

1 Reuben Yeroushalmi (SBN 193981)  
reuben@yeroshalmi.com  
2 **YEROUSHALMI & YEROUSHALMI\***  
9100 Wilshire Boulevard, Suite 240W  
3 Beverly Hills, California 90212  
4 Telephone: (310) 623-1926  
Facsimile: (310) 623-1930

5 Attorneys for Plaintiff,  
6 CONSUMER ADVOCACY GROUP, INC.

**FILED**  
Superior Court of California  
County of Los Angeles  
04/01/2021

Sherri R. Carter, Executive Officer / Clerk of Court  
By: E. Garcia Deputy

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF LOS ANGELES**

9  
10 CONSUMER ADVOCACY GROUP, INC.,  
in the public interest,

11 Plaintiff,

12 v.

13  
14 B & V ENTERPRISES, INC. DBA SUPER  
15 KING MARKETS, a California Corporation;  
16 GREEN FARM MARKET, a Business Entity  
Form Unknown; and  
DOES 1-60;

17  
18 Defendants.

19  
20 GREEN FARM MARKET,

21 Cross-Complainant,

22 v.

23 LA FIESTA FOOD PRODUCTS, INC., a  
24 California Corporation; and  
25 DOES 1 to 5,

26 Cross-Defendants.  
27  
28

CASE NO. 20STCV42397

**FIRST AMENDED COMPLAINT**

Complaint Filed: November 4, 2020

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges six causes of action against  
2 defendants B & V ENTERPRISES, INC. DBA SUPER KING MARKETS; GREEN FARM  
3 MARKET; and DOES 1-60 as follows:

4 **THE PARTIES**

- 5 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
6 organization qualified to do business in the State of California. CAG is a person within  
7 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
8 as a private attorney general, brings this action in the public interest as defined under  
9 Health and Safety Code Section 25249.7, subdivision (d).
- 10 2. Defendant B & V ENTERPRISES, INC. DBA SUPER KING MARKETS (“B&V”) is a  
11 California Corporation qualified to do business and doing business in the State of  
12 California at all relevant times herein.
- 13 3. Defendant GREEN FARM MARKET (“GREEN FARM”) is a Business Entity Form  
14 Unknown doing business in the State of California at all relevant times herein.
- 15 4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,  
16 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
17 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
18 informed, believes, and thereon alleges that each fictitiously named defendant is  
19 responsible in some manner for the occurrences herein alleged and the damages caused  
20 thereby.
- 21 5. At all times mentioned herein, the term “Defendants” includes B&V, GREEN FARM,  
22 and DOES 1-60.
- 23 6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
24 times mentioned herein have conducted business within the State of California.
- 25 7. Upon information and belief, at all times relevant to this action, each of the Defendants,  
26 including DOES 1-60, was an agent, servant, or employee of each of the other  
27 Defendants. In conducting the activities alleged in this Complaint, each of the  
28

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 8. 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 9. 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 10. 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 11. 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

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 12. 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 13. 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 14. 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 15. 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).

28

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

3 16. Plaintiff identified certain practices of manufacturers and distributors of Spices of  
4 exposing, knowingly and intentionally, persons in California to Lead and Lead  
5 Compounds, Cadmium and Cadmium Compounds, and Inorganic Arsenic Compounds  
6 without first providing clear and reasonable warnings of such to the exposed persons  
7 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such  
8 practice.

9 17. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
10 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
11 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
12 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
13 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
14 discharge prohibitions.

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

22 19. On October 1, 1987 the Governor of California added Cadmium and Cadmium  
23 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer  
24 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections  
25 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of  
26 chemicals known to the State to cause cancer, Cadmium became fully subject to  
27 Proposition 65 warning requirements and discharge prohibitions.

28

1 20. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals  
2 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
3 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male  
4 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
5 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known  
6 to the State to cause developmental and reproductive toxicity, Cadmium became fully  
7 subject to Proposition 65 warning requirements and discharge prohibitions.

8 21. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds  
9 (“Arsenic”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.*  
10 tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
11 twenty (20) months after addition of Arsenic to the list of chemicals known to the State  
12 to cause cancer, Arsenic became fully subject to Proposition 65 warning requirements  
13 and discharge prohibitions.

14 **SATISFACTION OF PRIOR NOTICE**

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

17 a. On or about June 12, 2020, Plaintiff gave notice of alleged violations of Health  
18 and Safety Code Section 25249.6, concerning consumer products exposures  
19 subject to a private action to B&V and to the California Attorney General,  
20 County District Attorneys, and City Attorneys for each city containing a  
21 population of at least 750,000 people in whose jurisdictions the violations  
22 allegedly occurred, concerning Ground Cinnamon.

23 b. On or about July 1, 2020, Plaintiff gave notice of alleged violations of Health  
24 and Safety Code Section 25249.6, concerning consumer products exposures  
25 subject to a private action to B&V and to the California Attorney General,  
26 County District Attorneys, and City Attorneys for each city containing a  
27  
28

1 population of at least 750,000 people in whose jurisdictions the violations  
2 allegedly occurred, concerning Cumin Powder.

3 c. On or about July 15, 2020, Plaintiff gave notice of alleged violations of Health  
4 and Safety Code Section 25249.6, concerning consumer products exposures  
5 subject to a private action to GREEN FARM and to the California Attorney  
6 General, County District Attorneys, and City Attorneys for each city containing  
7 a population of at least 750,000 people in whose jurisdictions the violations  
8 allegedly occurred, concerning Ground Shrimp.

9 d. On or about August 11, 2020, Plaintiff gave notice of alleged violations of  
10 Health and Safety Code Section 25249.6, concerning consumer products  
11 exposures subject to a private action to GREEN FARM and to the California  
12 Attorney General, County District Attorneys, and City Attorneys for each city  
13 containing a population of at least 750,000 people in whose jurisdictions the  
14 violations allegedly occurred, concerning Cinnamon Powder.

15 e. On or about October 28, 2020, Plaintiff gave notice of alleged violations of  
16 Health and Safety Code Section 25249.6, concerning consumer products  
17 exposures subject to a private action to B&V and to the California Attorney  
18 General, County District Attorneys, and City Attorneys for each city containing  
19 a population of at least 750,000 people in whose jurisdictions the violations  
20 allegedly occurred, concerning Ground Shrimp and Sumac.

21 23. Before sending the notices of alleged violations, Plaintiff investigated the consumer  
22 products involved, the likelihood that such products would cause users to suffer  
23 significant exposures to Lead, Cadmium, and Arsenic, and the corporate structure of  
24 each of the Defendants.

25 24. Plaintiff's notices of alleged violation included Certificates of Merit executed by the  
26 attorney for the noticing party, CAG. The Certificates of Merit stated that the attorney  
27 for Plaintiff who executed the certificate had consulted with at least one person with  
28

1 relevant and appropriate expertise who reviewed data regarding the exposures to Lead,  
2 Cadmium, and Arsenic, the subject Proposition 65-listed chemicals of this action. Based  
3 on that information, the attorney for Plaintiff who executed the Certificates of Merit  
4 believed there was a reasonable and meritorious case for this private action. The  
5 attorney for Plaintiff attached to the Certificates of Merit served on the Attorney General  
6 the confidential factual information sufficient to establish the basis of the Certificates of  
7 Merit.

8 25. Plaintiff's notice of alleged violations also included Certificates of Service and a  
9 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986  
10 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

11 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
12 gave notice of the alleged violations to B&V, GREEN FARM, and the public  
13 prosecutors referenced in Paragraph 23.

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

### 17 **FIRST CAUSE OF ACTION**

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

### 21 **Spices I**

22 28. Plaintiff repeats and incorporates by reference paragraphs 1 through 27 of this complaint  
23 as though fully set forth herein.

24 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
25 distributor, promoter, or retailer of Ground Cinnamon, identified as: "SK Super King  
26 Markets International"; "Cinnamon Ground"; "Canela Molida"; "Net Wt. 5oz (141.7g)";  
27 "0 32327 54044 0"; "Distributed by: La Fiesta Food Products, Inc."

1 a. The scope of this cause of action is limited to the specific Lot number and/or  
2 UPC number 0 32327 54044 0 of Ground Cinnamon.

3 30. Ground Cinnamon contains Lead and Arsenic.

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

9 32. Plaintiff's allegations regarding Ground Cinnamon 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)*. Ground Cinnamon is a consumer product, and, as mentioned herein, exposures  
14 to Lead and Arsenic took place as a result of such normal and foreseeable consumption  
15 and use.

16 33. Plaintiff is informed, believes, and thereon alleges that between June 12, 2017 and the  
17 present, each of the Defendants knowingly and intentionally exposed California  
18 consumers and users of Ground Cinnamon, which Defendants manufactured, distributed,  
19 or sold as mentioned above, to Lead and Arsenic, without first providing any type of  
20 clear and reasonable warning of such to the exposed persons before the time of exposure.  
21 Defendants have distributed and sold Ground Cinnamon in California. Defendants know  
22 and intend that California consumers will use and consume Ground Cinnamon, thereby  
23 exposing them to Lead and Arsenic. Defendants thereby violated Proposition 65.

24 34. Plaintiff is informed, believes, and thereon alleges that B&V is selling Ground  
25 Cinnamon under a brand or trademark that is owned or licensed by B&V or an entity  
26 affiliated thereto; has knowingly introduced Lead and Arsenic into Ground Cinnamon or  
27 knowingly caused Lead and Arsenic to be created in Ground Cinnamon; has covered,  
28

1 obscured or altered a warning label that has been affixed to Ground Cinnamon by the  
2 manufacturer, producer, packager, importer, supplier or distributor of Ground Cinnamon;  
3 has received a notice and warning materials for exposure from Ground Cinnamon  
4 without conspicuously posting or displaying the warning materials; and/or has actual  
5 knowledge of potential exposure to Lead and Arsenic from Ground Cinnamon.

6 35. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
7 Persons sustain exposures by handling Ground Cinnamon without wearing gloves or any  
8 other personal protective equipment, or by touching bare skin or mucous membranes  
9 with gloves after handling Ground Cinnamon, as well as through direct and indirect hand  
10 to mouth contact, hand to mucous membrane, or even breathing in particulate matter  
11 dispersed from Ground Cinnamon during use, as well as through environmental  
12 mediums that carry the Lead and Arsenic once contained within the Ground Cinnamon.

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

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

23 38. Based on the allegations herein, Defendants are liable for civil penalties of up to  
24 \$2,500.00 per day per individual exposure to Lead and Arsenic from Ground Cinnamon,  
25 pursuant to Health and Safety Code Section 25249.7(b).

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

28

1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against B&V and DOES 11-20**  
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 **Spices II**

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

8 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Cumin Powder, identified as “SK Super King  
10 Markets International”; “Cumin Powder”; “Canela Molida”; “Net Wt. 4oz (113.4g)”; “0  
11 32327 54055 6”; “Distributed by: La Fiesta Food Products, Inc.”

12 a. The scope of this cause of action is limited to the specific Lot Number and/or  
13 UPC number 0 32327 54055 6 of Cumin Powder.

14 42. Cumin Powder contains Lead.

15 43. 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 were subject to Proposition 65 warning requirements. Defendants were also informed of  
18 the presence of Lead in Cumin Powder within Plaintiff’s notice of alleged violations  
19 further discussed above at Paragraph 23b.

20 44. Plaintiff’s allegations regarding Cumin Powder 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)*. Cumin Powder is a consumer product, and, as mentioned herein, exposures to  
25 Lead took place as a result of such normal and foreseeable consumption and use.

26 45. Plaintiff is informed, believes, and thereon alleges that between July 1, 2017 and the  
27 present, each of the Defendants knowingly and intentionally exposed California  
28 consumers and users of Cumin Powder, 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 Cumin Powder in California. Defendants know  
4 and intend that California consumers will use and consume Cumin Powder, thereby  
5 exposing them to Lead. Defendants thereby violated Proposition 65.

6 46. Plaintiff is informed, believes, and thereon alleges that B&V is selling Cumin Powder  
7 under a brand or trademark that is owned or licensed by B&V or an entity affiliated  
8 thereto; has knowingly introduced Lead into Cumin Powder or knowingly caused Lead  
9 to be created in Cumin Powder; has covered, obscured or altered a warning label that has  
10 been affixed to Cumin Powder by the manufacturer, producer, packager, importer,  
11 supplier or distributor of Cumin Powder; has received a notice and warning materials for  
12 exposure from Cumin Powder without conspicuously posting or displaying the warning  
13 materials; and/or has actual knowledge of potential exposure to Lead from Cumin  
14 Powder.

