

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeraushalmi.com

3 **YERUSHALMI & YERUSHALMI\***

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 MOTHER'S MARKET & KITCHEN, INC.,

17 a Delaware Corporation.;

18 GOLD MINE NATURAL FOOD

19 COMPANY, a California Corporation;

20 and DOES 1-50,

21 Defendants.

CASE NO. 21STCV19138

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)

22 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action  
23 against defendants MOTHER'S MARKET & KITCHEN, INC., GOLD MINE NATURAL  
24 FOOD COMPANY and DOES 1-50 as follows:

25 **THE PARTIES**

- 1 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
2 organization qualified to do business in the State of California. CAG is a person within  
3 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
4 as a private attorney general, brings this action in the public interest as defined under  
5 Health and Safety Code Section 25249.7, subdivision (d).
- 6 2. Defendant MOTHER’S MARKET & KITCHEN, INC. (“MOTHER’S MARKET”) is a  
7 Delaware Corporation doing business in the State of California at all relevant times  
8 herein. Defendant GOLD MINE NATURAL FOOD COMPANY (“GOLD MINE”) is a  
9 California Corporation doing business in the State of California at all relevant times  
10 herein.
- 11 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50,  
12 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
13 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
14 informed, believes, and thereon alleges that each fictitiously named defendant is  
15 responsible in some manner for the occurrences herein alleged and the damages caused  
16 thereby.
- 17 4. At all times mentioned herein, the term “Defendants” includes MOTHER’S MARKET,  
18 GOLD MINE, and DOES 1-50.
- 19 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
20 times mentioned herein have conducted business within the State of California.
- 21 6. Upon information and belief, at all times relevant to this action, each of the Defendants,  
22 including DOES 1-50, was an agent, servant, or employee of each of the other  
23 Defendants. In conducting the activities alleged in this Complaint, each of the  
24 Defendants was acting within the course and scope of this agency, service, or  
25 employment, and was acting with the consent, permission, and authorization of each of  
26 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
27 were ratified and approved by every other Defendant or their officers or managing  
28

1 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
2 alleged wrongful conduct of each of the other Defendants.

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

7 **JURISDICTION**

- 8 8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
9 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
10 those given by statute to other trial courts. This Court has jurisdiction over this action  
11 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
12 violations of Proposition 65 in any Court of competent jurisdiction.
- 13 9. This Court has jurisdiction over Defendants named herein because Defendants either  
14 reside or are located in this State or are foreign corporations authorized to do business in  
15 California, are registered with the California Secretary of State, or who do sufficient  
16 business in California, have sufficient minimum contacts with California, or otherwise  
17 intentionally avail themselves of the markets within California through their  
18 manufacture, distribution, promotion, marketing, or sale of their products within  
19 California to render the exercise of jurisdiction by the California courts permissible  
20 under traditional notions of fair play and substantial justice.
- 21 10. Venue is proper in the County of Los Angeles because one or more of the instances of  
22 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
23 because Defendants conducted, and continue to conduct, business in the County of Los  
24 Angeles with respect to the consumer product that is the subject of this action.

25  
26 **BACKGROUND AND PRELIMINARY FACTS**

- 1 11. In 1986, California voters approved an initiative to address growing concerns about  
2 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
3 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
4 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
5 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
6 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
7 from contamination, to allow consumers to make informed choices about the products  
8 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
9 fit.
- 10 12. Proposition 65 requires the Governor of California to publish a list of chemicals known  
11 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
12 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
13 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
14 other controls that apply to Proposition 65-listed chemicals.
- 15 13. All businesses with ten (10) or more employees that operate or sell products in California  
16 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
17 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
18 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and  
19 reasonable” warnings before exposing a person, knowingly and intentionally, to a  
20 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 21 14. Proposition 65 provides that any person "violating or threatening to violate" the statute  
22 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
23 25249.7. "Threaten to violate" means "to create a condition in which there is a  
24 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
25 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
26 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 27  
28

