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Electronically FILED by Superior Court of California, County of Los Angeles on 05/16/2022 10:36 AM Sherri R. Carter, Executive Officer/Clerk of Court, by H. Flores-Hernandez, Deputy Clerk

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 8 **COUNTY OF LOS ANGELES**

9  
 10  
 11 BERJ PARSEGHIAN, in the public interest,

12 Plaintiff,

13 v.

14  
 15 LongRun, LLC; and DOES 1 through 100,  
 inclusive,

16 Defendants.  
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 18  
 19

Civil Action No.: **22STCV16155**

**COMPLAINT FOR INJUNCTIVE RELIEF AND  
 CIVIL PENALTIES**

[Cal. Health and Safety Code Sec. 25249.6, *et seq.*]

**KJT**LAWGROUP, LLP  
 Jivalagian | Thomassian

1 Berj Parseghian, in the public interest, based on information and belief and investigation of  
2 counsel, except for information based on knowledge, hereby makes the following allegations.

3 **INTRODUCTION**

4 1. This Complaint seeks to remedy Defendant’s continuing failure to adequately warn  
5 individuals in California that they are being exposed to lead and cadmium, chemicals known to the  
6 State of California to cause birth defects and other reproductive harm. Such exposures have  
7 occurred, and continue to occur, through the manufacture, distribution, sale and consumption of  
8 Defendant’s Keto and Co - Flatbread and Pizza - Keto Bread Mix; UPC #: 8 57227 00741 7. (the  
9 “Product”). The Product is available to consumers in California through a multitude of retail  
10 channels including, without limitation (a) third-party traditional brick-and-mortar retail locations; (b)  
11 via the internet through Defendant’s website; and (c) via the internet through third-party retail  
12 websites. Consumers are exposed to lead and cadmium when they consume the Product.

13 2. Under California’s Proposition 65, Health and Safety Code § 25249.5, et seq., it is  
14 unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals  
15 known to the State to cause cancer, birth defects or other reproductive harm without providing clear  
16 and reasonable warnings to individuals prior to their exposure. Defendant introduces a product  
17 contaminated with significant quantities of lead and cadmium into the California marketplace,  
18 exposing consumers of the Product to lead and cadmium.

19 3. Despite the fact that the Defendant exposes consumers to lead and cadmium,  
20 Defendant provides no warning, or inadequate warnings about the reproductive hazards associated  
21 with lead and cadmium exposure. Defendant’s conduct thus violates the warning provision of  
22 Proposition 65, Health & Safety Code § 25249.6.

23 **PARTIES**

24 4. Plaintiff brings this enforcement action in the public interest pursuant to Health &  
25 Safety Code § 25249.7(d).

26 5. Defendant LONGRUN, LLC (“LONGRUN”) is a person in the course of doing  
27 business within the meaning of Health & Safety Code § 25249.11. LONGRUN manufactures,  
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1 distributes and/or sells the Product for sale and use in California.

2 6. The true names of DOES 1 through 100 are unknown to Plaintiff at this time. When  
3 their identities are ascertained, the Complaint shall be amended to reflect their true names.

4 **JURISDICTION AND VENUE**

5 7. The Court has jurisdiction over this action pursuant to Health & Safety Code §  
6 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to  
7 California Constitution Article VI, Section 10, because this case is a cause not given by statute to  
8 other trial courts.

9 8. This Court has jurisdiction over Defendant as a business entity that does sufficient  
10 business, has sufficient minimum contacts in California or otherwise intentionally avails itself of the  
11 California market through the sale, marketing or use of the Product in California and/or by having  
12 such other contacts with California so as to render the exercise of jurisdiction over it by the  
13 California courts consistent with traditional notions of fair play and substantial justice.

14 9. Venue is proper in Los Angeles County Superior Court because one or more of the  
15 violations arise in the County of Los Angeles.

16 **BACKGROUND FACTS**

17 10. The People of the State of California have declared by initiative under Proposition  
18 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
19 other reproductive harm.” Proposition 65 § 1(b).

20 11. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed  
21 by the State of California as known to cause cancer, birth defects or other reproductive harm above  
22 certain levels without a “clear and reasonable warning” unless the business responsible for the  
23 exposure can prove that it fits within a statutory exemption. Health & Safety Code § 25249.6 states  
24 in pertinent part:

25 No person in the course of doing business shall knowingly and intentionally expose any  
26 individual to a chemical known to the state to cause cancer or reproductive toxicity without  
first giving clear and reasonable warning to such individual...

27 12. The State of California has officially listed lead and cadmium as a chemical known to  
28 cause cancer, developmental toxicity and reproductive harm.

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13. The level of exposure to a chemical causing reproductive toxicity under Proposition 65 is determined by multiplying the level in question times the reasonably anticipated rate of exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer products, the level of exposure is calculated using the reasonably anticipated rate of intake or exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

14. Defendant’s Product contains sufficient quantities of lead and cadmium such that consumers, including pregnant women, who consume the Product are exposed to lead and cadmium. The primary route of exposure for the violations is direct ingestion when consumers orally ingest the Product. These exposures occur in homes, workplaces and everywhere in California where the Product is consumed.

15. During the relevant one-year period herein, no clear and reasonable warning was provided with the Product regarding the reproductive hazards of lead and cadmium.

