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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DORIS CHARLES, an individual; ALVIN JONES, an individual; JASON PELTIER, an individual; and JENNIFER PELTIER, an individual; on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

THE WINE GROUP, INC. a California Corporation; THE WINE GROUP, LLC, a California Corporation; SUTTER HOME WINERY, INC., d/b/a TRINCHERO FAMILY ESTATES, a California Corporation; FOLIE À DEUX WINERY, a California Corporation; CALIFORNIA NATURAL PRODUCTS, a California Corporation; REBEL WINE

Case No.: **BC576061**

FIRST AMENDED "PROPOSITION 65" & CLASS ACTION COMPLAINT

(1) Violation of Health & Safety Code §25249.5
(2) Violation of the Consumers Legal Remedies Act (Cal. Civil Code §§ 1750, *et seq.*)
(3) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17500, *et seq.*)
(4) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200, *et seq.*)
(5) Unjust Enrichment
(6) Breach of Implied Warranty of Merchantability
(7) Negligent Misrepresentation/Omission

JURY TRIAL DEMANDED

(Assigned for all purposes to the Hon. Shepard Wiley, Jr. in Department 311)

CO., LLC a California Corporation; GOLDEN STATE VINTNERS, a California Corporation; VARNI BROTHERS, CORP., a California Corporation; TREASURY WINES ESTATES AMERICAS CO., a California Corporation; TREASURY WINES ESTATES HOLDING, INC., a California Corporation; BERINGER VINEYARDS, a California Corporation; SEAGLASS WINE CO., a California Corporation; CONSTELLATION WINES, US, a California Corporation; SMITH & HOOK WINERY CORPORATION, a/k/a SMITH AND HOOK, a California Corporation, d/b/a HAHN FAMILY WINES, a California Corporation; RAYMOND VINEYARD AND CELLAR/RAYMOND VINEYARD AND CELLAR, INC., a California Corporation; JEAN-CLAUDE BOISSET WINES, USA, INC., a California Corporation; FETZER VINEYARDS, a California Corporation; F. KORBEL & BROS., INC., a California Corporation; MEGAN MASON AND RANDY MASON, D/B/A MASON CELLARS, a California Corporation; OAKVILLE WINERY MANAGEMENT CORP., GP, a California Corporation; WOODBRIDGE WINERY, INC., a California Corporation; SIMPLY NAKED WINERY, a California Corporation; WINERY EXCHANGE, INC., a California Corporation; SONOMA WINE CO., LLC, a California Corporation; DON SEBASTIANI & SONS INTERNATIONAL WINE NÉGOCIANTS, CORP., a California Corporation; and DON SEBASTIANI & SONS INTERNATIONAL WINE NÉGOCIANTS, a California Corporation; BRONCO WINE COMPANY, a

California Corporation; TRADER JOE'S COMPANY, a California Corporation, and DOES 1 - 200, Inclusive,

Defendants.

Plaintiffs Doris Charles, Alvin Jones, Jason Peltier and Jennifer Peltier ("Plaintiffs"), individually and on behalf of themselves and all others similarly situated, are informed and believe, and on that basis allege as follows:

NATURE OF ACTION

1. This action seeks, in part, to remedy the continuing failure of the Defendants to warn California consumers of exposure to inorganic arsenic, which is a chemical known to the State of California to cause cancer, birth defects and other reproductive harm. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code § 25249.6, a.k.a. "Proposition 65", businesses must provide persons with a "clear and reasonable warning" before exposing individuals to chemicals known to the State of California to cause cancer or reproductive harm. The purpose of this requirement is to ensure that California citizens are made fully aware of the presence of toxic chemicals in consumer products, allowing them to make an informed choice/decision about whether or not to consume products with excessive levels of toxic chemicals known to cause cancer and/or reproductive toxicity. Inorganic arsenic exposure has occurred, and continues to occur, through the manufacturing, marketing, distribution, sale and consumption of Defendants' wines identified below.

2. Inorganic arsenic is an odorless, colorless, and highly toxic poison known to cause illness and death when ingested by humans. During the Middle Ages, arsenic was a favored form of intentional poisoning among the privileged classes, primarily because it was both virtually undetectable and extremely lethal (even in trace amounts over time). The deaths of Napoleon Bonaparte, Simon Bolivar, King George III, Francesco De Medici, King Faisal I, and many other prominent historical figures, whose deaths were believed at the time to have other mysterious causes, were all, through the course of history, proven later to have been caused and/or accelerated by arsenic poisoning.

3. California wines are among the most popular and widely consumed wines in the world. The majority of responsible California wineries, through the use of: (1) proper grapes/juice (as opposed to additives, concentrates, clarifiers and other chemicals); (2) proper filtering processes; (3) proper specialized equipment; and (4) reduced manipulation and/or use of additives, clarifiers or other chemicals; are able to successfully limit the amount of inorganic arsenic present in their wines to "trace" levels considered acceptable (if not completely safe) for human consumption. However, three separate testing laboratories skilled in arsenic testing have now independently confirmed that several California wineries (including those named as Defendants in this action) instead produce and market wines that contain dangerously high levels of inorganic arsenic, in some cases **up to 500% or more** than what is considered the maximum acceptable safe daily intake limit. **Put differently, just a glass or two of these arsenic-contaminated wines a day over time could result in dangerous arsenic toxicity to the consumer.**

4. Despite the known dangers/risks associated with human ingestion of this highly toxic poison, and the fact that the responsible California wineries have been able to limit inorganic arsenic levels in their wines to acceptable legal limits through responsible wine making and filtering procedures, the Defendant wineries do not. Instead the Defendants manufacture, distribute, and/or sell these arsenic-contaminated wines and conceal and fail to disclose, warn, or otherwise advise, to their customers or to the ultimate consumers, the existence and/or the dangers/risks posed by the toxic excessive levels of inorganic arsenic contamination in their wine.

5. This action is about a small number of California wineries who make up a disproportionately larger share of the marketplace. The vast majority of California wineries are compliant with California law/standards, and limit the amount of inorganic arsenic in their wines to acceptable levels. However, Defendants manufacture, distribute and/or sell arsenic-contaminated wine, including adding inorganic arsenic into the wine through the use of additives, concentrates and clarifiers, in violation of California laws and labeling standards, which poses a risk to the public, and unfairly undercuts those wine makers and sellers who do not make or sell arsenic tainted wines. Responsible California wineries that employ proper methods and processes to reduce inorganic arsenic to acceptable levels are unable to compete at the same price point in the wine market with those wineries who choose instead not to implement the proper methods and processes (and incur the costs thereof) to ensure their wine customers are not exposed to dangerous levels of inorganic arsenic from their contaminated wines.

6. For years, Defendants have long known and/or should have known about the serious health risks posed to their consumers by adding in, failing to limit and/or reducing the amount of highly toxic inorganic arsenic in the offending wines. Yet instead of reducing the exposure to acceptable levels as responsible wineries have done, Defendants have knowingly and recklessly engaged in a consistent pattern and practice of selling arsenic-contaminated wine to California consumers, without disclosing either the existence of the toxin in their product, or the health risks it posed, thereby secretly poisoning wine consumers in direct violation of California law.

7. This is a "Proposition 65" action and consumer class action that seeks, among other things, injunctive relief, civil penalties, disgorgement, and damages to remedy several years of Defendants' negligent, reckless and/or knowing sale of inorganic arsenic contaminated wines, as well as Defendants' failure to warn California wine consumers of the existence of, and the dangers/risks associated with, consuming inorganic arsenic when they drink Defendants' contaminated wines, identified in **Exhibit A**, attached hereto. Plaintiffs, upon information and belief, further allege that Defendants are also in violation of California law for the years prior and subsequent to the vintage identified for each wine/varietal in **Exhibit A**. The State of California has known, at least since 1987, that exposure to inorganic arsenic causes cancer and causes and/or

contributes to a host of other debilitating/fatal diseases including birth defects and reproductive toxicity. This action further seeks to remedy Defendants' unfair, misleading and deceptive conduct, and to ensure that all wine consumers are, at the very least, warned that they are being exposed to toxic levels of inorganic arsenic before purchasing and/or consuming any of the Defendants' wine.

8. Pursuant to Proposition 65, Plaintiffs further seek injunctive relief enjoining Defendants from the continued manufacturing, packaging, distribution, marketing and/or sale of the wines listed below without clear and reasonable warnings regarding the risk of cancer posed by exposure to inorganic arsenic through the consumption of these wines. Plaintiffs seek an injunctive order compelling Defendants to bring their business practices into compliance with Proposition 65 by providing a clear and reasonable warning to each individual who has been in the past and who in the future may be exposed to inorganic arsenic through consumption of these wines. Plaintiffs seek an injunction prohibiting Defendants from offering these wines for sale in California without either removing the excess levels of inorganic arsenic such that no Proposition 65 warning is necessary or providing clear and reasonable warnings. Plaintiffs also seek an order compelling Defendants to identify and locate each individual person who in the past has purchased these wines, and to provide to each such purchaser a clear and reasonable warning that the consumption of these wines will cause exposure to inorganic arsenic.

9. Also pursuant to Proposition 65, in addition to injunctive relief, Plaintiffs seek an assessment of civil penalties of $2,500 per day, per violation (i.e. per every bottle of offending wine manufactured, distributed, marketed and sold without the clear and reasonable warning required by law) to remedy Defendants' failure to provide clear and reasonable warnings regarding exposure to inorganic arsenic.

PARTIES

10. Plaintiff Doris Charles is an individual and resident of San Diego County, State of California.

11. Plaintiff Alvin Jones is an individual and resident of Los Angeles County, State of California.

12. Plaintiff Jason Peltier is an individual and resident of San Diego County, State of

California.

13. Plaintiff Jennifer Peltier is an individual and resident of San Diego County, State of California.

14. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Franzia") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Franzia defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Franzia** (*Vintner Select White Grenache, Ex. A, line 34; White Zinfandel, Ex. A, line 35; Vintner Select White Merlot, Ex. A, line 36; Vintner Select Burgundy, Ex. A, line 37*) brand wine.

15. Defendants Sutter Home Winery, Inc., d/b/a, Trinchero Family Estates and Folie à Deux Winery (collectively, "Ménage à Trois") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Sutter Home Winery, Inc., d/b/a, Trinchero Family, upon information and belief, is a parent company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; and Folie à Deux Winery, upon information and belief, is a subsidiary company, with its principal place of business located at 7481 St. Helena Highway, Oakville California. Ménage à Trois defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Ménage à Trois** (*Pinot Grigio, Ex. A, line 42; Moscato, Ex. A, line 43; White Blend, Ex. A, line 44; Chardonnay, Ex. A, line 45; Rose, Ex. A, line 46; Cabernet Sauvignon, Ex. A, line 47; California Red Wine, Ex. A, line 48*) brand wines.

16. Defendants Sutter Home Winery, Inc., d/b/a, Trinchero Family Estates, and California Natural Products (collectively, "Wine Cube") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Sutter Home Winery, Inc., d/b/a, Trinchero Family, upon information and belief, is a parent company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; and

California Natural Products, Co., upon information and belief, is a subsidiary company, with its principal place of business located at 1250 East Lathrop Road, Lathrop, California. Wine Cube defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Wine Cube** (*Moscato, Ex. A, line 75; Pink Moscato, Ex. A., line 76; Pinot Grigio, Ex. A, lines 77-78; Chardonnay, Ex. A, lines 79-80; Red Sangria, Ex. A, line 81; Sauvignon Blanc, Ex. A, line 82; Cabernet Sauvignon/Shiraz, Ex. A, line 83*) brand wines.

17. Defendants Sutter Home Winery, Inc., d/b/a, Trinchero Family Estates, Rebel Wine Co., LLC and California Natural Products (collectively, "Bandit") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Sutter Home Winery, Inc., d/b/a, Trinchero Family, upon information and belief, is a parent company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; Rebel Wine Co., LLC, upon information and belief, is a subsidiary company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; and California Natural Products, upon information and belief, is a subsidiary company, with its principal place of business located at 1250 East Lathrop Road, Lathrop, California. Bandit defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Bandit** (*Pinot Grigio, Ex. A, line 10; Chardonnay, Ex. A, line 11; Cabernet Sauvignon, Ex. A, line 12*) brand wines.