- 1 15. Plaintiff identified certain practices of manufacturers and distributors of Sushi Nori,  
2 Seaweed Salad Mix, Seaweed Snack, Raw Organic Seaweed, Raw Seaweed, and  
3 Chipotle Seaweed of exposing, knowingly and intentionally, persons in California to  
4 Lead and Lead Compounds, Cadmium and Cadmium Compounds, Inorganic Arsenic  
5 Compounds, and Inorganic Arsenic Oxides of such products without first providing clear  
6 and reasonable warnings of such to the exposed persons prior to the time of exposure.  
7 Plaintiff later discerned that Defendants engaged in such practice.
- 8 16. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
9 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit.*  
10 *27, § 27001(b)*). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
11 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
12 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
13 discharge prohibitions.
- 14 17. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
15 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
16 *tit. 27, § 27001(c)*). Lead is known to the State to cause developmental, female, and  
17 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
18 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
19 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
20 Proposition 65 warning requirements and discharge prohibitions.
- 21 18. On October 1, 1987 the Governor of California added Cadmium and Cadmium  
22 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer  
23 (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections  
24 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of  
25 chemicals known to the State to cause cancer, Cadmium became fully subject to  
26 Proposition 65 warning requirements and discharge prohibitions.
- 27  
28

1 19. 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 20. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds  
9 to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, §  
10 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty  
11 (20) months after addition of Inorganic Arsenic Compounds to the list of chemicals  
12 known to the State to cause cancer, Inorganic Arsenic Compounds became fully subject  
13 to Proposition 65 warning requirements and discharge prohibitions.

14 21. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list  
15 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,  
16 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental,  
17 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty  
18 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to  
19 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject  
20 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic  
21 Compounds and Inorganic Arsenic Oxides is hereinafter referred to as “Arsenic”.

### 22 SATISFACTION OF PRIOR NOTICE

23  
24 22. Plaintiff served the following notices for alleged violations of Health and Safety Code  
25 Section 25249.6, concerning consumer products exposures:

- 26 a. On or about October 28, 2020, Plaintiff gave notice of alleged violations of  
27 Health and Safety Code Section 25249.6, concerning consumer products  
28

1 exposures subject to a private action to MOTHER’S MARKET, GOLD MINE  
2 and to the California Attorney General, County District Attorneys, and City  
3 Attorneys for each city containing a population of at least 750,000 people in  
4 whose jurisdictions the violations allegedly occurred, concerning the Sushi Nori.

5 b. On or about October 28, 2020, Plaintiff gave notice of alleged violations of  
6 Health and Safety Code Section 25249.6, concerning consumer products  
7 exposures subject to a private action to MOTHER’S MARKET, and to the  
8 California Attorney General, County District Attorneys, and City Attorneys for  
9 each city containing a population of at least 750,000 people in whose  
10 jurisdictions the violations allegedly occurred, concerning the Seaweed Salad  
11 Mix and Seaweed Snack.

12 c. On or about November 5, 2020, Plaintiff gave notice of alleged violations of  
13 Health and Safety Code Section 25249.6, concerning consumer products  
14 exposures subject to a private action to MOTHER’S MARKET, and to the  
15 California Attorney General, County District Attorneys, and City Attorneys for  
16 each city containing a population of at least 750,000 people in whose  
17 jurisdictions the violations allegedly occurred, concerning the Raw Organic  
18 Seaweed.

19 d. On or about November 13, 2020, Plaintiff gave notice of alleged violations of  
20 Health and Safety Code Section 25249.6, concerning consumer products  
21 exposures subject to a private action MOTHER’S MARKET, and to the  
22 California Attorney General, County District Attorneys, and City Attorneys for  
23 each city containing a population of at least 750,000 people in whose  
24 jurisdictions the violations allegedly occurred, concerning the Raw Seaweed.

