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Page: 5 of 9 20;	21-01-26 16:50:42 GMT	16193930154	From: Samantha Dice
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	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, LLI Craig M. Nicholas (SBN 178444 Jake W. Schulte (SBN 293777) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 325-0492 Email: cnicholas@nicholaslaw.org Email: jschulte@nicholaslaw.org Email: jschulte@nicholas	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, LLP Craig M. Nicholas (SBN 178444) Jake W. Schulte (SBN 293777) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 325-0492 Email: cnicholas@nicholaslaw.org Email: jschulte@nicholaslaw.org Email: jschulte@nichola	FILED BY FAX ALAMEDA COUNTY ALAMEDA COUNTY January 28, 2021         225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 393-0154 Email: noam@glicklawgroup.com         Nicholas (SBN 178444) Jake W. Schulte (SBN 293777) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 325-0492 Email: inicholas(BN 178444) Jake W. Schulte (SBN 293777) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 325-0492 Email: jschulte@nicholaslaw.org Email: jschulte@nicholaslaw.org       CASE NUMBER: RG21086744         Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC.         SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA         ENVIRONMENTAL HEALTH ADVOCATES, INC.         INC., Plaintiff, V.         LA FINCA TORTILLERIA, INC., a California corporation, CHAVEZ SUPERMARKET IOLDING CORP., a California corporation, and DOES 1 through 100, inclusive,

COMPLAINT

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1	INTRODUCTION
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 La Finca Tostadas Caseras ("Products"). Defendants know and intend that customers will
7	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	
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.

7. Defendant LA FINCA TORTILLERIA, INC. ("La Finca") is a corporation organized
 and existing under the laws of California. La Finca 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.
 La Finca manufactures, imports, sells, or distributes the Products in California and Alameda County.

8. Defendant CHAVEZ SUPERMARKET HOLDING CORP. ("Chavez Supermarket") is
a corporation organized and existing under the laws of California. Chavez Supermarket 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. Chavez Supermarket manufactures, imports, sells, or distributes the
Products in California and Alameda County.

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

## III. VENUE AND JURISDICTION

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

21 11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
22 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
23 County. Defendants conducted and continues to conduct business in this County as it relates to Products.

Defendants have sufficient minimum contacts in the State of California or otherwise
 purposefully avails itself of the California market. Exercising jurisdiction over Defendants would be
 consistent with traditional notions of fair play and substantial justice.

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1	IV. CAUSES OF ACTION					
2	FIRST CAUSE OF ACTION					
3	(Violation of Proposition 65 – Against all Defendants)					
4	<ol> <li>Plaintiff incorporates by reference each and every allegation contained above.</li> </ol>					
5	14. Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm.					
6	15. Defendants manufactured, imported, sold, and/or distributed Products containing					
7	acrylamide in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and					
8	believes such violations have continued after receipt of the Notice (defined <i>infra</i> ) and will continue to					
9	occur into the future.					
10	16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to					
11	provide a clear and reasonable warning to consumers and individuals in California who may be exposed					
12	to acrylamide through reasonably foreseeable use of the Products.					
13	17. Products expose individuals to acrylamide through direct ingestion. This exposure is a					
14	natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As					
15	such, Defendants intend that consumers will ingest Products, exposing them to acrylamide.					
16	18. Defendants knew or should have known that the Products contained acrylamide and					
17	exposed individuals to acrylamide in the ways provided above. The Notice informed Defendants of the					
18	presence of acrylamide in the Products. Likewise, media coverage concerning acrylamide and related					
19	chemicals in consumer products provided constructive notice to Defendants.					
20	19. Defendants' action in this regard were deliberate and not accidental.					
21	20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a					
22	60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff					
23	provided the Notice to the various required public enforcement agencies along with a certificate of merit.					
24	The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in					
25	California of the health hazards associated with exposures to acrylamide contained in the Products.					
26	21. The appropriate public enforcement agencies provided with the Notice failed to					
27	commence and diligently prosecute a cause of action against Defendants.					
28						
	Λ					

1	22.	Individuals exposed to acry	ylamide	e contained in Products through direct ingestion
2	resulting from	reasonably foreseeable use	of the	Products have suffered and continue to suffer
3	irreparable harm. There is no other plain, speedy, or adequate remedy at law.			
4	23.	Defendants are liable for a m	naximur	n civil penalty of \$2,500 per day for each violation
5	of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also			
6	appropriate pu	rsuant to Health and Safety Co	ode, sec	tion 25249.7(a).
7				
8		PRAY	ER FO	DR RELIEF
9	Where	fore, Plaintiff prays for judgme	ent agai	nst Defendants as follows:
10	1.	Civil penalties in the amount	t of \$2,5	500 per day for each violation. Plaintiff alleges that
11	damages total	a minimum of \$1,000,000;		
12	2. A preliminary and permanent injunction against Defendants from manufacturing			
13	importing, selling, and/or distributing Products in California without providing a clear and reasonable			
14	warning as required by Proposition 65 and related Regulations;			
15	3. Reasonable attorney's fees and costs of suit; and			
16	4.	Such other and further relief	as may	be just and proper.
17	Respectfully s	submitted:		
18	Dated: Januar	y 22, 2021		GLICK LAW GROUP, PC
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20				Noan Slich
21			By:	Noam Glick
22				
23				NICHOLAS & TOMASEVIC, LLP
24				Craig M. Nicholas Jake W. Schulte
25				Attorneys for Plaintiff
26				Environmental Health Advocates, Inc.
27				
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