18. Defendants Sutter Home Winery, Inc., d/b/a, Trinchero Family Estates and California Natural Products (collectively, "Sutter Home") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Sutter Home Winery, Inc., upon information and belief, is a parent company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; and California Natural Products, upon information and belief, is a subsidiary company, with its principal place of business located at 1250 East Lathrop Road, Lathrop, California. Sutter Home defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold and **Sutter Home** (*Sauvignon Blanc, Ex. A, line 58; Gewurztraminer, Ex. A, line 59; Pink Moscato, Ex. A, line 60; Pinot Grigio, Ex. A, line 61; Moscato, Ex. A, line 62; Chenin Blanc, Ex. A., line 63; Sweet Red, Ex. A, line 64; Riesling Ex. A, line 65; White Merlot, Ex. A, line 66; Merlot, Ex. A, line 67; White Zinfandel, Ex. A, lines 68-69;*

Zinfandel, Ex. A, line 70) brand wines.

19. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Mogen David") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Mogen David defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Mogen David** (*Concord, Ex. A, line 49; Blackberry Wine, Ex. A, line 50*) brand wines.

20. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Concannon ") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Concannon defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Concannon** (*Glen Ellen Reserve Pinot Grigio, Ex. A, line 20; Selected Vineyards Pinot Noir, Ex. A, line 21; Glen Ellen Reserve Merlot, Ex. A, line 22*) brand wines.

21. Defendants The Wine Group, Inc., The Wine Group, LLC and Varni Brothers, Corp. (collectively, "Flipflop") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and Varni Brothers Corp., upon information and belief, is a company, with its principal place of business located at 400 Hosmer Ave., Modesto, California. Flipflop defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Flipflop** (*Pinot Grigio, Ex. A, line 30; Moscato, Ex. A, line 31; Cabernet Sauvignon, Ex. A, line 32*) brand wine.

22. Defendants Treasury Wines Estates Americas Co., Treasury Wines Estates Holding, Inc. and Beringer Vineyards (collectively, "Beringer") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Treasury Wines Estates Americas Co., upon information and belief, is a parent company, with its principal place of business located 610 Air Park Road, Napa, California; Treasury Wines Estates Holding, Inc., upon information and belief, is an ultimate parent company, with its principal place of business located at PO Box 4500, Napa, California; and Beringer Vineyards, upon information and belief, is a company, with its principal place of business located 2000 Main St., St. Helena, California. Beringer defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Beringer** (*White Merlot, Ex. A, line 14; White Zinfandel, Ex. A, line 15; Red Moscato, Ex. A, line 16; Refreshingly Sweet Moscato, Ex. A, line 17*) brand wine.

23. Defendants Sutter Home Winery, Inc., d/b/a, Trinchero Family Estates and SeaGlass Wine Co. (collectively, "SeaGlass") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Sutter Home Winery, Inc., d/b/a, Trinchero Family, upon information and belief, is a parent company, with its principal place of business located at 100 St. Helena Highway South Street, Helena, California; and SeaGlass Wine Co., upon information and belief, is a company, with its principal place of business located at PO Box 248, St. Helena, California. SeaGlass defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **SeaGlass** (*Sauvignon Blanc, Ex. A, line 55*) brand wine.

24. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Tribuno") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Tribuno defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Tribuno** (*Sweet Vermouth, Ex. A, line 72*) brand wine.

25. Defendants Constellation Wines, US ("HRM Rex-Goliath") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California. HRM Rex-Goliath defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **HRM Rex-Goliath** (*Moscato, Ex. A, line 39*) brand wine.

26. Defendant Fetzer Vineyards (individually, "Fetzer") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. Fetzer Vineyards, upon information and belief, is a subsidiary, with its principal place of business located at 12901 Old River Road, Hopland, California. Fetzer defendant sells, or has, at times relevant to this Complaint, manufactured, distributed, or sold **Fetzer** (*Moscato, Ex. A, line 27; Pinot Grigio, Ex. A, line 28*) brand wine.

27. Defendant F. Korbel & Bros., Inc. (individually, "Korbel") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. F. Korbel & Bros., Inc., upon information and belief, is a company, with its principal place of business located at 13250 River Road, Guerneville, California. Defendant Korbel sells, or has, at times relevant to this Complaint, manufactured, distributed, or sold **Korbel** (*Sweet Rose Sparkling Wine, Ex. A, line 40; Extra Dry Sparkling Wine, Ex. A, line 41*) brand wine.

28. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Corbett Canyon") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Corbett Canyon defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Corbett Canyon** (*Pinot Grigio, Ex. A, line 24; Cabernet Sauvignon, Ex. A, line 25*) brand wine.

29. Defendants Megan Mason and Randy Mason, d/b/a Mason Cellars and Oakville Winery Management Corp., GP (collectively, "Pomelo") produce, manufacture, sell and/or

distribute wine in California and throughout the United States and the world. Megan Mason and Randy Mason, d/b/a Mason Cellars, upon information and belief is a parent company, with its principal place of business located at 5 Heritage Court, Yountville, California; and Oakville Winery Management Corp., GP, upon information and belief, is a company, with its principal place of business located at PO Box 434, Oakville, California. Pomelo defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Pomelo** (*Sauvignon Blanc, Ex. A, line 52*) brand wine.

30. Defendants Constellation Wines, US, Woodbridge Winery, Inc. and Simply Naked Winery (collectively, "Simply Naked") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California; Woodbridge Winery, Inc., upon information and belief, is a company, with its principal place of business located at 1649 E Victor Rd, 1C, Lodi, California; and Simply Naked Winery, upon information and belief, is a company, with its principal place of business located in Acampo, California. Simply Naked defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Simply Naked** (*Moscato, Ex. A, line 56*) brand wine.

31. Defendants Winery Exchange, Inc. and Sonoma Wine Co., LLC (collectively, "Acronym") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Winery Exchange, Inc., upon information and belief, is a company, with its principal place of business located at 500 Redwood Blvd., Ste. 200, Novato California; and Sonoma Wine Co., LLC, upon information and belief, is a limited liability company, with its principal place of business located at 9119 Graton Road, Graton, California. Acronym defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Acronym** (*Gr8rw Red Blend, Ex. A, line 1*) brand wine.

32. Defendants Constellation Wines, US and California Natural Products (collectively, "Vendange") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California; and California

Natural Products, upon information and belief, is a company, with its principal place of business located at 1250 East Lathrop Road, Lathrop California. Vendange defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Vendange** (*Merlot, Ex. A, line 73; White Zinfandel, Ex. A, line 74*) brand wines.

33. Defendant Constellation Wines, US (individually, "Cooks") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California. Cooks defendant sells, or has, at times relevant to this Complaint, manufactured, distributed, or sold **Cooks** (*Spumante, Ex. A, line 23*) brand wine.

34. Defendants The Wine Group, Inc., The Wine Group, LLC, Constellation Wines, US, (collectively, "Almaden") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California. Almaden defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Almaden** (*Heritage White Zinfandel, Ex. A, lines 2, 4; Heritage Moscato, Ex. A, line 3; Heritage Chardonnay, Ex. A, line 5; Mountain Burgundy, Ex. A, line 6; Mountain Rhine, Ex. A, line 7; Mountain Chablis, Ex. A, line 8*) brand wine.

35. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Oak Leaf") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Oak Leaf defendants sell, or have, at

times relevant to this Complaint, manufactured, distributed, or sold **Oak Leaf** (*White Zinfandel, Ex. A, line 51*) brand wine.

36. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Foxhorn") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Foxhorn defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Fox Horn** (*White Zinfandel, Ex. A, line 33*) brand wine.

37. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Trapiche") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Trapiche defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Trapiche** (*Malbec, Ex. A, line 71*) brand wine.

38. Defendants The Wine Group, Inc., The Wine Group, LLC and Golden State Vintners (collectively, "Fisheye") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and Golden State Vintners, upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Fisheye defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Fisheye** (*Pinot Grigio, Ex. A, line 29*) brand wine.

39. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Bay Bridge") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Bay Bridge defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Bay Bridge** (*Chardonnay, Ex. A, Line 13*) brand wine.

40. Defendants The Wine Group, Inc. and The Wine Group, LLC (collectively, "Cupcake") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. The Wine Group, Inc., upon information and belief, is a parent company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California; and The Wine Group, LLC, upon information and belief, is a limited liability company, with its principal place of business located at 4596 South Tracy Blvd., Tracy, California. Cupcake defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Cupcake** (*Malbec, Ex. A, line 26*) brand wine.

41. Defendants Treasury Wines Estates Americas Co. and Treasury Wines Estates Holding, Inc. (collectively, "Colores Del Sol") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Treasury Wines Estates Americas Co., upon information and belief, is a parent company, with its principal place of business located 610 Air Park Road, Napa, California; and Treasury Wines Estates Holding, Inc., upon information and belief, is an ultimate parent company, with its principal place of business located at PO Box 4500, Napa, California. Colores Del Sol defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Colores Del Sol** (*Malbec, Ex. A, line 19)* brand wine.

42. Defendant Winery Exchange, Inc. (individually, "Arrow Creek") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. Winery Exchange, Inc., upon information and belief, is a company, with its principal place of business located 500 Redwood Blvd., Ste. 200, Novato, California. Defendant Arrow Creek

sold, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Arrow Creek** (*Coastal Series Cabernet Sauvignon, Ex. A, line 9*) brand wine.

43. Defendant Winery Exchange, Inc. (individually, "Hawkstone") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. Winery Exchange, Inc., upon information and belief, is a company, with its principal place of business located 500 Redwood Blvd., Ste. 200, Novato, California. Defendant Hawkstone sold, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Hawkstone** (*Cabernet Sauvignon, Ex. A, line 38*) brand wine.

44. Defendant Constellation Wines, US (individually, "Richards Wild Irish Rose") produces, manufactures, sells and/or distributes wine in California and throughout the United States and the world. Constellation Wines, US, upon information and belief, is a company, with its principal place of business located at 801 Main Street, St. Helena, California. Richard Wild Irish Rose defendant sells, or has, at times relevant to this Complaint, manufactured, distributed, or sold **Richard Wild Irish Rose** (*Red Wine, Ex. A, line 54)* brand wine.

45. Defendants Don Sebastiani & Sons International Wine Négociants, Corp. and Don Sebastiani & Sons International Wine Négociants (collectively, "Smoking Loon") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Don Sebastiani & Sons International Wine Négociants, Corp., upon information and belief, is a company, with its principal place of business located at 485 1st West, Sonoma, California; and Don Sebastiani & Sons International Wine Négociants, upon information and belief, is a parent company, with its principal place of business located at 520 Airport Road, Napa, California. Smoking Loon defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Smoking Loon** (*Viognier, Ex. A, line 57*) brand wine.

46. Defendants Bronco Wine Company and Trader Joe's Company (collectively, "Charles Shaw") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Bronco Wine Company, upon information and belief, is a parent company, with its principal place of business located 6342 Bystrum Road, Ceres, California; and Trader Joe's Company, upon information and belief, is a company, with its principal place of

business located 800 S. Shamrock Ave., Monrovia, California. Charles Shaw defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **Charles Shaw** (*White Zinfandel, Ex. A, line 18*) brand wine.

47. Defendants Jean-Claude Boisset Wines, USA Inc. and Raymond Vineyard and Cellar/Raymond Vineyard and Cellar, Inc. (collectively, "R. Collection by Raymond") produce, manufacture, sell and/or distribute wine in California and throughout the United States and the world. Jean-Claude Boisset Wines, USA, Inc., upon information and belief, is a subsidiary company, with its principal place of business is located at 849 Zinfandel Lane, Saint Helena, California; and Raymond Vineyard and Cellar/Raymond Vineyard and Cellar, Inc., upon information and belief, are subsidiary companies, with their principal place of business located at 849 Zinfandel Lane, Saint Helena, California. R. Collection by Raymond defendants sell, or have, at times relevant to this Complaint, manufactured, distributed, or sold **R. Collection by Raymond** (*Chardonnay, Ex. A, line 53*) brand wine.