25 e. On or about February 11, 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 MOTHER’S MARKET, 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 Chipotle  
4 Seaweed.

5 23. 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 Lead Compounds, Cadmium and Cadmium  
8 Compounds, Inorganic Arsenic Compounds, and Inorganic Arsenic Oxides, and the  
9 corporate structure of each of the Defendants.

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

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

24 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
25 gave notice of the alleged violations to MOTHER'S MARKET, GOLD MINE and the  
26 public prosecutors referenced in Paragraph 22.



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

4 **FIRST CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against MOTHER'S**  
6 **MARKET, GOLD MINE and DOES 1-10 for Violations of Proposition 65, The**  
7 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***  
8 **§§ 25249.5, *et seq.*))**

9 **Seaweed I**

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

12 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
13 distributor, promoter, or retailer of Sushi Nori ("Sushi Nori"), including but not limited  
14 to "Gold Mine TM Natural Food Co."; "Organic Toasted Sushi Nori"; "Free of All  
15 Common Allergens, Low Carb, Low Calorie, Fat Free, Gluten-Free, Vegan"; "Net Wt.  
16 88 oz (25g)"; "UPC 7 07881 41906 7"; "Product of China."

17 30. Sushi Nori contains Lead and lead compounds and cadmium and cadmium compounds.

18 31. Defendants knew or should have known that Lead and lead compounds and cadmium  
19 and cadmium compounds have been identified by the State of California as chemicals  
20 known to cause cancer and reproductive and therefore was subject to Proposition 65  
21 warning requirements. Defendants were also informed of the presence of Lead and lead  
22 compounds and cadmium and cadmium compounds in Sushi Nori within Plaintiff's  
23 notice of alleged violations further discussed above at Paragraph 22a.

24 32. Plaintiff's allegations regarding Sushi Nori concerns "[c]onsumer products exposure[s],"  
25 which "is an exposure that results from a person's acquisition, purchase, storage,  
26 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
27 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b).*  
28 Sushi Nori is a consumer product, and, as mentioned herein, exposures to Lead and lead

1 compounds and cadmium and cadmium compounds took place as a result of such normal  
2 and foreseeable consumption and use.

3 33. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and  
4 the present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of Sushi Nori, which Defendants manufactured, distributed, or sold  
6 as mentioned above, to Lead and lead compounds and cadmium and cadmium  
7 compounds, without first providing any type of clear and reasonable warning of such to  
8 the exposed persons before the time of exposure. Defendants have distributed and sold  
9 Sushi Nori in California. Defendants know and intend that California consumers will  
10 use and consume Sushi Nori thereby exposing them to Lead and lead compounds and  
11 cadmium and cadmium compounds. Further, Plaintiff is informed, believes, and thereon  
12 alleges that Defendants are selling Sushi Nori under a brand or trademark that is owned  
13 or licensed by the Defendants or an entity affiliated thereto; have knowingly introduced  
14 relevant chemical into Sushi Nori or knowingly caused relevant chemical to be created in  
15 Sushi Nori; have covered, obscured or altered a warning label that has been affixed to  
16 Sushi Nori by the manufacturer, producer, packager, importer, supplier or distributor of  
17 Sushi Nori; have received a notice and warning materials for exposure from Sushi Nori  
18 without conspicuously posting or displaying the warning materials; and/or have actual  
19 knowledge of potential exposure to relevant chemical from Sushi Nori. Defendants  
20 thereby violated Proposition 65.

21 34. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
22 Persons sustain exposures by eating and consuming Sushi Nori, by handling Sushi Nori  
23 without wearing gloves or any other personal protective equipment, or by touching bare  
24 skin or mucous membranes with gloves after handling Sushi Nori, as well as through  
25 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in  
26 particulate matter dispersed from Sushi Nori.

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

8 36. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
10 violations alleged herein will continue to occur into the future.

