

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroushalmi.com

3 **YEROUSHALMI & YEROUSHALMI***

9100 Wilshire Boulevard, Suite 240W

3 Beverly Hills, California 90212

4 Telephone: (310) 623-1926

4 Facsimile: (310) 623-1930

5 Attorneys for Plaintiff,

6 CONSUMER ADVOCACY GROUP, INC.

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF LOS ANGELES**

10
11 CONSUMER ADVOCACY GROUP, INC.,
12 in the public interest,

13 Plaintiff,

14 v.

15 ASIAN FINE FOODS DBA HOCEAN, a
16 California Corporation;
17 BOLSABUY, INC., a California
18 Corporation;
19 AA MARKET PLACE, LLC, a California
20 Limited Liability Company;
21 and DOES 1-40,

22 Defendants.

CASE NO. **22STCV08903**

COMPLAINT FOR PENALTY AND
INJUNCTION

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

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

24 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action
25 against defendants ASIAN FINE FOODS DBA HOCEAN; BOLSABUY, INC.; AA MARKET
26 PLACE, LLC., and DOES 1-40 as follows:

27 **THE PARTIES**

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant ASIAN FINE FOODS DBA HOCEAN (“HOCEAN”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant BOLSABUY, INC. (“BOLSABUY”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Defendant AA MARKET PLACE, LLC (“AA MARKET”) is a Limited Liability Company, qualified to do business in California, and doing business in the State of California at all relevant times herein.
5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
6. At all times mentioned herein, the term “Defendants” includes HOCEAN, BOLSABUY, AA MARKET, and DOES 1-40.
7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
8. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the

1 Defendants was acting within the course and scope of this agency, service, or
2 employment, and was acting with the consent, permission, and authorization of each of
3 the other Defendants. All actions of each of the Defendants alleged in this Complaint
4 were ratified and approved by every other Defendant or their officers or managing
5 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
6 alleged wrongful conduct of each of the other Defendants.

- 7 9. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
8 Defendants was a person doing business within the meaning of Health and Safety Code
9 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
10 employees at all relevant times.

11 **JURISDICTION**

- 12 10. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
13 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
14 those given by statute to other trial courts. This Court has jurisdiction over this action
15 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
16 violations of Proposition 65 in any Court of competent jurisdiction.
- 17 11. This Court has jurisdiction over Defendants named herein because Defendants either
18 reside or are located in this State or are foreign corporations authorized to do business in
19 California, are registered with the California Secretary of State, or who do sufficient
20 business in California, have sufficient minimum contacts with California, or otherwise
21 intentionally avail themselves of the markets within California through their
22 manufacture, distribution, promotion, marketing, or sale of their products within
23 California to render the exercise of jurisdiction by the California courts permissible
24 under traditional notions of fair play and substantial justice.
- 25 12. Venue is proper in the County of Los Angeles because one or more of the instances of
26 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
27
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1 because Defendants conducted, and continue to conduct, business in the County of Los
2 Angeles with respect to the consumer product that is the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 13. In 1986, California voters approved an initiative to address growing concerns about
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
10 from contamination, to allow consumers to make informed choices about the products
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see
12 fit.

13 14. Proposition 65 requires the Governor of California to publish a list of chemicals known
14 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
15 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
16 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
17 other controls that apply to Proposition 65-listed chemicals.

18 15. All businesses with ten (10) or more employees that operate or sell products in California
19 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
20 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
21 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
22 reasonable” warnings before exposing a person, knowingly and intentionally, to a
23 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

24 16. Proposition 65 provides that any person “violating or threatening to violate” the statute
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
26 25249.7. “Threaten to violate” means “to create a condition in which there is a
27 substantial probability that a violation will occur.” *Health & Safety Code* § 25249.11(e).

Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation, recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

17. Plaintiff identified certain practices of manufacturers and distributors of Dried Seaweed Slices, Dried Seafood, and Fish Sauce of exposing, knowingly and intentionally, persons in California to Lead and Lead Compounds, Cadmium and Cadmium Compounds, Inorganic Arsenic Compounds, and/or Inorganic Arsenic Oxides of such products without first providing clear and reasonable warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

18. On October 1, 1992 the Governor of California added Lead and Lead Compounds (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to cause cancer, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.

19. On February 27, 1987, the Governor of California added Lead to the list of chemicals known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to cause developmental and reproductive toxicity, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.

20. On October 1, 1987 the Governor of California added Cadmium and Cadmium Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of

chemicals known to the State to cause cancer, Cadmium became fully subject to Proposition 65 warning requirements and discharge prohibitions.

21. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known to the State to cause developmental and reproductive toxicity, Cadmium became fully subject to Proposition 65 warning requirements and discharge prohibitions.
22. On May 1, 1997, the Governor of California added Inorganic Arsenic to the list of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Inorganic Arsenic is known to the State to cause developmental, toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to the State to cause developmental toxicity, Inorganic Arsenic became fully subject to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic is hereinafter referred to as “Arsenic”.

SATISFACTION OF PRIOR NOTICE

23. Plaintiff served the following notices for alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures:

- a. On or about January 7, 2020, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to HOCEAN, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Dried Seaweed Slices.

1 b. On or about March 11, 2021, Plaintiff gave notice of alleged violations of
2 Health and Safety Code Section 25249.6, concerning consumer products
3 exposures subject to a private action to HOCEAN, BOLSABUY, and to the
4 California Attorney General, County District Attorneys, and City Attorneys for
5 each city containing a population of at least 750,000 people in whose
6 jurisdictions the violations allegedly occurred, concerning the Dried Anchovy
7 and Shrimp.

8 c. On or about October 29, 2021, Plaintiff gave notice of alleged violations of
9 Health and Safety Code Section 25249.6, concerning consumer products
10 exposures subject to a private action to HOCEAN, AA MARKET, and to the
11 California Attorney General, County District Attorneys, and City Attorneys for
12 each city containing a population of at least 750,000 people in whose
13 jurisdictions the violations allegedly occurred, concerning the Fish Sauce.

14 24. Before sending the notice of alleged violations, Plaintiff investigated the consumer
15 products involved, the likelihood that such products would cause users to suffer
16 significant exposures to Lead, Cadmium, and Inorganic Arsenic, and the corporate
17 structure of each of the Defendants.

18 25. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
19 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
20 Plaintiff who executed the certificate had consulted with at least one person with relevant
21 and appropriate expertise who reviewed data regarding the exposures to Lead, Cadmium,
22 and Inorganic Arsenic, the subject Proposition 65-listed chemical of this action. Based
23 on that information, the attorney for Plaintiff who executed the Certificate of Merit
24 believed there was a reasonable and meritorious case for this private action. The
25 attorney for Plaintiff attached to the Certificate of Merit served on the Attorney General
26 the confidential factual information sufficient to establish the basis of the Certificate of
27 Merit.

1 26. Plaintiff's notice of alleged violations also included a Certificate of Service and a
2 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
3 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

4 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
5 gave notice of the alleged violations to HOCEAN, BOLSABUY, AA MARKET, and the
6 public prosecutors referenced in Paragraph 23.

7 28. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
8 any applicable district attorney or city attorney has commenced and is diligently
9 prosecuting an action against the Defendants.

10 **FIRST CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against HOCEAN, and DOES**
12 **1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
13 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Seaweed**

15 29. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
16 as though fully set forth herein.

17 30. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Dried Seaweed Slices ("Seaweed"), including but not
19 limited to "SELECTED PRODUCT;" "DRIED SEAWEED SLICE;" "NET WT.:
20 7oz(200g);" "PRODUCT OF HONGKONG;" "DISTRIBUTED BY: H I L A. CA
21 90040;" "0 45027 10125 5;"

22 31. Seaweed contains Lead and Inorganic Arsenic.

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

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

8 34. Plaintiff is informed, believes, and thereon alleges that between January 7, 2017 and the
9 present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as
11 mentioned above, to Lead and Inorganic Arsenic, without first providing any type of
12 clear and reasonable warning of such to the exposed persons before the time of exposure.
13 Defendants have distributed and sold Seaweed in California. Defendants know and
14 intend that California consumers will use and consume Seaweed, thereby exposing them
15 to Lead and Inorganic Arsenic. Further, Plaintiff is informed, believes, and thereon
16 alleges that Defendants are selling Product under a brand or trademark that is owned or
17 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
18 relevant chemical into product or knowingly caused relevant chemical to be created in
19 Product; have covered, obscured or altered a warning label that has been affixed to
20 Product by the manufacturer, producer, packager, importer, supplier or distributor of
21 Product; have received a notice and warning materials for exposure from Product
22 without conspicuously posting or displaying the warning materials; and/or have actual
23 knowledge of potential exposure to relevant chemical from Product. Defendants thereby
24 violated Proposition 65.

25 35. The principal routes of exposure are through dermal contact, ingestion and inhalation.
26 Persons sustain exposures by handling Seaweed without wearing gloves or any other
27 personal protective equipment, or by touching bare skin or mucous membranes with
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gloves after handling Seaweed, as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed from Seaweed.

36. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Seaweed have been ongoing and continuous, as Defendants engaged and continue to engage in conduct which violates Health and Safety Code Section 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead and Inorganic Arsenic by Seaweed as mentioned herein.