48. Plaintiffs are currently ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein under the fictitious names Does 1 through 200, inclusive, and therefore sue such defendants by such fictitious names. Plaintiffs will amend this complaint to allege the true names and capacities of said fictitiously named defendants when their true names and capacities have been ascertained. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Doe defendants are legally responsible in some manner for the events and occurrences alleged herein, and for the damages suffered by Plaintiffs and members of the Class.

49. As sued herein, "Defendants" shall mean the above-named Defendants, including all entities through which they do business and its predecessors, successors, affiliates, representatives, attorneys, employees, and/or assigns who, in concert and/or acting as agents for one another, engaged in the conduct complained of herein.

JURISDICTION AND VENUE

50. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, §10, which grants the Superior Court "original jurisdiction in all causes except those

given by statute to other courts." The statutes under which this action is brought do not specify any other basis for jurisdiction.

51. The class action claims stated herein are brought pursuant to the California Code of Civil Procedure § 382. The damages and restitution sought by Plaintiffs exceed the minimal jurisdiction limit of the Superior Court and will be established according to proof at trial.

52. This Court has jurisdiction over the Defendants because, upon information and belief, each Defendant is a citizen and/or resident of California.

53. On March 19, 2015, Plaintiffs sent a 60-Day Notice of Violation of Proposition 65 ("Notice") to the requisite public enforcement agencies, and to the Defendants. A true and correct copy of the Notice is attached hereto as **Exhibit B** and incorporated by reference. The Notice was issued pursuant to, and in compliance with, the requirements of Health & Safety Code §25249.7(d) and the statute's implementing regulations regarding the notice of the violations to be given to certain public enforcement agencies and to the violator.

54. On June 12, 2015, Plaintiffs sent an Amended 60-Day Notice of Violation of Proposition 65 ("Amended Notice"), expressly adding reproductive toxicity, to the requisite public enforcement agencies, and to the Defendants. A true and correct copy of the Amended Notice is attached hereto as **Exhibit C** and incorporated by reference. The Amended Notice was issued pursuant to, and in compliance with, the requirements of Health & Safety Code §25249.7(d) and the statute's implementing regulations regarding the notice of the violations to be given to certain public enforcement agencies and to the violator.

55. At least 60 days have elapsed since Plaintiffs sent the Notice and the Amended Notice to Defendants. Additionally, the appropriate public enforcement agencies have failed to commence and diligently prosecute a cause of action under Health & Safety Code §25249.5, *et. seq.*, based upon the allegations herein.

56. Venue is proper in this Court because, upon information and belief, all Defendants reside in and/or transact business in this County and the acts and omissions alleged herein took place in this County.

GENERAL ALLEGATIONS

57. All allegations in this complaint are based on information and belief that they will have evidentiary support, after a reasonable opportunity for further investigation or discovery. Whenever allegations in this complaint are contrary or inconsistent, such allegations shall be deemed to be alleged in the alternative.

FACTUAL ALLEGATIONS

58. California contains the largest wine region in the United States. California has more than 1,200 wineries, ranging from small boutique wineries to large corporations. California wineries account for nearly 90 percent of American wine production, and are responsible for producing more than 60% of all wine consumed in the country. If California were a separate country, it would be the fourth largest wine producer in the world. According to the Wine Institute, in 2013, California wine shipments within the United States alone were 215 million cases - 2,580,000,000 bottles of wine - with an estimated retail value of $23.1 billion.

59. California wineries typically do not disclose the ingredients or chemicals (beyond alcohol content and sulfites) that are present in the wine they are selling. Moreover, no government regulatory agency is regularly monitoring or testing these wines to ensure that they are free from developmental hazard and toxic poisons that could sicken or even kill consumers over time. Specifically, no government agency is regularly testing wine for toxic ingredients such as inorganic arsenic, leaving the wineries to police their own wines, and wine consumers to fend for themselves, without regulatory protection or the necessary warnings to make an informed decision.

60. Wine may contain both organic and inorganic arsenic. Of these, inorganic arsenic is substantially more toxic and dangerous to humans. Based upon independent sample testing on the wines at issue in this complaint, inorganic arsenic makes up the overwhelming majority of the arsenic in these wines. Inorganic arsenic is: (1) acutely toxic when introduced into the human body; (2) proven to cause cancer; (3) known to cause and contribute to a host of reproductive harms and debilitating illnesses, and (4) when consumed over time, increases the likelihood of early death. The World Health Organization classifies inorganic arsenic as a "MAJOR PUBLIC HEALTH CONCERN." Ingestion of arsenic can cause nausea, vomiting, abdominal pain, severe diarrhea,

disturbances of the cardiovascular and nervous systems, and eventual death. Chronic arsenic toxicity results in multi-system disease and has been linked to a variety of dermal symptoms (exfoliative dermatitis, keratosis, vitiligo, skin cancer), peripheral neuropathy, encephalopathy, bronchitis, pulmonary fibrosis, portal hypertension, peripheral vascular disease/"black foot disease," atherosclerosis, various cancers (including skin, bladder, lung, liver, kidney, nasal passage, prostate and colon cancer) and diabetes mellitus.

61. Along with the alarming carcinogenicity of arsenic and its implication in multiple cancers (including skin, bladder, lung, liver, kidney, nasal passages, prostate and colon), comes the very real concern which has been identified in medical literature between arsenic toxicity, type 2 diabetes mellitus and obesity. This association is of the utmost importance, as incidence and prevalence of type 2 diabetes and obesity have reached epidemic proportions representing a public health emergency. Specifically, the U.S. Center for Disease Control projects that 1 in 3 of children born in the year 2000 will become diabetic in their lifetime, and 1 in 2 among Hispanic females.

62. While inorganic arsenic is considered to be more toxic than organic arsenic, several methyl and phenyl derivatives of arsenic such as monomethylarsonic acid (MMA), and dimethyl arsenic acid (DMA) are of possible health concern as per the Agency for Toxic Substances and Disease Registry (*ATSDR) 2007 Toxicological Profile for Arsenic* (1). The International Agency for Research on Cancer has classified arsenic as a Class I human carcinogen. The U.S. Environmental Protection Agency clearly states that the maximum contaminant level goal (MCLG) for ***any*** arsenic is ***zero***, based on the best available science to prevent potential health problems. The resulting maximum contaminant level (MCL), which represents the enforceable target level for arsenic in water, considers cost and feasibility and was set at 10 ppb. Of note, this measurement is for ***total*** arsenic and does not consider or require any speciation analysis of organic versus inorganic.

63. Defendants manufacture, distribute and/or sell wines labeled, marketed and intended for immediate human consumption (without being made a constituent or ingredient of another product, nor requiring substantial additional preparation), including but not limited to the wines referenced herein. These wines are manufactured, distributed and/or sold in California.

64. Defendants produce, manufacture and/or distribute wine in California that contains inorganic arsenic in amounts far in excess of what is allowed in drinking water. Defendants do not warn that their products contain unsafe amounts of inorganic arsenic, nor do they disclose even the existence of inorganic arsenic in the wine. Consequently, Defendants' California wine consumers have been made unwitting "guinea pigs" of arsenic exposure, being involuntarily exposed to toxic levels of inorganic arsenic over and over again by the Defendants. Even today, with the sophisticated testing equipment available to wine makers and distributors, Defendants still conceal and/or refuse to warn the typical California wine consumer about the true risks they are taking by ingesting and consuming their product.

65. The wines at issue in this case contain toxic inorganic arsenic at levels that exceed California Prop 65 standards, resulting in human ingestion/exposure to Class I carcinogens without any disclosure or warning to the consumer.

66. Inorganic arsenic has long been known to be toxic to humans, and acceptable limits of inorganic arsenic in food and drink have been repeatedly lowered over the years. It is now well-understood that even very small amounts of inorganic arsenic can be harmful to humans.

67. During the four years preceding the filing of this complaint, in Los Angeles County, California, Defendants sold, and Plaintiffs and the other members of the Class purchased Defendants' wine, described above.

68. Plaintiffs and other similarly situated California consumers bought the wine primarily for personal, family, or household purchases. Defendants know and intend that individuals will consume their wines.

69. The named Defendants produce and distribute wine to California consumers at inorganic arsenic levels significantly higher than what the State of California considers the maximum acceptable limit for safe daily exposure.

70. The named Defendants also add the inorganic arsenic into these wines through the use of one or more chemical additives, clarifiers, concentrates, fining agents, enzymes, tanning, yeasts, cleansers and/or other chemicals added into the wines thereby eliminating any "safe harbor" protections as they may otherwise exist under Prop 65.

71. Each of the Defendants manufacture and/or distribute and/or sell wine in California containing toxic levels of inorganic arsenic, yet Defendants have failed, and continue to fail, to comply with state health law standards or to provide the wine consumer with any warning of this fact. Defendants knew and/or should have known of the toxic levels of inorganic arsenic in their wines, yet continued to manufacture and/or distribute their toxic wine without disclosing or warning of that fact, instead actively concealing such information from the general public.

72. Defendants' marketing and advertising of their wines was, and continues to be unfair, untrue, deceptive and misleading. This conduct includes, but is not limited to:

(a) Failing to warn that Defendants' wine contains inorganic arsenic, a chemical known to the State of California to cause cancer and other serious illnesses;

(b) Failing to warn that Defendants' wine contains levels of inorganic arsenic widely considered to be unsafe and inappropriate for human consumption;

(c) Representing to Plaintiffs and similarly situated consumers and the general public that Defendants' wines were safe and fit for human use, knowing that said representations were false, and concealing from Plaintiffs and similarly situated consumers and the general public that its wine contains inorganic arsenic;

(d) Engaging in advertising programs designed to create the image, impression and belief by consumers that Defendants' wines are safe and fit for human use, even though Defendants knew this to be false, and even though Defendants had no reasonable grounds to believe them to be true; and

(e) Purposefully downplaying and understating the health hazards and risks associated with Defendants' wines.

73. Defendants could have taken measures to limit or reduce the amount of inorganic arsenic levels in the offending wines to allowable levels, but did not do so in order to enjoy additional profits at the expense of the wine consumer.

74. But for Defendants' unfair, untrue, deceptive and misleading conduct, Defendants would not have been able to sell the wine and Plaintiffs and other similarly situated California

consumers would not have purchased the wine.

75. But for Defendants' unfair, untrue, deceptive and misleading conduct, Defendants would have to warn consumers of the inorganic arsenic in its wine or take steps in the manufacturing of the wine to prevent unsafe levels of inorganic arsenic from getting into the wine or to reduce the unsafe levels of inorganic arsenic in the wine.

76. Plaintiffs and all other California consumers similarly situated are therefore entitled to damages and full restitution of their purchases of Defendants' wines. All Plaintiffs, and all others similarly situated are also entitled to injunctive relief to prevent the continued sale of wine with excessive levels of inorganic arsenic. In addition, all consumers of Defendants' wines who were denied the ability to make an informed choice as to whether to purchase the wines with excessive levels of inorganic arsenic should be refunded the full purchase price of the wines.

77. As a result of Defendants' conduct described above, Plaintiffs and the Class have in fact suffered economic injuries and lost money, including the purchase price of the wine, as described herein.

PROPOSITION 65 ALLEGATIONS

78. Plaintiffs bring the Proposition 65 claim in the public interest pursuant to California Health & Safety Code § 25249.7(d).

79. Health & Safety Code § 25249.6 provides:

> No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual . . .

80. "Knowingly" refers only to knowledge of the fact that a discharge of, release of, or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. "No knowledge that the discharge, release or exposure is unlawful is required." (27 Cal. Code Regs, title 27, §25102(n)).

