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6  
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8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11  
12 CONSUMER ADVOCACY GROUP, INC.,  
13 in the public interest,

14 Plaintiff,

15 v.

16 GEL SPICE COMPANY, INC., a New  
Jersey Corporation; GEL SPICE, INC., a  
17 New Jersey Corporation; GEL SPICE CO.,  
LLC., a Limited Liability Company; BIG  
18 LOTS STORES, INC., a Ohio Corporation;  
BIG LOTS, INC., a Ohio Corporation;  
19 GROCERY OUTLET, INC., a California  
Corporation; CONSOLIDATED  
20 PROPERTY HOLDINGS, INC., a Nevada  
Corporation; TARGET CORPORATION, a  
21 Minnesota Corporation; TARGET STORES,  
22 INC., a Minnesota Corporation; TARGET  
23 BRANDS, INC., a Minnesota Corporation  
and DOES 1-90;

24 Defendants.

CASE NO. BC665798

FIRST AMENDED 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.*)

Complaint filed: June 20, 2017

Judge: Hon. Teresa A. Beaudet  
Dept.: 50

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

25  
26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against  
27 Defendants GEL SPICE COMPANY, INC., GEL SPICE, INC., GEL SPICE CO., LLC., BIG  
28 LOTS STORES, INC., BIG LOTS, INC., GROCERY OUTLET, INC., CONSOLIDATED

1 PROPERTY HOLDINGS, INC., TARGET CORPORATION, TARGET STORES, INC.,  
2 TARGET BRANDS, INC., and DOES 1-90 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
5 organization qualified to do business in the State of California. CAG is a person within  
6 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting  
7 as a private attorney general, brings this action in the public interest as defined under  
8 Health and Safety Code section 25249.7, subdivision (d).
- 9 2. Defendant GEL SPICE COMPANY, INC (“SPICE CO.”) is a New Jersey Corporation,  
10 doing business in the State of California at all relevant times herein.
- 11 3. Defendant GEL SPICE, INC. (“SPICE INC.”) is a New Jersey Corporation, doing  
12 business in the State of California at all relevant times herein.
- 13 4. Defendant GEL SPICE CO., LLC. (“SPICE LLC.”) is a Limited Liability Company,  
14 doing business in the State of California at all relevant times herein.
- 15 5. Defendant BIG LOTS STORES, INC. (“BIG LOTS STORES”) is a Ohio Corporation,  
16 doing business in the State of California at all relevant times herein.
- 17 6. Defendant BIG LOTS, INC. (“BIG LOTS”) is a Ohio Corporation, doing business in the  
18 State of California at all relevant times herein.
- 19 7. Defendant GROCERY OUTLET, INC. (“GROCERY”) is a California Corporation,  
20 doing business in the State of California at all relevant times herein.
- 21 8. Defendant CONSOLIDATED PROPERTY HOLDINGS, INC. (“CONSOLIDATED”)  
22 is a Nevada Corporation, doing business in the State of California at all relevant times  
23 herein.
- 24 9. Defendant TARGET CORPORATION (“TARGET”) is a Minnesota Corporation, doing  
25 business in the State of California at all relevant times herein.
- 26 10. Defendant TARGET STORES, INC. (“TARGET STORES”) is a Minnesota  
27 Corporation, doing business in the State of California at all relevant times herein.
- 28

1 11. Defendant TARGET BRANDS, INC. (“TARGET BRANDS”) is a Minnesota  
2 Corporation, doing business in the State of California at all relevant times herein.

3 12. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-  
4 90, and therefore sues these defendants by such fictitious names. Plaintiff will amend  
5 this complaint to allege their true names and capacities when ascertained. Plaintiff is  
6 informed, believes, and thereon alleges that each fictitiously named defendant is  
7 responsible in some manner for the occurrences herein alleged and the damages caused  
8 thereby.

9 13. At all times mentioned herein, the term “Defendants” includes SPICE CO., SPICE INC,  
10 SPICE LLC., BIG LOTS STORES, BIG LOTS, GROCERY, CONSOLIDATED,  
11 TARGET, TARGET STORES, TARGET BRANDS and DOES 1-90.

12 14. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
13 times mentioned herein have conducted business within the State of California.

14 15. Upon information and belief, at all times relevant to this action, each of the Defendants,  
15 including DOES 1-90, was an agent, servant, or employee of each of the other  
16 Defendants. In conducting the activities alleged in this Complaint, each of the  
17 Defendants was acting within the course and scope of this agency, service, or  
18 employment, and was acting with the consent, permission, and authorization of each of  
19 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
20 were ratified and approved by every other Defendant or their officers or managing  
21 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated  
22 the alleged wrongful conduct of each of the other Defendants.

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

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28 ///

1 **JURISDICTION**

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

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

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

19 **BACKGROUND AND PRELIMINARY FACTS**

20 20. In 1986, California voters approved an initiative to address growing concerns about  
21 exposure to toxic chemicals and declared their right “[t]o be informed about exposures  
22 to chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
23 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
24 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections  
25 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
26 from contamination, to allow consumers to make informed choices about the products  
27 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
28 fit.

- 1 21. Proposition 65 requires the Governor of California to publish a list of chemicals known  
2 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
3 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains  
4 over 700 chemicals and chemical families. Proposition 65 imposes warning  
5 requirements and other controls that apply to Proposition 65-listed chemicals.
- 6 22. All businesses with ten (10) or more employees that operate or sell products in  
7 California must comply with Proposition 65. Under Proposition 65, businesses are: (1)  
8 prohibited from knowingly discharging Proposition 65-listed chemicals into sources of  
9 drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and  
10 reasonable” warnings before exposing a person, knowingly and intentionally, to a  
11 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 12 23. Proposition 65 provides that any person "violating or threatening to violate" the statute  
13 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
14 25249.7. "Threaten to violate" means "to create a condition in which there is a  
15 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
16 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
17 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 18 24. Plaintiff identified certain practices of manufacturers and distributors of products  
19 bearing Lead and Lead Compounds (“LEAD”) and of exposing, knowingly and  
20 intentionally, persons in California to the Proposition 65-listed chemicals of such  
21 products without first providing clear and reasonable warnings of such to the exposed  
22 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged  
23 in such practice.
- 24 25. On February 27, 1987, the Governor of California added LEAD to the list of chemicals  
25 known to the State to cause developmental toxicity, male reproductive toxicity, and  
26 female reproductive toxicity. On October 1, 1992, the Governor of California added  
27 LEAD to the list of chemicals known to the State to cause cancer. Pursuant to Health  
28 and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of

1 LEAD to the list of chemicals known to the State to cause reproductive toxicity and  
2 cancer, LEAD became fully subject to Proposition 65 warning requirements and  
3 discharge prohibitions.

