

1 Reuben Yeroushalmi (SBN 193981)
2 reuben@yeroushalmi.com
3 **YEROUSHALMI & YEROUSHALMI***
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.

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By Y. Tarasyuk, Deputy Clerk

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12
13 **COUNTY OF LOS ANGELES**

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 KAM LEE YUEN TRADING CO., INC., a
19 California Corporation;
20 WEEE!, INC., a Delaware Corporation;
21 FOODNET SUPERMARKET, INC., a
22 California Corporation;
23 and DOES 1-60,

24 Defendants.

CASE NO. **23ST CV 1 2567**

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)

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges six causes of action against
2 defendants KAM LEE YUEN TRADING CO.; WEEE!, INC; FOODNET SUPERMARKET,
3 INC., and DOES 1-60 as follows:

4 **THE PARTIES**

- 5 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
6 organization qualified to do business in the State of California. CAG is a person within
7 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
8 as a private attorney general, brings this action in the public interest as defined under
9 Health and Safety Code Section 25249.7, subdivision (d).
- 10 2. Defendant KAM LEE YUEN TRADING CO., INC (“KAM LEE”) is a California
11 Corporation qualified to do business in California, and doing business in the State of
12 California at all relevant times herein.
- 13 3. Defendant WEEE!, INC (“WEEE”) is a Delaware Corporation, qualified to do business
14 in California and doing business in the State of California at all relevant times herein.
- 15 4. Defendant FOODNET SUPERMARKET, INC (“FOODNET”) is a California, qualified
16 to do business in California and doing business in the State of California at all relevant
17 times herein.
- 18 5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,
19 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
20 Complaint to allege their true names and capacities when ascertained. Plaintiff is
21 informed, believes, and thereon alleges that each fictitiously named defendant is
22 responsible in some manner for the occurrences herein alleged and the damages caused
23 thereby.
- 24 6. At all times mentioned herein, the term “Defendants” includes KAM LEE, WEEE,
25 FOODNET, and DOES 1-60.
- 26 7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
27 times mentioned herein have conducted business within the State of California.
- 28

- 1 8. Upon information and belief, at all times relevant to this action, each of the Defendants,
2 including DOES 1-60, was an agent, servant, or employee of each of the other
3 Defendants. In conducting the activities alleged in this Complaint, each of the
4 Defendants was acting within the course and scope of this agency, service, or
5 employment, and was acting with the consent, permission, and authorization of each of
6 the other Defendants. All actions of each of the Defendants alleged in this Complaint
7 were ratified and approved by every other Defendant or their officers or managing
8 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
9 alleged wrongful conduct of each of the other Defendants.
- 10 9. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
11 Defendants was a person doing business within the meaning of Health and Safety Code
12 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
13 employees at all relevant times.

14 **JURISDICTION**

- 15 10. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
16 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
17 those given by statute to other trial courts. This Court has jurisdiction over this action
18 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
19 violations of Proposition 65 in any Court of competent jurisdiction.
- 20 11. This Court has jurisdiction over Defendants named herein because Defendants either
21 reside or are located in this State or are foreign corporations authorized to do business in
22 California, are registered with the California Secretary of State, or who do sufficient
23 business in California, have sufficient minimum contacts with California, or otherwise
24 intentionally avail themselves of the markets within California through their
25 manufacture, distribution, promotion, marketing, or sale of their products within
26 California to render the exercise of jurisdiction by the California courts permissible
27 under traditional notions of fair play and substantial justice.

1 12. Venue is proper in the County of Los Angeles because one or more of the instances of
2 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
3 because Defendants conducted, and continue to conduct, business in the County of Los
4 Angeles with respect to the consumer product that is the subject of this action.

5 **BACKGROUND AND PRELIMINARY FACTS**

6 13. In 1986, California voters approved an initiative to address growing concerns about
7 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
8 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
9 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
10 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
11 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
12 from contamination, to allow consumers to make informed choices about the products
13 they buy, and to enable persons to protect themselves from toxic chemicals as they see
14 fit.

15 14. Proposition 65 requires the Governor of California to publish a list of chemicals known
16 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
17 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
18 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
19 other controls that apply to Proposition 65-listed chemicals.

