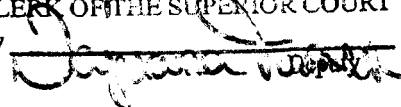


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ENDORSED
 FILED
 ALAMEDA COUNTY

MAY 21 2019

CLERK OF THE SUPERIOR COURT
 By 

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 15 COUNTY OF ALAMEDA

14	CENTER FOR ENVIRONMENTAL HEALTH,)	Case No. RG 18-928947
15)	
	Plaintiff,)	SECOND AMENDED COMPLAINT
16)	FOR INJUNCTIVE RELIEF AND
	v.)	CIVIL PENALTIES
17)	
18	GALLERIA MARKET, LP; DICKINSON)	Health & Safety Code § 25249.6, <i>et seq.</i>
	FROZEN FOODS, INC.; MCCAIN FOODS)	
19	USA, INC.; ALDI INC., DOING BUSINESS IN)	(Other)
	CALIFORNIA AS ALDI FOODS INC.; RITE)	
20	AID CORPORATION; CHEEZWHS.COM,)	
	INC.; TRELLEG, INC.; WORLD'S BEST)	
21	CHEESES WEST, INC.; and DOES 1 through)	
	700, inclusive,)	
22)	
	Defendants.)	
23)	

1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on knowledge,
3 hereby makes the following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn
6 individuals in California that they are being exposed to acrylamide, a chemical known to the State
7 of California to cause cancer. Such exposures have occurred, and continue to occur, through the
8 manufacture, distribution, sale, and consumption of three types of food products: (i) fried or
9 baked potato or sweet potato based snack foods (the "Potato or Sweet Potato Snack Products");
10 (ii) hash brown potato products, including but not limited to hash browns, hash brown patties,
11 tater tots, and tater puffs (the "Hash Brown Products"); and (iii) french-fried potatoes (the
12 "French Fry Products"). Potato or Sweet Potato Snack Products, Hash Brown Products, and
13 French Fry Products are collectively referred to herein as "Products." Consumers are exposed to
14 acrylamide when they consume the Products.

15 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et seq.*, it is
16 unlawful for businesses to knowingly and intentionally expose individuals in California to
17 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without
18 providing clear and reasonable warnings to individuals prior to their exposure. Defendants sell
19 the Products into the California marketplace knowing that consumers of the Products, including
20 children, will be exposed to significant quantities of acrylamide.

21 3. Despite the fact that Defendants expose consumers to acrylamide, Defendants
22 provide no warnings whatsoever about the carcinogenic hazards associated with acrylamide
23 exposure. Defendants' conduct thus violates the warning provision of Proposition 65. Health &
24 Safety Code § 25249.6.

25 **PARTIES**

26 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit
27 corporation dedicated to protecting the public from environmental health hazards and toxic
28 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of

1 California. CEH is a “person” within the meaning of Health & Safety Code § 25249.11(a) and
2 brings this enforcement action in the public interest pursuant to Health & Safety Code §
3 25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has
4 prosecuted a large number of Proposition 65 cases in the public interest. These cases have
5 resulted in significant public benefit, including the reformulation of thousands of products to
6 remove toxic chemicals and to make them safer. CEH also provides information to Californians
7 about the health risks associated with exposure to hazardous substances, where manufacturers and
8 other responsible parties fail to do so.

9 5. Defendant DICKINSON FROZEN FOODS, INC. is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. Defendant
11 DICKINSON FROZEN FOODS, INC. manufactures, distributes, and/or sells Hash Brown
12 Products for sale and consumption in California.

13 6. Defendant MCCAIN FOODS USA, INC. is a person in the course of doing
14 business within the meaning of Health & Safety Code § 25249.11. Defendant MCCAIN FOODS
15 USA, INC. manufactures, distributes, and/or sells French Fry Products for sale and consumption
16 in California. CEH’s allegations and claims against Defendant MCCAIN FOODS USA, INC. in
17 this action are limited to French Fry Products sold under private label brands.

18 7. Defendant ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI FOODS
19 INC. is a person in the course of doing business within the meaning of Health & Safety Code §
20 25249.11. Defendant ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI FOODS
21 INC. manufactures, distributes, and/or sells Potato or Sweet Potato Snack Products, Hash Brown
22 Products, and French Fry Products for sale and consumption in California. CEH’s allegations and
23 claims against Defendant ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI FOODS
24 INC. in this action are limited to Potato or Sweet Potato Snack Products sold under the Clancy’s
25 brand, and Hash Brown Products and French Fry Products sold under the Season’s Choice brand.

