

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mel Red Recana

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroshalmi.com

3 **YEROUSHALMI & YEROUSHALMI***

4 9100 Wilshire Boulevard, Suite 240W

5 Beverly Hills, California 90212

6 Telephone: (310) 623-1926

7 Facsimile: (310) 623-1930

8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

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

14 Plaintiff,

15 v.

16 JANS ENTERPRISES CORPORATION, a

17 California Corporation;

18 AMAZON TECHNOLOGIES, INC., a

19 Nevada Corporation;

20 BOLSABUY, INC., a California

21 Corporation;

22 EL MONTE SUPERSTORE, INC., a

23 California Corporation;

24 and DOES 1-60,

25 Defendants.

CASE NO. **22STCV08856**

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)

26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges six causes of action against
27 defendants JANS ENTERPRISES CORPORATION; AMAZON TECHNOLOGIES, INC.;
28 BOLSABUY, INC.; EL MONTE SUPERSTORE, INC., and DOES 1-60 as follows:

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 JANS ENTERPRISES CORPORATION (“JANS”) 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 AMAZON TECHNOLOGIES, INC. (“AMAZON TECH”) is a Nevada Corporation, qualified to do business in Nevada, and doing business in the State of California at all relevant times herein.
4. 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.
5. Defendant EL MONTE SUPERSTORE, INC. (“EL MONTE”) is a is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
6. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60, 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.
7. At all times mentioned herein, the term “Defendants” includes JANS, AMAZON TECH, BOLSABUY, EL MONTE, and DOES 1-60.

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

3 9. Upon information and belief, at all times relevant to this action, each of the Defendants,
4 including DOES 1-60, was an agent, servant, or employee of each of the other
5 Defendants. In conducting the activities alleged in this Complaint, each of the
6 Defendants was acting within the course and scope of this agency, service, or
7 employment, and was acting with the consent, permission, and authorization of each of
8 the other Defendants. All actions of each of the Defendants alleged in this Complaint
9 were ratified and approved by every other Defendant or their officers or managing
10 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
11 alleged wrongful conduct of each of the other Defendants.

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

16 **JURISDICTION**

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

22 12. This Court has jurisdiction over Defendants named herein because Defendants either
23 reside or are located in this State or are foreign corporations authorized to do business in
24 California, are registered with the California Secretary of State, or who do sufficient
25 business in California, have sufficient minimum contacts with California, or otherwise
26 intentionally avail themselves of the markets within California through their
27 manufacture, distribution, promotion, marketing, or sale of their products within
28

1 California to render the exercise of jurisdiction by the California courts permissible
2 under traditional notions of fair play and substantial justice.

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

7 **BACKGROUND AND PRELIMINARY FACTS**

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

17 15. Proposition 65 requires the Governor of California to publish a list of chemicals known
18 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
19 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
20 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
21 other controls that apply to Proposition 65-listed chemicals.

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

28

1 17. Proposition 65 provides that any person "violating or threatening to violate" the statute
2 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
3 25249.7. "Threaten to violate" means "to create a condition in which there is a
4 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
5 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
6 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

7 18. Plaintiff identified certain practices of manufacturers and distributors of Cassava Celery
8 Chips, and Salted Cotton Fish of exposing, knowingly and intentionally, persons in
9 California to Lead and Lead Compounds of such products without first providing clear
10 and reasonable warnings of such to the exposed persons prior to the time of exposure.
11 Plaintiff later discerned that Defendants engaged in such practice.

12 19. On October 1, 1992 the Governor of California added Lead and Lead Compounds
13 ("Lead") to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
14 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
15 twenty (20) months after addition of Lead to the list of chemicals known to the State to
16 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
17 discharge prohibitions.

18 **SATISFACTION OF PRIOR NOTICE**

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

- 21 a. On or about February 10, 2020, Plaintiff gave notice of alleged violations of
22 Health and Safety Code Section 25249.6, concerning consumer products
23 exposures subject to a private action to JANS, and to the California Attorney
24 General, County District Attorneys, and City Attorneys for each city containing
25 a population of at least 750,000 people in whose jurisdictions the violations
26 allegedly occurred, concerning the Cassava Celery Chips.