20 15. All businesses with ten (10) or more employees that operate or sell products in California
21 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
22 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
23 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
24 reasonable” warnings before exposing a person, knowingly and intentionally, to a
25 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

26 16. Proposition 65 provides that any person "violating or threatening to violate" the statute
27 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §

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1 25249.7. "Threaten to violate" means "to create a condition in which there is a
2 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
3 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
4 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

5 17. Plaintiff identified certain practices of manufacturers and distributors of consumer
6 products of exposing, knowingly and intentionally, persons in California to Lead and
7 Lead Compounds, Cadmium and Cadmium Compounds, Inorganic Arsenic Compounds,
8 and/or Inorganic Arsenic Oxides of such products without first providing clear and
9 reasonable warnings of such to the exposed persons prior to the time of exposure.
10 Plaintiff later discerned that Defendants engaged in such practice.

11 18. On October 1, 1992 the Governor of California added Lead and Lead Compounds
12 ("Lead") to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
13 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
14 twenty (20) months after addition of Lead to the list of chemicals known to the State to
15 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
16 discharge prohibitions.

17 19. On February 27, 1987, the Governor of California added Lead to the list of chemicals
18 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
19 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
20 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
21 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
22 the State to cause developmental and reproductive toxicity, Lead became fully subject to
23 Proposition 65 warning requirements and discharge prohibitions.

24 20. On October 1, 1987 the Governor of California added Cadmium and Cadmium
25 Compounds ("Cadmium") to the list of chemicals known to the State to cause cancer
26 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections
27 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
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1 chemicals known to the State to cause cancer, Cadmium became fully subject to
2 Proposition 65 warning requirements and discharge prohibitions.

3 21. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
4 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
5 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
6 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
7 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
8 to the State to cause developmental and reproductive toxicity, Cadmium became fully
9 subject to Proposition 65 warning requirements and discharge prohibitions.

10 22. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list
11 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,
12 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental,
13 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
14 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to
15 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject
16 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic
17 Oxides is hereinafter referred to as “Arsenic”.

18 **SATISFACTION OF PRIOR NOTICE**

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

- 21 a. On or about October 15, 2021, Plaintiff gave notice of alleged violations of
22 Health and Safety Code Section 25249.6, concerning consumer products
23 exposures subject to a private action to KAM LEE, WEEE, and to the California
24 Attorney General, County District Attorneys, and City Attorneys for each city
25 containing a population of at least 750,000 people in whose jurisdictions the
26 violations allegedly occurred, concerning the Dried Seaweed.

- 1 b. On or about July 6, 2022, Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to KAM LEE, and to the California Attorney General,
4 County District Attorneys, and City Attorneys for each city containing a
5 population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Dried Seaweed.
- 7 c. On or about November 3, 2022, Plaintiff gave notice of alleged violations of
8 Health and Safety Code Section 25249.6, concerning consumer products
9 exposures subject to a private action to KAM LEE, FOODNET, and to the
10 California Attorney General, County District Attorneys, and City Attorneys for
11 each city containing a population of at least 750,000 people in whose
12 jurisdictions the violations allegedly occurred, concerning the Dried Shrimp.
- 13 d. On or about December 2, 2022, Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to KAM LEE, FOODNET, and to the
16 California Attorney General, County District Attorneys, and City Attorneys for
17 each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- 19 e. On or about December 2, 2022, 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 to KAM LEE, FOODNET, 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 Five Spice.
- 25 f. On or about December 16, 2022 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 to KAM LEE, FOODNET, and to the
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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 Cinnamon
4 Powder.

5 24. 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, Cadmium and Inorganic Arsenic Compounds, and/or
8 Inorganic Arsenic Oxides, and the corporate structure of each of the Defendants.

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

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

22 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
23 gave notice of the alleged violations to KAM LEE, WEEE, FOODNET, and the public
24 prosecutors referenced in Paragraph 23.

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

FIRST CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against KAM LEE, WEEE, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))

Seaweed I

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

30. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed (“Seaweed”), including but not limited to “Dried Seaweed (Strips)”; “Net Weight 3oz (8g)”; “UPC 6 63836 01150 5”; “Product of China”

31. Seaweed contains Lead and Inorganic Arsenic.

32. Defendants knew or should have known that Lead and Inorganic Arsenic has been identified by the State of California as a chemical known to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead and Inorganic Arsenic in Seaweed within Plaintiff’s notice of alleged violations further discussed above at Paragraph 23a.

