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11 Attorneys for Plaintiff Center for Food Safety

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF ALAMEDA**

15 CENTER FOR FOOD SAFETY, a non-
16 profit corporation,

17 Plaintiff,

18 vs.

19 TRADER JOE'S COMPANY, a California
20 corporation; GOLDEN BOY FOODS LTD,
21 a Canadian limited company; READY
22 ROAST NUT COMPANY, LLC, a
23 California limited liability company; JOHN
24 B. SANFILIPPO & SON, INC., a Delaware
25 corporation; and SEVERN PEANUT
26 COMPANY, INC., a North Carolina
27 corporation,

28 Defendant.

Case No.: RG18918466

ASSIGNED FOR ALL PURPOSES TO
JUDGE WINIFRED Y. SMITH
DEPT. 21

FIRST AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF AND CIVIL
PENALTIES

Case filed: August 27, 2018
Trial Date: None Set

26 Plaintiff Center for Food Safety ("Plaintiff") brings this action in the interests of the
27 general public and, on information and belief, hereby alleges:

28 **INTRODUCTION**

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

1 1. This action seeks to remedy the continuing failure of Defendants Trader Joe’s
2 Company, Golden Boy Foods Ltd, Ready Roast Nut Company, LLC, John B. Sanfilippo &
3 Son, Inc., and Severn Peanut Company, Inc. (collectively, “Defendants”) to warn individuals in
4 California that they are being exposed to the chemical acrylamide, a substance known to the
5 State of California to cause cancer. These exposures have occurred, and continue to occur
6 through the manufacture, distribution, sale, and consumption of the following peanut butter and
7 almond butter products, which contain the chemical acrylamide (the “Nut Butter Products”):
8

- 9 1. Trader Joe’s Creamy Almond Butter - No Salt
- 10 2. Trader Joe’s Creamy Almond Butter – Salted
- 11 3. Trader Joe’s Raw Almond Butter Creamy
- 12 4. Trader Joe’s Raw Almond Butter Crunchy
- 13 5. Trader Joe’s Crunchy Unsalted Peanut Butter
- 14 6. Trader Joe’s Crunchy Salted Peanut Butter
- 15 7. Trader Joe’s Creamy Unsalted Peanut Butter
- 16 8. Trader Joe’s Creamy Salted Peanut Butter
- 17 9. Trader Joe’s Organic Peanut Butter Creamy No Salt Valencia

18 2. California’s Proposition 65 (Health & Safety Code § 25249.5, *et seq.*), is a right
19 to know statute. Under Proposition 65, it is unlawful for businesses to knowingly and
20 intentionally expose individuals in California to chemicals known to the State to cause cancer,
21 birth defects, or other reproductive harm without providing clear and reasonable warnings to
22 individuals prior to exposure.

23 3. When consumers eat the Nut Butter Products, they are exposed to acrylamide at
24 levels requiring a “clear and reasonable warning” under Proposition 65. Yet Defendants have
25 failed to provide any warning to consumers that they are being exposed to the carcinogenic
26 chemical acrylamide.

27 4. Defendants’ past and continued manufacturing, distribution, and sale of the Nut
28 Butter Products in California without a clear and reasonable warning causes individuals to be

1 involuntarily and unwittingly exposed to acrylamide at levels that violate Proposition 65.

2
3 5. Plaintiff seeks injunctive relief enjoining Defendants from the continued
4 manufacturing, distribution, and/or sales of the Nut Butter Products in California without
5 provision of clear and reasonable warnings regarding the risks of cancer posed by exposure to
6 acrylamide through consumption of the Nut Butter Products. Plaintiff seeks an injunctive order
7 compelling Defendants to bring their business practices into compliance with Proposition 65 by
8 providing a clear and reasonable warning to each individual who has been and who in the
9 future may be exposed to acrylamide from consumption of the Nut Butter Products. Plaintiff
10 also seeks an order compelling Defendants to identify and locate each individual person who in
11 the past has purchased the Nut Butter Products, and to provide to each such purchaser a clear
12 and reasonable warning that use of the Nut Butter Products will cause exposures to acrylamide.

13 **JURISDICTION AND VENUE**

14 6. This Court has jurisdiction over this action pursuant to Health and Safety Code
15 § 25249.8, allowing enforcement of Proposition 65 in any court of competent jurisdiction, and
16 pursuant to California Constitution Article VI, Section 10, which grants the Superior Court
17 “original jurisdiction in all causes except those given by statute to other trial courts.” The
18 causes of actions alleged herein are not given by statute to other trial courts.