81. Proposition 65 also provides that any person "violating or threatening to violate" the statute may be enjoined in a court of competent jurisdiction. (Health & Saf. Code § 25249.7) The

phrase "threatening to violate" is defined to mean creating "a condition in which there is a substantial likelihood that a violation will occur." (Health & Saf. Code § 25249.11(e)). Violators are liable for civil penalties of up to $2,500 per day for each violation of the Act. (Health & Saf. Code § 25249.7.)

82. Inorganic arsenic is listed by the State of California as a chemical known to cause cancer. Inorganic arsenic is therefore subject to the "clear and reasonable" warning requirements of Proposition 65 for cancer.

83. Due to the high toxicity of inorganic arsenic, for cancer-causing toxins, the "safe harbor" is 10 µg/day (micrograms per day). (27 Cal. Code Regs., title 27, CR 25709(b).) However, the commentary to the regulations makes clear that this "safe harbor" is **"not intended to be used for substances that are added as chemicals to the products."**

84. Defendants manufacture, distribute, market and/or sell in California certain wines containing inorganic arsenic in levels exceeding that "safe harbor."

85. Also, upon information and belief, some or all of the excess inorganic arsenic in the offending wines is caused by chemicals added to the wine to filter, clarify, fine, sweeten, color, stabilize or otherwise manipulate the wine product before sale.

86. To test Defendants' wines, Plaintiffs relied on analytical testing by three separate qualified testing laboratories at three different locations. These laboratories each engaged in testing for total arsenic in the wines. One of the laboratories also conducted additional sample testing to confirm the proportion of inorganic to organic arsenic present in the offending wines.

87. The results of the testing undertaken by these laboratories confirms that the products tested were well in violation of the 10 µg/day "safe harbor" daily dose limit set forth in Proposition 65's regulations, to the extent that "safe harbor" even applies under the law.

88. Inorganic arsenic is also listed by the State of California as a chemical known to cause reproductive toxicity and birth defects (a "developmental toxin"). Inorganic arsenic is therefore subject to the "clear and reasonable" warning requirements of Proposition 65 for reproductive toxicity.

89. Since there is no Maximum Allowable Dose Level ("MADL"), to achieve a "safe

harbor", the named Defendants must demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. See, 27 Cal. Code of Regs, title 27, § 25801 *et. seq.* Clearly, at 1,000 times the inorganic arsenic level in question, the named Defendants are unable to show "no observable effect".

90. At all times relevant to this action, Defendants have knowingly exposed wine consumers to inorganic arsenic in the offending wines without clear and reasonable warning to such individuals.

91. At all times relevant to this action, Defendants have failed to place a clear and reasonable Proposition 65 warning for inorganic arsenic, disclosing its cancer-causing and reproductive toxic effects, on its wines.

92. At all times relevant to this action, Defendants' sales representatives have failed to warn consumers that its wines contain cancer-causing and/or reproductively toxic inorganic arsenic.

93. At all times relevant to this action, Defendants have failed to place a clear and reasonable Proposition 65 warning for inorganic arsenic on its marketing materials.

94. At all times relevant to this action, Defendants have failed to place a clear and reasonable Proposition 65 warning for inorganic arsenic on store shelves.

95. At all times relevant to this action, Defendants have failed to place a clear and reasonable Proposition 65 warning for inorganic arsenic on its website.

CLASS ALLEGATIONS

96. Plaintiffs bring the class action claims on their own behalf and on behalf of all persons similarly situated pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent the following Class:

> **All persons residing in California who purchased any of the Wines Listed on Exhibit A of any vintage from January 1, 2011 through the present.**

97. Upon information and belief, the scope of this Class definition, including its temporal scope, may be further refined after discovery of Defendants' and/or third party records.

98. Excluded from the Class are governmental entities, Defendants, any entity in which

Defendants have a controlling interest, and Defendants' officers, directors, affiliates, legal representatives, employees, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

99. All members of the Class, and any subclass that may be certified, were and are similarly affected by Defendants' conduct or omission regarding the non-disclosure of the toxic substances in the product, and the relief sought herein is for the benefit of Plaintiffs and members of the Class and any subclass.

100. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs are a member of the Class they seek to represent. Plaintiffs are members of a Class of California consumers, and the members of this Class of consumers were similarly situated and similarly affected by the conduct alleged of Defendants and incurred similar damage, as alleged in this complaint, as a result of Defendants' conduct. Members of the Class are ascertainable from Plaintiffs' description of the Class and/or Defendants' records and/or records of third parties accessible through discovery.

101. The representative Plaintiffs will fairly and adequately represent the members of the Class and have no interests that are antagonistic to the claims of the Class. Plaintiffs' interests in this action are antagonistic to the interests of Defendants, and they will vigorously pursue the claims of the Class.

102. The representative Plaintiffs have retained counsel who are competent and experienced in consumer class action litigation, and have successfully represented consumers in complex class actions.

103. Common questions of law or fact impact the rights of each member of the Class and a common remedy by way of permissible damages, restitutionary disgorgement and/or injunctive relief is sought for the Class.

104. There are numerous and substantial questions of law or fact common to all members of the Class that will predominate over any individual issues, including but not limited to:

(a) whether Defendants' wines contain unacceptably high levels of inorganic arsenic;

(b) whether Defendants were required or had a duty to disclose to the Class that their wines contain unacceptably high levels of inorganic arsenic;

(c) whether the Class has been damaged as a result of Defendants' conduct;

(d) whether the Defendants have been unjustly enriched by their conduct;

(e) whether Defendants' conduct violated California law; and

(f) whether the Class members are the beneficiaries of a warranty and if that warranty has been breached.

105. A class action provides a fair and efficient method, if not the only method, for adjudicating this controversy. The substantive claims of the representative Plaintiffs and the Class are nearly identical and will require evidentiary proof of the same kind and application of the same law.

106. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because the number of Class members is believed to be at least in the thousands and individual joinder is impracticable. The expense and burden of individual litigation would make it impracticable or impossible for proposed Class members to prosecute their claims individually. Trial of Plaintiffs' and the Class members' claims are manageable. Unless a Class is certified, Defendants will be unjustly enriched at the expense of Class members.

107. There is no plain, speedy, or adequate remedy other than by maintenance of this class action because Plaintiffs are informed and believe that damage to each member of the Class is relatively small, making it economically unfeasible to pursue remedies other than by way of a class action.

108. The persons in the Class are so numerous that the joinder of all such persons individually in this case is impracticable, and the disposition of their claims in this case and as part of a single class action lawsuit, rather than thousands of individual lawsuits, will benefit the parties and greatly reduce the aggregate judicial resources that would be spent if this matter were handled as thousands of separate lawsuits.

109. Plaintiffs know of no difficulty that will be encountered in the management of this litigation, which would preclude its maintenance of a class action.

110. Defendants have acted on grounds generally applicable to the entire Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for the Defendants.

111. Without a class action, Defendants will likely retain the benefit of their wrongdoing and will continue a course of action that will result in further damages to Plaintiffs and the Class. Plaintiffs envision no difficulty in the management of this action as a class action.

112. On the basis of all of the facts alleged hereinabove, Defendants' conduct and actions were despicable, and were done maliciously, oppressively and fraudulently, with a willful and conscious disregard of Plaintiffs' rights, thereby subjecting Plaintiffs to unjust hardship and distress, entitling Plaintiffs to punitive damages under Cal. Civ. Code § 3294. Defendants' officers, directors and managing agents were personally informed and involved in the decision-making process with respect to the misconduct alleged herein and to be proven at trial.

FIRST CAUSE OF ACTION

(Violations Of California Health & Safety Code § 25249.5, *et seq.*)

(By Plaintiffs, Individually, in the Public Interest Against all Defendants)

113. Plaintiffs re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

114. Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code § 25249.5, *et. seq.*) is a "right-to-know" law. It requires businesses to warn California consumers before exposing them to chemicals known to cause birth defects or cancer, by including that information on the product's label. The intent of Proposition 65 is to protect California citizens from exposure to chemicals known to cause cancer, birth defects or other reproductive harm, and to inform California citizens about exposure to such chemicals.

115. Proposition 65 requires the State of California to maintain and update a list of chemicals known by the state to cause cancer or reproductive toxicity. One of the chemicals on that list is inorganic arsenic. If a listed chemical exists in wine, the wine must be labeled to disclose the

existence of the toxic chemical to the general public.

116. Proposition 65 also requires the State of California to keep a list of No Significant Risk Levels (NSRLs) and Maximum Allowable Dosage Levels (MADLs), which establish "safe harbor" levels for products containing listed toxic chemicals. As to cancer, if the amount of the toxic chemical in the product is below the "safe harbor" limit, then it is exempt from liability under Proposition 65. The "safe harbor" limits for ingestion of inorganic arsenic compounds is 10 µg/day. However, the commentary to the regulations makes clear that this safe harbor defense is "not intended to be used for substances that are added as chemicals to products." Upon information and belief, some or all of the inorganic arsenic in the offending wines is the result of chemical additives and, therefore, do not provide Defendants with safe harbor protection. Regardless, each of the Defendants' wine products identified in this complaint exceed the "safe harbor" provisions under Proposition 65. Specific to reproductive toxicity, the standard is even more stringent and the amount of inorganic arsenic in these wines also clearly exceed acceptable levels for reproductive toxicity under Prop 65.

117. Defendants' wines cause exposure to excessive levels of inorganic arsenic. Therefore, Proposition 65 requires Defendants to provide a clear and reasonable warning that the ingestion of their wines causes exposure to inorganic arsenic, a chemical known to the State of California to cause cancer and reproductive toxicity. Defendants have failed to provide the required warnings.

118. Plaintiffs are informed and reasonably believe that the Defendants knew and or reasonably should have known that the foreseeable consumption of their wines results in exposure to inorganic arsenic, thus requiring the warnings required by Proposition 65.

119. Defendants know and intend that Plaintiffs will consume their wines, thus exposing Plaintiffs to inorganic arsenic.

120. By manufacturing, supplying and/or distributing wines containing inorganic arsenic without first providing a clear and reasonable warning, Defendants have engaged and continue to engage in conduct which violates Health and Safety Code § 25249.6.

121. Proposition 65 provides that any person "violating or threatening to violate" the

statue may be enjoined by any court of competent jurisdiction. (Health & Saf. Code § 25249.7.)

122. Violators of Proposition 65 are liable for civil penalties of up to $2,500 per day per violation, recoverable in a civil action. (Health & Saf. Code § 25249.7(b).)

123. Some containers of the wines manufactured and/or distributed by the Defendants remain unopened and have not yet exposed a person to inorganic arsenic, but the wine in those containers will expose Plaintiffs to inorganic arsenic when consumed. These containers require "a clear and reasonable warning" prior to exposure.

124. By engaging in this conduct, Defendants are liable, pursuant to § 25249.7(b), for civil penalties of up to $2,500 per day per bottle sold.

125. By continuing to engage in this conduct even after the Notice of Violation has been given, the Defendants have caused irreparable harm to the citizens of the State of California for which there is no plain, speedy or adequate remedy at law.

SECOND CAUSE OF ACTION

(Violation of Consumers Legal Remedies Act – Cal. Civ. Code §§ 1750, *et seq.*)

(By Plaintiffs and all Class Members Against all Defendants)

126. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

127. Plaintiffs are "consumers" within the meaning of Cal. Civ. Code § 1761(d).

128. Defendants have engaged in deceptive practices, unlawful methods of competition, and/or unfair acts as defined by Cal. Civ. Code §§ 1750, *et seq.*, to the detriment of Plaintiffs and members of the Class. The following deceptive practices have been intentionally, knowingly, and unlawfully perpetrated upon Plaintiffs and members of the Class by Defendants:

(a) In violation of Cal. Civ. Code § 1770(a)(2), Defendants misrepresented the source, sponsorship, approval, or certification of goods or services;

(b) In violation of Cal. Civ. Code § 1770(a)(5), Defendants represented that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have;

(c) In violation of Cal. Civ. Code § 1770(a)(7), Defendants represented that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(d) In violation of Cal. Civ. Code § 1770(a)(9), Defendants advertised goods or services with intent not to sell them as advertised.

