To: 15102671546	Page: 4 of 9	2021-01-11 22:41:4	0 GMT	16193930154	From: Samantha Dice
1 2 3 4 5 6 7 8 9 10 11	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, LI Craig M. Nicholas (SBN 17844 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 Attorneys for Plaintiff ENVIRONMENTAL HEALTH AD SUPERIOR C	14) ) )VOCATES, )	INC. <b>THE STATE OF</b>	FILED BY FAX ALAMEDA COUNTY January 11, 2021 CLERK OF THE SUPERIOR COURT By Cheryl Clark, Deputy CASE NUMBER: HG21085511	
12			COUNTY OF AL		
12	ENVIRONMENTAL HEALTH AD			ANEDA	
14	INC.,	////LO,		FOR CIVIL PENALTIES	
15	Plaintiff,		AND INJUNCT		
16	R.W. GARCIA CO., INC., a Nevad	a	(Health & Safety	Code § 25249.6 et seq.)	
17	corporation, HARVEST RANCH M California corporation, and DOES 1	1ARKET, a 🛛			
18	100, inclusive,				
19	Defendants.				
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I. <u>INTRODUCTION</u>				
1. This Complaint is a representative action brought by Environmental Health Advocates,				
Inc. ("Plaintiff") in the public interest of the citizens of the State of California ("the People"). Plaintiff				
seeks to remedy Defendant's failure to inform the People of exposure to acrylamide, a known				
carcinogen. Defendant exposes consumers to acrylamide by manufacturing, importing, selling, and/or				
distributing RW Garcia Organic BBQ Corn Chips ("Products"). Defendant knows and intends that				
customers will ingest Products containing acrylamide.				
2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California				
Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing				
business shall knowingly and intentionally expose any individual to a chemical known to the state to				
cause cancer or reproductive toxicity without first giving clear and reasonable warning to such				
individual" (Health & Safety Code, § 25249.6.)				
3. California identified and listed acrylamide as a chemical known to cause cancer as early				
as January 1, 1990, and as a chemical known to cause developmental/reproductive toxicity on February				
25, 2011.				
4. Defendant failed to sufficiently warn consumers and individuals in California about				
potential exposure to acrylamide in connection with Defendant's manufacture, import, sale, or				
distribution of Products. This is a violation of Proposition 65.				
5. Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in				
California before exposing them to acrylamide in Products. (Health & Safety Code, § 25249.7(a).)				
Plaintiff also seeks civil penalties against Defendant for its violations of Proposition 65 along with				
attorney's fees and costs. (Health & Safety Code, § 25249.7(b).)				
II. DADITIES				
PARTIES				
6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a				
corporation in the State of California dedicated to protecting the health of California citizens through				
the elimination or reduction of toxic exposure from consumer products. It brings this action in the public				
interest pursuant to Health and Safety Code, section 25249.7.				

7. Defendant R.W. GARCIA CO., INC. ("RWG") is a corporation organized and existing
 under the laws of Nevada. RWG 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. RWG
 manufactures, imports, sells, or distributes the Products in California and Alameda County.

8. Defendant HARVEST RANCH MARKET ("Harvest Ranch") is a corporation
organized and existing under the laws of California. Harvest Ranch 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. Harvest Ranch 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. Defendant conducted and continues to conduct business in this County as it relates to Products.

24 12. Defendant has sufficient minimum contacts in the State of California or otherwise
25 purposefully avails itself of the California market. Exercising jurisdiction over Defendant would be
26 consistent with traditional notions of fair play and substantial justice.

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

## 4 COMPLAINT

1	22.	Individuals exposed to acrylami	de 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. Defendant is liable for a maximum civil penalty of \$2,500 per day for each violation of				
5	Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also				
6	appropriate pursuant to Health and Safety Code, section 25249.7(a).				
7	7 PRAYER FOR RELIEF				
8	8 Wherefore, Plaintiff prays for judgment against Defendant as follows:				
9	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that				
10	damages total a minimum of \$1,000,000;				
11	2. A preliminary and permanent injunction against Defendant from manufacturing,				
12	importing, selling, and/or distributing Products in California without providing a clear and reasonable				
13	3 warning as required by Proposition 65 and related Regulations;				
14	3.	3. Reasonable attorney's fees and costs of suit; and			
15	4. Such other and further relief as may be just and proper.				
16	Respectfully	submitted:			
17	Dated: Janua	ry 11, 2021	GLICK LAW GROUP, PC		
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19			Noon Slich		
20		By:	Noam Glick		
21			NICHOLAS & TOMASEVIC, LLP		
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23			Craig M. Nicholas Jake W. Schulte		
24			Attorneys for Plaintiff		
25 26			Environmental Health Advocates, Inc.		
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