15 47. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
16 Persons sustain exposures by handling Cumin Powder without wearing gloves or any  
17 other personal protective equipment, or by touching bare skin or mucous membranes  
18 with gloves after handling Cumin Powder, as well as through direct and indirect hand to  
19 mouth contact, hand to mucous membrane, or even breathing in particulate matter  
20 dispersed from Cumin Powder during use, as well as through environmental mediums  
21 that carry the Lead once contained within the Cumin Powder.

22 48. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
23 Proposition 65 as to Cumin Powder have been ongoing and continuous, as Defendants  
24 engaged and continue to engage in conduct which violates Health and Safety Code  
25 Section 25249.6, including the manufacture, distribution, promotion, and sale of Cumin  
26 Powder, so that a separate and distinct violation of Proposition 65 occurred each and  
27 every time a person was exposed to Lead by Cumin Powder as mentioned herein.  
28

1 49. 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 50. 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 Cumin Powder, pursuant to  
6 Health and Safety Code Section 25249.7(b).

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

9  
10 **THIRD CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against GREEN FARM and**  
12 **DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
13 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*)**

14 **Spices III**

15 52. Plaintiff repeats and incorporates by reference paragraphs 1 through 51 of this complaint  
16 as though fully set forth herein.

17 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
18 distributor, promoter, or retailer of Ground Shrimp, identified as: “Quality Spices”; “La  
19 Fiesta”; “Camaron Molida Shredded”; “Since 1954”; “Net Wt. 1.87oz (53g)”; “0 32327  
20 00150 7”.

21 a. The scope of this cause of action is limited to the specific Lot number and/or  
22 UPC number 0 32327 00150 7 of Ground Shrimp.

23 54. Ground Shrimp contains Lead, Cadmium, and Arsenic.

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

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

8 57. Plaintiff is informed, believes, and thereon alleges that between July 15, 2017 and the  
9 present, each of the Defendants knowingly and intentionally exposed California  
10 consumers and users of Ground Shrimp, which Defendants manufactured, distributed, or  
11 sold as mentioned above, to Lead, Cadmium, and Arsenic, without first providing any  
12 type of clear and reasonable warning of such to the exposed persons before the time of  
13 exposure. Defendants have distributed and sold Ground Shrimp in California.  
14 Defendants know and intend that California consumers will use and consume Ground  
15 Shrimp, thereby exposing them to Lead, Cadmium, and Arsenic. Defendants thereby  
16 violated Proposition 65.

17 58. Plaintiff is informed, believes, and thereon alleges that GREEN FARM is selling Ground  
18 Shrimp under a brand or trademark that is owned or licensed by GREEN FARM or an  
19 entity affiliated thereto; has knowingly introduced Lead, Cadmium, and Arsenic into  
20 Ground Shrimp or knowingly caused Lead, Cadmium and Arsenic to be created in  
21 Ground Shrimp; has covered, obscured or altered a warning label that has been affixed to  
22 Ground Shrimp by the manufacturer, producer, packager, importer, supplier or  
23 distributor of Ground Shrimp; has received a notice and warning materials for exposure  
24 from Ground Shrimp without conspicuously posting or displaying the warning materials;  
25 and/or has actual knowledge of potential exposure to Lead, Cadmium, and Arsenic from  
26 Ground Shrimp.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

59. The principal routes of exposure are through dermal contact, ingestion and inhalation. Persons sustain exposures by handling Ground Shrimp without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling Ground Shrimp, as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or even breathing in particulate matter dispersed from Ground Shrimp during use, as well as through environmental mediums that carry the Lead, Cadmium, and Arsenic once contained within the Ground Shrimp.
60. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Ground Shrimp 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 Ground Shrimp, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead, Cadmium, and Arsenic by Ground Shrimp as mentioned herein.
61. 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.
62. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to Lead, Cadmium, and Arsenic from Ground Shrimp, pursuant to Health and Safety Code Section 25249.7(b).
63. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

//  
//  
//  
//  
//

1 **FOURTH CAUSE OF ACTION**

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

5 **Spices IV**

6 64. Plaintiff repeats and incorporates by reference paragraphs 1 through 63 of this complaint  
7 as though fully set forth herein.

8 65. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Cinnamon Powder, identified as: “La Fiesta  
10 Cinnamon Ground”; “Since 1954”; “Net Wt. 0.87oz (24.8g)”; “Quality Spices”; “0  
11 32327 00044 9”; “Packed by La Fiesta”.

12 a. The scope of this cause of action is limited to the specific Lot Number and/or  
13 UPC number 0 32327 00044 9 of Cinnamon Powder.

14 66. Cinnamon Powder contains Lead.

15 67. 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 were subject to Proposition 65 warning requirements. Defendants were also informed of  
18 the presence of Lead in Cinnamon Powder within Plaintiff’s notice of alleged violations  
19 further discussed above at Paragraph 23d.

20 68. Plaintiff’s allegations regarding Cinnamon Powder 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). Cinnamon Powder is a consumer product, and, as mentioned herein, exposures  
25 to Lead took place as a result of such normal and foreseeable consumption and use.

26 69. Plaintiff is informed, believes, and thereon alleges that between August 11, 2017 and the  
27 present, each of the Defendants knowingly and intentionally exposed California  
28 consumers and users of Cinnamon Powder, which Defendants manufactured, distributed,

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

3 Defendants have distributed and sold Cinnamon Powder in California. Defendants know  
4 and intend that California consumers will use and consume Cinnamon Powder, thereby  
5 exposing them to Lead. Defendants thereby violated Proposition 65.

6 70. Plaintiff is informed, believes, and thereon alleges that GREEN FARM is selling  
7 Cinnamon Powder under a brand or trademark that is owned or licensed by GREEN  
8 FARM or an entity affiliated thereto; has knowingly introduced Lead into Cinnamon  
9 Powder or knowingly caused Lead to be created in Cinnamon Powder; has covered,  
10 obscured or altered a warning label that has been affixed to Cinnamon Powder by the  
11 manufacturer, producer, packager, importer, supplier or distributor of Cinnamon Powder;  
12 has received a notice and warning materials for exposure from Cinnamon Powder  
13 without conspicuously posting or displaying the warning materials; and/or has actual  
14 knowledge of potential exposure to Lead from Cinnamon Powder.

15 71. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
16 Persons sustain exposures by handling Cinnamon Powder without wearing gloves or any  
17 other personal protective equipment, or by touching bare skin or mucous membranes  
18 with gloves after handling Cinnamon Powder, as well as through direct and indirect hand  
19 to mouth contact, hand to mucous membrane, or even breathing in particulate matter  
20 dispersed from Cinnamon Powder during use, as well as through environmental  
21 mediums that carry the Lead once contained within the Cinnamon Powder.

22 72. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
23 Proposition 65 as to Cinnamon Powder have been ongoing and continuous, as  
24 Defendants engaged and continue to engage in conduct which violates Health and Safety  
25 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
26 Cinnamon Powder, so that a separate and distinct violation of Proposition 65 occurred  
27  
28

1 each and every time a person was exposed to Lead by Cinnamon Powder as mentioned  
2 herein.

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

6 74. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to Lead from Cinnamon Powder, pursuant to  
8 Health and Safety Code Section 25249.7(b).

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

11 **FIFTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against B&V and DOES 41-50**  
13 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
14 **Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Spices V**

16 76. Plaintiff repeats and incorporates by reference paragraphs 1 through 71 of this complaint  
17 as though fully set forth herein.

18 77. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Ground Shrimp, identified as: “Quality Spices”; “La  
20 Fiesta”; “Camaron Molido Shredded”; “Since 1954”; “Net Wt. 2.75oz (77.9 g)”; “0  
21 32327 00181 1”.

22 a. The scope of this cause of action is limited to the specific Lot Number and/or  
23 UPC number 0 32327 00181 1 of Ground Shrimp.

24 78. Ground Shrimp contains Arsenic.

25 79. Defendants knew or should have known that Arsenic has been identified by the State of  
26 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
27 were subject to Proposition 65 warning requirements. Defendants were also informed of  
28

1 the presence of Arsenic in Ground Shrimp within Plaintiff's notice of alleged violations  
2 further discussed above at Paragraph 23e.

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

9 81. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and  
10 the present, each of the Defendants knowingly and intentionally exposed California  
11 consumers and users of Ground Shrimp, which Defendants manufactured, distributed, or  
12 sold as mentioned above, to Arsenic without first providing any type of clear and  
13 reasonable warning of such to the exposed persons before the time of exposure.