33. Plaintiff’s allegations regarding Seaweed concerns “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*. Seaweeds are consumer products, and, as mentioned herein, exposures to Lead and Inorganic Arsenic took place as a result of such normal and foreseeable consumption and use.

34. Plaintiff is informed, believes, and thereon alleges that between October 15, 2018 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as

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

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

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

1 37. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
2 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
3 violations alleged herein will continue to occur into the future.

4 38. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Lead and Inorganic Arsenic from Seaweed,
6 pursuant to Health and Safety Code Section 25249.7(b).

7 39. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
8 filing this Complaint.

9
10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against KAM LEE, and**
12 **DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
13 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

14 **Seaweed II**

15 40. Plaintiff repeats and incorporates by reference paragraphs 1 through 39 of this complaint
16 as though fully set forth herein.

17 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Dried Seaweed ("Seaweed"), including but not
19 limited to "Dried Seaweed Strips"; "Net Wt. 3 oz (85 g)"; "Lot No. KLY-1007"; "Best
20 Before June-10-2022"; "Distributed by K.L.Y Trading Co., Inc."; "DV 1150"; "UPC 6
21 63836 011505"

22 42. Seaweed contains Lead and Inorganic Arsenic.

23 43. Defendants knew or should have known that Lead and Inorganic Arsenic has been
24 identified by the State of California as a chemical known to cause cancer, and
25 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
26 Defendants were also informed of the presence of Lead and Inorganic Arsenic in
27 Seaweed within Plaintiff's notice of alleged violations further discussed above at
28 Paragraph 23b.

1 44. Plaintiff's allegations regarding Seaweed concerns "[c]onsumer products exposure[s],"
2 which "is an exposure that results from a person's acquisition, purchase, storage,
3 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
4 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
5 Seaweeds are consumer products, and, as mentioned herein, exposures to Lead and
6 Inorganic Arsenic took place as a result of such normal and foreseeable consumption and
7 use.

8 45. Plaintiff is informed, believes, and thereon alleges that between July 6, 2019 and the
9 present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as
11 mentioned above, to Lead and Inorganic Arsenic, without first providing any type of
12 clear and reasonable warning of such to the exposed persons before the time of exposure.
13 Defendants have distributed and sold Seaweed in California. Defendants know and
14 intend that California consumers will use and consume Seaweed, thereby exposing them
15 to Lead and Inorganic Arsenic. Further, Plaintiff is informed, believes, and thereon
16 alleges that Defendants are selling Seaweed under a brand or trademark that is owned or
17 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
18 Lead and Inorganic Arsenic into Seaweed or knowingly caused Lead and Inorganic
19 Arsenic to be created in Seaweed; have covered, obscured or altered a warning label that
20 has been affixed to Seaweed by the manufacturer, producer, packager, importer, supplier
21 or distributor of Seaweed; have received a notice and warning materials for exposure
22 from Seaweed without conspicuously posting or displaying the warning materials; and/or
23 have actual knowledge of potential exposure to Lead and Inorganic Arsenic from
24 Seaweed. Defendants thereby violated Proposition 65.

25 46. The principal routes of exposure are through dermal contact, ingestion and inhalation.
26 Persons sustain exposures by handling Seaweed without wearing gloves or any other
27 personal protective equipment, or by touching bare skin or mucous membranes with
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1 gloves after handling Seaweed, as well as through direct and indirect hand to mouth
2 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
3 Seaweed.

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

10 48. 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 49. 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 Inorganic Arsenic from Seaweed,
15 pursuant to Health and Safety Code Section 25249.7(b).

16 50. 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 KAM LEE,**
20 **FOODNET, 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 **Seafood Product**

24 51. Plaintiff repeats and incorporates by reference paragraphs 1 through 50 of this complaint
25 as though fully set forth herein.