26 8. Defendant RITE AID CORPORATION is a person in the course of doing business
27 within the meaning of Health & Safety Code § 25249.11. Defendant RITE AID
28 CORPORATION manufactures, distributes, and/or sells Potato or Sweet Potato Snack Products

1 for sale and consumption in California. CEH's allegations and claims against Defendant RITE
2 AID CORPORATION in this action are limited to Potato or Sweet Potato Snack Products sold
3 under the Tyrrell's brand.

4 9. Defendant CHEEZWHE.COM, INC. is a person in the course of doing business
5 within the meaning of Health & Safety Code § 25249.11. Defendant CHEEZWHE.COM, INC.
6 manufactures, distributes, and/or sells Potato or Sweet Potato Snack Products for sale and
7 consumption in California. CEH's allegations and claims against Defendant
8 CHEEZWHE.COM, INC. in this action are limited to Potato or Sweet Potato Snack Products
9 sold by Patatas Fritas Torres S.L.

10 10. Defendant TRELLEG, INC. is a person in the course of doing business within the
11 meaning of Health & Safety Code § 25249.11. Defendant TRELLEG, INC. manufactures,
12 distributes, and/or sells Potato or Sweet Potato Snack Products for sale and consumption in
13 California. CEH's allegations and claims against Defendant TRELLEG, INC. in this action are
14 limited to Potato or Sweet Potato Snack Products sold by Patatas Fritas Torres S.L.

15 11. Defendant WORLD'S BEST CHEESES WEST, INC. is a person in the course of
16 doing business within the meaning of Health & Safety Code § 25249.11. Defendant WORLD'S
17 BEST CHEESES WEST, INC. manufactures, distributes, and/or sells Potato or Sweet Potato
18 Snack Products for sale and consumption in California. CEH's allegations and claims against
19 Defendant WORLD'S BEST CHEESES WEST, INC. in this action are limited to Potato or Sweet
20 Potato Snack Products sold by Patatas Fritas Torres S.L.

21 12. DOES 1 through 100 are each a person in the course of doing business within the
22 meaning of Health & Safety Code § 25249.11. DOES 1 through 100 manufacture, distribute,
23 and/or sell Potato or Sweet Potato Snack Products for sale and consumption in California.
24 Defendant ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI FOODS INC.; RITE
25 AID CORPORATION; CHEEZWHE.COM, INC.; TRELLEG, INC.; WORLD'S BEST
26 CHEESES WEST, INC.; and DOES 1 through 100 are collectively referred to herein as "Potato
27 or Sweet Potato Snack Products Defendants."
28

1 13. DOES 101 through 200 are each a person in the course of doing business within
2 the meaning of Health & Safety Code § 25249.11. DOES 101 through 200 manufacture,
3 distribute, and/or sell Hash Brown Products for sale and consumption in California. Defendants
4 DICKINSON FROZEN FOODS, INC.; ALDI INC., DOING BUSINESS IN CALIFORNIA AS
5 ALDI FOODS INC.; and DOES 101 through 200 are collectively referred to herein as “Hash
6 Brown Products Defendants.”

7 14. DOES 201 through 300 are each a person in the course of doing business within
8 the meaning of Health & Safety Code § 25249.11. DOES 201 through 300 manufacture,
9 distribute, and/or sell French Fry Products for sale and consumption in California. Defendants
10 MCCAIN FOODS USA, INC.; ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI
11 FOODS INC.; and DOES 201 through 300 are collectively referred to herein as “French Fry
12 Products Defendants.”

13 15. DOES 301 through 400 are each a person in the course of doing business within
14 the meaning of Health & Safety Code § 25249.11. DOES 301 through 400 manufacture,
15 distribute, and/or sell both Potato or Sweet Potato Snack Products and Hash Brown Products for
16 sale and consumption in California.

17 16. DOES 401 through 500 are each a person in the course of doing business within
18 the meaning of Health & Safety Code § 25249.11. DOES 401 through 500 manufacture,
19 distribute, and/or sell both Potato or Sweet Potato Snack Products and French Fry Products for
20 sale and consumption in California.

21 17. DOES 501 through 600 are each a person in the course of doing business within
22 the meaning of Health & Safety Code § 25249.11. DOES 501 through 600 manufacture,
23 distribute, and/or sell both Hash Brown Products and French Fry Products for sale and
24 consumption in California.

25 18. DOES 601 through 700 are each a person in the course of doing business within
26 the meaning of Health & Safety Code § 25249.11. DOES 601 through 700 manufacture,
27 distribute, and/or sell Potato or Sweet Potato Snack Products, Hash Brown Products, and French
28 Fry Products for sale and consumption in California.

