Chr. Hansen, Inc.
10. Firmenich Inc.
11. John Does 1-20

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
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BARBARA STULTS,**

Plaintiffs,

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**AMERICAN POP CORN COMPANY,**

Serve at:

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One Fun Place  
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Case No. C11-4077 MWB

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2711 Centerville Road, Suite 400 )  
Wilmington, Delaware 19808 )  
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**JOHN DOES 1-20,** )  
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Defendants. )

**COMPLAINT**

Plaintiffs David Stults and Barbara Stults ("Plaintiffs"), by and through counsel, and for their causes of action against Defendants American Pop Corn Company ("American Pop Corn"), ConAgra Foods, Inc. ("ConAgra"), General Mills, Inc. ("General Mills"), Givaudan Flavors Corporation ("Givaudan"), International Flavors & Fragrances Inc. ("IFF"), Sensient Flavors LLC ("Sensient"), Bush Boake Allen Inc. ("BBA"), Symrise Inc. ("Symrise"), CHR. Hansen, Inc. ("CHR Hansen"), Firmenich Inc. ("Firmenich"), and John Does 1-20, state as follows: