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To: 15102671546	Page: 3 of 9	2021-03-10 19:24:{	50 GMT	16193930154	From: Samantha Dice
To: 15102671546	GLICK LAW GROUP, PC Noam Glick (SBN 251582) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 382-3400 Fax: (619) 393-0154 Email: noam@glicklawgroup.com NICHOLAS & TOMASEVIC, L Craig M. Nicholas (SBN 1784 Jake W. Schulte (SBN 293777 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 325-0492 Email: enicholas@nicholaslaw.org Email: jschulte@nicholaslaw.org Attorneys for Plaintiff ENVIRONMENTAL HEALTH AI SUPERIOR	LP 44) 7) DVOCATES, COURT OF D FOR THE DVOCATES, TED, an , a any, THE	INC. THE STATE OF COUNTY OF AI Case No.: COMPLAINT I AND INJUNCT	FILED BY FAX ALAMEDA COUNTY March 10, 2021 CLERK OF THE SUPERIOR COURT By Cheryl Clark, Deputy CASE NUMBER: HG21091507 CALIFORNIA AMEDA	ES
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COMPLAINT

1	I. <u>INTRODUCTION</u>
2	1. This Complaint is a representative action brought by Environmental Health Advocates,
3	Inc. ("Plaintiff") in the public interest of the citizens of the State of California ("the People"). Plaintiff
4	seeks to remedy Defendants' failure to inform the People of exposure to acrylamide, a known
5	carcinogen. Defendants expose consumers to acrylamide by manufacturing, importing, selling, and/or
6	distributing Britannia Pistachio-Almond Cookies ("Products"). Defendants know and intend that
7	customers will ingest Products containing acrylamide.
8	2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California
9	Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing
10	business shall knowingly and intentionally expose any individual to a chemical known to the state to
11	cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
12	individual" (Health & Safety Code, § 25249.6.)
13	3. California identified and listed acrylamide as a chemical known to cause cancer as early
14	as January 1, 1990, and as a chemical known to cause developmental/reproductive toxicity on February
15	25, 2011.
16	4. Defendants failed to sufficiently warn consumers and individuals in California about
17	potential exposure to acrylamide in connection with Defendants' manufacture, import, sale, or
18	distribution of Products. This is a violation of Proposition 65.
19	5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
20	in California before exposing them to acrylamide in Products. (Health & Safety Code, § 25249.7(a).)
21	Plaintiff also seeks civil penalties against Defendants for its violations of Proposition 65 along with
22	attorney's fees and costs. (Health & Safety Code, § 25249.7(b).)
23	II.
24	PARTIES
25	6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a
26	corporation in the State of California dedicated to protecting the health of California citizens through
27	the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
28	interest pursuant to Health and Safety Code, section 25249.7.

## 2 COMPLAINT

7. Defendant BRITANNIA INDUSTRIES LIMITED ("Britannia") is a corporation
 organized and existing under the laws of India. Britannia is registered to do business in California, and
 does business in the County of Alameda, within the meaning of Health and Safety Code, section
 25249.11. Britannia manufactures, imports, sells, or distributes the Products in California and Alameda
 County.

8. Defendant SUKIRA LLC ("Sukira") is a limited liability company organized and
existing under the laws of California. Sukira does business as Trinethra Indian Supermarket. Sukira is
registered to do business in California, and does business in the County of Alameda, within the meaning
of Health and Safety Code, section 25249.11. Sukira manufactures, imports, sells, or distributes the
Products in California and Alameda County.

9. Defendant THE WADIA GROUP ("Wadia") is a corporation organized and existing
 under the laws of India. Wadia is registered to do business in California, and does business in the County
 of Alameda, within the meaning of Health and Safety Code, section 25249.11. Wadia manufactures,
 imports, sells, or distributes the Products in California and Alameda County.

15 10. Plaintiff does not know the true names and/or capacities, whether individual, partners, 16 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues 17 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true 18 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and 19 thereon alleges that these defendants are responsible in whole or in part for Plaintiff's damages.

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### III. VENUE AND JURISDICTION

11. California Constitution Article VI, Section 10 grants the Superior Court original
jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code
statute upon which this action is based does not give jurisdiction to any other court. As such, this Court
has jurisdiction.

26 12. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
27 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
28 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

1 13. Defendants have sufficient minimum contacts in the State of California or otherwise 2 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would 3 be consistent with traditional notions of fair play and substantial justice.

# IV. **CAUSES OF ACTION**

# FIRST CAUSE OF ACTION (Violation of Proposition 65 – Against all Defendants)

14. Plaintiff incorporates by reference each and every allegation contained above.

15. Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm.

Defendants manufactured, imported, sold, and/or distributed Products containing 16. 10 acrylamide in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to 12 occur into the future. 13

17. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to 14 provide a clear and reasonable warning to consumers and individuals in California who may be exposed 15 to acrylamide through reasonably foreseeable use of the Products. 16

18. Products expose individuals to acrylamide through direct ingestion. This exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As such, Defendants intend that consumers will ingest Products, exposing them to acrylamide.

19. Defendants knew or should have known that the Products contained acrylamide and 20 exposed individuals to acrylamide in the ways provided above. The Notice informed Defendants of the presence of acrylamide in the Products. Likewise, media coverage concerning acrylamide and related 22 chemicals in consumer products provided constructive notice to Defendants. 23

20. Defendants' action in this regard were deliberate and not accidental.

21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 25 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff 26 provided the Notice to the various required public enforcement agencies along with a certificate of merit. 27

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1	The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in						
2	California of the health hazards associated with exposures to acrylamide contained in the Products.						
3	22. The appropriate public enforcement agencies provided with the Notice failed to	o					
4	commence and diligently prosecute a cause of action against Defendants.						
5	23. Individuals exposed to acrylamide contained in Products through direct ingestion						
6	6 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer						
7	7 irreparable harm. There is no other plain, speedy, or adequate remedy at law.						
8	24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation						
9	9 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also						
10	appropriate pursuant to Health and Safety Code, section 25249.7(a).						
11	PRAYER FOR RELIEF						
12	Wherefore, Plaintiff prays for judgment against Defendants as follows:						
13	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that	. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that					
14	4 damages total a minimum of \$1,000,000;						
15	2. A preliminary and permanent injunction against Defendants from manufacturing	A preliminary and permanent injunction against Defendants from manufacturing,					
16	mporting, selling, and/or distributing Products in California without providing a clear and reasonable	e					
17	warning as required by Proposition 65 and related Regulations;						
18	3. Reasonable attorney's fees and costs of suit; and						
19	4. Such other and further relief as may be just and proper.	4. Such other and further relief as may be just and proper.					
20	Respectfully submitted:						
21	Dated: March 10, 2021 NICHOLAS & TOMASEVIC, LLP						
22	Jake John He						
23	By: $\bigcup_{I=1, IV \in [1, 1]}$						
24	Jake W. Schulte Craig M. Nicholas						
25	GLICK LAW GROUP, PC						
26	Noam Glick						
27	Attorneys for Plaintiff						
28	Environmental Health Advocates, Inc.						