1 19. The true names of DOES 1 through 700 are either unknown to CEH at this time or
2 the applicable time period before which CEH may file a Proposition 65 action has not run. When
3 their identities are ascertained or the applicable time period before which CEH may file a
4 Proposition 65 action has run, the Complaint shall be amended to reflect their true names.

5 20. The defendants identified in paragraphs 5 through 11 and DOES 1 through 700 are
6 collectively referred to herein as “Defendants.”

7 **JURISDICTION AND VENUE**

8 21. The Court has jurisdiction over this action pursuant to Health & Safety Code §
9 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
10 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
11 other trial courts.

12 22. This Court has jurisdiction over Defendants because each is a business entity that
13 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
14 avails itself of the California market through the sale, marketing, or use of the Products in
15 California and/or by having such other contacts with California so as to render the exercise of
16 jurisdiction over it by the California courts consistent with traditional notions of fair play and
17 substantial justice.

18 23. Venue is proper in Alameda County Superior Court because one or more of the
19 violations arise in the County of Alameda.

20 **BACKGROUND FACTS**

21 24. The People of the State of California have declared by initiative under Proposition
22 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
23 other reproductive harm.” Proposition 65, § 1(b).

24 25. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals
25 listed by the State of California as known to cause cancer, birth defects, or other reproductive
26 harm above certain levels without a “clear and reasonable warning” unless the business
27 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety
28 Code § 25249.6 states, in pertinent part:

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

5 26. On January 1, 1990, the State of California officially listed acrylamide as a
6 chemical known to cause cancer. On January 1, 1991, one year after it was listed as a chemical
7 known to cause cancer, acrylamide became subject to the clear and reasonable warning
8 requirement regarding carcinogens under Proposition 65. 27 California Code of Regulations
9 (“C.C.R.”) § 27001(b); Health & Safety Code § 25249.10(b). Acrylamide’s listing as a known
10 carcinogen is well supported by numerous scientific studies establishing a link between
11 acrylamide exposure and cancer. *See generally* Beland, F., *et al.*, “Carcinogenicity of acrylamide
12 in B6C3F1 mice and F344/N rats from a 2-year drinking water exposure,” *Food & Chemical*
13 *Toxicology* (2013) Vol 51:149; World Health Organization International Agency for Research
14 on Cancer, *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans* (1994) Vol.
15 60:389; Vogt, R., *et al.*, “Cancer and non-cancer health effects from food contaminant exposures
16 for children and adults in California: a risk assessment,” *Environmental Health* (2012) Vol.
17 11:83.

18 27. Acrylamide is found in cigarette smoke and is produced industrially for use in
19 products such as plastics, grouts, water treatment products, and cosmetics. Acrylamide is also
20 found in certain food products, including the Products at issue. Acrylamide is formed when the
21 Products are cooked at high temperatures. The problem of acrylamide in food products first came
22 to light in 2002 when researchers at the Swedish National Food Agency and Stockholm
23 University reported finding acrylamide in a variety of fried and baked foods. Since then,
24 numerous government reports and academic studies have confirmed the presence of high levels of
25 acrylamide in certain foods, including the Products. *See, e.g.*, U.S. Food and Drug
26 Administration (“FDA”), “Survey Data on Acrylamide in Food: Individual Food Products,”
27 publicly available online at [http://www.fda.gov/Food/FoodborneIllnessContaminants/
28 ChemicalContaminants/ucm053549.htm](http://www.fda.gov/Food/FoodborneIllnessContaminants/ChemicalContaminants/ucm053549.htm) (updated July 2006); FDA, “Survey Data on Acrylamide

1 in Food: Total Diet Study Results,” publicly available online at [http://www.fda.gov/Food/
2 FoodborneIllnessContaminants/ChemicalContaminants/ucm053566.htm](http://www.fda.gov/Food/FoodborneIllnessContaminants/ChemicalContaminants/ucm053566.htm) (updated October 2006).

3 28. Defendants’ Products contain sufficient quantities of acrylamide such that
4 consumers who eat the Products are thereby exposed to acrylamide. The route of exposure for the
5 violations is direct ingestion when consumers eat the Products. These exposures occur in homes,
6 schools, workplaces, and everywhere else throughout California where the Products are
7 consumed.

8 29. No clear and reasonable warning is provided with the Products regarding the
9 carcinogenic hazards of acrylamide.

10 30. Any person acting in the public interest has standing to enforce violations of
11 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
12 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
13 within such time. Health & Safety Code § 25249.7(d).