19 8. This Court has jurisdiction over Defendants because Defendants are businesses
20 having sufficient minimum contacts with California, or otherwise intentionally availing
21 themselves of the California market through the distribution and sale of the Nut Butter
22 Products in the State of California to render the exercise of jurisdiction over these Defendants
23 by the California courts consistent with traditional notions of fair play and substantial justice.

24 9. Venue in this action is proper in the Alameda Superior Court because Defendant
25 has violated or threatens to violate California law in the County of Alameda.

26 **PARTIES**

27 10. Plaintiff Center for Food Safety is a non-profit corporation working to protect
28

1 human health and the environment by curbing the use of harmful food production technologies
2 and by promoting organic and other forms of sustainable agriculture. Plaintiff is Center for
3 Food Safety is a person within the meaning of Health & Safety Code §25118 and brings this
4 enforcement action in the public interest pursuant to Health & Safety Code §25249.7(d).
5

6 11. Defendant Trader Joe's Company is a corporation organized under California's
7 corporation law and is a person doing business within the meaning of Health & Safety Code §
8 25249.11.

9 12. Defendant Golden Boy Foods Ltd. is a limited company, organized under the
10 laws of Canada, and is a person doing business within the meaning of Health & Safety Code §
11 25249.11.

12 13. Defendant Ready Roast Nut Company, LLC is a limited liability company,
13 organized under California's corporation law and is a person doing business within the
14 meaning of Health & Safety Code § 25249.11.

15 14. Defendant John B. Sanfilippo & Son, Inc. is a corporation organized under
16 Delaware's corporation law and is a person doing business within the meaning of Health &
17 Safety Code § 25249.11.

18 15. Defendant Severn Peanut Company, Inc. is a corporation organized under North
19 Carolina's corporation law and is a person doing business within the meaning of Health &
20 Safety Code § 25249.11.

21 16. Defendants have manufactured, packaged, distributed, marketed and/or offered
22 the Nut Butter Products for sale or use in California and the County of Alameda. Plaintiff is
23 informed and believes, and thereupon alleges, that Defendants continue to manufacture,
24 package, distribute, market and/or sell the Nut Butter Products in California and in Alameda
25 County.
26

27 **STATUTORY BACKGROUND**

28 17. The People of the State of California have declared in Proposition 65 their right

1 “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
2 reproductive harm.” Section 1(b) of Initiative Measure, Proposition 65.

3 18. To effect this goal, Proposition 65 requires that individuals be provided with a
4 “clear and reasonable warning” before being exposed to substances listed by the State of
5 California as causing cancer or reproductive toxicity. Health & Safety Code § 25249.6 states,
6 in pertinent part:

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

10 19. “‘Knowingly’ refers only to knowledge of the fact that a discharge of, release of,
11 or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No
12 knowledge that the discharge, release or exposure is unlawful is required.” 27 Cal. Code of
13 Regs. (“CCR”) § 25102(n).

14 20. Proposition 65 provides that any “person who violates or threatens to violate” the
15 statute may be enjoined in a court of competent jurisdiction. Health & Safety Code § 25249.7.
16 The phrase “threaten to violate” is defined to mean creating “a condition in which there is a
17 substantial probability that a violation will occur.” Health & Safety Code § 25249.11(e).
18 Violators are liable for civil penalties of up to \$2,500 per day for each violation of the Act.
19 Health & Safety Code § 25249.7.

20 21. On January 1, 1990, the State of California officially listed the chemical
21 acrylamide as a chemical known to cause cancer. Acrylamide became subject to the warning
22 requirement one year later and was therefore subject to the “clear and reasonable” warning
23 requirements of Proposition 65 beginning on January 1, 1991. Health & Safety Code §
24 25249.6 *et seq.*; 27 Cal. Code Regs. §§ 25000, *et seq.* Due to the carcinogenicity of
25 acrylamide, the no significant risk level for acrylamide is 0.2 µg/day (micrograms per day). 27
26 Cal. Code Regs. § 25705(b)(1).