11 37. Based on the allegations herein, Defendants are liable for civil penalties of up to  
12 \$2,500.00 per day per individual exposure to Lead and lead compounds and cadmium  
13 and cadmium compounds from Sushi Nori, pursuant to Health and Safety Code Section  
14 25249.7(b).

15 38. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
16 filing this Complaint.

### 17 **SECOND CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against MOTHER'S**  
19 **MARKET, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking**  
20 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
21 ***seq.*))**

### 22 **Seaweed II and III**

23 39. Plaintiff repeats and incorporates by reference paragraphs 1 through 38 of this complaint  
24 as though fully set forth herein.

25 40. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
26 distributor, promoter, or retailer of Seaweed Salad Mix ("Seaweed Salad Mix"),  
27 including but not limited to "Seavegi seaweed salad mix by seasnax"; "wakame,  
28

1 agar, suginori, Tsunomata, Mafunori”; “Net Wt. 0.9 oz (25g)”;

2 “SV-SALAD”; “UPC 6 09722 798501”; “Product of Korea.”

3 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Seaweed Snack (“Seaweed Snack”), including but not  
5 limited to “Toasty Onion Seasnax”; “Made with 100% Olive Oil”; “Strangely  
6 Addictive”; “Net Wt 0.54 oz (15g)”;

7 “5 Large Sheets”; “SS-ONION”; “UPC 7 28028 02321 3”;

8 “Product of Korea.”

9 42. Seaweed Salad Mix contains Lead and lead compounds.

10 43. Seaweed Snack contains Lead and lead compounds and Cadmium and cadmium  
11 compounds

12 44. Defendants knew or should have known that Lead and lead compounds and cadmium  
13 and cadmium compounds have been identified by the State of California as chemicals  
14 known to cause cancer and reproductive and therefore was subject to Proposition 65  
15 warning requirements. Defendants were also informed of the presence of Lead and lead  
16 compounds in Seaweed Salad Mix and Lead and lead compounds and cadmium and  
17 cadmium compounds in Seaweed Snack within Plaintiff’s notice of alleged violations  
18 further discussed above at Paragraph 22b.

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

27 46. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and  
28 the present, each of the Defendants knowingly and intentionally exposed California

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

20 47. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
21 Persons sustain exposures by eating and consuming Seaweed Salad Mix and Seaweed  
22 Snack, by handling Seaweed Salad Mix and Seaweed Snack without wearing gloves or  
23 any other personal protective equipment, or by touching bare skin or mucous membranes  
24 with gloves after handling Seaweed Salad Mix and Seaweed Snack, as well as through  
25 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in  
26 particulate matter dispersed from Seaweed Salad Mix and Seaweed Snack.

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

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

12 50. Based on the allegations herein, Defendants are liable for civil penalties of up to  
13 \$2,500.00 per day per individual exposure to Lead and lead compounds and cadmium  
14 and cadmium compounds from Seaweed Salad Mix and Seaweed Snack, pursuant to  
15 Health and Safety Code Section 25249.7(b).

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

18 **THIRD CAUSE OF ACTION**

19 **(By CONSUMER ADVOCACY GROUP, INC. and against MOTHER'S**  
20 **MARKET, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking**  
21 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
22 ***seq.*))**

23 **Seaweed IV**

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

26 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
27 distributor, promoter, or retailer of Raw Organic Seaweed ("Raw Seaweed"), including  
28

1 but not limited to “Seasnax ® Strangely Addictive”; “Organic Seaweed, Raw , Vegan”;  
2 “Net wt 28g (1.0 oz)”; “SS-RAW”; “7 28028 02323 7.”

3 54. Raw Organic Seaweed contains cadmium and cadmium compounds.

4 55. Defendants knew or should have known that cadmium and cadmium compounds have  
5 been identified by the State of California as chemicals known to cause cancer and  
6 reproductive and therefore was subject to Proposition 65 warning requirements.