- 1 b. On or about November 5, 2020, 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 JANS, AMAZON TECH, 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 Cassava Chips.
- 7 c. On or about March 11, 2021, Plaintiff gave notice of alleged violations of
8 Health and Safety Code Section 25249.6, concerning consumer products
9 exposures subject to a private action to JANS, AMAZON TECH, and to the
10 California Attorney General, County District Attorneys, and City Attorneys for
11 each city containing a population of at least 750,000 people in whose
12 jurisdictions the violations allegedly occurred, concerning the Cassava Chips.
- 13 d. On or about March 24, 2021, Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to JANS, AMAZON TECH, and to the
16 California Attorney General, County District Attorneys, and City Attorneys for
17 each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Cassava Chips.
- 19 e. On or about June 16, 2021, Plaintiff gave notice of alleged violations of Health
20 and Safety Code Section 25249.6, concerning consumer products exposures
21 subject to a private action to JANS, BOLSABUY, and to the California Attorney
22 General, County District Attorneys, and City Attorneys for each city containing
23 a population of at least 750,000 people in whose jurisdictions the violations
24 allegedly occurred, concerning the Cassava Chips.
- 25 f. On or about November 19, 2021, Plaintiff gave notice of alleged violations of
26 Health and Safety Code Section 25249.6, concerning consumer products
27 exposures subject to a private action to JANS, EL MONTE, and to the
28

1 California Attorney General, County District Attorneys, and City Attorneys for
2 each city containing a population of at least 750,000 people in whose
3 jurisdictions the violations allegedly occurred, concerning the Salted Cotton
4 Fish.

5 21. Before sending the notice of alleged violations, Plaintiff investigated the consumer
6 products involved, the likelihood that such products would cause users to suffer
7 significant exposures to Lead, and the corporate structure of each of the Defendants.

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

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

20 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
21 gave notice of the alleged violations to JANS, AMAZON TECH, BOLSABUY, EL
22 MONTE, and the public prosecutors referenced in Paragraph 20.

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

1 **FIRST CAUSE OF ACTION**

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

5 **Chips 1**

6 26. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
7 as though fully set forth herein.

8 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Cassava Celery Chips (“Cassava Chips”), identified
10 as “Jans ®”; “Cassava Chips Celery”; “Unbelievably Delicious!”; “Known as Yuca
11 Root”; “Net Wt. 3.52 oz (100g)”; “packed for: Jans Enterprises Corp”;
12 www.jansfood.com; “8 38452 00581 2”; “Product of Indonesia”; “UPC 8 38452 00581
13 2”.

14 28. Cassava Chips contains Lead.

15 29. 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 therefore was subject to Proposition
17 65 warning requirements. Defendants were also informed of the presence of Lead in
18 Cassava Chips within Plaintiff’s notice of alleged violations further discussed above at
19 Paragraph 29a.

20 30. Plaintiff’s allegations regarding Cassava Chips 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)*. Cassava Chips 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 31. Plaintiff is informed, believes, and thereon alleges that between February 10, 2017 and
27 the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Cassava Chips, which Defendants manufactured, distributed, or

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

15 32. The principal routes of exposure are through dermal contact, ingestion and inhalation.

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

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

1 34. 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 35. 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 Cassava Chips, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

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10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against JANS, AMAZON**
12 **TECH, and DOES 11-20 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 **Chips 2**

16 37. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
17 as though fully set forth herein.

18 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Cassava Chips (“Chips”), identified as “Jans ®
20 Cassava Chips Celery”; “Unbelievably Delicious! Known as Yucca Root”; “Net Wt. 3.52
21 oz (100g)”; “UPC 8 38452 00581 2”; “Product of Indonesia”.

22 39. Chips contains Lead.

23 40. 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 therefore was subject to Proposition
25 65 warning requirements. Defendants were also informed of the presence of Lead in
26 Chips within Plaintiff’s notice of alleged violations further discussed above at Paragraph
27 29b.

28 41. Plaintiff’s allegations regarding Chips 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 Chips are consumer products, and, as mentioned herein, exposures to Lead took place as
4 a result of such normal and foreseeable consumption and use.