27
28 **FACTUAL BACKGROUND**

1 22. To test Defendants' Nut Butter Products for acrylamide, Plaintiff hired a well-
2 respected and accredited testing laboratory. The results of testing undertaken by Plaintiff of
3 the Nut Butter Products show that they were in violation of the 0.2 microgram per day
4 ("µg/day") for acrylamide "safe harbor" daily dose limits set forth in Proposition 65's
5 regulations.
6

7 23. Based on the testing results, on June 18, 2018, Plaintiff sent a 60-Day Notice of
8 Proposition 65 Violations ("Notice") to the requisite public enforcement agencies, and to
9 Defendant Trader Joe's Company (a true and correct copy of the 60-Day Notice letter is
10 attached hereto as **Exhibit A** and is incorporated by reference). On April 15, 2019, Plaintiff
11 sent a 60-Day Notice of Proposition 65 Violations to the requisite public enforcement agencies,
12 and to Defendants Golden Boy Foods Ltd., Ready Roast Nut Company, Inc., John B.
13 Sanfilippo & Son, Inc., and Severn Peanut Company, Inc. (a true and correct copy of the 60-
14 Day Notice letter is attached hereto as **Exhibit B** and is incorporated by reference). The
15 Notices were issued pursuant to, and in compliance with, the requirements of Health & Safety
16 Code §25249.7(d) and the statute's implementing regulations regarding the notice of the
17 violations to be given to certain public enforcement agencies and to the violators. The Notices
18 included, *inter alia*, the following information: the name, address, and telephone number of the
19 noticing individuals; the name of the alleged violator; the statute violated; the approximate
20 time period during which violations occurred; and descriptions of the violations, including the
21 chemical involved, the routes of toxic exposure, and the specific product(s) or type of
22 product(s) causing the violations manufactured, sold, or distributed by each respective
23 Defendant, and was issued as follows:
24

- 25 a. Defendants were provided a copy of the Notice by Certified Mail.
- 26 b. Defendants were provided a copy of a document entitled "The Safe Drinking
27 Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary,"
28 which is also known as Appendix A to Title 27 of Cal. Code Regs. § 25903.

- 1 c. The California Attorney General was provided a copy of the Notices via online
2 submission.
- 3 d. The California Attorney General was provided with a Certificate of Merit by the
4 attorney for the noticing party, stating that there is a reasonable and meritorious
5 case for this action, and attaching factual information sufficient to establish a
6 basis for the certificate, including the identity of the persons consulted with and
7 relied on by the certifier, and the facts, studies, or other data reviewed by those
8 persons, pursuant to Health & Safety Code § 25249.7(h)(2).
- 9 e. The district attorneys, city attorneys or prosecutors of each jurisdiction within
10 which the Nut Butter Products are offered for sale within California were
11 provided with a copy of the Notices pursuant to Health & Safety Code §
12 25249.7(d)(1).
13

14 24. At least 60-days have elapsed since Plaintiff sent the Notices to Defendants.

15 The appropriate public enforcement agencies have failed to commence and diligently prosecute
16 a cause of action under Health & Safety Code § 25249.5, *et seq.* against Defendants based on
17 the allegations herein.

18 25. On information and belief, the Nut Butter Products have been manufactured,
19 distributed, and/or sold by Defendants for consumption in California since at least August 27,
20 2015. On information and belief, the Nut Butter Products continue to be distributed and sold in
21 California without the requisite warning information.

22 26. At all times relevant to this action, Defendants have knowingly and
23 intentionally exposed the users of the Nut Butter Products to acrylamide without first giving a
24 clear and reasonable warning to such individuals.

25 27. As a proximate result of acts of Defendants, as persons in the course of doing
26 business within the meaning of Health & Safety Code § 25249.11, individuals throughout the
27 State of California, including in the County of Alameda, have been exposed to acrylamide
28

1 without a clear and reasonable warning. The individuals subject to the illegal exposures
2 include normal and foreseeable users of the Nut Butter Products, as well as all other persons
3 exposed to the Nut Butter Products.
4

5 **FIRST CAUSE OF ACTION**
6 **(Violations of Health and Safety Code § 25249.5, *et seq.* concerning the Nut Butter**
7 **Products described in the June 18, 2018 and April 15, 2019 Prop. 65 Notices)**
8 **(Against All Defendants)**

9 28. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 27,
10 inclusive, as if specifically set forth herein.

11 29. Defendants are persons doing business within the meaning of Health & Safety
12 Code § 25249.11.