4 26. On or about July 28, 2016, SPICE, INC. issued a recall of one lot of Fresh Finds Ground  
5 Turmeric Powder because the product contains elevated lead levels. The recalled "Fresh  
6 Finds Ground Turmeric" is packaged in 3.75 oz. PET jars. It has a code of B/B 03/08/19  
7 and B/B 05/18/19 on the neck of the container. The package also has a UPC code of  
8 81026-01230. The product was distributed at Big Lots Stores throughout the United  
9 States. The recall notice was posted on the United State Food and Drug Administration  
10 website, at: <https://www.fda.gov/Safety/Recalls/ucm513844.htm>.

11 27. On or about August 5, 2016, SPICE, INC. issued an expanded recall of ground turmeric  
12 powder due to elevated lead levels. The additional products recalled are identified in the  
13 table below:

Brand/Description and Net Weight	Lot/BB code	UPC NUMBER
Spice Select/8 oz	03/18/19	076114007730
Market Pantry/0.95 oz	05APR2019	085239211038
Gel/15 oz	04/18/19	076114800867
Gel/15 oz	05/16/19	076114800867
Clear Value /0.75oz	04/27/19	036800354920
Lieber's/2 oz	05/13/19	043427006361
Spice Supreme/2 oz	05/17/19	076114364628

22 The products were distributed by various retailers throughout the United States.  
23 Sampling and testing of another product, produced from the same bulk turmeric,  
24 revealed the elevated level of lead. The expanded recall notice was posted on the United  
25 State Food and Drug Administration website, at:  
26 <https://www.fda.gov/Safety/Recalls/ucm515328.htm>.

**SATISFACTION OF PRIOR NOTICE**

1  
2 28. On or about August 31, 2016, Plaintiff served notice of alleged violations of Health and  
3 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
4 private action to SPICE CO., SPICE INC., SPICE LLC., BIG LOTS STORES, BIG  
5 LOTS and to the California Attorney General, County District Attorneys, and City  
6 Attorneys for each city containing a population of at least 750,000 people in whose  
7 jurisdictions the violations allegedly occurred, concerning the consumer product Ground  
8 Cinnamon identified as “Fresh Finds™”; “Ground Cinnamon”; Net Wt. 3.17 oz (160g);  
9 FRESHNESS GUARANTEED!”; “A Baker’s favorite for mouthwatering rolls and  
10 pastries. Also try sprinkling it atop puddings, hot cereals, even curry dishes for an  
11 unexpected taste sensation.” Distributed by: Big Lots Stores, Inc. P.O. Box 28523  
12 Columbus, OH 43228; UPC:411010983304; Best By 07/27/18 23:41 containing LEAD.

13 29. On or about August 31, 2016, Plaintiff served notice of alleged violations of Health and  
14 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
15 private action to SPICE CO., SPICE INC., SPICE LLC., BIG LOTS STORES, BIG  
16 LOTS and to the California Attorney General, County District Attorneys, and City  
17 Attorneys for each city containing a population of at least 750,000 people in whose  
18 jurisdictions the violations allegedly occurred, concerning the consumer product Ground  
19 Cuming identified as “Fresh Finds™”; “Ground Cumin”; Net Wt. 3.39oz (96g);  
20 FRESHNESS GUARANTEED!”; “A great cook’s secret ingredient! Try it with chili,  
21 soups stews, or any Mexican dish and bring out the full flavors of all your favorite  
22 foods.” Distributed by: Big Lots Stores, Inc. P.O. Box 28523 Columbus, OH 43228;  
23 UPC:411010983700; Best By 07/22/18 11:39 containing LEAD.

24 30. On or about December 2, 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 GROCERY, SPICE CO., SPICE INC., SPICE LLC., and to the  
27 California Attorney General, County District Attorneys, and City Attorneys for each city  
28 containing a population of at least 750,000 people in whose jurisdictions the violations

1 allegedly occurred, concerning the consumer product Ground Cinnamon identified as  
2 “Spice Supreme®”; “Pure Ground Cinnamon”; “Net Wt. 2-1/2 OZ (70 g)”; “Packed by  
3 Gel Spice Co., Inc. Bayonne, NJ 07002”; “www.gelspice.com”; “Best By 11/30/18”;  
4 UPC: 076114380154 containing LEAD.

5 31. On or about December 20, 2016, Plaintiff served notice of alleged violations of Health  
6 and Safety Code section 25249.6, concerning consumer products exposures, subject to a  
7 private action to GROCERY, SPICE CO., SPICE INC., SPICE LLC., and to the  
8 California Attorney General, County District Attorneys, and City Attorneys for each city  
9 containing a population of at least 750,000 people in whose jurisdictions the violations  
10 allegedly occurred, concerning the consumer product Ground Sage identified as “Spice  
11 Supreme”; Ground Sage; Net Wt. 1.75oz or 50g; Packed by Gel Spice Co., Inc.;  
12 Bayonne, NJ 07002; www.gelspice.com; UPC: 076114380314 containing LEAD.