5 42. Plaintiff is informed, believes, and thereon alleges that between November 5, 2017 and
6 the present, each of the Defendants knowingly and intentionally exposed California
7 consumers and users of Chips, which Defendants manufactured, distributed, or sold as
8 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 Chips in California. Defendants know and intend that California
11 consumers will use and consume Chips, thereby exposing them to Lead. Further,
12 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 43. The principal routes of exposure are through dermal contact, ingestion and inhalation.
23 Persons sustain exposures by handling Chips without wearing gloves or any other
24 personal protective equipment, or by touching bare skin or mucous membranes with
25 gloves after handling Chips, as well as through direct and indirect hand to mouth contact,
26 hand to mucous membrane, or breathing in particulate matter dispersed from Chips.

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

7 45. 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 46. 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 Chips, pursuant to Health and
12 Safety Code Section 25249.7(b).

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

15 **THIRD CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against JANS, AMAZON**
17 **TECH, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking**
18 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
19 ***seq.*))**

20 **Chips 3**

21 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
22 as though fully set forth herein.

23 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Cassava Chips ("Chips"), identified as "Jans ®
25 Cassava Chips Celery"; "Unbelievably Delicious! Known as Yucca Root"; "Net Wt. 3.52
26 oz (100g)"; "UPC 8 38452 00581 2"; "Product of Indonesia".

27 50. Chips contains Lead.

1 51. Defendants knew or should have known that Lead has been identified by the State of
2 California as a chemical known to cause cancer, and therefore was subject to Proposition
3 65 warning requirements. Defendants were also informed of the presence of Lead in
4 Chips within Plaintiff's notice of alleged violations further discussed above at Paragraph
5 29c.

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

12 53. Plaintiff is informed, believes, and thereon alleges that between March 11, 2018 and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Chips, which Defendants manufactured, distributed, or sold as
15 mentioned above, to Lead, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Chips in California. Defendants know and intend that California
18 consumers will use and consume Chips, thereby exposing them to Lead. Further,
19 Plaintiff is

20 informed, believes, and thereon alleges that Defendants are selling Product under a brand
21 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
22 have knowingly introduced relevant chemical into product or knowingly caused relevant
23 chemical to be created in Product; have covered, obscured or altered a warning label that
24 has been affixed to Product by the manufacturer, producer, packager, importer, supplier
25 or distributor of Product; have received a notice and warning materials for exposure from
26 Product without conspicuously posting or displaying the warning materials; and/or have
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1 actual knowledge of potential exposure to relevant chemical from Product. Defendants
2 thereby violated Proposition 65.

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

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

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

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

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

22 **FOURTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against JANS, AMAZON**
24 **TECH, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
25 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
26 ***seq.*))**

27 **Chips 4**

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1 59. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
2 as though fully set forth herein.

3 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Cassava Chips (“Chips”), identified as “Jans ®
5 Cassava Chips Celery”; ‘Unbelievably Delicious! Known as Yucca Root’; “Net Wt. 3.52
6 oz (100g)”; “UPC 8 38452 00582 9”; “Product of Indonesia”.

7 61. Chips contains Lead.

8 62. Defendants knew or should have known that Lead has been identified by the State of
9 California as a chemical known to cause cancer, and therefore was subject to Proposition
10 65 warning requirements. Defendants were also informed of the presence of Lead in
11 Chips within Plaintiff’s notice of alleged violations further discussed above at Paragraph
12 29d.

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

19 64. Plaintiff is informed, believes, and thereon alleges that between March 24, 2018 and the
20 present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of Chips, which Defendants manufactured, distributed, or sold as
22 mentioned above, to Lead, without first providing any type of clear and reasonable
23 warning of such to the exposed persons before the time of exposure. Defendants have
24 distributed and sold Chips in California. Defendants know and intend that California
25 consumers will use and consume Chips, thereby exposing them to Lead. Further,
26 Plaintiff is
27 informed, believes, and thereon alleges that Defendants are selling Product under a brand
28 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;

1 have knowingly introduced relevant chemical into product or knowingly caused relevant
2 chemical to be created in Product; have covered, obscured or altered a warning label that
3 has been affixed to Product by the manufacturer, producer, packager, importer, supplier
4 or distributor of Product; have received a notice and warning materials for exposure from
5 Product without conspicuously posting or displaying the warning materials; and/or have
6 actual knowledge of potential exposure to relevant chemical from Product. Defendants
7 thereby violated Proposition 65.

