

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**11/18/2021 at 01:38:25 PM**

By: Cheryl Clark, Deputy Clerk

**ENTORNO LAW, LLP**

Craig M. Nicholas (SBN 178444)

Noam Glick (SBN 251582)

Jake W. Schulte (SBN 293777)

225 Broadway, Suite 1900

San Diego, California 92101

Tel: (619) 629-0527

Email: craig@entornolaw.com

Email: noam@entornolaw.com

Email: jake@entornolaw.com

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.,

Plaintiff,

v.

ROOTED INNOVATIONS INC., a Delaware  
corporation, AMAZON.COM SERVICES  
LLC, a Delaware limited liability company, and  
DOES 1 through 100, inclusive,

Defendants.

Case No.: **21CV002803**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

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 Defendants’ failure to inform the People of exposure to acrylamide, a known carcinogen. Defendants expose consumers to acrylamide by manufacturing, importing, selling, and/or distributing Strong Roots Cauliflower Hash Browns (“Products”). Defendants know and intend 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. Defendants failed to sufficiently warn consumers and individuals in California about potential exposure to acrylamide in connection with Defendants’ manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

5. Plaintiff seeks injunctive relief compelling Defendants 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 Defendants for its violations of Proposition 65 along with attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**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 ROOTED INNOVATIONS INC. (“Rooted”) is a corporation organized and existing under the laws of Delaware. Rooted 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. Rooted manufactures, imports, sells, or distributes the Products in California and Alameda County.

8. Defendant AMAZON.COM SERVICES LLC (“Amazon”) is a corporation organized and existing under the laws of Delaware. Amazon 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. Amazon 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 damages.

### III. VENUE AND JURISDICTION

10. 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.

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

12. 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.

///

///

///

**IV.**  
**CAUSES OF ACTION**

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

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

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

15. Defendants manufactured, imported, sold, and/or distributed Products containing 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 occur into the future.

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

17. 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.

18. Defendants knew or should have known that the Products contained acrylamide and 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 chemicals in consumer products provided constructive notice to Defendants.

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

20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to acrylamide contained in the Products.

21. The appropriate public enforcement agencies provided with the Notice failed to commence and diligently prosecute a cause of action against Defendants.

///

22. Individuals exposed to acrylamide contained in Products through direct ingestion resulting from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. There is no other plain, speedy, or adequate remedy at law.

23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also appropriate pursuant to Health and Safety Code, section 25249.7(a).

## PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that damages total a minimum of \$1,000,000;

2. A preliminary and permanent injunction against Defendants from manufacturing, importing, selling, and/or distributing Products in California without providing a clear and reasonable warning as required by Proposition 65 and related Regulations;

3. Reasonable attorney's fees and costs of suit; and

4. Such other and further relief as may be just and proper.

Respectfully submitted:

Dated: November 18, 2021

**ENTORNO LAW, LLP**

By:

Noam Glick  
Jake W. Schulte  
Craig M. Nicholas

Attorneys for Plaintiff  
Environmental Health Advocates, Inc.