13 32. On or about March 7, 2017, Plaintiff served notice of alleged violations of Health and  
14 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
15 private action to BIG LOTS STORES, SPICE CO., SPICE INC., SPICE LLC.,  
16 CONSOLIDATED and to the California Attorney General, County District Attorneys,  
17 and City Attorneys for each city containing a population of at least 750,000 people in  
18 whose jurisdictions the violations allegedly occurred, concerning the consumer product  
19 Ground Cloves identified as “Fresh Finds™”; “Ground Cloves”; “Net Wt. 1.5 oz (43g)”;  
20 “Distributed by: Big Lots Stores, Inc. P.O. Box 28523, Columbus, OH 43228-0523”;  
21 “PACKED IN THE USA”; “V#1009056”; “ITEM#01140”; 481026011407; “BEST BY  
22 08/15/19 13:58”containing LEAD.

23 33. On or about March 7, 2017, Plaintiff served notice of alleged violations of Health and  
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
25 private action to BIG LOTS STORES, SPICE CO., SPICE INC., SPICE LLC.,  
26 CONSOLIDATED and to the California Attorney General, County District Attorneys,  
27 and City Attorneys for each city containing a population of at least 750,000 people in  
28 whose jurisdictions the violations allegedly occurred, concerning the consume product



1 Poultry Seasoning identified as “Fresh Finds™”; “Poultry Seasoning”; “Net Wt. 2.5 oz  
2 (71g)”; “INGREDIENTS: SAGE, THYME, SALT, OREGANO, GROUND MUSTARD,  
3 BASIL, RED PEPPER AND BLACK PEPPER”; “Distributed by: Big Lots Stores, Inc.  
4 P.O. Box 28523, Columbus, OH 43228-0523”; “PACKED IN THE USA”;  
5 “V#1009056”; “ITEM#FFPOULTRY”; 481008969009; “BEST BY 05/19/19 04:06”  
6 containing LEAD.

7 34. On or about March 7, 2017, Plaintiff served notice of alleged violations of Health and  
8 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
9 private action to GROCERY, SPICE CO., SPICE INC., SPICE LLC., and to the  
10 California Attorney General, County District Attorneys, and City Attorneys for each city  
11 containing a population of at least 750,000 people in whose jurisdictions the violations  
12 allegedly occurred, concerning the consumer product Garlic Powder identified as  
13 “Gel®”; “GARLIC POWDER”; “NET WT. 14 oz (397g)”; “BEST BY 07/25/19 11:04”;  
14 “PACKED IN THE USA BY GEL SPICE CO., INC. BAYONNE, NJ 07002”;  
15 “www.gelspice.com”; 076114800362 containing LEAD.

16 35. On or about March 14, 2017, Plaintiff served notice of alleged violations of Health and  
17 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
18 private action to TARGET, TARGET STORES, TARGET BRANDS, SPICE CO.,  
19 SPICE INC., SPICE LLC., and to the California Attorney General, County District  
20 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
21 people in whose jurisdictions the violations allegedly occurred, concerning the consumer  
22 product Ground Turmeric identified as “MARKET PANTRY™”; “GROUND  
23 TURMERIC”; “NET WT 0.95 OZ (27g)”; “BEST BY 07JUL2019 09:45”;  
24 “DISTRIBUTED BY TARGET CORPORATION MINNEAPOLIS, MN 55403”;  
25 “PRODUCT OF INDIA”; “TM & ©2016 Target Brands, Inc.”; “Shop Target.com”;  
26 261021103R03 C-000275-01-075; 085239211038 containing LEAD.

27 36. On or about April 13, 2018, Plaintiff served notice of alleged violations of Health and  
28 Safety Code section 25249.6, concerning consumer products exposures, subject to a

1 private action to SPICE CO, and to the California Attorney General, County District  
2 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
3 people in whose jurisdictions the violations allegedly occurred, concerning the consumer  
4 product Ground Cinnamon identified as "Spice Supreme"; "GROUND CINNAMON";  
5 "Net Wt 5-1/4 oz (148g)"; "Ingredients: Cinnamon"; "Packed by Gel Spice Co., Inc.  
6 Bayonne, NJ 07002"; UPC 0 76114 33004 3"containing LEAD.

7 37. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
8 products involved, the likelihood that such products would cause users to suffer  
9 significant exposures to LEAD, and the corporate structure of each of the Defendants.

10 38. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
11 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney  
12 for Plaintiff who executed the certificate had consulted with at least one person with  
13 relevant and appropriate expertise who reviewed data regarding the exposures to LEAD,  
14 the subject Proposition 65-listed chemicals of this action. Based on that information, the  
15 attorney for Plaintiff who executed the Certificate of Merit believed there was a  
16 reasonable and meritorious case for this private action. The attorney for Plaintiff  
17 attached to the Certificate of Merit served on the Attorney General the confidential  
18 factual information sufficient to establish the basis of the Certificate of Merit.

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

22 40. Plaintiff is commencing this action more than sixty (60) days from the dates that  
23 Plaintiff gave notices of the alleged violation to SPICE CO., SPICE INC, SPICE LLC.,  
24 BIG LOTS STORES, BIG LOTS, GROCERY, CONSOLIDATED, TARGET,  
25 TARGET STORES, TARGET BRANDS, and the public prosecutors referenced in  
26 Paragraphs 28-36.

1 41. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
2 any applicable district attorney or city attorney has commenced and is diligently  
3 prosecuting an action against the Defendants.

4 ///

5 **FIRST CAUSE OF ACTION**

6 **(By CONSUMER ADVOCACY GROUP, INC. and against SPICE CO., SPICE INC.,**  
7 **SPICE LLC., BIG LOTS STORES, BIG LOTS and DOES 1-10 for Violations of**  
8 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health &***  
9 ***Safety Code, §§ 25249.5, et seq.*)**

9 **Ground Cinnamon**

10 42. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
11 reference paragraphs 1 through 41 of this complaint as though fully set forth herein.