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

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

19 67. 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 68. 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 from Chips, pursuant to Health and
24 Safety Code Section 25249.7(b).

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

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1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against JANS, BOLSABUY,**
3 **and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and**
4 **Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

4 **Chips 5**

5 70. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
6 as though fully set forth herein.

7 71. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
8 distributor, promoter, or retailer of Cassava Chips (“Chips”), identified as “Jans ®
9 Cassava Chips Celery”; ‘Unbelievably Delicious! Known as Yucca Root’; “Net Wt. 3.52
10 oz (100g)”; “UPC 8 38452 00581 2”; “Product of Indonesia”.

11 72. Chips contains Lead.

12 73. Defendants knew or should have known that Lead has been identified by the State of
13 California as a chemical known to cause cancer, and therefore was subject to Proposition
14 65 warning requirements. Defendants were also informed of the presence of Lead in
15 Chips within Plaintiff’s notice of alleged violations further discussed above at Paragraph
16 29e.

17 74. Plaintiff’s allegations regarding Chips concerns “[c]onsumer products exposure[s],”
18 which “is an exposure that results from a person’s acquisition, purchase, storage,
19 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
20 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
21 Chips are consumer products, and, as mentioned herein, exposures to Lead took place as
22 a result of such normal and foreseeable consumption and use.

23 75. Plaintiff is informed, believes, and thereon alleges that between June 16, 2018 and the
24 present, each of the Defendants knowingly and intentionally exposed California
25 consumers and users of Chips, which Defendants manufactured, distributed, or sold as
26 mentioned above, to Lead, without first providing any type of clear and reasonable
27 warning of such to the exposed persons before the time of exposure. Defendants have
28 distributed and sold Chips in California. Defendants know and intend that California

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

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

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

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

25 79. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to Lead from Chips, pursuant to Health and
27 Safety Code Section 25249.7(b).

28

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

3 **SIXTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against JANS, EL MONTE,**
5 **and DOES 51-60 for Violations of Proposition 65, The Safe Drinking Water and**
6 **Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

7 **Dried Seafood**

8 81. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
9 as though fully set forth herein.

10 82. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Salted Cotton Fish (“Cotton Fish”), identified as
12 “Dried Salted Cotton Fish”; “Net Weight: 5.3 oz (150g)”; “UPC 8 38452 00126 5”.

13 83. Cotton Fish contains Lead.

14 84. Defendants knew or should have known that Lead has been identified by the State of
15 California as a chemical known to cause cancer, and therefore was subject to Proposition
16 65 warning requirements. Defendants were also informed of the presence of Lead in
17 Cotton Fish within Plaintiff’s notice of alleged violations further discussed above at
18 Paragraph 29f.

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

25 86. Plaintiff is informed, believes, and thereon alleges that between November 19, 2018 and
26 the present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Cotton Fish, which Defendants manufactured, distributed, or
28 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 Cotton Fish in California. Defendants know and
3 intend that California consumers will use and consume Cotton Fish, 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 87. The principal routes of exposure are through dermal contact, ingestion and inhalation.
15 Persons sustain exposures by handling Cotton Fish without wearing gloves or any other
16 personal protective equipment, or by touching bare skin or mucous membranes with
17 gloves after handling Cotton Fish, as well as through direct and indirect hand to mouth
18 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
19 Cotton Fish.

20 88. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Cotton Fish 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 Cotton
24 Fish, so that a separate and distinct violation of Proposition 65 occurred each and every
25 time a person was exposed to Lead by Cotton Fish as mentioned herein.
26
27
28

1 89. 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 90. 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 Cotton Fish, pursuant to Health
6 and Safety Code Section 25249.7(b).

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

9
10 **PRAYER FOR RELIEF**

11 Plaintiff demands against each of the Defendants as follows:

12 92. A permanent injunction mandating Proposition 65-compliant warnings;

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

14 94. Costs of suit;

15 95. Reasonable attorney fees and costs; and

16 96. Any further relief that the court may deem just and equitable.

17
18 Dated: March 11, 2022

YEROUSHALMI & YEROUSHALMI*

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21 _____
22 Reuben Yeroushalmi
23 Attorneys for Plaintiff,
24 CONSUMER ADVOCACY GROUP, INC.
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