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

38. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to Lead and Inorganic Arsenic from Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

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

SECOND CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against HOCEAN, BOLSABUY, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Dried Seafood

40. Plaintiff repeats and incorporates by reference paragraphs 1 through 39 of this complaint as though fully set forth herein.

41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Anchovy ("Dried Seafood"), including but not

1 limited to "Dried Anchovy"; "Net Wt: 3 oz (85g)"; "UPC 0 45027 80521 4"; "Product of
2 Malaysia".

3 42. Dried Seafood contains Lead and Cadmium.

4 43. Defendants knew or should have known that Lead and Cadmium has been identified by
5 the State of California as a chemical known to cause cancer, and reproductive toxicity
6 and therefore was subject to Proposition 65 warning requirements. Defendants were also
7 informed of the presence of Lead and Cadmium in Dried Seafood within Plaintiff's
8 notice of alleged violations further discussed above at Paragraph 23b.

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

16 45. Plaintiff is informed, believes, and thereon alleges that between March 11, 2018 and the
17 present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Dried Seafood, which Defendants manufactured, distributed, or
19 sold as mentioned above, to Lead and Cadmium, without first providing any type of clear
20 and reasonable warning of such to the exposed persons before the time of exposure.
21 Defendants have distributed and sold Dried Seafood in California. Defendants know and
22 intend that California consumers will use and consume Dried Seafood, thereby exposing
23 them to Lead and Cadmium. Further, Plaintiff is
24 informed, believes, and thereon alleges that Defendants are selling Product under a brand
25 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
26 have knowingly introduced relevant chemical into product or knowingly caused relevant
27 chemical to be created in Product; have covered, obscured or altered a warning label that
28

1 has been affixed to Product by the manufacturer, producer, packager, importer, supplier
2 or distributor of Product; have received a notice and warning materials for exposure from
3 Product without conspicuously posting or displaying the warning materials; and/or have
4 actual knowledge of potential exposure to relevant chemical from Product. Defendants
5 thereby violated Proposition 65.

6 46. The principal routes of exposure are through dermal contact, ingestion and inhalation.

7 Persons sustain exposures by handling Dried Seafood without wearing gloves or any
8 other personal protective equipment, or by touching bare skin or mucous membranes
9 with gloves after handling Dried Seafood, as well as through direct and indirect hand to
10 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
11 from Dried Seafood.

12 47. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Dried Seafood have been ongoing and continuous, as Defendants
14 engaged and continue to engage in conduct which violates Health and Safety Code
15 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried
16 Seafood, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to Lead and Cadmium by Dried Seafood as mentioned
18 herein.

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

22 49. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Seafood,
24 pursuant to Health and Safety Code Section 25249.7(b).

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

1 **THIRD CAUSE OF ACTION**

2 (By CONSUMER ADVOCACY GROUP, INC. and against HOCEAN,
3 BOLSABUY, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking
4 Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et*
5 *seq.*))

6 **Dried Seafood**

7 51. Plaintiff repeats and incorporates by reference paragraphs 1 through 50 of this complaint
8 as though fully set forth herein.

9 52. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Dried Shrimp ("Dried Seafood"), including but not
11 limited to "Dried Shrimp"; "Keep Frozen"; "Skin 85157"; "Special Selected Quality Net
12 Wt: 3oz (85g)"; "UPC 0 45027 12110 9"; "Product of Malaysia"; and "Best Quality
13 Dried Shrimp"; "Net Wt: 3oz (85 GRS)"; "UPC 0 45027 16803 6 "Product of Taiwan".

14 53. Dried Seafood contains Lead.

15 54. Defendants knew or should have known that Lead has been identified by the State of
16 California as a chemical known to cause cancer, and reproductive toxicity and therefore
17 was subject to Proposition 65 warning requirements. Defendants were also informed of
18 the presence of Lead in Dried Seafood within Plaintiff's notice of alleged violations
19 further discussed above at Paragraph 23b.

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

26 56. Plaintiff is informed, believes, and thereon alleges that between March 11, 2018 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Dried Seafood, which Defendants manufactured, distributed, or
sold as mentioned above, to Lead, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.
2 Defendants have distributed and sold Dried Seafood in California. Defendants know and
3 intend that California consumers will use and consume Dried Seafood, thereby exposing
4 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
5 Defendants are selling Product under a brand or trademark that is owned or licensed by
6 the Defendants or an entity affiliated thereto; have knowingly introduced relevant
7 chemical into product or knowingly caused relevant chemical to be created in Product;
8 have covered, obscured or altered a warning label that has been affixed to Product by the
9 manufacturer, producer, packager, importer, supplier or distributor of Product; have
10 received a notice and warning materials for exposure from Product without
11 conspicuously posting or displaying the warning materials; and/or have actual
12 knowledge of potential exposure to relevant chemical from Product. Defendants thereby
13 violated Proposition 65.

