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Stephen Turnbaugh

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

BC 671491

STEPHEN TURNBAUGH, in the public
interest,

Plaintiff,

v.

WAL-MART STORES, INC., a Delaware
Corporation; ALBERTSON'S LLC., a
Delaware Limited Liability Company; SAVE
MART SUPERMARKETS, a California
Corporation; STATE BROS. MARKETS, a
California Corporation; SAFEWAY, INC., a
Delaware Corporation; THE VONS
COMPANIES, INC., a Michigan
Corporation; RITE AID CORP., a Delaware
Corporation; CVS-PHARMACY, INC., a
Rhode Island Corporation; WALGREEN
CO., an Illinois Corporation; COSTCO
WHOLESALE CORPORATION, a
Washington Corporation and DOES 1-80;

Defendants.

CASE NO.

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (Health & Safety Code, §
25249.5, et seq.)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

Plaintiff STEPHEN TURNBAUGH alleges a cause of action against Defendants WAL
MART STORES, INC., a Delaware Corporation; ALBERTSON'S LLC., a Delaware Limited

COMPLAINT FOR VIOLATION OF PROPOSITION 65, THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986 (HEALTH AND SAFETY CODE § 25249.5, ET SEQ.)

FILED
Superior Court of California
County Of Los Angeles

AUG 08 2017

Herri R. Carter, Executive
By: *[Signature]*
Glorietta Rodriguez

*46025
90212
434
field*

ORIGINAL

CIT/CASE: BC671491
LEA/DEF#:
RECEIPT #: CJH505374691
DATE PAID: 08/08/17, 03:55 PM
PAYMENT: \$435.00
RECEIVED: 310
CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

1 Liability Company; SAVE MART SUPERMARKETS, a California Corporation; SAFEWAY,
 2 INC., a Delaware Corporation; THE VONS COMPANIES, INC., a Michigan Corporation; RITE
 3 AID CORP., a Delaware Corporation; CVS PHARMACY, INC., a Rhode Island Corporation;
 4 WALGREEN CO., an Illinois Corporation; COSTCO WHOLESALE CORPORATION, a
 5 Washington Corporation and DOES 1-80; as follows:

6 THE PARTIES

- 7 1. Plaintiff STEPHEN TURNBAUGH ("Plaintiff" or "TURNBAUGH") a citizen of
 8 California acting in the interest of the general public seeking to further, among other
 9 causes, the protection of the environment, toxics reduction, the promotion and
 10 improvement of human health, the improvement of workers and consumer rights,
 11 environmental education and corporate accountability. STEPHEN TURNBAUGH is a
 12 person within the meaning of Health and Safety Code section 25249.11, subdivision
 13 (a). STEPHEN TURNBAUGH, acting as a private attorney general, brings this action
 14 in the public interest as defined under Health and Safety Code section 25249.7,
 15 subdivision (d).
- 16 2. Defendant WAL-MART STORES, INC. ("WALMART") is a Delaware Corporation,
 17 doing business in the State of California at all relevant times herein.
- 18 3. Defendant ALBERTSON'S LLC ("ALBERTSONS") is a Delaware Limited Liability
 19 Company, doing business in the State of California at all relevant times herein.
- 20 4. Defendant SAVE MART SUPERMARKETS ("SAVE MART") is a California
 21 Corporation, doing business in the State of California at all relevant times herein.
- 22 5. Defendant STATER BROS. MARKETS ("STATER BROS."), is a California
 23 corporation doing business in the State of California at all relevant times herein.
- 24 6. Defendant SAFEWAY, INC. ("SAFEWAY") is a Delaware Corporation, doing
 25 business in the State of California at all relevant times herein.
- 26 7. Defendant THE VONS COMPANIES, INC. ("VONS") is a Michigan Corporation,
 27 doing business in the State of California at all relevant times herein.

8. Defendant RITE AID CORP. ("RITE AID") is a Delaware Corporation, doing business in the State of California at all relevant times herein.
9. Defendant CVS PHARMACY, INC. ("CVS") is a Rhode Island Corporation, doing business in the State of California at all relevant times herein.
10. Defendant WALGREEN CO. ("WALGREEN") is an Illinois Corporation, doing business in the State of California at all relevant times herein.
11. Defendant COSTCO WHOLESALE CORPORATION ("COSTCO") is a Washington Corporation, doing business in the State of California at all relevant times herein.
12. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-80, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
13. At all times mentioned herein, the term "Defendants" includes WALMART, ALBERTSONS, SAVE MART, STATER BROS., SAFEWAY, VONS, RITE AID, CVS, WALGREEN, COSTCO and DOES 1-80.
14. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
15. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-80, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

1 16. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of
2 the Defendants was a person doing business within the meaning of Health and Safety
3 Code section 25249.11, subdivision (b), and that each of the Defendants had ten (10)
4 or more employees at all relevant times.

5 **JURISDICTION**

6 17. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
7 VI, Section 10, which grants the Superior Court original jurisdiction in all causes
8 except those given by statute to other trial courts. This Court has jurisdiction over this
9 action pursuant to Health and Safety Code section 25249.7, which allows enforcement
10 of violations of Proposition 65 in any Court of competent jurisdiction.

11 18. This Court has jurisdiction over Defendants named herein because Defendants either
12 reside or are located in this State or are foreign corporations authorized to do business
13 in California, are registered with the California Secretary of State, or who do sufficient
14 business in California, have sufficient minimum contacts with California, or otherwise
15 intentionally avail themselves of the markets within California through their
16 manufacture, distribution, promotion, marketing, or sale of their products within
17 California to render the exercise of jurisdiction by the California courts permissible
18 under traditional notions of fair play and substantial justice.

19 19. Venue is proper in the County of Los Angeles because one or more of the instances of
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles
21 and/or because Defendants conducted, and continue to conduct, business in the County
22 of Los Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 20. In 1986, California voters approved an initiative to address growing concerns about
25 exposure to toxic chemicals and declared their right "[t]o be informed about exposures
26 to chemicals that cause cancer, birth defects, or other reproductive harm." Ballot
27 Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe
28 Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety

Code sections 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.