26 52. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Seafood Product ("Dried Shrimp"), including but not
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1 limited to "Twin Fish Brand"; "Dried Shrimp"; "Net Wt. 4 oz (113.5g)"; "Packed in
2 U.S.A."; "Distributed by K.L.Y. Trading Co., Inc."; "DS0030"; "UPC 6 63836 00030 1"

3 53. Dried Shrimp contains Lead, Cadmium and Inorganic Arsenic.

4 54. Defendants knew or should have known that Lead, Cadmium and Inorganic Arsenic has
5 been identified by the State of California as a chemical known to cause cancer, and
6 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

7 Defendants were also informed of the presence of Lead, Cadmium and Inorganic Arsenic
8 in Dried Shrimp within Plaintiff's notice of alleged violations further discussed above at
9 Paragraph 23c.

10 55. Plaintiff's allegations regarding Dried Shrimp 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)*. Dried Shrimps are consumer products, and, as mentioned herein, exposures to
15 Lead, Cadmium and Inorganic Arsenic took place as a result of such normal and
16 foreseeable consumption and use.

17 56. Plaintiff is informed, believes, and thereon alleges that between November 3, 2019 and
18 the present, each of the Defendants knowingly and intentionally exposed California
19 consumers and users of Dried Shrimp, which Defendants manufactured, distributed, or
20 sold as mentioned above, to Lead, Cadmium and Inorganic Arsenic, without first
21 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 Dried Shrimp in
23 California. Defendants know and intend that California consumers will use and consume
24 Dried Shrimp, thereby exposing them to Lead, Cadmium and Inorganic Arsenic. Further,
25 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Dried
26 Shrimp under a brand or trademark that is owned or licensed by the Defendants or an
27 entity affiliated thereto; have knowingly introduced Lead, Cadmium and Inorganic
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1 Arsenic into Dried Shrimp or knowingly caused Lead, Cadmium and Inorganic Arsenic
2 to be created in Dried Shrimp; have covered, obscured or altered a warning label that has
3 been affixed to Dried Shrimp by the manufacturer, producer, packager, importer,
4 supplier or distributor of Dried Shrimp; have received a notice and warning materials for
5 exposure from Dried Shrimp without conspicuously posting or displaying the warning
6 materials; and/or have actual knowledge of potential exposure to Lead, Cadmium and
7 Inorganic Arsenic from Dried Shrimp. Defendants thereby violated Proposition 65.

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

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

21 59. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
22 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
23 violations alleged herein will continue to occur into the future.

24 60. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to Lead, Cadmium and Inorganic Arsenic
26 from Dried Shrimp, pursuant to Health and Safety Code Section 25249.7(b).

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

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4 **FOURTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against KAM LEE,**
6 **FOODNET, 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
10 **Seaweed III**

11 62. Plaintiff repeats and incorporates by reference paragraphs 1 through 61 of this complaint
12 as though fully set forth herein.

13 63. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Dried Seaweeds (“Seaweeds”), including but not
15 limited to:

16 •“Twin Fish Brand”; “Dried Seaweed”; “Net Wt. 2.82 oz (80 g)”; “Best Before: October-
17 15-2023”; “Distributed By: K.L.Y. Trading Co., Inc.”; “Product of China”; “DV 1097”;
18 “UPC 6 63836 01097 3”

19 •“Twin Fish Brand”; “Dried Seaweed Strips”; “Net Wt. 3 oz (85 g)”; “Distributed By:
20 K.L.Y. Trading Co., Inc.”; “Product of China”; “Best Before: October-15-2023”; “Lot
21 No. KLY – 1012”; “DV 1150”; “UPC 6 63836 01150 5”

22 •“Twin Fish Brand”; “Dried Seaweed Slice”; “Net Wt. 6 oz (170 g)”; “Distributed By:
23 K.L.Y. Trading Co., Inc.”; “Product of China”; “Best Before: March-12-2023”; “Lot No.
24 KLY – 1010”; “DV 0175”; “UPC 6 63836 00175 9”

25 64. Seaweeds contains Lead, Cadmium and Inorganic Arsenic.

26 65. Defendants knew or should have known that Lead, Cadmium and Inorganic Arsenic has
27 been identified by the State of California as a chemical known to cause cancer, and
28 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

Defendants were also informed of the presence of Lead, Cadmium and Inorganic Arsenic

1 in Seaweeds within Plaintiff's notice of alleged violations further discussed above at
2 Paragraph 23d.