13 30. Acrylamide is listed by the State of California as a chemical known to cause
14 cancer.

15 31. Defendants have and continue to knowingly and intentionally expose
16 individuals who ingest the Nut Butter Products to the chemical acrylamide without first
17 providing a clear and reasonable warning to such individuals pursuant to Health & Safety Code
18 §§ 25249.6 and 25249.11(f).

19 32. Continuing commission by Defendants of the acts alleged above will irreparably
20 harm the citizens of the State of California, for which harm they have no plain, speedy, or
21 adequate remedy at law.

22 Wherefore, Plaintiff prays for judgment against Defendants, as set forth hereafter.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for the following relief:

25 1. A preliminary and permanent injunction, pursuant to Health & Safety Code §
26 25249.7(b), enjoining Defendants, their agents, employees, assigns and all persons acting in
27 concert or participating with Defendants, from distributing or selling the Nut Butter Products in
28 California without first providing a clear and reasonable warning that consumers of the Nut

1 Butter Products are exposed to acrylamide;

2 2. An injunctive order, pursuant to Health & Safety Code § 25249.7(b),
3 compelling Defendants to identify and locate each individual who has purchased the Nut Butter
4 Products since August 27, 2015, and to provide a warning to such persons that consumption of
5 the Nut Butter Products will expose the consumers to a chemical known to cause cancer;
6

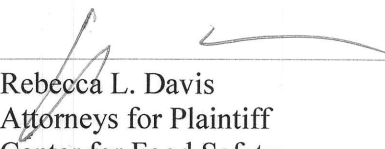
7 3. An assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b)
8 against Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

9 4. An award to Plaintiff of its reasonable attorney's fees and costs of suit pursuant
10 to California Code of Civil Procedure § 1021.5, as Plaintiff shall specify in further application
11 to the Court; and,

12 5. Such other and further relief as may be just and proper.

13 DATED: July 17, 2019

LOZEAU | DRURY LLP

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16 _____
17 Rebecca L. Davis
18 Attorneys for Plaintiff
19 Center for Food Safety
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EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
rebecca@lozeaudrury.com

June 18, 2018

To: President or CEO – Trader Joe’s Company
California Attorney’s Office
District Attorney’s Office for 58 counties
City Attorney’s for San Francisco, San Diego, San Jose, and Los Angeles
(See attached Certificate of Service)

From: Center for Food Safety

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

This firm represents Center for Food Safety in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* (“Proposition 65”). Center for Food Safety is a national non-profit public interest and environmental advocacy organization working to protect human health and the environment by curbing the use of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. This letter serves to provide notification of these violations to you and to the public enforcement agencies of Proposition 65.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of Proposition 65. Specifically, the entity listed below has violated and continues to violate the warning requirement at § 25249.6 of the California Health & Safety Code, which provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...”

Violator: The name of the violator covered by this notice that violated Proposition 65 (hereinafter referred to as the “Violator”) is: Trader Joe’s Company.

Listed Chemical: These violations involve exposure to the listed chemical acrylamide. On January 1, 1990, California officially listed acrylamide as a chemical known to the State of California to cause cancer. On February 25, 2011, California officially listed acrylamide as a chemical known to cause reproductive and developmental toxicity.

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//

Consumer Products: The following specific products that are the subject of this notice because are causing exposures in violation of Proposition 65 are:

1. Trader Joe's Creamy Almond Butter - No Salt
2. Trader Joe's Creamy Almond Butter – Salted
3. Trader Joe's Raw Almond Butter Creamy
4. Trader Joe's Raw Almond Butter Crunchy
5. Trader Joe's Crunchy Unsalted Peanut Butter
6. Trader Joe's Crunchy Salted Peanut Butter
7. Trader Joe's Creamy Unsalted Peanut Butter
8. Trader Joe's Creamy Salted Peanut Butter
9. Trader Joe's Organic Peanut Butter Creamy No Salt Valencia

Violation: The alleged Violator knowingly and intentionally exposed and continues to expose consumers within the State of California to acrylamide without providing a Proposition 65 warning. The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, acrylamide.

Route of Exposure: Use of the products identified in this notice results in human exposures to acrylamide. The primary route of exposure is ingestion.

Duration of Violation: The violations have been occurring since at least June 18, 2017, and are ongoing.

A summary of Proposition 65, prepared by the California Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter sent to the Violator.