7 Defendants were also informed of the presence of cadmium and cadmium compounds in  
8 Raw Organic Seaweed within Plaintiff’s notice of alleged violations further discussed  
9 above at Paragraph 22c.

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

17 57. Plaintiff is informed, believes, and thereon alleges that between November 5, 2017 and  
18 the present, each of the Defendants knowingly and intentionally exposed California  
19 consumers and users of Raw Organic Seaweed, which Defendants manufactured,  
20 distributed, or sold as mentioned above, to cadmium and cadmium compounds, without  
21 first providing any type of clear and reasonable warning of such to the exposed persons  
22 before the time of exposure. Defendants have distributed and sold Raw Organic  
23 Seaweed in California. Defendants know and intend that California consumers will use  
24 and consume Raw Organic Seaweed thereby exposing them to cadmium and cadmium  
25 compounds. Further, Plaintiff is informed, believes, and thereon alleges that Defendants  
26 are selling Raw Seaweed under a brand or trademark that is owned or licensed by the  
27 Defendants or an entity affiliated thereto; have knowingly introduced relevant chemical  
28

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

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

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

22 60. 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 61. Based on the allegations herein, Defendants are liable for civil penalties of up to  
26 \$2,500.00 per day per individual exposure to cadmium and cadmium compounds from  
27 Raw Organic Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

28



1 62. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
2 filing this Complaint.  
3

4 **FOURTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against MOTHER'S**  
6 **MARKET, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**  
7 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
8 ***seq.*))**

9 **Seaweed V**

10 63. Plaintiff repeats and incorporates by reference paragraphs 1 through 62 of this complaint  
11 as though fully set forth herein.

12 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
13 distributor, promoter, or retailer of Raw Organic Seaweed ("Raw Seaweed"), including  
14 but not limited to "Seasnax ® Strangely Addictive"; "Organic Seaweed, Raw, Vegan";  
15 "Net wt 28g (1.0 oz)"; "SS-RAW"; "7 28028 02323 7."

16 65. Raw Organic Seaweed contains Lead and lead compounds.

17 66. Defendants knew or should have known that Lead and lead compounds have been  
18 identified by the State of California as chemicals known to cause cancer and  
19 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
20 Defendants were also informed of the presence of Lead and lead compounds in Raw  
21 Organic Seaweed within Plaintiff's notice of alleged violations further discussed above at  
22 Paragraph 22d.

23 67. Plaintiff's allegations regarding Raw Organic Seaweed concerns "[c]onsumer products  
24 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
25 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
26 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
27 *25602(b)*. Raw Organic Seaweed is a consumer product, and, as mentioned herein,  
28

1 exposures to Lead and lead compounds took place as a result of such normal and  
2 foreseeable consumption and use.

3 68. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and  
4 the present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of Raw Organic Seaweed, which Defendants manufactured,  
6 distributed, or sold as mentioned above, to Lead and lead compounds, without first  
7 providing any type of clear and reasonable warning of such to the exposed persons  
8 before the time of exposure. Defendants have distributed and sold Raw Organic  
9 Seaweed in California. Defendants know and intend that California consumers will use  
10 and consume Raw Organic Seaweed thereby exposing them to Lead and lead  
11 compounds. Further, Plaintiff is informed, believes, and thereon alleges that Defendants  
12 are selling Raw Organic Seaweed under a brand or trademark that is owned or licensed  
13 by the Defendants or an entity affiliated thereto; have knowingly introduced relevant  
14 chemical into product or knowingly caused relevant chemical to be created in Raw  
15 Organic Seaweed; have covered, obscured or altered a warning label that has been  
16 affixed to Raw Organic Seaweed by the manufacturer, producer, packager, importer,  
17 supplier or distributor of Raw Organic Seaweed; have received a notice and warning  
18 materials for exposure from Raw Organic Seaweed without conspicuously posting or  
19 displaying the warning materials; and/or have actual knowledge of potential exposure to  
20 relevant chemical from Raw Organic Seaweed. Defendants thereby violated Proposition  
21 65.