129. As a result of the use or employment by Defendants of the above-alleged methods, acts, and practices, Plaintiff and the Class suffered damage within the meaning of Cal. Civ. Code § 1780(a), entitling them to, *inter alia*, restitution, injunctive relief, attorneys' fees and costs. Plaintiffs and the Class further intend to seek compensatory damages, and, in light of Defendants' willful and conscious disregard for the rights of Plaintiffs and the Class, and in light of Defendants' intentional and fraudulent concealment of material facts, Plaintiffs and the Class also intend to seek an award of punitive damages. Pursuant to Cal. Civ. Code § 1782(a), Plaintiffs will serve defendants with notice of alleged violations of the CLRA by certified mail return receipt requested. If within 30 days after the date of such notification Defendants fail to provide appropriate relief for the violations of the CLRA, Plaintiffs will amend this complaint to seek monetary damages (both compensatory and punitive) under the CLRA.

130. Plaintiffs and the Class request an injunction requiring Defendants to stop selling wine to the public with excessive levels of inorganic arsenic.

THIRD CAUSE OF ACTION

(Unfair Business Practices – Business & Professions Code §§ 17200, *et seq.*)

(By Plaintiffs and all Class Members Against all Defendants)

131. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein

132. California Business & Professions Code §17200 provides that unfair competition shall mean and include "all unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising."

133. Defendants' business practices are unlawful under Business & Professions Code §§ 17200, *et seq.* by virtue of, among other things, Defendants' violations of Health & Safety Code §§

25249.5, *et seq.*

134. Defendants' business practices are unfair under California Business & Professions Code section 17200 because it exposes, without warning, California wine consumers to excessive levels of arsenic, potentially damaging to their health, without warning.

135. Defendants' business practices are fraudulent under Business & Professions Code §§ 17200, *et seq.* because Defendants fail to warn of the high levels of arsenic, which conduct is deceptive and likely to mislead the public.

136. As a result of Defendants' illegal business practices, Plaintiffs and the members of the Class are entitled to an order, pursuant to Business and Professions Code §17203, enjoining such future conduct and such other orders and judgments that may be necessary to provide restitutionary disgorgement of Defendants' ill-gotten gains and to restore to any Class member any money paid for the tainted wine.

FOURTH CAUSE OF ACTION

(Misleading and Deceptive Advertising – Business & Professions Code, §§ 17500, *et seq.*)

(By Plaintiffs and all Class Members Against all Defendants)

137. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

138. California Business & Professions Code §17500 provides that it is unlawful for any person, firm, corporation, or association to dispose of property or perform services, or to induce the public to enter into any obligation relating thereto, through the use of untrue or misleading statements.

139. By engaging in the conduct described above, Defendants have committed acts of disseminating untrue and misleading statements as defined by California Business & Professions Code §§ 17500, *et seq.*

140. The foregoing practices constitute false and misleading advertising within the meaning of California Business & Professions Code §§ 17500, *et seq.*

141. As a result of its conduct described above, Defendants have and will be unjustly enriched. Specifically, Defendants have been unjustly enriched by receipt of ill-gotten gains from

the sale of the wine, sold in large part as a result of the acts and omissions described herein.

142. Pursuant to California Business California Business & Professions Code § 17535, Plaintiffs seek an order of this court compelling the Defendants to provide restitution, damages and injunctive relief calling for Defendants to cease such false and misleading advertising in the future.

FIFTH CAUSE OF ACTION

(Unjust Enrichment)

(By Plaintiffs and all Class Members against all Defendants)

143. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

144. As a result of Defendants' deceptive marketing and sale of its wine products, as described above, Defendants were enriched, at the expense of Plaintiffs and those similarly situated, through the payment of the purchase price for the wine.

145. Under the circumstances, it would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits that it received from Plaintiffs and those similarly situated, in light of the fact that the wines purchased by Plaintiffs, and those similarly situated, was not what Defendants purported it to be, *i.e.*, a product safe for human consumption and free of toxins at any level for which labeling and disclosure was required. This, it would be unjust or inequitable for Defendants to retain the benefit without restitution to the Plaintiffs, and those similarly situated, for monies paid to Defendants for the wine.

SIXTH CAUSE OF ACTION

(Breach Of The Implied Warranty Of Merchantability)

(By Plaintiffs and all Class Members against all Defendants)

146. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

147. Plaintiffs and other Class members purchased Defendants' wine product, which were marketed and sold as compliant with California state disclosure requirements and free of toxins at any level for which labeling and disclosure were required. Pursuant to these sales, Defendants impliedly warranted that its wine products would be merchantable and fit for the ordinary purpose

for which such goods are used. They were not.

148. As a proximate result of this breach of warranty by Defendants, Plaintiffs and Class members have suffered damages in an amount to be determined at trial. In addition, Plaintiffs and Class members were deprived of the benefit of their bargain and spent money on Defendants' wine products, without being told it contained un-safe levels of toxic inorganic arsenic that made it unfit for human consumption.

SEVENTH CAUSE OF ACTIO N

(Negligent Misrepresentation/Omission)

(By Plaintiffs and all Class Members Against all Defendants)

149. Plaintiffs and the Class re-allege and incorporate by reference the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

150. Defendants owed a duty to Plaintiffs and Class members to exercise reasonable care in making representations and disclosures about their wine when sold to consumers.

151. Defendants knew, or should have known by the exercise of reasonable care, that the wine contained unsafe amounts of inorganic arsenic and thus should not have sold the wine to consumers without proper labeling and disclosure of the risks of consumption.

152. Plaintiffs and the Class members believed, and relied upon, Defendants' label disclosures (or lack thereof) regarding the potential risks posed to consumers when deciding which wine to purchase, and how much to pay for the wine.

153. As a direct and proximate result of Defendants' negligent and/or reckless conduct, Plaintiff and the Class have been damaged in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs, individually and on behalf of all others similarly situated, and on behalf of the general public, pray for judgment against Defendants as follows:

1. For an order certifying the class claims as a class action, and appointing Plaintiffs and their counsel to represent the Class;

2. For a declaratory judgment that Defendants' exposure to inorganic arsenic to consumers when drinking their wines is unlawful;

3. For an order requiring Defendants, at its own cost, to notify all Class members of the unlawful and deceptive conduct herein;

4. For an order, pursuant to Health & Safety Code § 25249.7(b), compelling Defendants to identify and locate each individual to whom the offending wines were sold in the past four years, and to provide a warning to such person that consumption of the offending wines will expose them to chemicals known to cause cancer;

5. For an order, pursuant to Health & Safety Code § 25249.7(b) enjoining Defendants, their agents, employees, assigns and all persons acting in concert or participating with Defendants in the manufacture, distribution or sale of the offending wines from either reformulating the wines to remove the excess arsenic such that no Proposition 65 warning is necessary or providing a clear and reasonable warning, within the meaning of Proposition 65, that the consumers of these wines will be exposed to excessive levels of inorganic arsenic exposing them to increased risks of cancer and birth defects or other reproductive harms;

6. For an order requiring Defendants to make full disclosure of the risks of consuming inorganic arsenic from their wines on the wine's label such that it complies with all applicable food labeling rules and regulations;

7. For an order requiring Defendants to stop adding inorganic arsenic into their wines a as a chemical additive and/or clarifier or in any other manner;

8. For an order requiring Defendants to engage in corrective advertising regarding the conduct discussed above;

9. For assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b) against Defendants in the amount of $2,500 per day for each violation of Proposition 65;

10. For an order awarding, as appropriate, compensatory damages and restitutionary disgorgement to Plaintiffs and the Class;

11. For an order enjoining Defendants from continuing to market, advertise, distribute, and sell these products in the unlawful manner described herein, and ordering Defendants to engage in corrective action;

12. For all remedies available pursuant to the Civil Code;

13. For an order awarding attorneys' fees and costs pursuant to California Code of Civil Procedure § 1021.5 or any other applicable provision(s) of law, as Plaintiffs shall specify in further application to the Court;

14. For an order awarding punitive damages;

15. For an order awarding pre- and post-judgment interest; and

16. For an order providing such further relief as this Court deems proper.

Dated: September 16, 2015

KABATECK BROWN KELLNER LLP

BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.

LEVIN PAPANTONIO THOMAS MITCHELL RAFFERTY & PROCTOR, P.A.

By: _____

Brian S. Kabateck
Joshua H. Haffner
Levi M. Plesset
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of their claims.

Dated: September 16, 2015

KABATECK BROWN KELLNER LLP

BURG SIMPSON ELDREDGE HERSH & JARDINE, P.C.

LEVIN PAPANTONIO THOMAS MITCHELL RAFFERTY & PROCTOR, P.A.

By: _____

Brian S. Kabateck
Joshua H. Haffner
Levi M. Plesset
Attorneys for Plaintiffs

EXHIBIT A

EXHIBIT A

NO.	BRAND	CONSUMER ITEM DESCRIPTION	DEFENDANT	YEAR
1	ACRONYM	GR8RW RED BLEND	WINERY EXCHANGE	2011*
2	ALMADEN	HERITAGE WHITE ZINFANDEL	THE WINE GROUP	NV*
3	ALMADEN	HERITAGE MOSCATO	THE WINE GROUP	NV*
4	ALMADEN	HERITAGE WHITE ZINFANDEL	THE WINE GROUP	NV*
5	ALMADEN	HERITAGE CHARDONNAY	THE WINE GROUP	NV*
6	ALMADEN	MOUNTAIN BURGUNDY	THE WINE GROUP	NV*
7	ALMADEN	MOUNTAIN RHINE	THE WINE GROUP	NV*
8	ALMADEN	MOUNTAIN CHABLIS	THE WINE GROUP	NV*
9	ARROW CREEK	COASTAL SERIES CABERNET SAUVIGNON	WINERY EXCHANGE	2011*
10	BANDIT	PINOT GRIGIO	TRINCHERO	NV*
11	BANDIT	CHARDONNAY	TRINCHERO	NV*
12	BANDIT	CABERNET SAUVIGNON	TRINCHERO	NV*
13	BAY BRIDGE	CHARDONNAY	THE WINE GROUP	NV*
14	BERINGER	WHITE MERLOT	TREASURY WINE ESTATES	2011*
15	BERINGER	WHITE ZINFANDEL	TREASURY WINE ESTATES	2011*
16	BERINGER	RED MOSCATO	TREASURY WINE ESTATES	NV*
17	BERINGER	REFRESHINGLY SWEET MOSCATO	TREASURY WINE ESTATES	NV*
18	CHARLES SHAW	WHITE ZINFANDEL	BRONCO	2012*
19	COLORES DEL SOL	MALBEC	TREASURY WINE ESTATES	2010*
20	GLEN ELLEN by CONCANNON	GLEN ELLEN RESERVE PINOT GRIGIO	THE WINE GROUP	2012*
21	CONCANNON	SELECTED VINEYARDS PINOT NOIR	THE WINE GROUP	2011*
22	GLEN ELLEN *by* CONCANNON	GLEN ELLEN RESERVE MERLOT	THE WINE GROUP	2010*
23	COOK'S	SPUMANTE	CONSTELLATION	NV*
24	CORBETT CANYON	PINOT GRIGIO	THE WINE GROUP	NV*
25	CORBETT CANYON	CABERNET SAUVIGNON	THE WINE GROUP	NV*
26	CUPCAKE	MALBEC	THE WINE GROUP	2011*
27	FETZER	MOSCATO	FETZER VINEYARDS	2010*
28	FETZER	PINOT GRIGIO	FETZER VINEYARDS	2011*
29	FISHEYE	PINOT GRIGIO	THE WINE GROUP	2012*
30	FLIPFLOP	PINOT GRIGIO	THE WINE GROUP	2012*
31	FLIPFLOP	MOSCATO	THE WINE GROUP	NV*
32	FLIPFLOP	CABERNET SAUVIGNON	THE WINE GROUP	NV*
33	FOXHORN	WHITE ZINFANDEL	THE WINE GROUP	NV*
34	FRANZIA	VINTNER SELECT WHITE GRENACHE	THE WINE GROUP	NV*