14 57. The principal routes of exposure are through dermal contact, ingestion and inhalation.

15 Persons sustain exposures by handling Dried Seafood without wearing gloves or any
16 other personal protective equipment, or by touching bare skin or mucous membranes
17 with gloves after handling Dried Seafood, as well as through direct and indirect hand to
18 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
19 from Dried Seafood.

20 58. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Dried Seafood have been ongoing and continuous, as Defendants
22 engaged and continue to engage in conduct which violates Health and Safety Code
23 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried
24 Seafood, so that a separate and distinct violation of Proposition 65 occurred each and
25 every time a person was exposed to Lead by Dried Seafood as mentioned herein.
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1 59. 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 60. 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 Dried Seafood, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

9
10 **FOURTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against HOCEAN, AA**
12 **MARKET, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
13 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
14 ***seq.*))**

15 **Condiment**

16 62. Plaintiff repeats and incorporates by reference paragraphs 1 through 61 of this complaint
17 as though fully set forth herein.

18 63. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Fish Sauce ("Fish Sauce"), including but not limited
20 to "Fish Sauce"; "Mam Ca Sac Con"; "Net Wt. 16 oz (454g)"; "UPC 9 45027 84841 2";
21 "Product of Vietnam".

22 64. Fish Sauce contains Lead.

23 65. 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 reproductive toxicity and therefore
25 was subject to Proposition 65 warning requirements. Defendants were also informed of
26 the presence of Lead in Fish Sauce within Plaintiff's notice of alleged violations further
27 discussed above at Paragraph 23c.

28 66. Plaintiff's allegations regarding Fish Sauce concerns "[c]onsumer products exposure[s],"
which "is an exposure that results from a person's acquisition, purchase, storage,

1 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
2 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).

3 Fish Sauce is consumer products, and, as mentioned herein, exposures to Lead took place
4 as a result of such normal and foreseeable consumption and use.

5 67. Plaintiff is informed, believes, and thereon alleges that between October 29, 2018 and
6 the present, each of the Defendants knowingly and intentionally exposed California
7 consumers and users of Fish Sauce, which Defendants manufactured, distributed, or sold
8 as mentioned above, to Lead, without first providing any type of clear and reasonable
9 warning of such to the exposed persons before the time of exposure. Defendants have
10 distributed and sold Fish Sauce in California. Defendants know and intend that
11 California consumers will use and consume Fish Sauce, thereby exposing them to Lead.
12 Further, Plaintiff is
13 informed, believes, and thereon alleges that Defendants are selling Product under a brand
14 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
15 have knowingly introduced relevant chemical into product or knowingly caused relevant
16 chemical to be created in Product; have covered, obscured or altered a warning label that
17 has been affixed to Product by the manufacturer, producer, packager, importer, supplier
18 or distributor of Product; have received a notice and warning materials for exposure from
19 Product without conspicuously posting or displaying the warning materials; and/or have
20 actual knowledge of potential exposure to relevant chemical from Product. Defendants
21 thereby violated Proposition 65.

22 68. The principal routes of exposure are through dermal contact, ingestion and inhalation.
23 Persons sustain exposures by handling Fish Sauce without wearing gloves or any other
24 personal protective equipment, or by touching bare skin or mucous membranes with
25 gloves after handling Fish Sauce, as well as through direct and indirect hand to mouth
26 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
27 Fish Sauce.

1 69. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Fish Sauce have been ongoing and continuous, as Defendants
3 engaged and continue to engage in conduct which violates Health and Safety Code
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Fish
5 Sauce, so that a separate and distinct violation of Proposition 65 occurred each and every
6 time a person was exposed to Lead by Fish Sauce as mentioned herein.

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

10 71. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Lead from Fish Sauce, pursuant to Health
12 and Safety Code Section 25249.7(b).

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

15
16 **PRAYER FOR RELIEF**

17 Plaintiff demands against each of the Defendants as follows:

18 73. A permanent injunction mandating Proposition 65-compliant warnings;

19 74. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

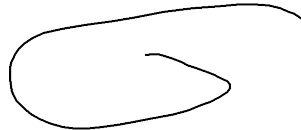
20 75. Costs of suit;

21 76. Reasonable attorney fees and costs; and

22 77. Any further relief that the court may deem just and equitable.

23 Dated: March 11, 2022

YEROUSHALMI & YEROUSHALMI*

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26 _____
27 Reuben Yeroushalmi
28 Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.