21VECV00077

Assigned for all purposes to: Van Nuys Courthouse East, Judicial Officer: Theresa Traber

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$\begin{array}{c c}1\\2\end{array}$	Shant L. Vayvayan, Esq. (#320135) BROWN BEAR LAW, APC A Professional Law Corporation P.O. Box 573423 Tarzana, CA 91357 (818)-457-1543 / (323)-576-7196 Fax E-mail: <u>shant@brownbearlaw.com</u> Attorneys for Plaintiff, CITIZENS OF CALIFORNIA SAFETY	CORP.	
7	SUPERIOR COURT OF THE STATE OF CALIFORNIA		
8	COUNTY OF LOS ANGELES		
10	CITIZENS OF CALIFORNIA SAFETY CORP.,	CASE NO.	
11 12	Plaintiff,	COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES	
13	v.	Health & Safety Code, § 25249.5, et seq.	
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15 16	PURPLEROCK WILD FOODS OPCO, LLC, individually and doing business as WILD FOODS; and DOES 1-100		
17	Defendants.		
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20	Plaintiff Citizens of California Safety Corp. I	hereby makes the following allegations:	
21	INTRODUCTION		
22 23	 This Complaint seeks to remedy Defendants' violation of Health & Safety Code, § 25249.5, et seq. by knowingly and intentionally exposing individuals in California to chemicals 		
24 25	known to the State to cause cancer, birth defects, or other reproductive harm without providing		
25 26	clear and reasonable warnings to individuals prior to their exposure.		
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	COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES		
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Plaintiff, Citizens of California Safety Corp. (hereinafter "CCSC"), brings this 2. action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).

PARTIES

Plaintiff, CCSC, is an organization qualified to do business in the State of 3. California. CCSC 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).

Defendant Purplerock Wild Foods Opco d/b/a Wild Foods (hereinafter "WILD 4. FOODS" is a business that develops, manufactures, markets, distributes, and/or sells spices including but not limited to, Wild Foods Raw Turmeric Powder (hereinafter "Products"), that have exposed users to lead in the State of California within the relevant statute of limitations 12 period. WILD FOODS is a company subject to Proposition 65 as it employs ten or more persons 13 and has employed ten or more persons at all times relevant to this action. 14

Plaintiff is presently unaware of the true names and capacities of defendants 5. 15 DOES 1-100, and therefore sues these defendants by such fictitious names. Plaintiff will amend 16 this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, 17 believes, and thereon alleges that each fictitiously named defendant is responsible in some 18 manner for the occurrences herein alleged and the damages caused thereby. 19

At all times mentioned herein, the term "Defendants" includes WILD FOODS, 6. 20 and DOES 1-100. 21

Plaintiff is informed, believes, and thereon alleges that at all relevant times, each 7. of the Defendants was a person doing business within the meaning of Health and Safety Code section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more 24 employees at all relevant times. 25

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JURISDICTION AND VENUE

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The Court has jurisdiction over this lawsuit pursuant to California Constitution 8. Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other trial courts.

This Court has jurisdiction over this action pursuant to Health and Safety Code 9. section 25249.7, which allows enforcement of violations of Proposition 65 in any Court of competent jurisdiction.

This Court has jurisdiction over Defendants named herein because Defendants 10. 8 either are registered with the California Secretary of State, reside or are located in this State or 9 are foreign corporations authorized to do business in California, or who do sufficient business in 10 California, have sufficient minimum contacts with California, or otherwise intentionally avail 11 themselves of the markets within California through their manufacture, distribution, promotion, 12 marketing, or sale of their products within California to render the exercise of jurisdiction by the 13 California courts permissible under traditional notions of fair play and substantial justice. 14

Venue is proper in the County of Los Angeles because one or more of the 11. violations occurred in the County of Los Angeles.

BACKGROUND FACTS

12. In 1986, the People of the State of California approved an initiative to address 18 growing concerns about exposure to toxic chemicals and declared their right "[t]o be informed 19 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm. The 20 Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections 25249.5, et seq. ("Proposition 65"), helps to protect California's drinking water sources 22 from contamination, to allow consumers to make informed choices about the products they buy, 23 and to enable persons to protect themselves from toxic chemicals as they see fit. 24

Proposition 65 requires the Governor of California to publish a list of chemicals 13. known to the state to cause cancer, birth defects, or other reproductive harm. Health & Safety Code § 25249.8.

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14. 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, and on October
1, 1992, the Governor added lead to the list of chemicals known to the State to cause cancer.
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 and reproductive
toxicity, lead became fully subject to Proposition 65 warning requirements and discharge
prohibitions. The statute may be enjoined in any court of competent jurisdiction. Health & Safety
Code § 25249.7.

9 15. Proposition 65 provides that any person "violating or threatening to violate" the 10 statute may be enjoined in any court of competent jurisdiction. Health & Safety Code § 25249.7. 11 "Threaten to violate" means "to create a condition in which there is a substantial probability that 12 a violation will occur." Health & Safety Code § 25249.11(e). Defendants are also liable for civil 13 penalties of up to \$2,500.00 per day per violation, recoverable in a civil action. Health & Safety 14 Code § 25249.7(b).

15 16. Defendants' Products contain sufficient quantities of lead such that consumers
16 who ingest the Products are thereby exposed to lead.

17 17. As companies that manufacture, import, distribute, and/or sell the Products for use
18 in California, Defendants knew or should have known the Products will expose individuals to
19 lead.

18. Defendants' exposed individuals to lead without providing a clear and reasonable warning to the exposed persons prior to the time of exposure.

NOTICE

19. Plaintiff provided a 60-Day Notice of Violation more than 60 days prior to
naming each Defendant in this lawsuit. Each notice included the following: (1) name and address
of each violator, (2) the time period of the violation, (3) the specific description of the violation
and the route of exposure, (4) the specific product sold in violation of Proposition 65, (5) and the
name of the listed chemical subject to the 60-Day Notice of Violation.

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1	20.	Plaintiff sent a Certificate of Merit to the Defendants and to the California	
2	Attorney General, County District Attorneys, and City Attorneys for each city containing a		
3	population of at least 750,000 people. The attorney for Plaintiff attached to the Certificate of		
4	Merit served on the Attorney General the confidential factual information sufficient to establish		
5	the basis of the Certificate of Merit.		
6	21.	Plaintiff's notice of alleged violation included a Certificate of Service and a	
7	document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986 (Proposition 65)		
8	A Summary."		
9	22.	Plaintiff is informed, believes, and thereon alleges that none of the public	
10	prosecutors with authority to prosecute violations of Proposition 65 has commenced and is		
11	diligently prosecuting an action against the Defendants.		
12	FIRST CAUSE OF ACTION		
13	(Against all Defendants for Violations of Proposition 65 (Health & Safety Code, §§ 25249.5, et seq.))		
14	23.	Plaintiff repeats and incorporates by reference paragraphs 1 through 22 set forth	
15	herein, inclusive.		
16	24.	Each of the Defendants is, and at all times mentioned herein was, a manufacturer,	
17	distributor, promoter, or retailer of a spices including but not limited to, Wild Foods Raw		
18	Turmeric Powder.		
19	25.	Plaintiff is informed, believes, and thereon alleges that Wild Foods Raw Turmeric	
20	Powder contains lead and Defendants knew or should have known is a chemical listed by the		
21	State of California as known to cause cancer and subject to Proposition 65 warning requirements.		
22	26.	For each Product, Defendant knew the average use of the Product will expose	
23	users to lead.	The exposure to lead was based on a normal and foreseeable consumption and use	
24	of the Product.		
25	27.	Defendants have failed to provide clear and reasonable warnings regarding the	
26.	exposure of l	ead to users of its Products.	
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1	28. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein				
2	prior to filing this Complaint. Based on the allegations herein, Defendants are liable for civil				
3	penalties of up to \$2,500.00 per day per individual exposure to lead pursuant to Health and				
4	Safety Code section 25249.7(b).				
5	PRAYER FOR RELIEF				
6	Wherefore, Plaintiff prays for judgment against the Defendants, and each of them as follows:				
7	1. A permanent injunction enjoining Defendants from offering products for sale in				
8	California without providing clear and reasonable warnings pursuant to Health & Safety				
9	Code § 25249.7(a);				
10	2. Penalties pursuant to Health and Safety Code section 25249.7(b);				
11	3. Reasonable attorney fees and costs;				
12	4. Any other relief the Court deems proper.				
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15	Dated: January 20, 2021 BROWN BEAR LAW, APC				
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17	By:				
18	Attorneys for Plaintiff, Citizens of California Safety Corp.				
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