21. Proposition 65 requires the Governor of California to publish a list of chemicals known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code* § 25249.8. The list, which the Governor updates at least once a year, contains over 700 chemicals and chemical families. Proposition 65 imposes warning requirements and other controls that apply to Proposition 65-listed chemicals.
22. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are:
(1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide "clear and reasonable" warnings before exposing a person, knowingly and intentionally, to a Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
23. Proposition 65 provides that any person "violating or threatening to violate" the statute may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7. "Threaten to violate" means "to create a condition in which there is a substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e). Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation, recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
24. Plaintiff identified certain practices of manufacturers and distributors of products bearing Cadmium and Cadmium compounds ("CADMIUM") of exposing, knowingly and intentionally, persons in California to the Proposition 65-listed chemicals of such products without first providing clear and reasonable warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

- 1 25. On October 1, 1987, the Governor of California added Cadmium and Cadmium
2 Compounds to the list of chemicals known to the State to cause cancer (Cal. Code
3 Regs. tit. 27, § 27001(b)). Cadmium is known to the State to cause cancer and
4 developmental, male reproductive toxicity. Pursuant to Health and Safety Code
5 sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the
6 list of chemicals known to the State to cause cancer, Cadmium became fully subject to
7 Proposition 65 warning requirements and discharge prohibitions.
- 8 26. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
9 known to the State to cause reproductive toxicity (Cal. Code Regs. tit. 27, § 27001(c)).
10 Cadmium is known to the State to cause developmental, male reproductive toxicity.
11 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)
12 months after addition of Cadmium to the list of chemicals known to the State to cause
13 reproductive toxicity, Cadmium became fully subject to Proposition 65 warning
14 requirements and discharge prohibitions.

15
16 **SATISFACTION OF PRIOR NOTICE**

- 17 27. On or about August 16, 2016, Plaintiff served notice of alleged violations of Health
18 and Safety Code section 25249.6, concerning consumer products exposures, subject to
19 a private action to WALMART and to the California Attorney General, County
20 District Attorneys, and City Attorneys for each city containing a population of at least
21 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
22 the product Equate, Stomach Relief, Pink Bismuth Subsalicylate 262mg, 30 count
23 containing CADMIUM.
- 24 28. On or about August 9, 2016, Plaintiff served notice of alleged violations of Health and
25 Safety Code section 25249.6, concerning consumer products exposures, subject to a
26 private action to ALBERTSONS, and to the California Attorney General, County
27 District Attorneys, and City Attorneys for each city containing a population of at least
28 750,000 people in whose jurisdictions the violations allegedly occurred, concerning

1 the products Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96 count,
2 Wintergreen; Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96
3 count, Tropical Fruit; Signature Care, Regular Strength Antacid Relief Tablets,
4 500mg, 150 count, Peppermint; Signature Care, Upset Stomach Relief, Bismuth
5 Subsalicylate 262 mg, 30 count containing CADMIUM.

6 29. On or about August 9, 2016, Plaintiff served notice of alleged violations of Health and
7 Safety Code section 25249.6, concerning consumer products exposures, subject to a
8 private action to SAVE MART, and to the California Attorney General, County
9 District Attorneys, and City Attorneys for each city containing a population of at least
10 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
11 the product TopCare Extra Strength Antacid Calcium, 750mg, 96 count, Assorted
12 Tropical Fruit containing CADMIUM.

13 30. On or about August 10, 2016, Plaintiff served notice of alleged violations of Health
14 and Safety Code section 25249.6, concerning consumer products exposures, subject to
15 a private action to SAVE MART, and to the California Attorney General, County
16 District Attorneys, and City Attorneys for each city containing a population of at least
17 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
18 the products TopCare Extra Strength Antacid Calcium, 750mg, 96 count, Assorted
19 Berries; TopCare Extra Strength Antacid Calcium, 750mg, 96 count, Assorted
20 Tropical Fruit; TopCare Regular Strength Antacid Calcium, 500mg, 150 count,
21 Assorted Fruit; TopCare, Regular Strength Antacid Calcium, 500mg, 150 count,
22 Peppermint containing CADMIUM.

23 31. On or about August 15, 2016, Plaintiff served notice of alleged violations of Health
24 and Safety Code section 25249.6, concerning consumer products exposures, subject to
25 a private action to STATER BROS., and to the California Attorney General, County
26 District Attorneys, and City Attorneys for each city containing a population of at least
750,000 people in whose jurisdictions the violations allegedly occurred, concerning

1 the product TopCare Extra Strength Antacid Calcium, 750mg, 96 count, Assorted
2 Berries containing CADMIUM.

3 32. On or about August 16, 2016, Plaintiff served notice of alleged violations of Health
4 and Safety Code section 25249.6, concerning consumer products exposures, subject to
5 a private action to STATER BROS., and to the California Attorney General, County
6 District Attorneys, and City Attorneys for each city containing a population of at least
7 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
8 the products TopCare, Extra Strength Antacid Calcium, 750mg, 96 count, Assorted
9 Fruit; TopCare, Extra Strength Antacid Calcium, 750mg, 96 count, Assorted Tropical
10 Fruit; TopCare, Extra Strength Antacid Calcium, 500mg, 150 count, Assorted Fruit
11 containing CADMIUM.

12 33. On or about August 9, 2016, Plaintiff served notice of alleged violations of Health and
13 Safety Code section 25249.6, concerning consumer products exposures, subject to a
14 private action to SAFEWAY, and to the California Attorney General, County District
15 Attorneys, and City Attorneys for each city containing a population of at least 750,000
16 people in whose jurisdictions the violations allegedly occurred, concerning the
17 products Safeway, Extra Strength Antacid Tablets, 750mg, 200 count, Assorted Berry;
18 Safeway, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Berry; Safeway,
19 Extra Strength Antacid Tablets, 750mg, 160 count, Wintergreen; Safeway, Ultra
20 Strength Antacid Tablets, 1000mg, 160 count, Assorted Berry; Safeway, Ultra
21 Strength Antacid Tablets, 1000mg, 160 count, Assorted Fruit; Safeway, Ultra Strength
22 Antacid Tablets, 1000mg, 72 count, Assorted Berry; Signature Care, Extra Strength
23 Antacid Relief Tablets, 750 mg, 96 count, Assorted Fruit; Signature Care, Extra
24 Strength Antacid Relief Tablets, 750 mg, 96 count, Tropical Fruit; Signature Care,
25 Extra Strength Smooth Antacid Relief Tablets, 750 mg, 60 count, Peppermint
26 containing CADMIUM.