** Including, but not limited to, any/all vintages prior and subsequent to the "Year" identified for each "Brand" listed above.*

EXHIBIT A

NO.	BRAND	CONSUMER ITEM DESCRIPTION	DEFENDANT	YEAR
35	FRANZIA	VINTNER SELECT WHITE ZINFANDEL	THE WINE GROUP	NV*
36	FRANZIA	VINTNER SELECT WHITE MERLOT	THE WINE GROUP	NV*
37	FRANZIA	VINTNER SELECT BURGUNDY	THE WINE GROUP	NV*
38	HAWKSTONE	CABERNET SAUVIGNON	WINERY EXCHANGE	2011*
39	HRM REX GOLIATH	MOSCATO	CONSTELLATION	NV*
40	KORBEL	SWEET ROSE SPARKLING WINE	KORBEL	NV*
41	KORBEL	EXTRA DRY SPARKLING WINE	KORBEL	NV*
42	MENAGE A TROIS	PINOT GRIGIO	TRINCHERO	2011*
43	MENAGE A TROIS	MOSCATO	TRINCHERO	2010*
44	MENAGE A TROIS	WHITE BLEND	TRINCHERO	2011*
45	MENAGE A TROIS	CHARDONNAY	TRINCHERO	2011*
46	MENAGE A TROIS	ROSE	TRINCHERO	2011*
47	MENAGE A TROIS	CABERNET SAUVIGNON	TRINCHERO	2010*
48	MENAGE A TROIS	CALIFORNIA RED WINE	TRINCHERO	2011*
49	MOGEN DAVID	CONCORD	THE WINE GROUP	NV*
50	MOGEN DAVID	BLACKBERRY WINE	THE WINE GROUP	NV*
51	OAK LEAF	WHITE ZINFANDEL	THE WINE GROUP	NV*
52	POMELO	SAUVIGNON BLANC	MASON CELLARS	2011*
53	R COLLECTION BY RAYMOND	CHARDONNAY	JEAN-CLAUDE BOISSET WINES	2012*
54	RICHARDS WILD IRISH ROSE	RED WINE	CONSTELLATION	NV*
55	SEAGLASS	SAUVIGNON BLANC	TRINCHERO	2012*
56	SIMPLY NAKED	MOSCATO	CONSTELLATION	2011*
57	SMOKING LOON	VIOGNIER	DON SEBASTIANI & SONS	2011*
58	SUTTER HOME	SAUVIGNON BLANC	TRINCHERO	2010*
59	SUTTER HOME	GEWURZTRAMINER	TRINCHERO	2011*
60	SUTTER HOME	PINK MOSCATO	TRINCHERO	NV*
61	SUTTER HOME	PINOT GRIGIO	TRINCHERO	2011*
62	SUTTER HOME	MOSCATO	TRINCHERO	NV*
63	SUTTER HOME	CHENIN BLANC	TRINCHERO	2011*
64	SUTTER HOME	SWEET RED	TRINCHERO	2010*
65	SUTTER HOME	RIESLING	TRINCHERO	2011*
66	SUTTER HOME	WHITE MERLOT	TRINCHERO	2011*
67	SUTTER HOME	MERLOT	TRINCHERO	2011*
68	SUTTER HOME	WHITE ZINFANDEL	TRINCHERO	2011*
69	SUTTER HOME	WHITE ZINFANDEL	TRINCHERO	2012*

** Including, but not limited to, any/all vintages prior and subsequent to the "Year" identified for each "Brand" listed above.*

EXHIBIT A

NO.	BRAND	CONSUMER ITEM DESCRIPTION	DEFENDANT	YEAR
70	SUTTER HOME	ZINFANDEL	TRINCHERO	2010*
71	TRAPICHE	MALBEC	THE WINE GROUP	2012*
72	TRIBUNO	SWEET VERMOUTH	THE WINE GROUP	NV*
73	VENDANGE	MERLOT	CONSTELLATION	NV*
74	VENDANGE	WHITE ZINFANDEL	CONSTELLATION	NV*
75	WINE CUBE	MOSCATO	TRINCHERO	NV*
76	WINE CUBE	PINK MOSCATO	TRINCHERO	2011*
77	WINE CUBE	PINOT GRIGIO	TRINCHERO	2011*
78	WINE CUBE	PINOT GRIGIO	TRINCHERO	NV*
79	WINE CUBE	CHARDONNAY	TRINCHERO	2011*
80	WINE CUBE	CHARDONNAY	TRINCHERO	NV*
81	WINE CUBE	RED SANGRIA	TRINCHERO	NV*
82	WINE CUBE	SAUVIGNON BLANC	TRINCHERO	2011*
83	WINE CUBE	CABERNET SAUVIGNON/SHIRAZ	TRINCHERO	2011*

** Including, but not limited to, any/all vintages prior and subsequent to the "Year" identified for each "Brand" listed above.*

EXHIBIT B

Kabateck Brown Kellner LLP

Via Certified U.S. Mail

THE ENTITIES AND THE PUBLIC ENFORCEMENT AGENCIES LISTED ON THE DISTRIBUTION LIST ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

RE: Notice of Violation of California Health & Safety Code § 25249.6

To Whom It May Concern:

Doris Charles, Alvin Jones, Jason Peltier, and Jennifer Peltier ("the Noticing Parties") serve this Notice of Violation ("Notice") on each of the entities listed on the distribution list ("the Noticed Party") pursuant to and in compliance with California Health and Safety Code § 25249.7(d) and 27 California Code of Regulations § 25903.

This Notice satisfies a prerequisite for the Noticing Parties to commence an action against the Noticed Party to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). The Noticing Parties intend to bring an enforcement action sixty (60) days after effective service of this Notice, unless the public enforcement agencies have commenced an action to rectify the violations discussed in this Notice. This Notice is being served upon the Noticed Party, the California Attorney General and the district attorney of every county in which a violation is alleged to have occurred, and upon the city attorneys of any cities with populations according to the most recent decennial census of over 750,000 and in which the violation is alleged to have occurred. Where the alleged violators have a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel of the corporation, the Notice is addressed to one of those persons.

Attached as Exhibit A to this Notice is a copy of the "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." The attached Summary was prepared by the California Environmental Protection Agency and provides general information about Proposition 65.

A description of Noticing Parties, the Noticed Party, and the alleged violations addressed by this Notice are as follows:

> The Noticing Parties: This Notice is provided by Doris Charles, Alvin Jones, Jason Peltier, and Jennifer Peltier. The Noticing Parties are acting in the public interest pursuant to California Health & Safety Code § 25249.7(d) and are dedicated to protecting the health of all Californians. The Noticing Parties are located in Los Angeles and San Diego Counties in the State of California.

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The Alleged Violator: The Alleged Violators are each of the entities listed in the distribution list accompanying the attached Certificate of Service. Each of the Alleged Violators are believed to be in violation of California Health & Safety Code § 25249.6.

The Violation and the Chemical Involved: On February 27, 1987, the State of California officially listed arsenic (inorganic compounds) as a chemical known to the State to cause cancer. The Noticed Party has exposed and continues to expose consumers within the State of California to arsenic (inorganic compounds) at levels that exceed the No Significant Risk Level without providing clear and reasonable warning of this exposure.

The Consumer Products: The products that are subject of this Notice are the particular wine products listed and sold by the corresponding entities listed on the distribution list. These wine products are produced, manufactured, and/or distributed by each of the Noticed Parties.

Route of Exposure: The principal route of exposure with regard to the arsenic (inorganic compounds) was through ingestion.

The Duration of the Violations: The violations addressed by this Notice began on or after January 2011, have occurred on every day since at least January 2011, and are ongoing and continuing.

Pursuant to Title 11 of the California Code of Regulations § 3100, a certificate of merit is attached hereto.

Please direct any inquiries regarding this Notice or any communication to the counsel for the Noticing Parties:

Joshua H. Haffner
Kabateck Brown Kellner LLP
644 South Figueroa Street
Los Angeles, CA 90017
213.217.5000

DATED: March 19, 2015

Joshua H. Haffner
Attorney for Noticing Parties

Kabateck Brown Kellner LLP

CERTIFICATE OF MERIT

Health and Safety Code § 25249.7(d)

I, Joshua H. Haffner, hereby declare:

1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2) I am the attorney for the noticing parties.

3) I have consulted with one more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

DATED: March 19, 2015

Joshua H. Haffner

Kabateck Brown Kellner LLP

EXHIBIT A

"THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

Kabateck Brown Kellner LLP

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 644 S. Figueroa Street, Los Angeles, California 90017.

On **March 19, 2015,** I served the following:

1) 60-Day Notice of Intent to Sue Under Health & Safety Code section 25249.6
2) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary
3) Certificate of Merit: Health & Safety Code section 25249.7(d)
4) **Certificate of Merit (Attorney General Copy): Factual Information Sufficient to establish the basis of the Certificate of Merit**

on the interested parties in the action by either electronically filing these documents or placing a true copy thereof enclosed in a sealed envelope addressed as listed on the Service List attached.

X MAIL I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepared at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 19, 2015, at Los Angeles, California.

Maisha McCray

Kabateck Brown Kellner LLP

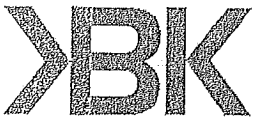
EXHIBIT B

DISTRIBUTION LIST

Kabateck Brown Kellner LLP

DEFENDANT ENTITIES

THE ALLEGED VIOLATOR	THE WINE PRODUCT (BRAND, VARIETAL, YEAR*) *Including, but not limited to, any/all vintages prior and subsequent to the "Year" identified for each "Brand" listed
WINERY EXCHANGE, INC. 500 Redwood Blvd., Suite 200 Novato, CA 94947	Acronym, GR8RW Red Blend, 2011 Arrow Creek, Coastal Series Cabernet Sauvignon, 2011 Hawkstone, Cabernet Sauvignon, 2011
SONOMA WINE CO., LLC 9119 Graton Road Graton, CA 95444	Acronym, GR8RW Red Blend, 2011
THE WINE GROUP, INC. 4596 South Tracy Blvd. Tracy, CA 95377 THE WINE GROUP, LLC 4596 South Tracy Blvd. Tracy, CA 95377	Almaden, Heritage White Zinfandel, NV Almaden, Heritage Moscato, NV Almaden, Heritage White Zinfandel, NV Almaden, Heritage Chardonnay, NV Almaden, Mountain Burgundy, NV Almaden, Mountain Rhine , NV Almaden, Mountain Chablis, NV Bay Bridge, Chardonnay, NV Glen Ellen by Concannon, Glen Ellen Reserve Pinot Grigio, 2012 Concannon, Selected Vineyards Pinot Noir, 2011 Glen Ellen by Concannon, Glen Ellen Reserve Merlot, 2010 Corbett Canyon, Pinot Grigio, NV Corbett Canyon, Cabernet Sauvignon, NV Cupcake, Malbec, 2011 Fisheye, Pinot Grigio, 2012 Flipflop, Pinot Grigio, 2012 Flipflop, Moscato, NV Flipflop, Cabernet Sauvignon, NV Foxhorn, White Zinfandel, NV Franzia, Vintner Select White Grenache, NV Franzia, Vintner Select White Zinfandel, NV Franzia, Vintner Select White Merlot, NV Franzia, Vintner Select Burgundy, NV Mogen David, Concord, NV Mogen David, Blackberry Wine, NV Oak Leaf, White Zinfandel, NV Trapiche, Malbec, 2012 Tribuno, Sweet Vermouth , NV
VARNI BROTHERS, CORP. 400 Hosmer Avenue Modesto, CA 95351	Flipflop, Pinot Grigio, 2012 Flipflop, Moscato, NV Flipflop, Cabernet Sauvignon, NV