Pursuant to California Health & Safety Code § 25249.7(d), Center for Food Safety intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written agreement to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, Center for Food Safety is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time

Notice of Violation of Cal. Health & Safety Code §§ 25249.5 *et seq.*

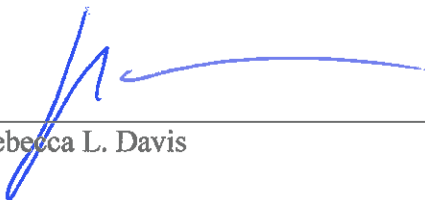
June 18, 2018

Page 3

consuming litigation.

Adam Keats is a Senior Attorney with Center for Food Safety. Mr. Keats is located at 303 Sacramento St., 2nd Floor, San Francisco, CA 94111, Tel. 415-826-0507. Center for Food Safety has retained my firm in connection with this matter. Please direct all questions concerning this notice to me, Rebecca Davis (rebecca@lozeaudrury.com), Lozeau Drury LLP, 410 12th Street, Suite 250, Oakland, California 94607, (510) 836-4200.

Sincerely,



Rebecca L. Davis

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary (to Violators and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

**Re: Center for Food Safety's Notice of Proposition 65 Violations by
Trader Joe's Company**

I, Rebecca Davis, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party, Center for Food Safety.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants and other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit, additional factual information sufficient to establish the basis for this certificate has been served on the Attorney General, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 18, 2018



Rebecca Davis

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years old, and am not a party to the within action. My business address is 410 12th Street, Suite 250, Oakland, California 94607, in Alameda County, where the mailing occurred.

On June 18, 2018, I served the following documents: **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** on the following entities by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by Certified Mail, addressed to the entity listed below, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Current President or CEO
Trader Joe's Company
800 S. Shamrock Avenue
Monrovia, CA 91016

Paracorp Incorporated
(Registered Agent for Service of Process for
Trader Joe's Company)
2804 Gateway Oaks Dr. #100
Sacramento, CA 95833

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)(1)** on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Christopher Dalbey
Deputy District Attorney
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Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us
Kathryn L. Turner, Chief Deputy City
Attorney
1200 Third Ave.
San Diego, CA 92101
CityAttyCrimProp65@sandiego.gov

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Yen Dang, Supervising Deputy District
Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org
Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr.
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
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221 S Mooney Blvd
Visalia, CA 95370
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Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Nancy O'Malley, District Attorney
7776 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Tori Verber Salazar, District Attorney
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Jeffrey S. Rosell , District Attorney
701 Ocean Street
Santa Cruz , CA 95060
Prop65DA@santacruzcounty.us

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;** **(2) CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by First Class Mail, addressed to each of the entities on the Service List attached hereto, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Executed on June 18, 2018, in Oakland, California.



Daniel Charlier-Smith

Service List

District Attorney
Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney
Amador County
708 Court Street
Jackson, CA 95642

District Attorney
Butte County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney
Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney
Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney
El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney
Fresno County
2220 Tulare Street, Suite
1000 Fresno, CA 93721

District Attorney
Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney
Imperial County
940 West Main St.
Ste 102
El Centro, CA 92243

District Attorney
Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney
Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney
Kings County
1400 West Lacey
Boulevard Hanford, CA
93230

District Attorney
Lake County
255 N. Forbes St.
Lakeport, CA 95453

District Attorney
Los Angeles County 210
West Temple Street
Suite 18000
Los Angeles, CA 90012

District Attorney Madera
County
209 West Yosemite
Avenue Madera, CA 93637

District Attorney
Marin County
3501 Civic Center Drive
Room 130
San Rafael, CA 94903

District Attorney Mariposa
County
Post Office Box 730
Mariposa, CA 95338

District Attorney
Mendocino County
Post Office Box 1000
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District Attorney
Merced County
550 W. Main Street
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District Attorney
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204 S Court Street, Room
202
Alturas, CA 96101-4020

District Attorney
Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney
Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney
Orange County
401 W. Civic Center Dr.
Santa Ana, CA 92701

District Attorney
Placer County
10810 Justice Center Dr.
Suite 240
Roseville, CA 95678

District Attorney
Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney
San Benito County
419 Fourth Street, 2nd
Floor Hollister, CA 95023

District Attorney
San Bernardino County
316 N. Mountain View
Avenue San Bernardino,
CA 92415-0004

District Attorney
Shasta County
1355 West Street Redding,
CA 96001

District Attorney
Sierra County
PO Box 457
Downieville, CA 95936

District Attorney
Siskiyou County Post
Office Box 986
Yreka, CA 96097

District Attorney
Solano County
675 Texas St., Ste 4500
Fairfield, CA 94533

District Attorney
Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney
Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney
Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney
Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney
Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney
Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City
Attorney's Office
City Hall East
200 N. Main St., Ste. 800
Los Angeles, CA 90012

San Diego City Attorney's
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1200 3rd Ave., Ste 1620
San Diego, CA 92101

San Francisco City
Attorney's Office
City Hall, Room 234
1 Dr Carlton B Goodlett Pl.
San Francisco, CA 94102

San Jose City Attorney's
Office
200 East Santa Clara
Street, 16th Floor
San Jose, CA 95113

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EXHIBIT B



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
rebecca@lozeaudrury.com

April 15, 2019

To: President or CEO – Golden Boy Foods Ltd.
Manager or Member – Ready Roast Nut Company, LLC
President or CEO – John B. Sanfilippo & Son, Inc.
President or CEO – Severn Peanut Company, Inc.
California Attorney’s Office
District Attorney’s Office for 58 counties
City Attorney’s for San Francisco, San Diego, San Jose, and Los Angeles
(See attached Certificate of Service)

From: Center for Food Safety

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

This firm represents Center for Food Safety in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* (“Proposition 65”). Center for Food Safety is a national non-profit public interest and environmental advocacy organization working to protect human health and the environment by curbing the use of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. This letter serves to provide notification of these violations to you and to the public enforcement agencies of Proposition 65.

This letter constitutes notice that the entities listed below have violated and continue to violate provisions of Proposition 65. Specifically, the entities listed below have violated and continue to violate the warning requirement at § 25249.6 of the California Health & Safety Code, which provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...”

Violators: The name of the violators covered by this notice that violated Proposition 65 (hereinafter referred to as the “Violators”) are: Golden Boy Foods Ltd., Ready Roast Nut Company, LLC, John B. Sanfilippo & Son, Inc., and Severn Peanut Company, Inc.

Listed Chemical: These violations involve exposure to the listed chemical acrylamide. On January 1, 1990, California officially listed acrylamide as a chemical known to the State of California to cause cancer. On February 25, 2011, California officially listed acrylamide as a

chemical known to cause reproductive and developmental toxicity.

Consumer Products: Below is a list of the specific products that are the subject of this notice because they are causing exposures in violation of Proposition 65, and the name of the Violator that manufactured, marketed, distributed, and/or sold the specific products:

Golden Boy Foods Ltd.

- Trader Joe's Creamy Almond Butter - No Salt
- Trader Joe's Creamy Almond Butter – Salted

Ready Roast Nut Company, LLC

- Trader Joe's Raw Almond Butter Creamy
- Trader Joe's Raw Almond Butter Crunchy
- Trader Joe's Creamy Almond Butter - No Salt
- Trader Joe's Creamy Almond Butter – Salted

John B. Sanfilippo & Son, Inc.

- Trader Joe's Crunchy Unsalted Peanut Butter
- Trader Joe's Crunchy Salted Peanut Butter
- Trader Joe's Creamy Unsalted Peanut Butter
- Trader Joe's Creamy Salted Peanut Butter

Severn Peanut Company, Inc.

- Trader Joe's Organic Peanut Butter Creamy No Salt Valencia

Violation: The alleged Violators knowingly and intentionally exposed and continue to expose consumers within the State of California to acrylamide without providing a Proposition 65 warning. The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, acrylamide.

Route of Exposure: Use of the products identified in this notice results in human exposures to acrylamide. The primary route of exposure is ingestion.

Duration of Violation: The violations have been occurring since at least April 15, 2018, and are ongoing.

A summary of Proposition 65, prepared by the California Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter sent to the Violator.

Pursuant to California Health & Safety Code § 25249.7(d), Center for Food Safety intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written agreement to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and

Notice of Violation of Cal. Health & Safety Code §§ 25249.5 *et seq.*

April 15, 2019

Page 3

(3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, Center for Food Safety is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

Adam Keats is a Senior Attorney with Center for Food Safety. Mr. Keats is located at 303 Sacramento St., 2nd Floor, San Francisco, CA 94111, Tel. 415-826-0507. Center for Food Safety has retained my firm in connection with this matter. Please direct all questions concerning this notice to me, Rebecca Davis (rebecca@lozeaudrury.com), Lozeau Drury LLP, 1939 Harrison St., Suite 150, Oakland, CA 94612, (510) 836-4200.