27 34. On or about August 10, 2016, Plaintiff served notice of alleged violations of Health
28 and Safety Code section 25249.6, concerning consumer products exposures, subject
29

to a private action to VONS, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the products Safeway, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Berry; Safeway, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Fruit; Signature Care, Extra Strength Antacid Relief Tablets, 750 mg, 200 count, Assorted Berry; Signature Care, Extra Strength Antacid Relief Tablets, 750 mg, 96 count, Assorted Fruit; Signature Care, Extra Strength Smooth Antacid Relief Tablets, 750 mg, 96 count, Tropical Fruit; Signature Care, Extra Strength Smooth Antacid Relief Tablets, 750 mg, 96 count, Wintergreen; Signature Care, Extra Strength Smooth Antacid Relief Tablets, 750 mg, 60 count, Peppermint; Signature Care, Regular Strength Antacid Relief Tablets; 500 mg, 150 count, Peppermint; Signature Care, Ultra Strength Antacid Relief Tablets, 1000 mg, 160 count, Assorted Fruit; Signature Care, Ultra Strength Antacid Relief Tablets, 1000 mg, 72 count, Assorted Berry; Signature Care, Ultra Strength Antacid Relief Tablets, 1000 mg, 72 count, Assorted Fruit; Signature Care, Upset Stomach Relief, Bismuth Subsalicylate 262mg, 30 count; Signature Care, Ultra Strength Antacid Relief Tablets, 1000mg, 160 count, Assorted Berry; Safeway, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Berry; Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96 count, Assorted Berry; Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96 count, Assorted Fruit; Signature Care, Regular Strength Antacid Relief Tablets, 500 mg, 150 count, Peppermint; Signature Care, Ultra Strength Antacid Relief Tablets, 1000mg, 160 count, Assorted Berry; Signature Care, Ultra Strength Antacid Relief Tablets, 1000 mg, 72 count, Assorted Fruit containing CADMIUM.

35. On or about August 15, 2016, Plaintiff served notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to RITE AID., and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least

750,000 people in whose jurisdictions the violations allegedly occurred, concerning the products Rite Aid, Ultra Strength Antacid Tablets, 1000mg, 72 count, Peppermint; Rite Aid, Extra Strength Antacid Tablets, 750mg, 96count, Wintergreen; Rite Aid, Regular Strength Antacid Tablets, 500mg, 150 count, Assorted Fruit; Rite Aid, Extra Strength Antacid Tablets, 750mg, 250 count, Tropical Fruit; Rite Aid, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Berry; Rite Aid, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Fruit; Rite Aid, Extra Strength Antacid Tablets, 750mg, 96 count, Tropical Fruit; Rite Aid, Stomach Relief Tablets, Bismuth Subsalicylate 262 mg, 30 count; Rite Aid, Ultra Strength Antacid Tablets, 1000 mg, 160 count, Assorted Fruit; Rite Aid, Ultra Strength Antacid Tablets, 1000 mg, 72 count, Assorted Fruit containing CADMIUM.

36. On or about August 15, 2016, Plaintiff served notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to CVS and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the products CVS Health, Extra Strength Antacid Tablets, 750mg, 96 count, Wintergreen; CVS Pharmacy, Smooth Antacid Tablets Extra Strength, 60 count, Assorted Fruit; CVS Health, Original Stomach Relief, Bismuth Subsalicylate 262 mg, 48 count; CVS Health, Extra Strength Antacid Tablets, 750mg, 24 count, Assorted Fruit; CVS Health, Extra Strength Antacid Tablets, 750mg, 250 count, Assorted Berries; CVS Health, Extra Strength Antacid Tablets, 750mg, 250 count, Assorted Fruit; CVS Health, Extra Strength Antacid Tablets, 750 mg, 96 count, Assorted Berries; CVS Health, Extra Strength Antacid Tablets, 750 mg, 96 count, Assorted Fruit; CVS Health, Original Stomach Relief, Bismuth Subsalicylate 262 mg, 30 count, Cherry; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Berries; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count;

1 Tropical Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count,
 2 Assorted Berries; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count,
 3 Assorted Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count,
 4 Peppermint; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count, Tropical
 5 Fruit; CVS Pharmacy, Antacid Tablets, 1000mg, Maximum Strength, 160 count,
 6 Assorted Fruit; CVS Pharmacy, Antacid Tablets, 1000mg, Maximum Strength, 72
 7 count, Peppermint containing CADMIUM.

8 37. On or about August 16, 2016, Plaintiff served notice of alleged violations of Health
 9 and Safety Code section 25249.6, concerning consumer products exposures, subject
 10 to a private action to WALGREEN and to the California Attorney General, County
 11 District Attorneys, and City Attorneys for each city containing a population of at least
 12 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
 13 the product Walgreens, Regular Strength Antacid Tablets 500; 500mg, 150 count,
 14 Peppermint containing CADMIUM.

15 38. On or about August 16, 2016, Plaintiff served notice of alleged violations of Health
 16 and Safety Code section 25249.6, concerning consumer products exposures, subject to
 17 a private action to COSTCO and to the California Attorney General, County District
 18 Attorneys, and City Attorneys for each city containing a population of at least 750,000
 19 people in whose jurisdictions the violations allegedly occurred, concerning the product
 20 Kirkland Signature, Ultra Strength Antacid, 1000mg, 265 count, Assorted Berry
 21 containing CADMIUM.

22 39. Before sending the notice of alleged violations, Plaintiff investigated the consumer
 23 products involved, the likelihood that such products would cause users to suffer
 24 significant exposures to cadmium, and the corporate structure of each of the
 25 Defendants.

26 40. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
 27 attorney for the noticing party, STEPHEN TURNBAUGH. The Certificate of Merit
 28 stated that the attorney for Plaintiff who executed the certificate had consulted with at
 29

1 least one person with relevant and appropriate expertise who reviewed data regarding
 2 the exposures to CADMIUM, the subject Proposition 65-listed chemicals of this
 3 action. Based on that information, the attorney for Plaintiff who executed the
 4 Certificate of Merit believed there was a reasonable and meritorious case for this
 5 private action. The attorney for Plaintiff attached to the Certificate of Merit served on
 6 the Attorney General the confidential factual information sufficient to establish the
 7 basis of the Certificate of Merit.

8 41. Plaintiff's notices of alleged violations also included a Certificate of Service and a
 9 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
 10 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

11 42. Plaintiff is commencing this action more than sixty (60) days from the dates that
 12 Plaintiff gave notices of the alleged violation to ALBERTSONS, SAVE MART,
 13 SAFEWAY, VONS, RITE AID, CVS, WALGREEN, WALMART, and COSTCO.

14 43. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General,
 15 nor any applicable district attorney or city attorney has commenced and is diligently
 16 prosecuting an action against the Defendants.

17 FIRST CAUSE OF ACTION

18 (By STEPHEN TURNBAUGH and against WALMART and DOES 1-10 for Violations of
 19 Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health &
 20 Safety Code, §§ 25249.5, et seq.))