16. Any person acting in the public interest has standing to enforce violations of Proposition 65 provided that such person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action within such time. Health & Safety Code § 25249.7(d).

17. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General, the District Attorneys of every county in California, the City Attorneys of every California city with a population greater than 750,000 and to the named Defendant. In compliance with Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1) the name and address of each violator; (2) the statute violated; (3) the time period during which violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure to lead and cadmium from the Product, and (b) the specific type of Product sold and used in violation of Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of the violations described in each Notice.

18. Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney

1 General, the District Attorneys of every county in California, the City Attorneys of every California  
2 city with a population greater than 750,000 and to the named Defendant. In compliance with  
3 Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each Certificate certified that Plaintiff's  
4 counsel: (1) has consulted with one or more persons with relevant and appropriate experience or  
5 expertise who reviewed facts, studies or other data regarding the exposures to lead and cadmium  
6 alleged in each Notice; and (2) based on the information obtained through such consultations,  
7 believes that there is a reasonable and meritorious case for a citizen enforcement action based on  
8 the facts alleged in each Notice. In compliance with Health & Safety Code § 25249.7(d) and 11  
9 C.C.R. § 3102, each Certificate served on the Attorney General included factual information-  
10 provided on a confidential basis-sufficient to establish the basis for the Certificate, including the  
11 identity of the person(s) consulted by the Plaintiff's counsel and the facts, studies or other data  
12 reviewed by such persons.

13 19. None of the public prosecutors with the authority to prosecute violations of  
14 Proposition 65 has commenced and/or is diligently prosecuting a cause of action against Defendant  
15 under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of Plaintiff's  
16 Notices.

17 20. Defendant knows and intends that individuals will consume the Product, thus  
18 exposing them to lead and cadmium.

19 21. Under Proposition 65, an exposure is "knowing" where the party responsible for  
20 such exposure has:

21 Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety  
22 Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required.  
23 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division  
2, § 12201).

24 22. Defendant has been informed of the lead and cadmium in their Products by the 60-  
25 Day Notice of Violation and accompanying Certificate of Merit served on them.

26 23. Defendant also has constructive knowledge that the Products contain lead and  
27 cadmium due to the widespread media coverage concerning the problem of lead and cadmium in  
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1 consumer products.

2 24. As entities that manufacture, import, distribute and/or sell the Product for use in the  
3 California marketplace, Defendant knows or should know that the Product contains lead and  
4 cadmium, and that individuals who consume the Product will be exposed to lead and cadmium.  
5 The lead and cadmium exposures to consumers who consume the Product are a natural and  
6 foreseeable consequence of Defendant's placing the Product into the stream of commerce.

7 25. Nevertheless, Defendant continues to expose consumers to lead and cadmium  
8 without prior clear and reasonable warnings regarding the reproductive hazards of lead and  
9 cadmium.

10 26. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to  
11 filing this Complaint.

12 27. Any person "violating or threatening to violate" Proposition 65 may be enjoined in  
13 any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is  
14 defined to mean "to create a condition in which there is a substantial probability that a violation will  
15 occur." Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to  
16 exceed \$2,500 per day for each violation of Proposition 65.

17 **CAUSE OF ACTION**

18 (Violations of the Health & Safety Code 25249.6)

19 28. Plaintiff realleges and incorporates by reference as if specifically set forth herein  
20 Paragraphs 1 through 27, inclusive.

21 29. By placing the Product into the stream of commerce, Defendant is a person in the  
22 course of doing business within the meaning of Health & Safety Code § 25249.11.

23 30. lead and cadmium are chemicals listed by the State of California as known to cause  
24 birth defects and other reproductive harm.

25 31. Defendant knows that average use of the Product will expose users of the Product to  
26 lead and cadmium. Defendant intends that the Product be used in a manner that results in  
27 exposures to lead and cadmium from the Product.  
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1 32. Defendant has failed, and continues to fail, to provide clear and reasonable warnings  
2 regarding the reproductive toxicity of lead and cadmium to users of the Product.

3 33. By committing the acts alleged above, Defendant has at all times relevant to this  
4 Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to lead and  
5 cadmium without first giving clear and reasonable warnings to such individuals regarding the  
6 reproductive toxicity of lead and cadmium.

7 **PRAYER FOR RELIEF**

8 Wherefore, Plaintiff prays for judgment against Defendant as follows:

9 1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess civil penalties  
10 against the Defendant in the amount of \$2,500 per day for each violation of Proposition 65;

11 2. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and  
12 permanently enjoin Defendant from offering the Product for sale in California without either  
13 reformulating the Products such that no Proposition 65 warnings are required or providing prior  
14 clear and reasonable warnings, as Plaintiff shall specify in further application to the Court;

15 3. That the Court, pursuant to Health & Safety Code § 25249.7(a), order Defendant to  
16 take action to stop ongoing unwarranted exposures to lead and cadmium resulting from use of  
17 Product sold, as Plaintiff shall specify in further application to the Court;

18 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other  
19 applicable theory or doctrine, grant Plaintiff her reasonable attorneys' fees and costs of suit; and

20 5. That the Court grant such other and further relief as may be just and proper.

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23 Dated: May 13, 2022

KJT LAW GROUP, LLP

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26 By: 

Tro Krikorian  
Attorneys for Plaintiff  
BERJ PARSEGHIAN