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CONSTELLATION WINES, US 801 Main Street St. Helena, CA 94574	Almaden, Heritage White Zinfandel, NV Almaden, Heritage Moscato, NV Almaden, Heritage White Zinfandel, NV Almaden, Heritage Chardonnay, NV Almaden, Mountain Burgundy, NV Almaden, Mountain Rhine, NV Almaden, Mountain Chablis, NV Cook's, Spumante, NV HRM Rex-Goliath, Moscato, NV Richards Wild Irish Rose, Red Wine, NV Simply Naked, Moscato, 2011 Vendange, Merlot, NV Vendange, White Zinfandel, NV
GOLDEN STATE VINTNERS 4596 S. Tracy Blvd. Tracy, CA	Fisheye, Pinot Grigio, 2012
SUTTER HOME WINERY, INC., d/b/a TRINCHERO FAMILY ESTATES 100 St. Helena Highway South Street Helena, CA 4574	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon Ménage à Trois, Pinot Grigio, 2011 Ménage à Trois, Moscato, 2010 Ménage à Trois, White Blend, 2011 Ménage à Trois, Chardonnay, 2011 Ménage à Trois, Rose, 2011 Ménage à Trois, Cabernet Sauvignon, 2010 Ménage à Trois, California Red Wine, 2011 SeaGlass, Sauvignon Blanc, 2012 Sutter Home, Sauvignon Blanc, 2010 Sutter Home, Gewurztraminer, 2011 Sutter Home, Pink Moscato, NV Sutter Home, Pinot Grigio, 2011 Sutter Home, Moscato, NV Sutter Home, Chenin Blanc, 2011 Sutter Home, Sweet Red, 2010 Sutter Home, Riesling, 2011 Sutter Home, White Merlot, 2011 Sutter Home, Merlot, 2011 Sutter Home, White Zinfandel, 2011 Sutter Home, White Zinfandel, 2012 Sutter Home, Zinfandel, 2010 Wine Cube, Moscato, NV Wine Cube, Pink Moscato, 2011 Wine Cube, Pinot Grigio, 2011 Wine Cube, Pinot Grigio, NV Wine Cube, Chardonnay, 2011 Wine Cube, Chardonnay, NV Wine Cube, Red Sangria, NV Wine Cube, Sauvignon Blanc, 2011 Wine Cube, Cabernet Sauvignon/Shiraz, 2011
REBEL WINE CO., LLC 100 ST Helena Highway South Street Helena, CA 94574	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon, NV

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CALIFORNIA NATURAL PRODUCTS 1250 East Lathrop Road Lathrop, CA 95330	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon, NV Sutter Home, Sauvignon Blanc, 2010 Sutter Home, Gewurztraminer, 2011 Sutter Home, Pink Moscato, NV Sutter Home, Pinot Grigio, 2011 Sutter Home, Moscato, NV Sutter Home, Chenin Blanc, 2011 Sutter Home, Sweet Red, 2010 Sutter Home, Riesling, 2011 Sutter Home, White Merlot, 2011 Sutter Home, Merlot, 2011 Sutter Home, White Zinfandel, 2011 Sutter Home, White Zinfandel, 2012 Sutter Home, Zinfandel, 2010 Wine Cube, Moscato, NV Wine Cube, Pink Moscato, 2011 Wine Cube, Pinot Grigio, 2011 Wine Cube, Pinot Grigio, NV Wine Cube, Chardonnay, 2011 Wine Cube, Chardonnay, NV Wine Cube, Red Sangria, NV Wine Cube, Sauvignon Blanc, 2011 Wine Cube, Cabernet Sauvignon/Shiraz, 2011 Vendange, Merlot, NV Vendange, White Zinfandel, NV
FOLIE À DEUX WINERY 7481 St. Helena Highway Oakville, CA 94558	Ménage à Trois, Pinot Grigio, 2011 Ménage à Trois, Moscato, 2010 Ménage à Trois, White Blend, 2011 Ménage à Trois, Chardonnay, 2011 Ménage à Trois, Rose, 2011 Ménage à Trois, Cabernet Sauvignon, 2010 Ménage à Trois, California Red Wine, 2011
SEAGLASS WINE CO. P.O. Box 248 St. Helena, CA 94574	SeaGlass, Sauvignon Blanc, 2012
SMITH & HOOK WINERY CORPORATION aka Smith and Hook d/b/a HAHN FAMILY WINES 37700 Foothill Road (Drawer C) Soledad, CA 93960	HRM Rex-Goliath, Moscato, NV
WOODBRIDGE WINERY, INC. 1649 East Victor Road #1C Lodi, CA 95240	Simply Naked, Moscato, 2011
F. KORBEL & BROS., INC. 13250 River Road Guerneville, CA 95446	Korbel, Sweet Rose Sparkling Wine, NV Korbel, Extra Dry Sparkling Wine, NV

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MEGAN MASON AND RANDY MASON, dba MASON CELLARS 5 Heritage Court Yountville, CA 94559 OAKVILLE WINERY MANAGEMENT CORP., GP P.O. Box 434 Oakville, CA 94562	Pomelo, Sauvignon Blanc, 2011
JEAN-CLAUDE BOISSET WINES, USA, INC. 849 Zinfandel Lane Saint Helena, CA 94574 RAYMOND VINEYARD AND CELLAR/RAYMOND VINEYARD AND CELLAR, INC. 849 Zinfandel Lane Saint Helena, CA 94574	R Collection by Raymond, Chardonnay, 2012
DON SEBASTIANI & SONS INTERNATIONAL WINE NÉGOCIANTS, CORP. 485 1st West Sonoma, CA 95476 DON SEBASTIANI & SONS INTERNATIONAL NÉGOCIANTS 520 Airpark Road Napa, CA 94558	Smoking Loon, Viognier, 2011
FETZER VINEYARDS 12901 Old River Road Hopland, CA 95449	Fetzer, Moscato2010 Fetzer, Pinot Griogio, 2011
TREASURY WINE ESTATES AMERICAS CO. 610 Air Park Road Napa, CA 94558 TREASURY WINES ESTATES HOLDING, INC. P.O. Box 4500 Napa, CA 94558	Beringer, White Merlot, 2011 Beringer, White Zinfandel, 2011 Beringer, Red Moscato, NV Beringer, Refreshingly Sweet Moscato Colores Del Sol, Malbec, 2010
BERINGER VINEYARDS 2000 Main St. St. Helena, CA 94574	Beringer, White Merlot, 2011 Beringer, White Zinfandel, 2011 Beringer, Red Moscato, NV Beringer, Refreshingly Sweet Moscato
BRONCO WINE COMPANY 6342 Bystrum Road Ceres, CA 95307 TRADER JOE'S COMPANY 800 S. Shamrock Ave. Monrovia, CA 91016	Charles Shaw, White Zinfandel, 2012

Kabateck Brown Kellner LLP

PUBLIC AGENCIES

Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator Electronic filing
Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612
Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120
Amador County District Attorney 708 Court Street Jackson, CA 95642
Butte County District Attorney 25 County Center Drive Oroville, CA 95965
Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249
Colusa County District Attorney 346 Fifth Street Colusa, CA 95932
Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531
El Dorado County District Attorney 515 Main Street Placerville, CA 95667
Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721
Glenn County District Attorney P.O. Box 430 Willows, CA 95988
Humboldt County District Attorney 825 5th Street Eureka, CA 95501
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243
Inyo County District Attorney P.O. Drawer D Independence, CA 93526

Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230
Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453
Lassen County District Attorney 220 S. Lassen Street, Ste. 8 Susanville, CA 96130
Los Angeles County District Attorney 210 West Temple Street, Suite 18000 Los Angeles, CA 90012
Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637
Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903
Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338
Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482
Merced County District Attorney 550 W. Main Street Merced, CA 95340
Modoc County District Attorney 204 S. Court Street, Room 202 Alturas, CA 96101
Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517
Monterey County District Attorney P.O. Box 1131 Salinas, CA 93902
Napa County District Attorney P.O. Box 720 Napa, CA 94559
Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959
Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701

Kabateck Brown Kellner LLP

Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678
Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971
Riverside County District Attorney 3960 Orange Street Riverside, CA 92501
Sacramento County District Attorney 901 G Street Sacramento, CA 95814
San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203
San Bernardino County District Attorney 316 N. Mountain View Avenue San Bernardino, CA 92415
San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101
San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103
San Joaquin County District Attorney P.O. Box 990 Stockton, CA 95201
San luis Obispo County District Attorney 1035 Palm Street San Luis Obispo, CA 93408
San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063
Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101
Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110
Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060
Shasta County District Attorney 1355 West Street Redding, CA 96001
Sierra County District Attorney 100 Courthouse Square, Second Floor Downieville, CA 95936
Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097

Bain Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403
Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Adams Sutter County District Attorney 446 Second Street Yuba City, CA 95991
Tehama County District Attorney 444 Oak Street, Room l Red Bluff, CA 96080
Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Tulare County District Attorney 221 South Mooney Boulevard, Suite 224 Visalia, CA 93291
Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
Ventura County District Attorney 800 South Victoria Avenue Ventura, CA 93009
Yolo County District Attorney 301 Second Street Woodland, CA 95695
Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
Office of the City Attorney, Los Angeles 200 North Main Street Los Angeles, CA 90012
Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101
Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
Office of the City Attorney, San Francisco City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
Office of the City Attorney, San Jose 200 East Santa Clara Street San Jose, CA 95113

EXHIBIT C

Kabateck Brown Kellner LLP

Via Certified U.S. Mail

THE ENTITIES AND THE PUBLIC ENFORCEMENT AGENCIES LISTED ON THE DISTRIBUTION LIST ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

RE: Amended Notice of Violation of California Health & Safety Code § 25249.5, *et seq.*

To Whom It May Concern:

Doris Charles, Alvin Jones, Jason Peltier, and Jennifer Peltier ("the Noticing Parties") serve this Notice of Violation ("Notice") on each of the entities listed on the distribution list ("Noticed Party") pursuant to and in compliance with California Health and Safety Code § 25249.7(d) and 27 California Code of Regulations § 25903.

This Amended Notice satisfies a prerequisite for the Noticing Parties to commence an action against each Noticed Party to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). The Noticing Parties intend to bring an enforcement action sixty (60) days after effective service of this Notice, unless the public enforcement agencies have commenced an action to rectify the violations discussed in this Notice. This Amended Notice is being served upon each Noticed Party, the California Attorney General and the district attorney of every county in which a violation is alleged to have occurred, and upon the city attorneys of any cities with populations according to the most recent decennial census of over 750,000 and in which the violation is alleged to have occurred. Where the alleged violator has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel of the corporation, the Notice is addressed to one of those persons.

Attached as Exhibit A to this Amended Notice is a copy of the "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." The attached Summary was prepared by the California Environmental Protection Agency and provides general information about Proposition 65.

A description of Noticing Parties, each Noticed Party, and the alleged violations addressed by this Notice are as follows:

> The Noticing Parties: This Notice is provided by Doris Charles, Alvin Jones, Jason Peltier, and Jennifer Peltier. The Noticing Parties are acting in the public interest pursuant to California Health & Safety Code § 25249.7(d) and are dedicated to protecting the health of all Californians. The Noticing Parties are located in Los Angeles and San Diego Counties in the State of California.

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The Alleged Violator: The Alleged Violators are each of the entities listed in the distribution list accompanying the attached Certificate of Service. Each of the Alleged Violators are believed to be in violation of California Health & Safety Code § 25249.6.

The Violation and the Chemical Involved: On February 27, 1987, the State of California officially listed arsenic (inorganic arsenic compounds) as a chemical known to the State to cause cancer. On May 1, 1997, the State officially listed arsenic (inorganic arsenic oxides) as a chemical known to the State to cause reproductive toxicity (developmental). Each Noticed Party has knowingly and intentionally exposed and continues to knowingly and intentionally expose consumers within the State of California to arsenic (inorganic arsenic compounds) at levels that exceed the No Significant Risk Level without providing clear and reasonable warning of this exposure. Each Noticed Party has knowingly and intentionally exposed and continues to knowingly and intentionally expose consumers within the State of California to arsenic (inorganic arsenic oxides) at levels that exceed the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure.