21 Antacid Tablets

22 44. Plaintiff STEPHEN TURNBAUGH repeats and incorporates by reference paragraphs
 23 1 through 43 of this complaint as though fully set forth herein. Each of the WALMART
 24 and DOES 1-10 ("1st COA Defendants") is, and at all times mentioned herein was, a
 25 manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but is
 26 not limited to "Equate, Stomach Relief, Pink Bismuth Subsalicylate 262mg, 30 count"
 27 ("ANTACID TABLETS #1").

28 45. ANTACID TABLETS #1 contain CADMIUM.

1 46. 1st COA Defendants knew or should have known that CADMIUM has been identified
2 by the State of California as a chemical known to cause cancer and reproductive
3 toxicity and therefore was subject to Proposition 65 warning requirements. 1st COA
4 Defendants were also informed of the presence of CADMIUM in ANTACID
5 TABLETS #1 within Plaintiff's notice of alleged violations further discussed above at
6 Paragraph 27.

7 47. Plaintiff's allegations regarding ANTACID TABLETS #1 concerns "[c]onsumer
8 products exposure[s]," which "is an exposure that results from a person's acquisition,
9 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
10 good, or any exposure that results from receiving a consumer service." *Cal. Code*
11 *Regs. tit. 27, § 25602(b)*. ANTACID TABLETS #1 are consumer products, and, as
12 mentioned herein, exposures to CADMIUM took place as a result of such normal and
13 foreseeable use.

14 48. Plaintiff is informed, believes, and thereon alleges that between August 16, 2013 and
15 the present, each of the 1st COA Defendants knowingly and intentionally exposed
16 California consumers and users of ANTACID TABLETS #1, which 1st COA
17 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
18 without first providing any type of clear and reasonable warning of such to the
19 exposed persons before the time of exposure. 1st COA Defendants have distributed
20 and sold ANTACID TABLETS #1 in California. 1st COA Defendants know and
21 intend that California consumers will use ANTACID TABLETS #1, thereby exposing
22 them to CADMIUM. 1st COA Defendants thereby violated Proposition 65.

23 49. The principal routes of exposure were through ingestion, including hand to mouth
24 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
25 eating and consuming ANTACID TABLETS #1, handling ANTACID TABLETS #1
26 without wearing gloves or by touching bare skin or mucus membranes with gloves
27 after handling ANTACID TABLETS #1, or through direct and indirect hand to mouth
28 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous

membrane, or breathing in particulate matter emanating from ANTACID TABLETS #1, as well as through environmental mediums that carry the CADMIUM once contained within the ANTACID TABLETS #1.

50. Plaintiff is informed, believes, and thereon alleges that each of 1st COA Defendants violations of Proposition 65 as to ANTACID TABLETS #1 have been ongoing and continuous to the date of the signing of this complaint, as 1st COA Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of ANTACID TABLETS #1 so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to CADMIUM by ANTACID TABLETS #1 as mentioned herein.

51. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the violations alleged herein will continue to occur into the future.

52. Based on the allegations herein, 1st COA Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID TABLETS #1 pursuant to Health and Safety Code section 25249.7(b).

53. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

SECOND CAUSE OF ACTION

(By STEPHEN TURNBAUGH. and against ALBERTSON, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Antacid Tablets

54. Plaintiff STEPHEN TURNBAUGH. repeats and incorporates by reference paragraphs 1 through 53 of this complaint as though fully set forth herein. Each of the ALBERTSON and DOES 11-20 ("2nd COA Defendants") is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Antacid

1 Tablets, which includes but is not limited to, "Signature Care, Extra Strength Antacid
2 Relief Tablets, 750mg, 96 count, Wintergreen; Signature Care, Extra-Strength Antacid
3 Relief Tablets, 750mg, 96 count, Tropical Fruit; Signature Care, Regular Strength
4 Antacid Relief Tablets, 500 mg, 150 count, Peppermint; Signature Care, Upset
5 Stomach Relief, Bismuth Subsalicylate 262 mg, 30 count ("ANTACID TABLETS
6 #2").

7 55. ANTACID TABLETS #2 contain CADMIUM.

8 56. 2nd COA Defendants knew or should have known that CADMIUM has been
9 identified by the State of California as a chemical known to cause cancer and
10 reproductive toxicity and therefore was subject to Proposition 65 warning
11 requirements. 2nd COA Defendants were also informed of the presence of
12 CADMIUM in ANTACID TABLET #2 within Plaintiff's notice of alleged violations
13 further discussed above at Paragraph 28.

14 57. Plaintiff's allegations regarding ANTACID TABLETS #2 concerns "[c]onsumer
15 products exposure[s]," which "is an exposure that results from a person's acquisition,
16 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
17 good, or any exposure that results from receiving a consumer service." *Cal. Code*
18 *Regs. tit. 27, § 25602(b)*. ANTACID TABLETS #2 are consumer products, and, as
19 mentioned herein, exposures to CADMIUM took place as a result of such normal and
20 foreseeable use.

21 58. Plaintiff is informed, believes, and thereon alleges that between August 9, 2013 and
22 the present, each of the 2nd COA Defendants knowingly and intentionally exposed
23 California consumers and users of ANTACID TABLETS #2, which 2nd COA
24 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
25 without first providing any type of clear and reasonable warning of such to the
26 exposed persons before the time of exposure. 2nd COA Defendants have distributed
27 and sold ANTACID TABLETS #2 in California. 2nd COA Defendants know and

intend that California consumers will use ANTACID TABLET #1, thereby exposing them to CADMIUM. 2nd COA Defendants thereby violated Proposition 65.

59. The principal routes of exposure were through ingestion, including hand to mouth pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by eating and consuming ANTACID TABLETS #2, handling ANTACID TABLETS #2 without wearing gloves or by touching bare skin or mucus membranes with gloves after handling ANTACID TABLETS #2, or through direct and indirect hand to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in particulate matter emanating from ANTACID TABLETS #2, as well as through environmental mediums that carry the CADMIUM once contained within the ANTACID TABLETS #2.

60. Plaintiff is informed, believes, and thereon alleges that each of 2nd-COA Defendants' violations of Proposition 65 as to ANTACID TABLETS #2 have been ongoing and continuous to the date of the signing of this complaint, as 2nd COA Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of ANTACID TABLETS #2, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to CADMIUM by ANTACID TABLETS #2 as mentioned herein.

61. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the violations alleged herein will continue to occur into the future.

62. Based on the allegations herein, 2nd COA Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID TABLETS #2, pursuant to Health and Safety Code section 25249.7(b).

63. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

THIRD CAUSE OF ACTION

(By STEPHEN TURNBAUGH and against SAVE MART, STATER BROS, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Antacid Tablets

64. Plaintiff STEPHEN TURNBAUGH repeats and incorporates by reference paragraphs 1 through 63 of this complaint as though fully set forth herein. Each of SAVE MART, STATER BROS, and DOES 21-30 ("3rd COA Defendants") is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but is not limited to, "TopCare, Extra Strength Antacid Calcium, 750mg, 96 count, Assorted Tropical Fruit; TopCare, Extra Strength Antacid Calcium, 750mg, 96 count, Assorted Berries; "TopCare, Extra Strength Antacid Calcium, 750mg, 96 count, Assorted Tropical Fruit; TopCare, Regular Strength Antacid Calcium, 500mg, 150 count, Assorted Fruit; TopCare, Regular Strength Antacid Calcium, 500mg, 150-count, Peppermint;" ("ANTACID TABLETS #3").
65. ANTACID TABLETS #3 contain CADMIUM.
66. 3rd COA Defendants knew or should have known that CADMIUM has been identified by the State of California as a chemical known to cause cancer and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. 3rd COA Defendants were also informed of the presence of CADMIUM in ANTACID TABLETS #3 within Plaintiff's notice of alleged violations further discussed above at Paragraph 29, 30, 31 and 32.
67. Plaintiff's allegations regarding ANTACID TABLETS #3 concerns "[c]onsumer products exposure[s]," which "is an exposure that results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service." Cal. Code Regs. tit. 27, § 25602(b). ANTACID TABLETS #3 are consumer products, and, as mentioned herein, exposures to CADMIUM took place as a result of such normal and foreseeable use.

- 1 68. Plaintiff is informed, believes, and thereon alleges that between August 9, 2013 and
2 the present, each of the 3rd COA Defendants knowingly and intentionally exposed
3 California consumers and users of ANTACID TABLETS #3, which 3rd COA
4 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
5 without first providing any type of clear and reasonable warning of such to the
6 exposed persons before the time of exposure. 3rd COA Defendants have distributed
7 and sold ANTACID TABLETS #3 in California. 3rd COA Defendants know and
8 intend that California consumers will use ANTACID TABLETS #3, thereby exposing
9 them to CADMIUM. 3rd COA Defendants thereby violated Proposition 65.
- 10 69. The principal routes of exposure were through ingestion, including hand to mouth
11 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
12 eating and consuming ANTACID TABLETS #3, handling ANTACID TABLETS #3
13 — without wearing gloves or by touching bare skin or mucus membranes with gloves
14 after handling ANTACID TABLETS #3, or through direct and indirect hand to mouth
15 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous
16 membrane, or breathing in particulate matter emanating from ANTACID TABLETS
17 #3, as well as through environmental mediums that carry the CADMIUM once
18 contained within the ANTACID TABLETS #3.
- 19 70. Plaintiff is informed, believes, and thereon alleges that each of 3rd COA Defendants'
20 violations of Proposition 65 as to ANTACID TABLETS #3 have been ongoing and
21 continuous to the date of the signing of this complaint, as 3rd COA Defendants
22 engaged and continue to engage in conduct which violates Health and Safety Code
23 section 25249.6, including the manufacture, distribution, promotion, and sale of
24 ANTACID TABLETS #3, so that a separate and distinct violation of Proposition 65
25 occurred each and every time a person was exposed to CADMIUM by ANTACID
26 TABLETS #3 as mentioned herein.

71. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the violations alleged herein will continue to occur into the future.-

72. Based on the allegations herein, 3rd COA Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID TABLETS #3 pursuant to Health and Safety Code section 25249.7(b).

73. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

FOURTH CAUSE OF ACTION

(By STEPHEN TURNBAUGH and against SAFEWAY, VONS, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Antacid Tablets

74. Plaintiff STEPHEN TURNBAUGH repeats and incorporates by reference paragraphs 1 through 73 of this complaint as though fully set forth herein. Each of SAFEWAY, VONS, and DOES 31-40 ("4th COA Defendants") is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but is not limited to, "Safeway, Extra Strength Antacid Tablets, 750mg, 200 count, Assorted Berry; Safeway, Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Berry; Safeway, Extra Strength Antacid Tablets, 750mg, 96 count, Wintergreen; Safeway, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Berry; Safeway, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Fruit; Safeway, Ultra Strength Antacid Tablets, 1000mg, 72 count, Assorted Berry; Signature (pare, Extra Strength Antacid Relief Tablets, 750 mg, 96 count, Assorted Fruit; Signature Care, Extra Strength Antacid Relief Tablets, 750 mg, 96 count, Tropical Fruit; Signature Care, Extra Strength Smooth Antacid Relief Tablets, 750 mg, 60 count, Peppermint; Signature Care, Regular Strength Antacid Relief Tablets, 500mg, 150 count, Peppermint; Signature Care, Ultra Strength Antacid Relief Tablets,

1 1000mg, 72 count, Assorted Fruit; Signature Care, Upset Stomach Relief, Bismuth
 2 Subsalicylate 262mg, 30 count; Safeway, Extra Strength Antacid Tablets, 750mg, 200
 3 count, Assorted Berry; Safeway, Extra Strength Antacid Tablets, 750mg, 96 count,
 4 Assorted Berry; Safeway, Extra Strength Antacid Tablets, 750mg, 96 count,
 5 Wintergreen; Safeway, Regular Strength Antacid Tablets, 500mg, 150 count;
 6 Peppermint; Safeway, Ultra Strength Antacid Tablets, 1000mg, 160 count; Assorted
 7 Berry; Safeway, Ultra Strength Antacid Tablets, 1000mg, 160 count; Assorted Fruit;
 8 Safeway, Ultra Strength Antacid Tablets, 1000mg, 72 count, Assorted Fruit; Signature
 9 Care, Extra Strength Antacid Relief Tablets, 750mg, 200 count, Assorted Berry;
 10 Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96 count, Assorted
 11 Berry; Signature Care, Extra Strength Antacid Relief Tablets, 750mg, 96 count,
 12 Tropical Fruit; Signature Care, Extra Strength Smooth Antacid Relief Tablets, 750mg,
 13 60 count, Peppermint; Signature Care, Regular Strength Antacid Relief Tablets,
 14 500mg, 150 count, Peppermint; Signature Care, Ultra Strength Antacid Relief Tablets,
 15 1000mg, 160 count, Assorted Fruit; Signature Care, Ultra Strength Antacid Relief
 16 Tablets, 1000mg, 72 count, Assorted Fruit; Signature Care, Extra Strength Antacid
 17 Relief Tablets, 750mg, 96 count, Assorted Fruit; Signature Care, Upset Stomach
 18 Relief, Bismuth Subsalicylate 262 mg, 30 count; ("ANTACID TABLETS #4").

