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Superior Court of California,
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Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

Attorneys for Plaintiff, Keep America Safe and Beautiful

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
UNLIMITED CIVIL JURISDICTION

KEEP AMERICA SAFE AND BEAUTIFUL)	CASE NO.: 37-2022-00042957-CU-NP-CTL
Plaintiff,)	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF
VS.)	(Cal. Health & Safety Code § 25249.6 et seq.)
NATIONAL FOOD GROUP, INC.;)	
AMAZON.COM, INC)	
AND,)	
DOES 1-25 INCLUSIVE)	
DEFENDANTS.)	

NATURE OF THE ACTION

1. This Complaint is a representative action brought by plaintiff Keep America Safe and Beautiful, in the public interest of the citizens of the State of California, to enforce the people’s right to be informed of the dangers from exposures to Cadmium (hereafter “Listed

1 Chemicals”) toxic chemicals when using the “Zee Zees Spicy Sunflower Kernels, Nut Free,
2 Plant Protein, 1 oz, 48 pack” sold by DEFENDANTS in California.

3 2. By this Complaint, plaintiff seeks to remedy DEFENDANTS’ continuing failures
4 to warn California citizens about their exposure to the Listed Chemicals during the normal and
5 intended use of the “Zee Zees Spicy Sunflower Kernels, Nut Free, Plant Protein, 1 oz, 48 pack”
6 (hereafter “PRODUCT(S)” that the DEFENDANT manufactured, distributed and sold, in the
7 State of California and PRODUCTS that DEFENDANTS continue to manufacture, distribute
8 and offer for sale in the State of California.

9 3. California citizens, including children, through the act of buying, acquiring or
10 utilizing the products, are exposed to the listed chemicals in homes and throughout California
11 where these products are used.

12 4. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
13 California Health & Safety Code § 25249.6 et seq. (Proposition 65), “No person in the course of
14 doing business shall knowingly and intentionally expose any individual to a chemical known to
15 the state to cause cancer or reproductive toxicity without first giving clear and reasonable
16 warning to such individual...” (*Cal. Health & Safety Code § 25249.6.*)

17 5. California identified and listed Cadmium as a chemical known to cause
18 Reproductive Harm and Cancer. Cadmium became subject to the warning requirements of
19 Proposition 65 for Male Reproductive Toxicity and Cancer on May 1, 1997 and (*27 CCR §*
20 *27002; Cal. Health & Safety Code § 25249.6.*)

21 6. DEFENDANTS’ past and continuing failures to warn consumers and/or other
22 individuals in the State of California about their exposure to the LISTED CHEMICALS in
23 conjunction with defendant’s sale of the PRODUCT is a violation of Proposition 65 and subjects
24 DEFENDANTS to enjoinder of such conduct as well as civil penalties for each such violation.

25 7. For DEFENDANTS’ violations of Proposition 65, plaintiff seeks preliminary
26 injunctive and permanent injunctive relief to compel DEFENDANTS to provide purchasers or
27 users of the PRODUCTS with the required warning regarding the health hazards of the LISTED
28 CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

1 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California
2 courts consistent with traditional notions of fair play and substantial justice.

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Proposition 65 – Against Defendant)**

5 16. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
6 Paragraphs 1 through 15, inclusive.

7 17. The citizens of the State of California have expressly stated in the Safe Drinking
8 Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.5, et seq.
9 (Proposition 65) that they must be informed “about exposures to chemicals that cause cancer,
10 birth defects and order reproductive harm.” (*Cal. Health & Safety Code § 25249.6.*)

11 18. Proposition 65 states, “No person in the course of doing business shall knowingly
12 and intentionally expose any individual to a chemical known to the state to cause cancer or
13 productive toxicity without first giving clear and reasonable warning to such individual...
14 (*Id.*)”

15 19. On November 15, 2021 a sixty-day notice violation, together with the requisite
16 certificate of merit, was provided to DEFENDANTS, and various public enforcement agencies
17 stating that as a result of the DEFENDANTS' sales of the PRODUCTS, purchasers and users in
18 the State of California were being exposed to the LISTED CHEMICAL resulting from the
19 reasonably foreseeable use of the PRODUCTS, without the individual purchasers and users first
20 having been provided with a “clear and reasonable warning” regarding such toxic exposures.