12 43. Each of the Defendants alleged in this cause of action is, and at all times mentioned  
13 herein was, a manufacturer, distributor, promoter, or retailer of Ground Cinnamon  
14 identified as “Fresh Finds™”; “Ground Cinnamon”; Net Wt. 3.17 oz (160g);  
15 FRESHNESS GUARANTEED!”; “A Baker’s favorite for mouthwatering rolls and  
16 pastries. Also try sprinkling it atop puddings, hot cereals, even curry dishes for an  
17 unexpected taste sensation.” Distributed by: Big Lots Stores, Inc. P.O. Box 28523  
18 Columbus, OH 43228; UPC:411010983304; Best By 07/27/18 23:41 (“GROUND  
19 CINNAMON”).

20 44. The scope of the First Cause of Action as to GROUND CINNAMON is limited to the  
21 specific UPC:411010983304 and the Best By 07/27/18 23:41 designation.

22 45. GROUND CINNAMON contains LEAD.

23 46. Defendants knew or should have known that LEAD has been identified by the State of  
24 California as a chemical known to cause cancer and developmental and reproductive  
25 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
26 were also informed of the presence of LEAD in GROUND CINNAMON within  
27 Plaintiff’s notice of alleged violations further discussed above at Paragraph 28.

1 47. Plaintiff's allegations regarding GROUND CINNAMON concerns "[c]onsumer  
2 products exposure[s]," which "is an exposure that results from a person's acquisition,  
3 purchase, storage, consumption, or other reasonably foreseeable use of a consumer  
4 good, or any exposure that results from receiving a consumer service." *Cal. Code Regs.*  
5 tit. 27, § 25602(b). GROUND CINNAMON are consumer products, and, as mentioned  
6 herein, exposures to LEAD took place as a result of such normal and foreseeable use.

7 48. Plaintiff is informed, believes, and thereon alleges that between August 31, 2013 and the  
8 present, each of the Defendants knowingly and intentionally exposed California  
9 consumers and users of GROUND CINNAMON, which Defendants manufactured,  
10 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
11 clear and reasonable warning of such to the exposed persons before the time of  
12 exposure. Defendants have distributed and sold GROUND CINNAMON in California.  
13 Defendants know and intend that California consumers will use GROUND  
14 CINNAMON, thereby exposing them to LEAD. Defendants thereby violated  
15 Proposition 65.

16 49. The principal routes of exposure were through ingestion, including direct (oral), hand to  
17 mouth pathways, inhalation and trans-dermal absorption. Persons sustained exposures  
18 by eating and consuming GROUND CINNAMON, handling GROUND CINNAMON  
19 without wearing gloves or by touching bare skin or mucus membranes with gloves after  
20 handling GROUND CINNAMON, or through direct and indirect hand to mouth contact,  
21 hand to food to mouth, direct contact to food then to mouth, hand to mucous membrane,  
22 or breathing in particulate matter emanating from GROUND CINNAMON, as well as  
23 through environmental mediums that carry the LEAD once contained within the  
24 GROUND CINNAMON.

25 50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
26 Proposition 65 as to GROUND CINNAMON have been ongoing and continuous to the  
27 date of the signing of this complaint, as Defendants engaged and continue to engage in  
28 conduct which violates Health and Safety Code section 25249.6, including the

1 manufacture, distribution, promotion, and sale of GROUND CINNAMON, so that  
2 separate and distinct violation of Proposition 65 occurred each and every time a person  
3 was exposed to LEAD by GROUND CINNAMON as mentioned herein.

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

7 52. Based on the allegations herein, Defendants are liable for civil penalties of up to  
8 \$2,500.00 per day per individual exposure to LEAD from GROUND CINNAMON,  
9 pursuant to Health and Safety Code section 25249.7(b).

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

12 ///

13 **SECOND CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against SPICE CO., SPICE INC.,**  
15 **SPICE LLC., BIG LOTS STORES, BIG LOTS and DOES 11-20 for Violations of**  
16 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health &***  
***Safety Code, §§ 25249.5, et seq.*)**

17 **Ground Cumin**

18 54. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
19 reference paragraphs 1 through 53 of this complaint as though fully set forth herein.

20 55. Each of the Defendants alleged in this cause of action is, and at all times mentioned  
21 herein was, a manufacturer, distributor, promoter, or retailer of Ground Cumin identified  
22 as “Fresh Finds™”; “Ground Cumin”; Net Wt. 3.39oz (96g); FRESHNESS  
23 GUARANTEED!”; “A great cook’s secret ingredient! Try it with chili, soups stews, or  
24 any Mexican dish and bring out the full flavors of all your favorite foods.” Distributed  
25 by: Big Lots Stores, Inc. P.O. Box 28523 Columbus, OH 43228; UPC:411010983700;  
26 Best By 07/22/18 11:39 (“GROUND CUMIN”).

27 56. The scope of the Second Cause of Action as to GROUND CUMIN is limited to the  
28 specific UPC: 411010983700 and the Best By 07/22/18 11:39 designation.

1 57. GROUND CUMIN contains LEAD.

2 58. Defendants knew or should have known that LEAD has been identified by the State of  
3 California as a chemical known to cause cancer and developmental and reproductive  
4 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
5 were also informed of the presence of LEAD in GROUND CUMIN within Plaintiff's  
6 notice of alleged violations further discussed above at Paragraph 29.

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

13 60. Plaintiff is informed, believes, and thereon alleges that between August 31, 2013 and the  
14 present, each of the Defendants knowingly and intentionally exposed California  
15 consumers and users of GROUND CUMIN, which Defendants manufactured,  
16 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
17 clear and reasonable warning of such to the exposed persons before the time of  
18 exposure. Defendants have distributed and sold GROUND CUMIN in California.  
19 Defendants know and intend that California consumers will use GROUND CUMIN,  
20 thereby exposing them to LEAD. Defendants thereby violated Proposition 65.

21 61. The principal routes of exposure were through ingestion, including direct (oral), hand to  
22 mouth pathways, inhalation and trans-dermal absorption. Persons sustained exposures  
23 by eating and consuming GROUND CUMIN, handling GROUND CUMIN without  
24 wearing gloves or by touching bare skin or mucus membranes with gloves after handling  
25 GROUND CUMIN, or through direct and indirect hand to mouth contact, hand to food  
26 to mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing  
27 in particulate matter emanating from GROUND CUMIN, as well as through  
28

1 environmental mediums that carry the LEAD once contained within the GROUND  
2 CUMIN.