19 75. ANTACID TABLETS #4 contain CADMIUM.

20 76. 4th COA Defendants knew or should have known that CADMIUM has been identified
 21 by the State of California as a chemical known to cause cancer and reproductive
 22 toxicity and therefore was subject to Proposition 65 warning requirements. 4th COA
 23 Defendants were also informed of the presence of CADMIUM in ANTACID
 24 TABLETS #4 within Plaintiff's notice of alleged violations further discussed above at
 25 Paragraph 33 and 34.

26 77. Plaintiff's allegations regarding ANTACID TABLETS #4 concerns "[c]onsumer
 27 products exposure[s]," which "is an exposure that results from a person's acquisition,
 28 purchase, storage, consumption, or other reasonably foreseeable use of a consumer

good, or any exposure that results from receiving a consumer service." Cal. Code Regs. tit. 27, § 25602(b). ANTACID TABLETS #4 are consumer products, and, as mentioned herein, exposures to CADMIUM took place as a result of such normal and foreseeable use.

78. Plaintiff is informed, believes, and thereon alleges that between August 9, 2013 and the present, each of the 4th COA Defendants knowingly and intentionally exposed California consumers and users of ANTACID TABLETS #4, which 4th COA Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. 4th COA Defendants have distributed and sold ANTACID TABLETS #4 in California. 4th COA Defendants know and intend that California consumers will use ANTACID TABLETS #4, thereby exposing them to CADMIUM. 4th COA Defendants thereby violated Proposition 65.

79. The principal routes of exposure were through ingestion, including hand to mouth pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by eating and consuming ANTACID TABLETS #4, handling ANTACID TABLETS #4 without wearing gloves or by touching bare skin or mucus membranes with gloves after handling ANTACID TABLETS #4, or through direct and indirect hand to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in particulate matter emanating from ANTACID TABLETS #4, as well as through environmental mediums that carry the CADMIUM once contained within the ANTACID TABLETS #4.

80. Plaintiff is informed, believes, and thereon alleges that each of 4th COA Defendants' violations of Proposition 65 as to ANTACID TABLETS #4 have been ongoing and continuous to the date of the signing of this complaint, as 4th COA Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of ANTACID TABLETS #4, so that a separate and distinct violation of Proposition 65

1 occurred each and every time a person was exposed to CADMIUM by ANTACID
2 TABLETS #4 as mentioned herein.

- 3 81. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
4 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
5 violations alleged herein will continue to occur into the future.
6 82. Based on the allegations herein, 4th COA Defendants are liable for civil penalties of up
7 to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID
8 TABLETS #4 pursuant to Health and Safety Code section 25249.7(b). . .
9 83. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11 **FIFTH CAUSE OF ACTION**

12 (By STEPHEN TURNBAUGH and against RITE AID and DOES 41-50 for Violations of
13 Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health &
14 Safety Code, §§ 25249.5, et seq.))

15 **Antacid Tablets**

- 16 84. Plaintiff STEPHEN TURNBAUGH repeats and incorporates by reference paragraphs
17 1 through 83 of this complaint as though fully set forth herein. Each of RITE AID and
18 DOES 41-50 (5th COA Defendants") is, and at all times mentioned herein was, a
19 manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but
20 is not limited to, "Rite Aid, Ultra Strength Antacid Tablets, 1000mg, 72 count,
21 Peppermint; Rite Aid, Extra Strength Antacid Tablets, 750mg, 96 count, Wintergreen;
22 Rite Aid, Regular Strength Antacid Tablets, 500mg, 150 count, Assorted Fruit; Rite
23 Aid, Extra Strength Antacid Tablets, 750mg, 250 count, Tropical Fruit; Rite Aid,
24 Extra Strength Antacid Tablets, 750mg, 96 count, Assorted Berry; Rite Aid, Extra
25 Strength Antacid Tablets, 750mg, 96 count, Assorted Fruit; Rite Aid, Extra Strength
26 Antacid Tablets, 750 pig, 96 count, Tropical Fruit; Rite Aid, Stomach Relief Tablets,
Bismuth Subsalicylate 262 mg, 30 count; Rite Aid, Ultra Strength Antacid Tablets,

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1 1000 mg, 160 count, Assorted Fruit; Rite Aid, Ultra Strength Antacid Tablets,

2 1000mg, 72 count, Assorted Fruit; ("ANTACID TABLETS #5").

3 85. ANTACID TABLETS #5 contain CADMIUM:

4 86. 5th COA Defendants knew or should have known that CADMIUM has been identified
5 by the State of California as a chemical known to cause cancer and reproductive
6 toxicity and therefore was subject to Proposition 65 warning requirements. 5th COA
7 Defendants were also informed of the presence of CADMIUM in ANTACID
8 TABLETS #5 within Plaintiff's notice of alleged violations further discussed above at
9 Paragraph 35.

10 87. Plaintiff's allegations regarding ANTACID TABLETS #5 concerns "[c]onsumer
11 products exposure[s]," which "is an exposure that results from a person's acquisition,
12 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
13 good, or any exposure that results from receiving a consumer service." *Cal. Code*
14 *Regs. tit. 27, § 25602(b)*. ANTACID TABLETS #5 are consumer products, and, as
15 mentioned herein, exposures to CADMIUM took place as a result of such normal and
16 foreseeable use.

17 88. Plaintiff is informed, believes, and thereon alleges that between August 9, 2013 and
18 the present, each of the 5th COA Defendants knowingly and intentionally exposed
19 California consumers and users of ANTACID TABLETS #5, which 5th COA
20 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
21 without first providing any type of clear and reasonable warning of such to the
22 exposed persons before the time of exposure. 5th COA Defendants have distributed
23 and sold ANTACID TABLETS #5 in California. 5th COA Defendants know and
24 intend that California consumers will use ANTACID TABLETS #5, thereby exposing
25 them to CADMIUM. 5th COA Defendants thereby violated Proposition 65.

26 89. The principal routes of exposure were through ingestion, including hand to mouth
27 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
28 eating and consuming ANTACID TABLETS #5, handling ANTACID TABLETS #5

1 without wearing gloves or by touching bare skin or mucus membranes with gloves
2 after handling ANTACID TABLETS #5, or through direct and indirect hand to mouth
3 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous
4 membrane, or breathing in particulate matter emanating from ANTACID TABLETS
5 #5, as well as through environmental mediums that carry the CADMIUM once
6 contained within the ANTACID TABLETS #5.