21 20. DEFENDANTS have engaged in the manufacture, distribution and/or offering of
22 the PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6 and
23 DEFENDANTS' manufacture, distribution and/or offering of the PRODUCTS for sale or use in
24 violation of California Health & Safety Code § 25249.6 has continued to occur beyond
25 DEFENDANTS' receipt of plaintiff's sixty-day notice of violation. Plaintiff further alleges and
26 believes that such violations will continue to occur into the future.

1 21. After receipt of the claims asserted in the sixty-day notices of violation, the
2 appropriate public enforcement agencies have failed to commence and diligently prosecute a
3 cause of action against DEFENDANTS under Proposition 65.

4 22. The PRODUCTS manufactured, distributed, and/or offered for sale or use in
5 California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state
6 limits.

7 23. DEFENDANTS knew or should have known that the PRODUCTS manufactured,
8 distributed, and/or for sale or use by DEFENDANTS in California contained the LISTED
9 CHEMICAL.

10 24. The PRODUCTS, through normal use exposes users to the LISTED CHEMICALS
11 in such a way as to expose individuals to the LISTED CHEMICALS through inhalation, dermal
12 contact and/or ingestion during the reasonably foreseeable use of the PRODUCTS.

13 25. The normal and reasonably foreseeable use of the PRODUCTS has caused and
14 continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure is defined
15 by 27 CCR§ 25602(b).

16 26. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of
17 the PRODUCTS would expose individuals to the LISTED CHEMICAL..

18 27. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from
19 the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-
20 accidental participation in the manufacture, distribution and/or offer for sale or use of
21 PRODUCTS to individuals in the State of California.

22 28. DEFENDANTS failed to provide a “clear and reasonable warning” to those
23 consumers and/or other individuals in the State of California who were or who could become
24 exposed to the LISTED CHEMICAL during the reasonably foreseeable use of the PRODUCTS.

25 29. Contrary to the express policy and statutory prohibition of Proposition 65, enacted
26 directly by California voters, individuals exposed to the LISTED CHEMICAL resulting from the
27 reasonably foreseeable use of the PRODUCTS, sold by DEFENDENTS without a “clear and
28

1 reasonable warning,” have suffered, and continue to suffer, irreparable harm, for which harm
2 they have no plain, speedy or adequate remedy at law.

3 30. As a consequence of the above-described acts, DEFENDANTS are liable for a
4 maximum civil penal of \$2,500 per day for each violation pursuant to California Health & Safety
5 Code § 25249.7(b).

6 31. As a consequence of the above-described acts, California Health & Safety Code §
7 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
8 DEFENDANTS.

9 32. Wherefore, plaintiff prays for judgment against DEFENDANTS as set forth
10 hereinafter.

11 **PRAYER FOR RELIEF**

12 Wherefore, plaintiff prays for judgment against DEFENDANT as follows:

13 1. That the Court, pursuant to California Health & Safety Code § 25249.7(b), assess
14 civil penalties against DEFENDANTS, in the amount of \$2,500 per day for each violation
15 alleged herein;

16 2. That the Court, pursuant to California Health & Safety Code § 25249.7(a),
17 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing or
18 offering the PRODUCTS for sale or use in California, without providing “clear and reasonable
19 warnings” as detailed by 27 CCR § 25601, as to the harms associated with exposures to the
20 LISTED CHEMICAL;

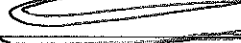
21 3. That the Court grant plaintiff its reasonable attorneys’ fees and cost of suit; and,

22 4. That the Court grant such other and further relief as may be just and proper.

23 Respectfully Submitted,

24 Dated: October 25, 2022

Law Offices of Stephanie Sy

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26 By: 
Stephanie Sy, Esq.
27 Attorney for Plaintiff
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