3 66. Plaintiff's allegations regarding Seaweeds concerns "[c]onsumer products exposure[s],"
4 which "is an exposure that results from a person's acquisition, purchase, storage,
5 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
6 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.
7 Seaweeds are consumer products, and, as mentioned herein, exposures to Lead,
8 Cadmium and Inorganic Arsenic took place as a result of such normal and foreseeable
9 consumption and use.

10 67. Plaintiff is informed, believes, and thereon alleges that between December 2, 2022 and
11 the present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Seaweeds, which Defendants manufactured, distributed, or sold
13 as mentioned above, to Lead, Cadmium and Inorganic Arsenic, without first providing
14 any type of clear and reasonable warning of such to the exposed persons before the time
15 of exposure. Defendants have distributed and sold Seaweeds in California. Defendants
16 know and intend that California consumers will use and consume Seaweeds, thereby
17 exposing them to Lead, Cadmium and Inorganic Arsenic. Further, Plaintiff is informed,
18 believes, and thereon alleges that Defendants are selling Seaweeds under a brand or
19 trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
20 have knowingly introduced Lead, Cadmium and Inorganic Arsenic into Seaweeds or
21 knowingly caused Lead, Cadmium and Inorganic Arsenic to be created in Seaweeds;
22 have covered, obscured or altered a warning label that has been affixed to Seaweeds by
23 the manufacturer, producer, packager, importer, supplier or distributor of Seaweeds;
24 have received a notice and warning materials for exposure from Seaweeds without
25 conspicuously posting or displaying the warning materials; and/or have actual
26 knowledge of potential exposure to Lead, Cadmium and Inorganic Arsenic from
27 Seaweeds. Defendants thereby violated Proposition 65.

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1 68. The principal routes of exposure are through dermal contact, ingestion and inhalation.
2 Persons sustain exposures by handling Seaweeds without wearing gloves or any other
3 personal protective equipment, or by touching bare skin or mucous membranes with
4 gloves after handling Seaweeds, as well as through direct and indirect hand to mouth
5 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
6 Seaweeds.

7 69. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
8 Proposition 65 as to Seaweeds have been ongoing and continuous, as Defendants
9 engaged and continue to engage in conduct which violates Health and Safety Code
10 Section 25249.6, including the manufacture, distribution, promotion, and sale of
11 Seaweeds, so that a separate and distinct violation of Proposition 65 occurred each and
12 every time a person was exposed to Lead, Cadmium and Inorganic Arsenic by Seaweeds
13 as mentioned herein.

14 70. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
15 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
16 violations alleged herein will continue to occur into the future.

17 71. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to Lead, Cadmium and Inorganic Arsenic
19 from Seaweeds, pursuant to Health and Safety Code Section 25249.7(b).

20 72. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
21 filing this Complaint.

22 **FIFTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against KAM LEE,**
24 **FOODNET, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking**
25 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
26 ***seq.*))**

27 **Spice I**

1 73. Plaintiff repeats and incorporates by reference paragraphs 1 through 72 of this complaint
2 as though fully set forth herein.

3 74. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Spice (“Five Spice”), including but not limited to
5 "Twin Fish Brand"; "Dried 5 Spice Powder"; "Net Wt. 3oz (85g)"; "Distributed By
6 K.L.Y. Trading Co., Inc."; "Product of China"; "SP 0050"; "UPC 6 63836 00050 9"

7 75. Five Spice contains Lead and Inorganic Arsenic.

8 76. Defendants knew or should have known that Lead and Inorganic Arsenic has been
9 identified by the State of California as a chemical known to cause cancer, and
10 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
11 Defendants were also informed of the presence of Lead and Inorganic Arsenic in Five
12 Spice within Plaintiff's notice of alleged violations further discussed above at Paragraph
13 23e.

14 77. Plaintiff's allegations regarding Five Spice concerns “[c]onsumer products exposure[s],”
15 which “is an exposure that results from a person’s acquisition, purchase, storage,
16 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
17 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
18 Five Spice are consumer products, and, as mentioned herein, exposures to Lead and
19 Inorganic Arsenic took place as a result of such normal and foreseeable consumption and
20 use.