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

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

13 64. Based on the allegations herein, Defendants are liable for civil penalties of up to  
14 \$2,500.00 per day per individual exposure to LEAD from GROUND CUMIN, pursuant  
15 to Health and Safety Code section 25249.7(b).

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

18 ///

19 **THRID CAUSE OF ACTION**

20 **(By CONSUMER ADVOCACY GROUP, INC. and against GROCERY, SPICE CO.,**  
21 **SPICE INC., SPICE LLC., and DOES 21-30 for Violations of Proposition 65, The Safe**  
22 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
23 ***seq.*))**

24 **Ground Cinnamon II**

25 66. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
26 reference paragraphs 1 through 65 of this complaint as though fully set forth herein.  
27 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
28 distributor, promoter, or retailer of Ground Cinnamon identified as "Spice Supreme®";  
"Pure Ground Cinnamon"; "Net Wt. 2-1/2 OZ (70 g)"; "Packed by Gel Spice Co., Inc.

1 Bayonne, NJ 07002”; “www.gelspice.com”; “Best By 11/30/18”; UPC: 076114380154  
2 (“GROUND CINNAMON II”).

3 67. The scope of the Third Cause of Action as to GROUND CINNAMON II is limited to  
4 the specific UPC: 076114380154 and the Best By 11/30/18 designation.

5 68. GROUND CINNAMON II contains LEAD.

6 69. Defendants knew or should have known that LEAD has been identified by the State of  
7 California as a chemical known to cause cancer and developmental and reproductive  
8 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
9 were also informed of the presence of LEAD in GROUND CINNAMON II within  
10 Plaintiff's notice of alleged violations further discussed above at Paragraph 30.

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

18 71. Plaintiff is informed, believes, and thereon alleges that between December 2, 2013 and  
19 the present, each of the Defendants knowingly and intentionally exposed California  
20 consumers and users of GROUND CINNAMON II, which Defendants manufactured,  
21 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
22 clear and reasonable warning of such to the exposed persons before the time of  
23 exposure. Defendants have distributed and sold GROUND CINNAMON II in  
24 California. Defendants know and intend that California consumers will use GROUND  
25 CINNAMON II, thereby exposing them to LEAD. Defendants thereby violated  
26 Proposition 65.

27 72. The principal routes of exposure were through ingestion, including direct (oral)  
28 ingestion, hand to mouth pathways, and inhalation and trans-dermal absorption. Persons



1 sustained exposures by eating and consuming GROUND CINNAMON II, handling  
2 GROUND CINNAMON II without wearing gloves or by touching bare skin or mucus  
3 membranes with gloves after handling GROUND CINNAMON II, or through direct and  
4 indirect hand to mouth contact, hand to food to mouth, direct contact to food then to  
5 mouth, hand to mucous membrane, or breathing in particulate matter emanating from  
6 GROUND CINNAMON II, as well as through environmental mediums that carry the  
7 LEAD once contained within the GROUND CINNAMON II.

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

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

18 75. Based on the allegations herein, Defendants are liable for civil penalties of up to  
19 \$2,500.00 per day per individual exposure to LEAD from GROUND CINNAMON II,  
20 pursuant to Health and Safety Code section 25249.7(b).

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

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1 **FOURTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against GROCERY, SPICE CO.,**  
3 **SPICE INC., SPICE LLC., and DOES 31-40 for Violations of Proposition 65, The Safe**  
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
5 ***seq.*))**

6 **Ground Sage**

7 77. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
8 reference paragraphs 1 through 76 of this complaint as though fully set forth herein.  
9 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
10 distributor, promoter, or retailer of Ground Sage identified as “Spice Supreme”; Ground  
11 Sage; Net Wt. 1.75oz or 50g; Packed by Gel Spice Co., Inc.; Bayonne, NJ 07002;  
12 www.gelspice.com; UPC: 076114380314 (“GROUND SAGE”).

13 78. The scope of the Fourth Cause of Action as to GROUND SAGE is limited to the  
14 specific UPC: 076114380314 and the Best By 10/7/18 10:01 designation.

15 79. GROUND SAGE contains LEAD.

16 80. Defendants knew or should have known that LEAD has been identified by the State of  
17 California as a chemical known to cause cancer and developmental and reproductive  
18 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
19 were also informed of the presence of LEAD in GROUND SAGE within Plaintiff's  
20 notice of alleged violations further discussed above at Paragraph 31.

21 81. Plaintiff's allegations regarding GROUND SAGE concerns “[c]onsumer products  
22 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
23 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
24 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
25 *25602(b)*. GROUND CINNAMON II are consumer products, and, as mentioned herein,  
26 exposures to LEAD took place as a result of such normal and foreseeable use.

27 82. Plaintiff is informed, believes, and thereon alleges that between December 19, 2013 and  
28 the present, each of the Defendants knowingly and intentionally exposed California  
consumers and users of GROUND SAGE, which Defendants manufactured, distributed,

1 or sold as mentioned above, to LEAD, without first providing any type of clear and  
2 reasonable warning of such to the exposed persons before the time of exposure.

3 Defendants have distributed and sold GROUND SAGE in California. Defendants know  
4 and intend that California consumers will use GROUND SAGE, thereby exposing them  
5 to LEAD. Defendants thereby violated Proposition 65.

6 83. The principal routes of exposure were through ingestion, including direct (oral)  
7 ingestion, hand to mouth pathways, and inhalation and trans-dermal absorption. Persons  
8 sustained exposures by eating and consuming GROUND SAGE, handling GROUND  
9 SAGE without wearing gloves or by touching bare skin or mucus membranes with  
10 gloves after handling GROUND SAGE, 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 GROUND SAGE, as well  
13 as through environmental mediums that carry the LEAD once contained within the  
14 GROUND SAGE.