Sincerely,



Rebecca L. Davis

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary (to Violators and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Center for Food Safety's Notice of Proposition 65 Violations by Golden Boy Foods Ltd., Ready Roast Nut Company, LLC, John B. Sanfilippo & Son, Inc., and Severn Peanut Company, Inc.

I, Rebecca Davis, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party, Center for Food Safety.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants and other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit, additional factual information sufficient to establish the basis for this certificate has been served on the Attorney General, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 15, 2019



Rebecca Davis

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years old, and am not a party to the within action. My business address is 410 12th Street, Suite 250, Oakland, California 94607, in Alameda County, where the mailing occurred.

On April 15, 2019, I served the following documents: **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** on the following entities by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by Certified Mail, addressed to the entity listed below, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Current President or CEO
Golden Boy Foods Ltd.
7725 Lougheed Hwy
Burnaby, BC V5A 4V8

Current President or CEO
Golden Boy Foods Ltd.
30 Citizen Crt.
Markham, ON L6G 1C4

Current Manager or Member
Ready Roast Nut Company, LLC
2805 Falcon Drive
Madera, CA 93637

Vern Simmons
(Agent for Service of Process for Ready Roast
Nut Company, LLC)
2805 Falcon Drive
Madera, CA 93637

Current President or CEO
John B. Sanfilippo & Son, Inc.
1703 North Randall Rd.
Elgin, IL 60123

The Prentice-Hall Corporation System, Inc.
(Agent for Service of Process for John B.
Sanfilippo & Son, Inc.)
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Current President or CEO
Severn Peanut Company, Inc.
413 Main St.
Severn, NC 2787

Keith Hill Ricks
(Registered Agent for Service of Process for
Severn Peanut Company, Inc.)
413 Main St.
Severn, NC 27877

On April 15, 2019, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)(1)** on the following party when a true and correct copy thereof was uploaded

on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On April 15, 2019, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;** **(2) CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Yen Dang, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Allison Haley, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr.
Sonoma, CA 95403
jbarnes@sonoma-county.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara St.
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Ave.
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org


Nancy O'Malley, District Attorney
7776 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

On April 15, 2019, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by First Class Mail, addressed to each of the entities on the Service List attached hereto, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Executed on April 15, 2019, in Oakland, California.



Toyer Grear

Service List

District Attorney
Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney
Amador County
708 Court Street
Jackson, CA 95642

District Attorney
Butte County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney
Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney
Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney
El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney
Fresno County
2220 Tulare Street, Suite
1000 Fresno, CA 93721

District Attorney
Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney
Imperial County
940 West Main St.
Ste 102
El Centro, CA 92243

District Attorney
Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney
Kings County
1400 West Lacey
Boulevard Hanford, CA
93230

District Attorney
Lake County
255 N. Forbes St.
Lakeport, CA 95453

District Attorney
Los Angeles County
Hall of Justice
211 West Temple St.
Suite 1200
Los Angeles, CA 90012

District Attorney
Madera County
209 West Yosemite Ave.
Madera, CA 93637

District Attorney
Marin County
3501 Civic Center Drive
Room 130
San Rafael, CA 94903

District Attorney
Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney
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Post Office Box 1000
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Merced, CA 95340

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Room 202
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Santa Ana, CA 92701

District Attorney
Placer County
10810 Justice Center Dr.
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District Attorney
Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney
San Benito County
419 Fourth Street
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District Attorney
San Bernardino County
303 West Third St.
San Bernardino, CA 92415

District Attorney
San Diego County
330 West Broadway
Suite 1300
San Diego, CA 92101

District Attorney
San Mateo County
400 Country Ctr. 3rd Floor
Redwood City, CA 94063

District Attorney
Shasta County
1355 West Street
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District Attorney
Sierra County
100 Courthouse Square
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District Attorney
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Solano County
675 Texas St., Ste 4500
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Stanislaus County
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District Attorney
Sutter County
463 Second Street
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District Attorney
Tehama County
Post Office Box 519
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District Attorney
Trinity County
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Tuolumne County
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District Attorney
Yuba County
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