The Consumer Products: The products that are subject of this Notice are the particular wine products listed and sold by the corresponding entities listed on the distribution list. These wine products are produced, manufactured, and/or distributed by each of the Noticed Parties.

Route of Exposure: The principal route of exposure with regard to the arsenic (inorganic compounds and inorganic oxides) was through ingestion.

The Duration of the Violations: The violations addressed by this Notice began on or after January 2011, have occurred on every day since January 2011, and are ongoing and continuing.

Pursuant to Title 11 of the California Code of Regulations § 3100, a certificate of merit is attached hereto.

Please direct any inquiries regarding this Notice or any communication to the counsel for the Noticing Parties:

Joshua H. Haffner
Kabateck Brown Kellner LLP
644 South Figueroa Street
Los Angeles, CA 90017
213.217.5000

DATED: June 12, 2015

Joshua H. Haffner
Attorney for Noticing Parties

Kabateck Brown Kellner LLP

CERTIFICATE OF MERIT

Health and Safety Code § 25249.7(d)

I, Joshua H. Haffner, hereby declare:

1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2) I am the attorney for the noticing parties.

3) I have consulted with one more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

DATED: June 12, 2015

Joshua H. Haffner

Kabateck Brown Kellner LLP

EXHIBIT A

"THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: http://oehha.ca.gov/prop65/law/P65law72003.html. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.[1] These implementing regulations are available online at: http://oehha.ca.gov/prop65/law/P65Regs.html.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list

[1] All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: http://www.oehha.ca.gov/prop65/law/index.html.

must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies; for example, when exposures are sufficiently low (see below). The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in a Food. Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant[2] it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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[2] See Section 25501(a)(4)

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT B

DISTRIBUTION LIST

Kabateck Brown Kellner LLP

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 644 S. Figueroa Street, Los Angeles, California 90017.

On **June 12, 2015,** I served the following:

1) 60-Day Notice of Intent to Sue Under Health & Safety Code section 25249.6
2) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary
3) Certificate of Merit: Health & Safety Code section 25249.7(d)
4) **Certificate of Merit (Attorney General Copy): Factual Information Sufficient to establish the basis of the Certificate of Merit**

on the interested parties in the action by either electronically filing these documents or placing a true copy thereof enclosed in a sealed envelope addressed as listed on the Service List attached.

X **MAIL** I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepared at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 12, 2015, at Los Angeles, California.

Irma Deleon

Kabateck Brown Kellner LLP

DEFENDANT ENTITIES

THE ALLEGED VIOLATOR	THE WINE PRODUCT (BRAND, VARIETAL, YEAR*) **Including, but not limited to, any/all vintages prior and subsequent to the "Year" identified for each "Brand" listed*
WINERY EXCHANGE, INC. 500 Redwood Blvd., Suite 200 Novato, CA 94947	Acronym, GR8RW Red Blend, 2011 Arrow Creek, Coastal Series Cabernet Sauvignon, 2011 Hawkstone, Cabernet Sauvignon, 2011
SONOMA WINE CO., LLC 9119 Graton Road Graton, CA 95444	Acronym, GR8RW Red Blend, 2011
THE WINE GROUP, INC. 4596 South Tracy Blvd. Tracy, CA 95377 THE WINE GROUP, LLC 4596 South Tracy Blvd. Tracy, CA 95377	Almaden, Heritage White Zinfandel, NV Almaden, Heritage Moscato, NV Almaden, Heritage White Zinfandel, NV Almaden, Heritage Chardonnay, NV Almaden, Mountain Burgundy, NV Almaden, Mountain Rhine , NV Almaden, Mountain Chablis, NV Bay Bridge, Chardonnay, NV Glen Ellen by Concannon, Glen Ellen Reserve Pinot Grigio, 2012 Concannon, Selected Vineyards Pinot Noir, 2011 Glen Ellen by Concannon, Glen Ellen Reserve Merlot, 2010 Corbett Canyon, Pinot Grigio, NV Corbett Canyon, Cabernet Sauvignon, NV Cupcake, Malbec, 2011 Fisheye, Pinot Grigio, 2012 Flipflop, Pinot Grigio, 2012 Flipflop, Moscato, NV Flipflop, Cabernet Sauvignon, NV Foxhorn, White Zinfandel, NV Franzia, Vintner Select White Grenache, NV Franzia, Vintner Select White Zinfandel, NV Franzia, Vintner Select White Merlot, NV Franzia, Vintner Select Burgundy, NV Mogen David, Concord, NV Mogen David, Blackberry Wine, NV Oak Leaf, White Zinfandel, NV Trapiche, Malbec, 2012 Tribuno, Sweet Vermouth , NV
VARNI BROTHERS, CORP. 400 Hosmer Avenue Modesto, CA 95351	Flipflop, Pinot Grigio, 2012 Flipflop, Moscato, NV Flipflop, Cabernet Sauvignon, NV
CONSTELLATION WINES, US 801 Main Street St. Helena, CA 94574	Almaden, Heritage White Zinfandel, NV Almaden, Heritage Moscato, NV Almaden, Heritage White Zinfandel, NV Almaden, Heritage Chardonnay, NV Almaden, Mountain Burgundy, NV

	Almaden, Mountain Rhine, NV Almaden, Mountain Chablis, NV Cook's, Spumante, NV HRM Rex-Goliath, Moscato, NV Richards Wild Irish Rose, Red Wine, NV Simply Naked, Moscato, 2011 Vendange, Merlot, NV Vendange, White Zinfandel, NV
GOLDEN STATE VINTNERS 4596 S. Tracy Blvd. Tracy, CA	Fisheye, Pinot Grigio, 2012
SUTTER HOME WINERY, INC., d/b/a TRINCHERO FAMILY ESTATES 100 St. Helena Highway South Street Helena, CA 4574	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon Ménage à Trois, Pinot Grigio, 2011 Ménage à Trois, Moscato, 2010 Ménage à Trois, White Blend, 2011 Ménage à Trois, Chardonnay, 2011 Ménage à Trois, Rose, 2011 Ménage à Trois, Cabernet Sauvignon, 2010 Ménage à Trois, California Red Wine, 2011 SeaGlass, Sauvignon Blanc, 2012 Sutter Home, Sauvignon Blanc, 2010 Sutter Home, Gewurztraminer, 2011 Sutter Home, Pink Moscato, NV Sutter Home, Pinot Grigio, 2011 Sutter Home, Moscato, NV Sutter Home, Chenin Blanc, 2011 Sutter Home, Sweet Red, 2010 Sutter Home, Riesling, 2011 Sutter Home, White Merlot, 2011 Sutter Home, Merlot, 2011 Sutter Home, White Zinfandel, 2011 Sutter Home, White Zinfandel, 2012 Sutter Home, Zinfandel, 2010 Wine Cube, Moscato, NV Wine Cube, Pink Moscato, 2011 Wine Cube, Pinot Grigio, 2011 Wine Cube, Pinot Grigio, NV Wine Cube, Chardonnay, 2011 Wine Cube, Chardonnay, NV Wine Cube, Red Sangria, NV Wine Cube, Sauvignon Blanc, 2011 Wine Cube, Cabernet Sauvignon/Shiraz, 2011
REBEL WINE CO., LLC 100 ST Helena Highway South Street Helena, CA 94574	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon, NV

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CALIFORNIA NATURAL PRODUCTS 1250 East Lathrop Road Lathrop, CA 95330	Bandit, Pinot Grigio, NV Bandit, Chardonnay, NV Bandit, Cabernet Sauvignon, NV Sutter Home, Sauvignon Blanc, 2010 Sutter Home, Gewurztraminer, 2011 Sutter Home, Pink Moscato, NV Sutter Home, Pinot Grigio, 2011 Sutter Home, Moscato, NV Sutter Home, Chenin Blanc, 2011 Sutter Home, Sweet Red, 2010 Sutter Home, Riesling, 2011 Sutter Home, White Merlot, 2011 Sutter Home, Merlot, 2011 Sutter Home, White Zinfandel, 2011 Sutter Home, White Zinfandel, 2012 Sutter Home, Zinfandel, 2010 Wine Cube, Moscato, NV Wine Cube, Pink Moscato, 2011 Wine Cube, Pinot Grigio, 2011 Wine Cube, Pinot Grigio, NV Wine Cube, Chardonnay, 2011 Wine Cube, Chardonnay, NV Wine Cube, Red Sangria, NV Wine Cube, Sauvignon Blanc, 2011 Wine Cube, Cabernet Sauvignon/Shiraz, 2011 Vendange, Merlot, NV Vendange, White Zinfandel, NV
FOLIE À DEUX WINERY 7481 St. Helena Highway Oakville, CA 94558	Ménage à Trois, Pinot Grigio, 2011 Ménage à Trois, Moscato, 2010 Ménage à Trois, White Blend, 2011 Ménage à Trois, Chardonnay, 2011 Ménage à Trois, Rose, 2011 Ménage à Trois, Cabernet Sauvignon, 2010 Ménage à Trois, California Red Wine, 2011
SEAGLASS WINE CO. P.O. Box 248 St. Helena, CA 94574	SeaGlass, Sauvignon Blanc, 2012
SMITH & HOOK WINERY CORPORATION aka Smith and Hook d/b/a HAHN FAMILY WINES 37700 Foothill Road (Drawer C) Soledad, CA 93960	HRM Rex-Goliath, Moscato, NV
WOODBRIDGE WINERY, INC. 1649 East Victor Road #1C Lodi, CA 95240	Simply Naked, Moscato, 2011
F. KORBEL & BROS., INC. 13250 River Road Guerneville, CA 95446	Korbel, Sweet Rose Sparkling Wine, NV Korbel, Extra Dry Sparkling Wine, NV

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MEGAN MASON AND RANDY MASON, dba MASON CELLARS 5 Heritage Court Yountville, CA 94559 OAKVILLE WINERY MANAGEMENT CORP., GP P.O. Box 434 Oakville, CA 94562	Pomelo, Sauvignon Blanc, 2011
JEAN-CLAUDE BOISSET WINES, USA, INC. 849 Zinfandel Lane Saint Helena, CA 94574 RAYMOND VINEYARD AND CELLAR/RAYMOND VINEYARD AND CELLAR, INC. 849 Zinfandel Lane Saint Helena, CA 94574	R Collection by Raymond, Chardonnay, 2012
DON SEBASTIANI & SONS INTERNATIONAL WINE NÉGOCIANTS, CORP. 485 1st West Sonoma, CA 95476 DON SEBASTIANI & SONS INTERNATIONAL NÉGOCIANTS 520 Airpark Road Napa, CA 94558	Smoking Loon, Viognier, 2011
FETZER VINEYARDS 12901 Old River Road Hopland, CA 95449	Fetzer, Moscato2010 Fetzer, Pinot Griogio, 2011
TREASURY WINE ESTATES AMERICAS CO. 610 Air Park Road Napa, CA 94558 TREASURY WINES ESTATES HOLDING, INC. P.O. Box 4500 Napa, CA 94558	Beringer, White Merlot, 2011 Beringer, White Zinfandel, 2011 Beringer, Red Moscato, NV Beringer, Refreshingly Sweet Moscato Colores Del Sol, Malbec, 2010
BERINGER VINEYARDS 2000 Main St. St. Helena, CA 94574	Beringer, White Merlot, 2011 Beringer, White Zinfandel, 2011 Beringer, Red Moscato, NV Beringer, Refreshingly Sweet Moscato
BRONCO WINE COMPANY 6342 Bystrum Road Ceres, CA 95307 TRADER JOE'S COMPANY 800 S. Shamrock Ave. Monrovia, CA 91016	Charles Shaw, White Zinfandel, 2012

Kabateck Brown Kellner LLP

PUBLIC AGENCIES

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Colusa County District Attorney 346 Fifth Street Colusa, CA 95932
Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531
El Dorado County District Attorney 515 Main Street Placerville, CA 95667
Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721
Glenn County District Attorney P.O. Box 430 Willows, CA 95988
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