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

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

25 86. Based on the allegations herein, Defendants are liable for civil penalties of up to  
26 \$2,500.00 per day per individual exposure to LEAD from GROUND SAGE, pursuant to  
27 Health and Safety Code section 25249.7(b).  
28

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

3 ///

4 **FIFTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against BIG LOTS STORES, SPICE**  
6 **CO., SPICE INC., SPICE LLC., CONSOLIDATED, and DOES 41-50 for Violations of**  
7 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health &***  
8 ***Safety Code, §§ 25249.5, et seq.*)**

9 **Ground Cloves**

10 87. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
11 reference paragraphs 1 through 86 of this complaint as though fully set forth herein.  
12 Each of the Defendants alleged in this cause of action is, and at all times mentioned  
13 herein was, a manufacturer, distributor, promoter, or retailer of Ground Cloves identified  
14 as “Fresh Finds™”; “Ground Cloves”; “Net Wt. 1.5 oz (43g)”; “Distributed by: Big Lots  
15 Stores, Inc. P.O. Box 28523, Columbus, OH 43228-0523”; “PACKED IN THE USA”;  
16 “V#1009056”; “ITEM#01140”; 481026011407; “BEST BY 08/15/19 13:58”  
17 (“GROUND CLOVES”).

18 88. The scope of the Fifth Cause of Action as to GROUND CLOVES is limited to the  
19 specific UPC: 481026011407 and the “BEST BY 08/15/19 13:58 designation.

20 89. GROUND CLOVES contains LEAD.

21 90. Defendants knew or should have known that LEAD has been identified by the State of  
22 California as a chemical known to cause cancer and developmental and reproductive  
23 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
24 were also informed of the presence of LEAD in GROUND CLOVES within Plaintiff's  
25 notice of alleged violations further discussed above at Paragraph 32.

26 91. Plaintiff's allegations regarding GROUND CLOVES concerns “[c]onsumer products  
27 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
28 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, §*

1 25602(b). GROUND CLOVES are consumer products, and, as mentioned herein,  
2 exposures to LEAD took place as a result of such normal and foreseeable use.

3 92. Plaintiff is informed, believes, and thereon alleges that between March 7, 2014 and the  
4 present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of GROUND CLOVES, which Defendants manufactured,  
6 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
7 clear and reasonable warning of such to the exposed persons before the time of  
8 exposure. Defendants have distributed and sold GROUND CLOVES in California.  
9 Defendants know and intend that California consumers will use GROUND CLOVES,  
10 thereby exposing them to LEAD. Defendants thereby violated Proposition 65.

11 93. The principal routes of exposure were through ingestion, including direct (oral)  
12 ingestion, hand to mouth pathways, and inhalation and trans-dermal absorption. Persons  
13 sustained exposures by eating and consuming GROUND CLOVES, handling GROUND  
14 CLOVES without wearing gloves or by touching bare skin or mucus membranes with  
15 gloves after handling GROUND CLOVES, or through direct and indirect hand to mouth  
16 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous  
17 membrane, or breathing in particulate matter emanating from GROUND CLOVES, as  
18 well as through environmental mediums that carry the LEAD once contained within the  
19 GROUND CLOVES.

20 94. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
21 Proposition 65 as to GROUND CLOVES have been ongoing and continuous to the date  
22 of the signing of this complaint, as Defendants engaged and continue to engage in  
23 conduct which violates Health and Safety Code section 25249.6, including the  
24 manufacture, distribution, promotion, and sale of GROUND CLOVES, so that a  
25 separate and distinct violation of Proposition 65 occurred each and every time a person  
26 was exposed to LEAD by GROUND CLOVES as mentioned herein.

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

4 96. Based on the allegations herein, Defendants are liable for civil penalties of up to  
5 \$2,500.00 per day per individual exposure to LEAD from GROUND CLOVES,  
6 pursuant to Health and Safety Code section 25249.7(b).

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

9 ///

10 **SIXTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against BIG LOTS STORES, SPICE**  
12 **CO., SPICE INC., SPICE LLC., CONSOLIDATED, and DOES 51-60 for Violations of**  
13 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health &***  
***Safety Code, §§ 25249.5, et seq.*)**

14 **Poultry Seasoning**

15 98. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
16 reference paragraphs 1 through 97 of this complaint as though fully set forth herein.  
17 Each of the Defendants alleged in this cause of action is, and at all times mentioned  
18 herein was, a manufacturer, distributor, promoter, or retailer of Poultry Seasoning  
19 identified as “Fresh Finds™”; “Poultry Seasoning”; “Net Wt. 2.5 oz (71g)”;  
20 “INGREDIENTS: SAGE, THYME, SALT, OREGANO, GROUND MUSTARD,  
21 BASIL, RED PEPPER AND BLACK PEPPER”; “Distributed by: Big Lots Stores, Inc.  
22 P.O. Box 28523, Columbus, OH 43228-0523”; “PACKED IN THE USA”;  
23 “V#1009056”; “ITEM#FFPOULTRY”; 481008969009; “BEST BY 05/19/19 04:06”  
24 (“POULTRY SEASONING”).

25 99. The scope of the Sixth Cause of Action as to POULTRY SEASONING is limited to the  
26 specific UPC: 481008969009 and the “BEST BY 05/19/19 04:06” designation.

27 100. POULTRY SEASONING contains LEAD.  
28

1 101. Defendants knew or should have known that LEAD has been identified by the  
2 State of California as a chemical known to cause cancer and developmental and  
3 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
4 Defendants were also informed of the presence of LEAD in POULTRY SEASONING  
5 within Plaintiff's notice of alleged violations further discussed above at Paragraph 33.

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

12 103. Plaintiff is informed, believes, and thereon alleges that between March 7, 2014  
13 and the present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of POULTRY SEASONING, which Defendants manufactured,  
15 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
16 clear and reasonable warning of such to the exposed persons before the time of  
17 exposure. Defendants have distributed and sold POULTRY SEASONING in California.  
18 Defendants know and intend that California consumers will use POULTRY  
19 SEASONING, thereby exposing them to LEAD. Defendants thereby violated  
20 Proposition 65.