21 78. Plaintiff is informed, believes, and thereon alleges that between December 2, 2019 and
22 the present, each of the Defendants knowingly and intentionally exposed California
23 consumers and users of Five Spice, which Defendants manufactured, distributed, or sold
24 as mentioned above, to Lead and Inorganic Arsenic, without first providing any type of
25 clear and reasonable warning of such to the exposed persons before the time of exposure.
26 Defendants have distributed and sold Five Spice in California. Defendants know and
27 intend that California consumers will use and consume Five Spice, thereby exposing
28

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

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

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

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

1 82. 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 Inorganic Arsenic from Five
3 Spice, pursuant to Health and Safety Code Section 25249.7(b).

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

6
7 **SIXTH CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against KAM LEE,**
9 **FOODNET, and DOES 51-60 for Violations of Proposition 65, The Safe Drinking**
10 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
11 ***seq.*))**

12 **Spice II**

13 84. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
14 as though fully set forth herein.

15 85. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Spice (“Cinnamon Powder”), including but not
17 limited to "Twin Fish"; "Dried Cinnamon Powder"; "Net Wt. 2 oz (56.7g)"; "Product of
18 China"; "Distributed By K.L.Y. Trading Co., Inc."; "SP 1207"; "UPC 6 63836 01207 6"

19 86. Cinnamon Powder contains Lead and Inorganic Arsenic.

20 87. Defendants knew or should have known that Lead and Inorganic Arsenic has been
21 identified by the State of California as a chemical known to cause cancer, and
22 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
23 Defendants were also informed of the presence of Lead and Inorganic Arsenic in
24 Cinnamon Powder within Plaintiff's notice of alleged violations further discussed above
25 at Paragraph 23f.

26 88. Plaintiff's allegations regarding Cinnamon Powder concerns “[c]onsumer products
27 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
28 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*

1 25602(b). Cinnamon Powders are consumer products, and, as mentioned herein,
2 exposures to Lead and Inorganic Arsenic took place as a result of such normal and
3 foreseeable consumption and use.

4 89. Plaintiff is informed, believes, and thereon alleges that between December 16, 2019 and
5 the present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Cinnamon Powder, which Defendants manufactured, distributed,
7 or sold as mentioned above, to Lead and Inorganic Arsenic, without first providing any
8 type of clear and reasonable warning of such to the exposed persons before the time of
9 exposure. Defendants have distributed and sold Cinnamon Powder in California.
10 Defendants know and intend that California consumers will use and consume Cinnamon
11 Powder, thereby exposing them to Lead and Inorganic Arsenic. Further, Plaintiff is
12 informed, believes, and thereon alleges that Defendants are selling Cinnamon Powder
13 under a brand or trademark that is owned or licensed by the Defendants or an entity
14 affiliated thereto; have knowingly introduced Lead and Inorganic Arsenic into Cinnamon
15 Powder or knowingly caused Lead and Inorganic Arsenic to be created in Cinnamon
16 Powder; have covered, obscured or altered a warning label that has been affixed to
17 Cinnamon Powder by the manufacturer, producer, packager, importer, supplier or
18 distributor of Cinnamon Powder; have received a notice and warning materials for
19 exposure from Cinnamon Powder without conspicuously posting or displaying the
20 warning materials; and/or have actual knowledge of potential exposure to Lead and
21 Inorganic Arsenic from Cinnamon Powder. Defendants thereby violated Proposition 65.

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

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

8 92. 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 93. 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 Inorganic Arsenic from
13 Cinnamon Powder, pursuant to Health and Safety Code Section 25249.7(b).

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

16
17 **PRAYER FOR RELIEF**

18 Plaintiff demands against each of the Defendants as follows:

19 95. A permanent injunction mandating Proposition 65-compliant warnings;

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

21 97. Costs of suit;

22 98. Reasonable attorney fees and costs; and

23 99. Any further relief that the court may deem just and equitable.

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1 Dated: June 2, 2023

YEROUSHALMI & YEROUSHALMI*

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4 *Reuben Yeroushalmi*

Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.

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