



1 environmental health hazards and toxic exposures. PHSA, acting as a private attorney general, brings  
2 this enforcement action in the public interest pursuant to *Health & Safety Code §25249.7(d)*.

3           2. Defendant, **VIGO IMPORTING COMPANY** is a Florida corporation with its  
4 headquarters and principal place of business in the state of Florida. Defendant is qualified to do business  
5 in California. Upon information and belief, Plaintiff contends that Defendant has conducted business  
6 within California at all relevant times herein.

7           3. Upon information and belief, Plaintiff contends that **VIGO IMPORTING COMPANY**  
8 (hereinafter, “Defendant”) manufactures and/ or imports PRODUCTS, where they distribute the  
9 PRODUCTS into the stream of commerce. Defendants have conducted business within California at all  
10 relevant times herein.

11           4. Plaintiff is presently unaware of the true names and capacities of Defendants, DOES 1  
12 through 50, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this  
13 Complaint to allege the true names and capacities of said Defendants when the identities are ascertained.  
14 Plaintiff is informed, believes, and thereon alleges that each fictitiously named Defendant is responsible  
15 in some manner for the occurrences herein alleged and the damages caused.

16           5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
17 times mentioned herein have conducted business within the state of California.

18           6. Defendants own, administer, direct, control, sell, distribute, and/or operate facilities that  
19 place PRODUCTS into the stream of commerce in California. The PRODUCTS (“PRODUCTS”) are  
20 outlined herein: (1) VIGO AUTHENTIC PAELLA VALENCIANA YELLOW RICE & SEAFOOD  
21 DINNER, UPC:0-7107201305-2. Due to chemicals in the PRODUCTS, the Defendants are required to  
22 provide “clear and reasonable” warnings to consumers about the chemicals under Proposition 65.  
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24           7. At all times mentioned herein, Defendants were legally responsible for compliance with  
25 the provisions of Proposition 65. Whenever an allegation regarding any act of any Defendant is made  
26 herein, such allegation shall be deemed to mean that Defendants, or its agents, officers, directors,  
27 managers, supervisors, or employees, did or so authorize such acts while engaged in the affairs of  
28 Defendants business operations and/or while acting within the course and scope of employment.





1           **16.** Proposition 65 provides that any person “violating or threatening to violate” the  
2 statute may be enjoined in a court of competent jurisdiction. *Health & Safety Code § 25249.7.*  
3 “Threaten to violate” means “to create a condition in which there is a substantial probability that a  
4 violation will occur.” *Id.*, § 25249.11 (e). Defendants are also liable for civil penalties of up to  
5 \$2,500.00 per day per violation, recoverable in a civil action. *Id.*, § 25249.7 (b).  
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7           **17.** Plaintiff identified certain practices of manufacturers or distributors of YELLOW  
8 RICE & SEAFOOD DINNER, who both in the past and presently, knowingly and intentionally  
9 expose, persons in California to LEAD (“LEAD”) in such PRODUCTS without first providing  
10 clear and reasonable warnings of such to the exposed persons prior to the time of exposure.  
11 Plaintiff later discerned that Defendants engaged in such practice.

12           **18.** On February 27, 1987, the Governor of California added LEAD to the list of  
13 chemicals known to the State to cause cancer. *Cal. Code Regs. Tit. 27, §27001 (c).* LEAD is  
14 known to cause developmental and reproductive toxicity, in both males and females. The  
15 Proposition 65 warning requirements and discharge prohibitions became applicable to LEAD  
16 within twenty (20) months after LEAD was added to the list of chemicals known to cause cancer.  
17 *Health & Safety Code §§ 25249.9 and 25249.10.*

18           **19.** On October 1, 1992, the Governor of California added LEAD to the list of  
19 chemicals known to the State to cause cancer. *Cal. Code Regs. Tit. 27 §27001(b).* The Proposition  
20 65 warning requirements and discharge prohibitions became applicable to LEAD within twenty  
21 (20) months after LEAD was added to the list of chemicals known to cause cancer. *Health & Safety*  
22 *Code §§ 25249.9 and 25249.10.*