21 104. The principal routes of exposure were through ingestion, including direct (oral)  
22 ingestion, hand to mouth pathways, inhalation and trans-dermal absorption. Persons  
23 sustained exposures by eating and consuming POULTRY SEASONING, handling  
24 POULTRY SEASONING without wearing gloves or by touching bare skin or mucus  
25 membranes with gloves after handling POULTRY SEASONING, or through direct and  
26 indirect hand to mouth contact, hand to food to mouth, direct contact to food then to  
27 mouth, hand to mucous membrane, or breathing in particulate matter emanating from  
28

1 POULTRY SEASONING, as well as through environmental mediums that carry the  
2 LEAD once contained within the POULTRY SEASONING.

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

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

14 107. Based on the allegations herein, Defendants are liable for civil penalties of up to  
15 \$2,500.00 per day per individual exposure to LEAD from POULTRY SEASONING,  
16 pursuant to Health and Safety Code section 25249.7(b).

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

19 ///

20 **SEVENTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against GROCERY, SPICE CO.,**  
22 **SPICE INC., SPICE LLC., and DOES 61-70 for Violations of Proposition 65, The Safe**  
23 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
24 ***seq.*))**

24 **Garlic Powder**

25 109. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
26 reference paragraphs 1 through 108 of this complaint as though fully set forth herein.  
27 Each of the Defendants alleged in this cause of action is, and at all times mentioned  
28 herein was, a manufacturer, distributor, promoter, or retailer of Garlic Powder identified



1 as “Gel®”; “GARLIC POWDER”; “NET WT. 14 oz (397g)”; “BEST BY 07/25/19  
2 11:04”; “PACKED IN THE USA BY GEL SPICE CO., INC. BAYONNE, NJ 07002”;  
3 “www.gelspice.com”; 076114800362 (“GARLIC POWDER”).

4 110. The scope of the Seventh Cause of Action as to GARLIC POWDER is limited to  
5 the specific UPC: 076114800362 and the Best By 07/25/19 11:04 designation.

6 111. GARLIC POWDER contains LEAD.

7 112. Defendants knew or should have known that LEAD has been identified by the  
8 State of California as a chemical known to cause cancer and developmental and  
9 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
10 Defendants were also informed of the presence of LEAD in GARLIC POWDER within  
11 Plaintiff’s notice of alleged violations further discussed above at Paragraph 34.

12 113. Plaintiff’s allegations regarding GARLIC POWDER concerns “[c]onsumer  
13 products exposure[s],” which “is an exposure that results from a person’s acquisition,  
14 purchase, storage, consumption, or other reasonably foreseeable use of a consumer  
15 good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs.*  
16 *tit. 27, § 25602(b)*. GARLIC POWDER are consumer products, and, as mentioned  
17 herein, exposures to LEAD took place as a result of such normal and foreseeable use.

18 114. Plaintiff is informed, believes, and thereon alleges that between March 7, 2014  
19 and the present, each of the Defendants knowingly and intentionally exposed California  
20 consumers and users of GARLIC POWDER, which Defendants manufactured,  
21 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
22 clear and reasonable warning of such to the exposed persons before the time of  
23 exposure. Defendants have distributed and sold GARLIC POWDER in California.  
24 Defendants know and intend that California consumers will use GARLIC POWDER,  
25 thereby exposing them to LEAD. Defendants thereby violated Proposition 65.

26 115. The principal routes of exposure were through ingestion, including direct (oral),  
27 hand to mouth pathways, inhalation and trans-dermal absorption. Persons sustained  
28 exposures by eating and consuming GARLIC POWDER, handling GARLIC POWDER

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

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

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

17 118. Based on the allegations herein, Defendants are liable for civil penalties of up to  
18 \$2,500.00 per day per individual exposure to LEAD from GARLIC POWDER, pursuant  
19 to Health and Safety Code section 25249.7(b).

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

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1 **EIGHTH CAUSE OF ACTION**

2 (By CONSUMER ADVOCACY GROUP, INC. and against TARGET, TARGET STORES,  
3 TARGET BRANDS, SPICE CO., SPICE INC., SPICE LLC., and DOES 71-80 for  
4 Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986  
5 (Health & Safety Code, §§ 25249.5, et seq.))

6 **Ground Turmeric**

7 120. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
8 reference paragraphs 1 through 119 of this complaint as though fully set forth herein.

9 Each of the Defendants alleged in this cause of action is, and at all times mentioned  
10 herein was, a manufacturer, distributor, promoter, or retailer of Ground Turmeric  
11 identified as "MARKET PANTRY™"; "GROUND TURMERIC"; "NET WT 0.95 OZ  
12 (27g)"; "BEST BY 07JUL2019 09:45"; "DISTRIBUTED BY TARGET  
13 CORPORATION MINNEAPOLIS, MN 55403"; "PRODUCT OF INDIA"; "TM &  
14 ©2016 Target Brands, Inc."; "Shop Target.com"; 261021103R03 C-000275-01-075;  
15 085239211038 ("GROUND TURMERIC").

16 121. The scope of the Eighth Cause of Action as to GROUND TURMERIC is limited  
17 to the specific UPC: 085239211038 and the Best By 07JUL2019 09:45 designation.

18 122. GROUND TURMERIC contains LEAD.

19 123. Defendants knew or should have known that LEAD has been identified by the  
20 State of California as a chemical known to cause cancer and developmental and  
21 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
22 Defendants were also informed of the presence of LEAD in GROUND TURMERIC  
23 within Plaintiff's notice of alleged violations further discussed above at Paragraph 35.

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

1 125. Plaintiff is informed, believes, and thereon alleges that between March 14, 2014  
2 and the present, each of the Defendants knowingly and intentionally exposed California  
3 consumers and users of GROUND TURMERIC, which Defendants manufactured,  
4 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
5 clear and reasonable warning of such to the exposed persons before the time of  
6 exposure. Defendants have distributed and sold GROUND TURMERIC in California.  
7 Defendants know and intend that California consumers will use GROUND  
8 TURMERIC, thereby exposing them to LEAD. Defendants thereby violated Proposition  
9 65.