14 31. More than sixty days prior to naming each Defendant in this lawsuit, CEH
15 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General, to
16 the District Attorneys of every county in California, to the City Attorneys of every California city
17 with a population greater than 750,000, and to each of the named Defendants. In compliance with
18 Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the
19 following information: (1) the name and address of each violator; (2) the statute violated; (3) the
20 time period during which violations occurred; (4) specific descriptions of the violations, including
21 (a) the routes of exposure to acrylamide from the Products, and (b) the specific type of Products
22 sold and used in violation of Proposition 65; and (5) the name of the specific Proposition 65-listed
23 chemical that is the subject of the violations described in each Notice.

24 32. CEH also sent a Certificate of Merit for each Notice to the California Attorney
25 General, to the District Attorneys of every county in California, to the City Attorneys of every
26 California city with a population greater than 750,000, and to each of the named Defendants. In
27 compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each Certificate
28 certified that CEH’s counsel: (1) has consulted with one or more persons with relevant and

1 appropriate experience or expertise who reviewed facts, studies, or other data regarding the
2 exposures to acrylamide alleged in each Notice; and (2) based on the information obtained
3 through such consultations, believes that there is a reasonable and meritorious case for a citizen
4 enforcement action based on the facts alleged in each Notice. In compliance with Health &
5 Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served on the Attorney General
6 included factual information – provided on a confidential basis – sufficient to establish the basis
7 for the Certificate, including the identity of the person(s) consulted by CEH’s counsel and the
8 facts, studies, or other data reviewed by such persons.

9 33. None of the public prosecutors with the authority to prosecute violations of
10 Proposition 65 has commenced and/or is diligently prosecuting a cause of action against
11 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each
12 of CEH’s Notices.

13 34. Defendants both know and intend that individuals will consume the Products, thus
14 exposing them to acrylamide.

15 35. Under Proposition 65, an exposure is “knowing” where the party responsible for
16 such exposure has:

17 knowledge of the fact that a[n] . . . exposure to a chemical listed pursuant
18 to [Health & Safety Code § 25249.8(a)] is occurring. No knowledge that
the . . . exposure is unlawful is required.

19 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
20 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
21 § 12601).

22 36. As companies that manufacture, import, distribute, and/or sell the Products for use
23 in the California marketplace, Defendants know or should know that the Products contain
24 acrylamide and that individuals who consume the Products will be exposed to acrylamide. The
25 acrylamide exposures to consumers who eat the Products are a natural and foreseeable
26 consequence of Defendants’ placing the Products into the stream of commerce.

27 37. Defendants have also been informed of the acrylamide in their Products by the 60-
28 Day Notice of Violation and accompanying Certificate of Merit served on them by CEH.

1 38. Defendants also have constructive knowledge that their Products contain
2 acrylamide due to the widespread media coverage concerning the problem of acrylamide in food
3 products in general, and due to published data confirming the presence of high levels of
4 acrylamide in the Products in particular.

5 39. Defendant ALDI INC., DOING BUSINESS IN CALIFORNIA AS ALDI FOODS
6 INC. also should reasonably have known about the presence of acrylamide in Hash Brown
7 Products and French Fry Products sold under the Season's Choice brand from receiving an earlier
8 CEH Proposition 65 Notice of Violation in June 2018 regarding acrylamide in Potato or Sweet
9 Potato Snack Products sold by other entities.

10 40. Nevertheless, Defendants continue to expose consumers to acrylamide without
11 prior clear and reasonable warnings regarding the carcinogenic hazards of acrylamide.

12 41. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
13 filing this Complaint.

14 42. Any person "violating or threatening to violate" Proposition 65 may be enjoined in
15 any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is
16 defined to mean "to create a condition in which there is a substantial probability that a violation
17 will occur." Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not
18 to exceed \$2,500 per day for each violation of Proposition 65.

19 **FIRST CAUSE OF ACTION**
20 **(Violations of Health & Safety Code § 25249.6)**
21 **(Against Potato or Sweet Potato Snack Products Defendants)**

22 43. CEH realleges and incorporates by reference as if specifically set forth herein
23 Paragraphs 1 through 42, inclusive.

24 44. By placing the Potato or Sweet Potato Snack Products into the stream of
25 commerce, Potato or Sweet Potato Snack Products Defendants are each a person in the course of
26 doing business within the meaning of Health & Safety Code § 25249.11.

27 45. Acrylamide is a chemical listed by the State of California as known to cause
28 cancer.

1 46. Each Potato or Sweet Potato Snack Products Defendant knows that average use of
2 the Potato or Sweet Potato Snack Products will expose users of its Potato or Sweet Potato Snack
3 Products to acrylamide. Each Potato or Sweet Potato Snack Products Defendant intends that its
4 Potato or Sweet Potato Snack Products be used in a manner that results in exposures to
5 acrylamide from the Potato or Sweet Potato Snack Products.