22 69. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
23 Persons sustain exposures by eating and consuming Raw Organic Seaweed and by  
24 handling Raw Organic Seaweed without wearing gloves or any other personal protective  
25 equipment, or by touching bare skin or mucous membranes with gloves after handling  
26 Raw Organic Seaweed, as well as through direct and indirect hand to mouth contact,  
27  
28

1 hand to mucous membrane, or breathing in particulate matter dispersed from Raw  
2 Organic Seaweed.

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

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

13 72. Based on the allegations herein, Defendants are liable for civil penalties of up to  
14 \$2,500.00 per day per individual exposure to Lead and lead compounds from Raw  
15 Organic Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

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

18  
19  
20 **FIFTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against MOTHER'S**  
22 **MARKET, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking**  
23 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
24 ***seq.*))**

25 **Seaweed VI**

26 74. Plaintiff repeats and incorporates by reference paragraphs 1 through 73 of this complaint  
27 as though fully set forth herein.

28 75. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
distributor, promoter, or retailer of Chipotle Seaweed ("Chipotle Seaweed"), including

1 but not limited to “Chipotle Seasnax ® Strangely Addictive”; “Organic Premium  
2 Roasted Seaweed Snack”; “Net Wt. 0.54 oz (15g); “SS-CHIPOT”; “UPC 6 09722 79880  
3 8”; “Product of Korea.”

4 76. Chipotle Seaweed contains Lead and lead compounds, inorganic arsenic compounds, and  
5 inorganic arsenic oxides.

6 77. Defendants knew or should have known that Lead and lead compounds, inorganic  
7 arsenic compounds, and inorganic arsenic oxides have been identified by the State of  
8 California as chemicals known to cause cancer and reproductive toxicity and therefore  
9 was subject to Proposition 65 warning requirements. Defendants were also informed of  
10 the presence of Lead and lead compounds, inorganic arsenic compounds, and inorganic  
11 arsenic oxides in Chipotle Seaweed within Plaintiff’s notice of alleged violations further  
12 discussed above at Paragraph 22e.

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

20 79. Plaintiff is informed, believes, and thereon alleges that between February 11, 2021 and  
21 the present, each of the Defendants knowingly and intentionally exposed California  
22 consumers and users of Chipotle Seaweed, which Defendants manufactured, distributed,  
23 or sold as mentioned above, Lead and lead compounds, inorganic arsenic compounds,  
24 and inorganic arsenic oxides, without first providing any type of clear and reasonable  
25 warning of such to the exposed persons before the time of exposure. Defendants have  
26 distributed and sold Chipotle Seaweed in California. Defendants know and intend that  
27 California consumers will use and consume Chipotle Seaweed thereby exposing them to  
28

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

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

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

25 82. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
26 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
27 violations alleged herein will continue to occur into the future.

1 83. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to Lead and lead compounds, inorganic  
3 arsenic compounds, and inorganic arsenic oxides from Chipotle Seaweed, pursuant to  
4 Health and Safety Code Section 25249.7(b).

5 84. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
6 filing this Complaint.

7 **PRAYER FOR RELIEF**

8 Plaintiff demands against each of the Defendants as follows:

9 85. A permanent injunction mandating Proposition 65-compliant warnings;

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

11 87. Costs of suit;

12 88. Reasonable attorney fees and costs; and

13 89. Any further relief that the court may deem just and equitable.

14 Dated: May 20, 2021

YEROUSHALMI & YEROUSHALMI\*

15 

16  
17 \_\_\_\_\_  
18 Reuben Yeroushalmi  
19 Attorneys for Plaintiff,  
20 CONSUMER ADVOCACY GROUP, INC.  
21  
22  
23  
24  
25  
26  
27  
28