

1 Scott E. Blakeley (Bar No. 141418)  
SEB@BlakeleyLLP.com  
2 Sean Lowe (Bar No. 295653)  
SLowe@BlakeleyLLP.com  
3 **BLAKELEY LLP**  
18500 Von Karman Ave, Suite 530  
4 Irvine, California 92612  
Telephone: (949) 260-0611  
5 Fax: (949) 260-0613

6 Attorneys for Plaintiff and Creditor  
7 Seneca Foods Corporation

8 UNITED STATES BANKRUPTCY COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 LOS ANGELES DIVISION

11 In re: Michael Bonert and Vivien  
Bonert, Debtors

Case No.: 2:19-bk-20836 ER  
Adv. Nos.: 2:19-ap-01377-ER (lead case);  
\_\_\_\_\_ (consolidated  
case)<sup>1</sup>

13 **Lead Case (Adv. No. 2:19-ap-01377-ER)**

**COMPLAINT FOR DAMAGES**

14 Packaging Corporation of America,  
15 Plaintiff,

16 v.

17 Michael Bonert and Vivien Bonert, et al.,  
18 Defendants.  
19

20 **Consolidated Case (Adv. No. \_\_\_\_\_)**

21 Seneca Foods Corporation,  
22 Plaintiff,

23 v.

24 Michael Bonert and Vivien Bonert,  
25 Defendants.  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Consolidated pursuant to the Court's Order in Case No. 2:19-bk-20836 ER (Dkt. No. 318).

1 Plaintiff Seneca Foods Corporation (“Seneca”, or the “Plaintiff”) for its complaint  
2 (“Complaint”) against defendants Michael Bonert (“Michael”) and Vivien Bonert (“Vivien”)  
3 (together, the “Defendants”), alleges upon personal knowledge with respect to itself and its own  
4 acts, and upon information and belief with respect to all other matters, as follows:

5 **NATURE OF THE ACTION**

6 1. This action arises out of Michael and Vivien’s operation of interrelated companies  
7 that were used to defeat the rights of creditors of Bonert’s Inc. – the now defunct pie-processing  
8 company.

9 2. The Plaintiff was one of these creditors. It provided Bonert’s with \$172,451.93 in  
10 goods for which it was not paid.

11 3. The Plaintiff submitted a claim in the bankruptcy proceeding, *In re Michael Bonert*  
12 *and Vivien Bonert*, Case No. 2:19-bk-20836 ER, which is pending in the United States Bankruptcy  
13 Court for the Central District of California. The Bankruptcy Court consolidated that claim and  
14 others and ordered the Plaintiff to file this adversary proceeding, which is consolidated with other  
15 adversary proceedings. *See* Dkt. No. 318, Case No. 2:19-bk-20836 ER.

16 **THE PARTIES**

17 4. The Plaintiff is a Delaware limited liability company headquartered in Atlanta,  
18 Georgia.

19 5. Non-party Bonert’s Inc. d/b/a Bonert’s Slice of Pie (“Bonert’s”) is a California  
20 corporation headquartered in Los Angeles County, California.

21 6. Non-party Bonert Management Company, Inc. (“BMC”) is a defunct California  
22 corporation formerly headquartered in Los Angeles County, California. Its only shareholders are  
23 Michael and Vivien.

24 7. Non-party Bonert’s Jadasaha, LLC (“Jadasaha”) is a California limited liability  
25 company based in Los Angeles County, California. Its members, including Michael and Vivien, are  
26 only residents of California.

27  
28

8. Non-party Bonert's MV, LLC ("MV") is a California limited liability company based in Los Angeles County, California. Its members, including Michael and Vivien, are only residents of California.

9. Non-party Bonert’s Mibon, LLC (“Mibon”) is a California limited liability company based in Los Angeles County, California. Its members, including Michael and Vivien, are only residents of California.

10. Non-party Beefam, LLC (“Beefam”) is a California limited liability company based in Los Angeles County, California. Its members, including Michael and Vivien, are only residents of California.

11. Non-party 3144 Bonert’s LLC (“3144”) is a California limited liability company based in Los Angeles County, California. Its members, including Michael and Vivien, are only residents of California.

12. Michael and Vivien are residents of Los Angeles County, California.

13. The Plaintiff is unaware of the true names or capacities, whether individual, corporate, associate or otherwise of the defendants sued herein as DOES 1 through 10, and therefore, sues these defendants by such fictitious names, and alleges that each of said defendants claim an interest in the property herein described and which is subject to this action. The Plaintiff will amend this Complaint to allege their true names and capacities when they are ascertained.