14 Defendants have distributed and sold Ground Shrimp in California. Defendants know  
15 and intend that California consumers will use and consume Ground Shrimp, thereby  
16 exposing them to Arsenic. Defendants thereby violated Proposition 65.

17 82. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
18 Persons sustain exposures by handling Ground Shrimp without wearing gloves or any  
19 other personal protective equipment, or by touching bare skin or mucous membranes  
20 with gloves after handling Ground Shrimp, as well as through direct and indirect hand to  
21 mouth contact, hand to mucous membrane, or even breathing in particulate matter  
22 dispersed from Ground Shrimp during use, as well as through environmental mediums  
23 that carry the Arsenic once contained within the Ground Shrimp.

24 83. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
25 Proposition 65 as to Ground Shrimp have been ongoing and continuous, as Defendants  
26 engaged and continue to engage in conduct which violates Health and Safety Code  
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of Ground  
28

1 Shrimp, so that a separate and distinct violation of Proposition 65 occurred each and  
2 every time a person was exposed to Arsenic by Ground Shrimp as mentioned herein.  
3 84. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
4 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
5 violations alleged herein will continue to occur into the future.  
6 85. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to Arsenic from Ground Shrimp, pursuant to  
8 Health and Safety Code Section 25249.7(b).  
9 86. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
10 filing this Complaint.

11 **SIXTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against B&V and DOES 51-60**  
13 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
14 **Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Spices VI**

16 87. Plaintiff repeats and incorporates by reference paragraphs 1 through 86 of this complaint  
17 as though fully set forth herein.  
18 88. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Sumac, identified as: “SK Super King Markets  
20 International”; “Sumac”; “Net Wt. 4 oz (118.4g)”; UPC 0 32327 54882 8”; “Packed by  
21 La Fiesta”.  
22 a. The scope of this cause of action is limited to the specific Lot Number and/or  
23 UPC number 0 32327 54882 8 of Sumac.  
24 89. Sumac contains Lead.  
25 90. Defendants knew or should have known that Lead has been identified by the State of  
26 California as a chemical known to cause cancer and reproductive toxicity and therefore  
27 were subject to Proposition 65 warning requirements. Defendants were also informed of  
28

1 the presence of Lead in Sumac within Plaintiff's notice of alleged violations further  
2 discussed above at Paragraph 23e.

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

9 92. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and  
10 the present, each of the Defendants knowingly and intentionally exposed California  
11 consumers and users of Sumac, which Defendants manufactured, distributed, or sold as  
12 mentioned above, to Lead without first providing any type of clear and reasonable  
13 warning of such to the exposed persons before the time of exposure. Defendants have  
14 distributed and sold Sumac in California. Defendants know and intend that California  
15 consumers will use and consume Sumac, thereby exposing them to Lead. Defendants  
16 thereby violated Proposition 65.

17 93. Plaintiff is informed, believes, and thereon alleges that B&V is selling Sumac under a  
18 brand or trademark that is owned or licensed by B&V or an entity affiliated thereto; has  
19 knowingly introduced Lead into Sumac or knowingly caused Lead to be created in  
20 Sumac; has covered, obscured or altered a warning label that has been affixed to Sumac  
21 by the manufacturer, producer, packager, importer, supplier or distributor of Sumac; has  
22 received a notice and warning materials for exposure from Sumac without conspicuously  
23 posting or displaying the warning materials; and/or has actual knowledge of potential  
24 exposure to Lead from Sumac.

25 94. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
26 Persons sustain exposures by handling Sumac without wearing gloves or any other  
27 personal protective equipment, or by touching bare skin or mucous membranes with  
28

1 gloves after handling Sumac, as well as through direct and indirect hand to mouth  
2 contact, hand to mucous membrane, or even breathing in particulate matter dispersed  
3 from Sumac during use, as well as through environmental mediums that carry the Lead  
4 once contained within the Sumac.

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

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

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

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

19 **PRAYER FOR RELIEF**

20 Plaintiff demands against each of the Defendants as follows:

- 21 1. A permanent injunction mandating Proposition 65-compliant warnings;
  - 22 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
  - 23 3. Costs of suit;
  - 24 4. Reasonable attorney fees and costs; and
  - 25 5. Any further relief that the court may deem just and equitable.
- 26  
27  
28

1 Dated: 4/1/2021

YEROUSHALMI & YEROUSHALMI\*



Reuben Yeroushalmi  
Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28