6 47. Potato or Sweet Potato Snack Products Defendants have failed, and continue to
7 fail, to provide clear and reasonable warnings regarding the carcinogenicity of acrylamide to
8 users of the Potato or Sweet Potato Snack Products.

9 48. By committing the acts alleged above, Potato or Sweet Potato Snack Products
10 Defendants have at all times relevant to this Complaint violated Proposition 65 by knowingly and
11 intentionally exposing individuals to acrylamide without first giving clear and reasonable
12 warnings to such individuals regarding the carcinogenicity of acrylamide.

13 Wherefore, CEH prays for judgment against Potato or Sweet Potato Snack
14 Products Defendants, as set forth hereafter.

15 **SECOND CAUSE OF ACTION**
16 **(Violations of Health & Safety Code § 25249.6)**
17 **(Against Hash Brown Products Defendants)**

18 49. CEH realleges and incorporates by reference as if specifically set forth herein
19 Paragraphs 1 through 48, inclusive.

20 50. By placing the Hash Brown Products into the stream of commerce, Hash Brown
21 Products Defendants are each a person in the course of doing business within the meaning of
22 Health & Safety Code § 25249.11.

23 51. Acrylamide is a chemical listed by the State of California as known to cause
24 cancer.

25 52. Each Hash Brown Products Defendant knows that average use of the Hash Brown
26 Products will expose users of its Hash Brown Products to acrylamide. Each Hash Brown
27 Products Defendant intends that its Hash Brown Products be used in a manner that results in
28 exposures to acrylamide from the Hash Brown Products.

1 53. Hash Brown Products Defendants have failed, and continue to fail, to provide clear
2 and reasonable warnings regarding the carcinogenicity of acrylamide to users of the Hash Brown
3 Products.

4 54. By committing the acts alleged above, Hash Brown Products Defendants have at
5 all times relevant to this Complaint violated Proposition 65 by knowingly and intentionally
6 exposing individuals to acrylamide without first giving clear and reasonable warnings to such
7 individuals regarding the carcinogenicity of acrylamide.

8 Wherefore, CEH prays for judgment against Hash Brown Products Defendants, as
9 set forth hereafter.

10 **THIRD CAUSE OF ACTION**
11 **(Violations of Health & Safety Code § 25249.6)**
12 **(Against French Fry Products Defendants)**

13 55. CEH realleges and incorporates by reference as if specifically set forth herein
14 Paragraphs 1 through 54, inclusive.

15 56. By placing the French Fry Products into the stream of commerce, French Fry
16 Products Defendants are each a person in the course of doing business within the meaning of
17 Health & Safety Code § 25249.11.

18 57. Acrylamide is a chemical listed by the State of California as known to cause
19 cancer.

20 58. Each French Fry Products Defendant knows that average use of the French Fry
21 Products will expose users of its French Fry Products to acrylamide. Each French Fry Products
22 Defendant intends that its French Fry Products be used in a manner that results in exposures to
23 acrylamide from the French Fry Products.

24 59. French Fry Products Defendants have failed, and continue to fail, to provide clear
25 and reasonable warnings regarding the carcinogenicity of acrylamide to users of the French Fry
26 Products.

27 60. By committing the acts alleged above, French Fry Products Defendants have at all
28 times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing

1 individuals to acrylamide without first giving clear and reasonable warnings to such individuals
2 regarding the carcinogenicity of acrylamide.

3 Wherefore, CEH prays for judgment against French Fry Products Defendants, as
4 set forth hereafter.

5 **PRAYER FOR RELIEF**

6 Wherefore, CEH prays for judgment against Defendants as follows:

7 1. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and
8 permanently enjoin Defendants from offering Products for sale in California without providing
9 prior clear and reasonable warnings, as CEH shall specify in further application to the Court;

10 2. That the Court, pursuant to Health & Safety Code § 25249.7(a), order Defendants
11 to take action to stop ongoing unwarned exposures to acrylamide resulting from use of Products
12 sold by Defendants, as CEH shall specify in further application to the Court;

13 3. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess civil
14 penalties against each of the Defendants in the amount of \$2,500 per day for each violation of
15 Proposition 65 according to proof;

16 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other
17 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

18 5. That the Court grant such other and further relief as may be just and proper.

19
20 Dated: May 21, 2019

Respectfully submitted,

21 LEXINGTON LAW GROUP

22 

23
24 _____
25 Joseph Mann
26 Attorneys for Plaintiff
27 CENTER FOR ENVIRONMENTAL HEALTH
28