10 126. The principal routes of exposure were through ingestion, including direct (oral)  
11 ingestion, hand to mouth pathways, and inhalation and trans-dermal absorption. Persons  
12 sustained exposures by eating and consuming GROUND TURMERIC, handling  
13 GROUND TURMERIC without wearing gloves or by touching bare skin or mucus  
14 membranes with gloves after handling GROUND TURMERIC, or through direct and  
15 indirect hand to mouth contact, hand to food to mouth, direct contact to food then to  
16 mouth, hand to mucous membrane, or breathing in particulate matter emanating from  
17 GROUND TURMERIC, as well as through environmental mediums that carry the  
18 LEAD once contained within the GROUND TURMERIC.

19 127. Plaintiff is informed, believes, and thereon alleges that each of Defendants'  
20 violations of Proposition 65 as to GROUND TURMERIC have been ongoing and  
21 continuous to the date of the signing of this complaint, as Defendants engaged and  
22 continue to engage in conduct which violates Health and Safety Code section 25249.6,  
23 including the manufacture, distribution, promotion, and sale of GROUND TURMERIC,  
24 so that a separate and distinct violation of Proposition 65 occurred each and every time a  
25 person was exposed to LEAD by GROUND TURMERIC as mentioned herein.

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

1 129. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to LEAD from GROUND TURMERIC,  
3 pursuant to Health and Safety Code section 25249.7(b).

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

6 **NINTH CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against SPICE CO., and DOES 81-90**  
8 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of**  
9 **1986 (Health & Safety Code, §§ 25249.5, et seq.))**

10 **Ground Cinnamon III**

11 131. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
12 reference paragraphs 1 through 130 of this complaint as though fully set forth herein.  
13 Each of the Defendants alleged in this cause of action is, and at all times mentioned  
14 herein was, a manufacturer, distributor, promoter, or retailer of Ground Cinnamon  
15 identified as “Spice Supreme”; “GROUND CINNAMON”; “Net Wt 5-1/4 oz (148g)”;  
16 “Ingredients: Cinnamon”; “Packed by Gel Spice Co., Inc. Bayonne, NJ 07002”; UPC 0  
17 76114 33004 3” (“GROUND CINNAMON III”).

18 132. The scope of the Ninth Cause of Action as to GROUND CINNAMON III is  
19 limited to the specific UPC: 076114330043 and the Best By 12/12/20 00.28 designation.

20 133. GROUND CINNAMON III contains LEAD.

21 134. Defendants knew or should have known that LEAD has been identified by the  
22 State of California as a chemical known to cause cancer and developmental and  
23 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
24 Defendants were also informed of the presence of LEAD in GROUND CINNAMON III  
25 within Plaintiff’s notice of alleged violations further discussed above at Paragraph 36.

26 135. Plaintiff’s allegations regarding GROUND CINNAMON III concerns  
27 “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s  
28 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a

1 consumer good, or any exposure that results from receiving a consumer service.” *Cal.*  
2 *Code Regs.* tit. 27, § 25602(b). GROUND CINNAMON III are consumer products, and,  
3 as mentioned herein, exposures to LEAD took place as a result of such normal and  
4 foreseeable use.

5 136. Plaintiff is informed, believes, and thereon alleges that between April 13, 2015  
6 and the present, each of the Defendants knowingly and intentionally exposed California  
7 consumers and users of GROUND CINNAMON III, which Defendants manufactured,  
8 distributed, or sold as mentioned above, to LEAD, without first providing any type of  
9 clear and reasonable warning of such to the exposed persons before the time of  
10 exposure. Defendants have distributed and sold GROUND CINNAMON III in  
11 California. Defendants know and intend that California consumers will use GROUND  
12 CINNAMON III, thereby exposing them to LEAD. Defendants thereby violated  
13 Proposition 65.

14 137. The principal routes of exposure were through ingestion, including direct (oral)  
15 ingestion, hand to mouth pathways, and inhalation and trans-dermal absorption. Persons  
16 sustained exposures by eating and consuming GROUND CINNAMON III, handling  
17 GROUND CINNAMON III without wearing gloves or by touching bare skin or mucus  
18 membranes with gloves after handling GROUND CINNAMON III or through direct and  
19 indirect hand to mouth contact, hand to food to mouth, direct contact to food then to  
20 mouth, hand to mucous membrane, or breathing in particulate matter emanating from  
21 GROUND CINNAMON III, as well as through environmental mediums that carry the  
22 LEAD once contained within the GROUND CINNAMON III.

23 138. Plaintiff is informed, believes, and thereon alleges that each of Defendants’  
24 violations of Proposition 65 as to GROUND CINNAMON III have been ongoing and  
25 continuous to the date of the signing of this complaint, as Defendants engaged and  
26 continue to engage in conduct which violates Health and Safety Code section 25249.6,  
27 including the manufacture, distribution, promotion, and sale of GROUND CINNAMON  
28 III, so that a separate and distinct violation of Proposition 65 occurred each and every

1 time a person was exposed to LEAD by GROUND CINNAMON III as mentioned  
2 herein.

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

6 140. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to LEAD from GROUND CINNAMON III,  
8 pursuant to Health and Safety Code section 25249.7(b).

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

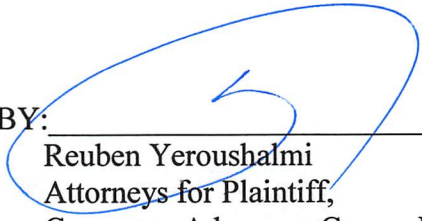
11  
12 **PRAYER FOR RELIEF**

13 Plaintiff demands against each of the Defendants as follows:

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

19  
20  
21 Dated: January 9, 2019

YEROUSHALMI & YEROUSHALMI

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23  
24 BY:   
25 Reuben Yeroushalmi  
26 Attorneys for Plaintiff,  
27 Consumer Advocacy Group, Inc.  
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