7 90. Plaintiff is informed, believes, and thereon alleges that each of 5th COA Defendants'
8 violations of Proposition 65 as to ANTACID TABLETS #5 have been ongoing and
9 continuous to the date of the signing of this complaint, as 5th COA Defendants
10 engaged and continue to engage in conduct which violates Health and Safety Code
11 section 25249.6, including the manufacture, distribution, promotion, and sale of
12 ANTACID TABLETS #5, so that a separate and distinct violation of Proposition 65
13 occurred each and every time a person was exposed to CADMIUM by ANTACID
14 TABLETS #5 as mentioned herein.

15 91. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
16 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
17 violations alleged herein will continue to occur into the future.

18 92. Based on the allegations herein, 5th COA Defendants are liable for civil penalties of up
19 to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID
20 TABLETS #5 pursuant to Health and Safety Code section 25249.7(b).

21 93. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
22 filing this Complaint.

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SIXTH CAUSE OF ACTION

(By STEPHEN TURNBAUGH and against CVS and DOES 51-60 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Antacid Tablets

94. Plaintiff STEPHEN TURNBAUGH. repeats and incorporates by reference paragraphs 1 through 93 of this complaint as though fully set forth herein. Each of CVS and DOES 51-60 (6th COA Defendants”) is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but is not limited to, “ CVS Health, Extra Strength Antacid Tablets, 750mg, 96 count, Wintergreen; CVS Pharmacy, Smooth Antacid Tablets Extra Strength, 60 count, Assorted Fruit; CVS Health, Original Stomach Relief, Bismuth Subsalicylate 262 mg, 48 count; CVS Health, Extra Strength Antacid Tablets, 750mg, 24 count, Assorted Fruit; CVS Health, Extra Strength Antacid Tablets, 750mg, 250 count, Assorted Berries; CVS Health, Extra Strength Antacid Tablets, 750mg, 250 count, Assorted Fruit; CVS Health, Extra Strength Antacid Tablets, 750 mg, 96 count, Assorted Berries; CVS Health, Extra Strength Antacid Tablets, 750 mg, 96 count, Assorted Fruit; CVS Health, Original Stomach Relief, Bismuth Subsalicylate 262 mg, 30 count, Cherry; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Berries; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count, Assorted Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 160 count; Tropical Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count, Assorted Berries; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count, Assorted Fruit; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count, Peppermint; CVS Health, Ultra Strength Antacid Tablets, 1000mg, 72 count, Tropical Fruit; CVS Pharmacy, Antacid Tablets, 1000mg, Maximum Strength, 160 count, Assorted Fruit; CVS Pharmacy, Antacid Tablets, 1000mg, Maximum Strength, 72 count, Peppermint; (“ANTACID TABLETS #6”).

95. ANTACID TABLETS #6 contain CADMIUM.

1 96. 6th COA Defendants knew or should have known that CADMIUM has been identified
2 by the State of California as a chemical known to cause cancer and reproductive
3 toxicity and therefore was subject to Proposition 65 warning requirements. 6th COA
4 Defendants were also informed of the presence of CADMIUM in ANTACID
5 TABLETS #6 within Plaintiff's notice of alleged violations further discussed above at
6 Paragraph 36.

7 97. Plaintiff's allegations regarding ANTACID TABLETS #6 concerns "[c]onsumer
8 products exposure[s]," which "is an exposure that results from a person's acquisition,
9 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
10 good, or any exposure that results from receiving a consumer service." Cal. Code
11 Regs. tit. 27, § 25602(b). ANTACID TABLETS #6 are consumer products, and, as
12 mentioned herein, exposures to CADMIUM took place as a result of such normal and
13 foreseeable use.

14 98. Plaintiff is informed, believes, and thereon alleges that between August 15, 2013 and
15 the present, each of the 6th COA Defendants knowingly and intentionally exposed
16 California consumers and users of ANTACID TABLETS #6, which 6th COA
17 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
18 without first providing any type of clear and reasonable warning of such to the
19 exposed persons before the time of exposure. 6th COA Defendants have distributed
20 and sold ANTACID TABLETS #6 in California. 6th COA Defendants know and
21 intend that California consumers will use ANTACID TABLETS #6, thereby exposing
22 them to CADMIUM. 6th COA Defendants thereby violated Proposition 65.

23 99. The principal routes of exposure were through ingestion, including hand to mouth
24 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
25 eating and consuming ANTACID TABLETS #6, handling ANTACID TABLETS #6
26 without wearing gloves or by touching bare skin or mucus membranes with gloves
27 after handling ANTACID TABLETS #6, or through direct and indirect hand to mouth
28 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous

1 membrane, or breathing in particulate matter emanating from ANTACID TABLETS
2 #6, as well as through environmental mediums that carry the CADMIUM once
3 contained within the ANTACID TABLETS #6.

4 100. Plaintiff is informed, believes, and thereon alleges that each of 6th COA Defendants'
5 violations of Proposition 65 as to ANTACID TABLETS #6 have been ongoing and
6 continuous to the date of the signing of this complaint, as 6th COA Defendants
7 engaged and continue to engage in conduct which violates Health and Safety Code
8 section 25249.6, including the manufacture, distribution, promotion, and sale of
9 ANTACID TABLETS #6, so that a separate and distinct violation of Proposition 65
10 occurred each and every time a person was exposed to CADMIUM by ANTACID
11 TABLETS #6 as mentioned herein.

12 101. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
13 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
14 violations alleged herein will continue to occur into the future.

15 102. Based on the allegations herein, 6th COA Defendants are liable for civil penalties of up
16 to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID
17 TABLETS #6 pursuant to Health and Safety Code section 25249.7(b).

18 103. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
19 filing this Complaint.

20 **SEVENTH CAUSE OF ACTION**

21 (By STEPHEN TURNBAUGH and against WALGREEN and DOES 61-70 for Violations
22 of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health &
23 Safety Code, §§ 25249.5, et seq.))

24 **Antacid Tablets**

25 104. Plaintiff STEPHEN TURNBAUGH repeats and incorporates by reference paragraphs
26 1 through 103 of this complaint as though fully set forth herein. Each of the
27 WALGREEN and DOES 61-70 (7th COA Defendants") is, and at all times mentioned
28 herein was, a manufacturer, distributor, promoter, or retailer of Antacid Tablets, which

1 includes but is not limited to, "Walgreens, Regular Strength Antacid Tablets 500;
2 500mg, 150 count, Peppermint" ("ANTACID TABLETS #7").