## JURISDICTION AND VENUE

14. The Bankruptcy Court has jurisdiction of this action under 28 U.S.C. § 157(b)(1) and § 1334(a).

15. This action is a core proceeding under 28 U.S.C. § 157(b)(2)(B), (H), (I), and (O).

16. Jurisdiction over Michael and Vivien is proper because both are residents of Beverly Hills, California, and they filed a bankruptcy petition, which this action arises from or relates to. Regardless of whether this proceeding is core, non-core, or otherwise, the Plaintiff consents to the entry of a final order and judgment by the Bankruptcy Court.

17. Venue is proper under 28 U.S.C. § 1409(a) because this proceeding arises from or relates to a bankruptcy proceeding.

**FACTUAL ALLEGATIONS**

**1. The Defendants' relationships and their businesses.**

18. At all relevant times, Michael and Vivien have been married.

19. Michael established Bonert's.

20. At all relevant times, Michael owned 60% of Bonert's personally, with 20% ownership in the Darren Bonert 2010 Irrevocable Trust, 10% ownership in the Sara Casen 2010 Irrevocable Trust, and 10% ownership in the Hanna Bonert 2010 Irrevocable Trust. Each of these trusts was established to benefit one of Michael's children.

21. At all relevant times, Michael was the CEO and president of Bonert's.

22. At all relevant times, Vivien was a full-time physician at a hospital in Los Angeles who was not an employee of Bonert's.

23. At all relevant times, BMC was a shell corporation that did nothing other than serve as a conduit for Michael to transfer funds from Bonert's to himself.

24. At all relevant times, MV, Mibon, Beefam, 3144, and Jadasaha each served as holding companies for real estate.

25. At all relevant times, Michael and Vivien owned, controlled, or both, MV, Mibon, Beefam, 3144, and Jadasaha

26. At all relevant times, Mibon, and Beefam provided short-term, interest-free loans to Bonert's.

**2. Bonert's underlying indebtedness.**

27. In April 2016, the Plaintiff provided \$172,451.93 of goods to Bonert's (the "Goods").

28. The Plaintiff and Bonert's agreed to a price before any of the Goods were provided.

29. Bonert's agreed to pay the Plaintiff \$172,451.93 for the Goods.

30. The Goods were delivered as requested by Bonert's.

31. Bonert's owes the Plaintiff \$172,451.93 for the Goods.

32. During July 2016, a receiver was appointed to manage Bonert's. It is now a defunct company.

1           **3. Michael and Vivien operated Bonert's, BMC, MV, Mibon, Beefam, 3144, and**  
2           **Jadasaha as a single business enterprise.**

3           33. At all relevant times, Michael and Vivien were the controlling owners of Bonert's,  
4 BMC, MV, Mibon, Beefam, 3144, and Jadasaha.

5           34. As it's only CEO and president or managing member, Michael had complete control  
6 over Bonert's, BMC, MV, Mibon, Beefam, 3144, and Jadasaha.

7           **A. Michael and Vivien commingled assets and treated Bonert's assets as if**  
8           **they were their own.**

9           35. At all relevant times, check signing authority was restricted at Bonert's, as checks  
10 over \$2,500 generally required a second signature, which effectively required a signature by  
11 Michael.

12          36. As such, Michael personally controlled all of Bonert's outgoing expenditures.

13          37. From at least the beginning of 2014 onwards, at fair valuations, the sum of Bonert's  
14 debts was greater than all of its assets.

15          38. From at least the beginning of 2014 onwards, Bonert's was generally not paying all  
16 of its creditors as their debts became due.

17          39. In 2015, Bonert's had operating losses of about \$2,232,769.

18          40. From January 2014 onwards, despite Bonert's financial distress, Michael continued  
19 to take an annual compensation package from Bonert's in excess of \$200,000.

20          41. Michael's salary from Bonert's does not include the additional funds in excess of  
21 \$466,012.04, which were annually funneled through BMC from Bonert's and paid to Michael.

22          42. For instance, in 2014, Michael transferred at least \$445,212.04 from Bonert's to  
23 BMC to himself, disguised as wages from BMC.

24          43. In 2015, Michael transferred at least \$445,212.04 from Bonert's to BMC to himself,  
25 disguised as wages from BMC.

26          44. And in the first half of 2016, Michael transferred in excess of \$171,235.40 from  
27 Bonert's to BMC to himself, disguised as wages from BMC.

28          45. Michael was provided by Bonert's with an American Express credit card.



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.