23           **20.** The level of exposure to a chemical causing cancer, or reproductive toxicity under  
24 Proposition 65 is determined by multiplying the level in question times the reasonably anticipated  
25 rate of exposure for an individual to a given medium. *27 C.C.R. § 25821(b).* For exposure to  
26 consumer PRODUCTS, the level of exposure is calculated using the reasonably anticipated rate of  
27 intake or exposure for average users of the consumer PRODUCT. *27 C.C.R. § 25821(C)(2).*  
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1           **26.** Before sending the Notice of alleged violations, Plaintiff investigated the  
2 PRODUCTS to determine the likelihood that such PRODUCTS would cause consumers to sustain  
3 significant exposures to LEAD. Plaintiff hired a well-respected and accredited testing laboratory to  
4 test the PRODUCTS. This laboratory uses testing protocols established and approved by the  
5 California Attorney General. Plaintiff further consulted with a well-respected and licensed  
6 toxicologist expert to evaluate the exposure to LEAD when the PRODUCTS are used.  
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8           **27.** Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney  
9 General, the District Attorneys of every county in California, the City Attorneys of every city in  
10 California with a population greater than 750,000 and to the named Defendants. In compliance with  
11 *Health & Safety Code* § 2521-9.7(d) and *11 C.C.R. § 3101*, each Certificate certified that Plaintiffs’  
12 counsel: (1) has consulted with one or more persons with relevant and appropriate experience or  
13 expertise who reviewed facts, studies or other data regarding the exposures to LEAD alleged in  
14 each Notice; and (2) based on the information obtained through such consultations, believes that  
15 there is a reasonable and meritorious case for a citizen enforcement action based on the facts  
16 alleged in each Notice.

17           **28.** In reliance on the expert’s evaluation of the PRODUCTS, Plaintiffs’ counsel is  
18 informed and believes and thereon alleges that there is a reasonable and meritorious case against  
19 Defendants for this private action.

20           **29.** Any person acting in the public interest has standing to enforce violations of  
21 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid  
22 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
23 within such time. *Health & Safety Code* § 25249.7(d)

24           **30.** Plaintiff’s notice of alleged violations also included a Certificate of Service and a  
25 document entitled “The Safe Drinking Water & Toxic Enforcement Act of 1986: A Summary”  
26 *Health & Safety Code* § 25249.7(d)

27           **31.** Plaintiff is commencing this action more than sixty (60) days from the date Plaintiff  
28 gave notice of the alleged violations to Defendants and the public prosecutor outlined above.





1 2020 and the present, each of the Defendants knowingly and intentionally exposed California  
2 consumers and users of PRODUCTS to LEAD. Plaintiff is informed, believes, and thereon alleges  
3 that Defendants manufactured, distributed, or sold the PRODUCTS without first providing any  
4 type of clear and reasonable warning of such to the exposed persons before the time of exposure.  
5 Defendants know and intend that California consumers will use and consume the PRODUCTS,  
6 thereby exposing them to LEAD. Therefore, Defendants violated Proposition 65.

7  
8 **40.** The primary exposure to the LEAD found in the PRODUCTS comes from dermal  
9 contact, as well as direct and indirect ingestion of the PRODUCTS. Persons sustain exposures by  
10 eating and consuming the PRODUCTS and handling the PRODUCTS without wearing gloves or  
11 any other personal equipment, or by touching bare skin or mucus membrane with after handling the  
12 PRODUCTS, as well as through direct and indirect hand to mouth contact, hand to mucous  
13 membrane, or breathing in particulate matter dispersed from the PRODCUTS.

14 **41.** Plaintiff is informed, believes and thereon alleges that each of the Defendants'  
15 violations of Proposition 65 as to the PRODUCTS has been ongoing and continuous, as Defendants  
16 engaged and continue to engage in conduct which violates *Health and Safety Code § 25249.6*,  
17 including the manufacture, distribution, promotion and sale of the PRODUCTS, so that a separate  
18 and distinct violation of Proposition 65 occurs each time a person is exposed to LEAD by the  
19 PRODUCTS as mentioned herein.

20  
21 **42.** Plaintiff is informed, believes, and thereon alleges that each violation of Proposition  
22 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the violations  
23 alleged herein will continue to occur into the future.

24 **43.** 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 from the PRODUCTS, pursuant to Health and  
26 Safety Code §25249.7(b).

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for relief and judgment against Defendants, as follows:


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4 1. That the Court, pursuant to *Health & Safety Code* § 25249.7(b), assess civil penalties  
5 against the Defendants in the amount of \$2,500.00 per day for each violation of Proposition 65;

6 2. An injunctive order, pursuant to *Health and Safety Code* §25249.7(b) and *CCR title*  
7 *27, §25603 and 25603.1*, compelling Defendants to adopt a compliance program by either (a)  
8 reformulating the PRODUCTS such that no Proposition 65 warnings are required, or (b) providing  
9 “clear and reasonable” warnings on the labels of the subject PRODUCTS.

10 3. An award of reasonable attorney’s fees and cost; and

11 4. Such other and further relief that the Court may deem just and equitable.  
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17 DATED: 05/18/2022

18 BY:  \_\_\_\_\_

19 **LAW OFFICES OF DANIALPOUR &**  
20 **ASSOCIATES**  
21 Davar Danialpour, Esq.  
22 Attorneys for Plaintiffs,  
23 PUBLIC HEALTH & SAFETY ADVOCACY,  
24 LLC.  
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