3 105. ANTACID TABLETS #7 contain CADMIUM.

4 106. 7th COA Defendants knew or should have known that CADMIUM has been identified
5 by the State of California as a chemical known to cause cancer and reproductive
6 toxicity and therefore was subject to Proposition 65 warning requirements. 7th COA
7 Defendants were also informed of the presence of CADMIUM in ANTACID
8 TABLETS #7 within Plaintiff's notice of alleged violations further discussed above at
9 Paragraph 37.

10 107. Plaintiff's allegations regarding ANTACID TABLETS #7 concerns "[c]onsumer
11 products exposure[s]," which "is an exposure that results from a person's acquisition,
12 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
13 good, or any exposure that results from receiving a consumer service." *Cal. Code*
14 *Regs. tit. 27, § 25602(b)*. ANTACID TABLETS #7 are consumer products, and, as
15 mentioned herein, exposures to CADMIUM took place as a result of such normal and
16 foreseeable use.

17 108. Plaintiff is informed, believes, and thereon alleges that between August 15, 2013 and
18 the present, each of the 7th COA Defendants knowingly and intentionally exposed
19 California consumers and users of ANTACID TABLETS #7, which 7th COA
20 Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,
21 without first providing any type of clear and reasonable warning of such to the
22 exposed persons before the time of exposure. 7th COA Defendants have distributed
23 and sold ANTACID TABLETS #7 in California. 7th COA Defendants know and
24 intend that California consumers will use ANTACID TABLETS #7, thereby exposing
25 them to CADMIUM. 7th COA Defendants thereby violated Proposition 65.

26 109. The principal routes of exposure were through ingestion, including hand to mouth
27 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
28 eating and consuming ANTACID TABLETS #7, handling ANTACID TABLETS #7

without wearing gloves or by touching bare skin or mucus membranes with gloves after handling ANTACID TABLETS #7, or through direct and indirect hand to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in particulate matter emanating from ANTACID TABLETS #7, as well as through environmental mediums that carry the CADMIUM once contained within the ANTACID TABLETS #7.

110. Plaintiff is informed, believes, and thereon alleges that each of 7th COA Defendants' violations of Proposition 65 as to ANTACID TABLETS #7 have been ongoing and continuous to the date of the signing of this complaint, as 7th COA Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of ANTACID TABLETS #7, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to CADMIUM by ANTACID TABLETS #7 as mentioned herein.

111. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the violations alleged herein will continue to occur into the future.

112. Based on the allegations herein, 7th COA Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID TABLETS #7 pursuant to Health and Safety Code section 25249.7(b).

113. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

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EIGHTH CAUSE OF ACTION

(By STEPHEN TURNBAUGH and against COSTCO and DOES 71-80 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Antacid Tablets

114. Plaintiff STEPHEN TURNBAUGH. repeats and incorporates by reference paragraphs 1 through 113 of this complaint as though fully set forth herein. Each of COSTCO and DOES 71-80 (8th COA Defendants") is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Antacid Tablets, which includes but is not limited to "Kirkland Signature, Ultra Strength Antacid, 1000mg, 265 count, Assorted Berry" ("ANTACID TABLETS #8").

115. ANTACID TABLETS #8 contain CADMIUM.

116. 8th COA Defendants knew or should have known that CADMIUM has been identified by the State of California as a chemical known to cause cancer and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. 8th COA Defendants were also informed of the presence of CADMIUM in ANTACID TABLETS #8 within Plaintiff's notice of alleged violations further discussed above at Paragraph 38.

117. Plaintiff's allegations regarding ANTACID TABLETS #8 concerns "[c]onsumer products exposure[s]," which "is an exposure that results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*. ANTACID TABLETS #8 are consumer products, and, as mentioned herein, exposures to CADMIUM took place as a result of such normal and foreseeable use.

118. Plaintiff is informed, believes, and thereon alleges that between August 16, 2013 and the present, each of the 8th COA Defendants knowingly and intentionally exposed California consumers and users of ANTACID TABLETS #8, which 8th COA Defendants manufactured, distributed, or sold as mentioned above, to CADMIUM,

1 without first providing any type of clear and reasonable warning of such to the
2 exposed persons before the time of exposure. 8th COA Defendants have distributed
3 and sold ANTACID TABLETS #8 in California. 8th COA Defendants know and
4 intend that California consumers will use ANTACID TABLETS #8, thereby exposing
5 them to CADMIUM. 8th COA Defendants thereby violated Proposition 65.

6 119. The principal routes of exposure were through ingestion, including hand to mouth
7 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
8 eating and consuming ANTACID TABLETS #8, handling ANTACID TABLETS #8
9 without wearing gloves or by touching bare skin or mucus membranes with gloves
10 after handling ANTACID TABLETS #8, or through direct and indirect hand to mouth
11 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous
12 membrane, or breathing in particulate matter emanating from ANTACID TABLETS
13 #8, as well as through environmental mediums that carry the CADMIUM once
14 contained within the ANTACID TABLETS #8.

15 120. Plaintiff is informed, believes, and thereon alleges that each of 8th COA Defendants'
16 violations of Proposition 65 as to ANTACID TABLETS #8 have been ongoing and
17 continuous to the date of the signing of this complaint, as 8th COA Defendants
18 engaged and continue to engage in conduct which violates Health and Safety Code
19 section 25249.6, including the manufacture, distribution, promotion, and sale of
20 ANTACID TABLETS #8 so that a separate and distinct violation of Proposition 65
21 occurred each and every time a person was exposed to CADMIUM by ANTACID
22 TABLETS #8 as mentioned herein.

23 121. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
24 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
25 violations alleged herein will continue to occur into the future.

26 122. Based on the allegations herein, 8th COA Defendants are liable for civil penalties of up
27 to \$2,500.00 per day per individual exposure to CADMIUM from ANTACID
28 TABLETS #8 pursuant to Health and Safety Code section 25249.7(b).

123. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

PRAYER FOR RELIEF

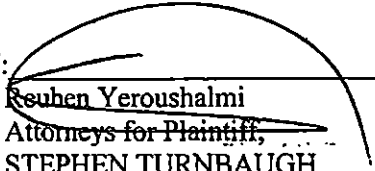
Plaintiff demands against each of the Defendants as follows:

1. A permanent injunction mandating Proposition 65-compliant warnings;
2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: August 8, 2017

YEROUSHALMI & YEROUSHALMI

BY:


Reuben Yeroushalmi
Attorneys for Plaintiff,
STEPHEN TURNBAUGH