

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Barbara Scheper

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10 **TAMAR KALOUSTIAN**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

13 **TAMAR KALOUSTIAN**, in the public interest,

14 Plaintiff,

15 v.

16 **Hu Products, LLC**; and **DOES 1 through 100**,  
17 inclusive,

18 Defendants.

Civil Action No.: 22STCV32071

**COMPLAINT FOR INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

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

**KJT** LAWGROUP LLP  
Jivalagian | Thomassian

1 Tamar Kaloustian, in the public interest, based on information and belief and investigation  
2 of 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, a chemical known to the State of  
6 California to cause birth defects and other reproductive harm. Such exposures have occurred, and  
7 continue to occur, through the manufacture, distribution, sale and consumption of Defendant's Hu  
8 - Grain Free Crackers - Pizza; UPC #: 8 50180 00673 2 and Hu - Grain-Free Cookies - Chocolate  
9 Chip; UPC #: 8 50024 26702 2. ("Products"). Products are available to consumers in California  
10 through a multitude of retail channels including, without limitation (a) third-party traditional brick-  
11 and-mortar retail locations; (b) via the internet through Defendant's website; and (c) via the internet  
12 through third-party retail websites. Consumers are exposed to lead when they consume the  
13 Products.

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

20 3. Despite the fact that the Defendant exposes consumers to lead, Defendant provides  
21 no warning, or inadequate warnings about the reproductive hazards associated with lead exposure.  
22 Defendant's conduct thus violates the warning provision of Proposition 65, Health & Safety Code §  
23 25249.6.

24 **PARTIES**

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

27 5. Defendant HU PRODUCTS, LLC ("HU PRODUCTS") is a person in the course  
28

1 of doing business within the meaning of Health & Safety Code § 25249.11. HU PRODUCTS  
2 manufactures, distributes and/or sells the Products for sale and use in California.

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

5 **JURISDICTION AND VENUE**

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

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

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

17 **BACKGROUND FACTS**

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

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

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

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

3           13.     The level of exposure to a chemical causing reproductive toxicity under Proposition  
4 65 is determined by multiplying the level in question times the reasonably anticipated rate of  
5 exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer  
6 products, the level of exposure is calculated using the reasonably anticipated rate of intake or  
7 exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

8           14.     Defendant's Products contain sufficient quantities of lead such that consumers,  
9 including pregnant women, who consume the Products are exposed to lead. The primary route of  
10 exposure for the violations is direct ingestion when consumers orally ingest the Products. These  
11 exposures occur in homes, workplaces and everywhere in California where the Products are  
12 consumed.

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

15           16.     Any person acting in the public interest has standing to enforce violations of  
16 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid  
17 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
18 within such time. Health & Safety Code § 25249.7(d).

19           17.     More than sixty days prior to naming Defendant in this lawsuit, Plaintiff provided two  
20 sets of 60-Day "Notice of Violation of Proposition 65" to the California Attorney General, the  
21 District Attorneys of every county in California, the City Attorneys of every California city with a  
22 population greater than 750,000 and to the named Defendant. In compliance with Health & Safety  
23 Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1)  
24 the name and address of each violator; (2) the statute violated; (3) the time period during which  
25 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure  
26 to lead from the Products, and (b) the specific type of Products sold and used in violation of  
27 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of  
28

1 the violations described in each Notice.

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

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

18 20. Defendant knows and intends that individuals will consume the Products, thus  
19 exposing them to lead.

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

22  
23 Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety  
24 Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required.  
25 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
26 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division  
27 2, § 12201).

28 22. Defendant has been informed of the lead in their Products by the 60-Day Notice of

1 from the Products.

2 32. Defendant has failed, and continues to fail, to provide clear and reasonable warnings  
3 regarding the reproductive toxicity of lead to users of the Products.

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

8 **PRAYER FOR RELIEF**

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

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

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

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

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

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

23  
24 Dated: September 29, 2022

KJT LAW GROUP, LLP

25  
26  
27 By: 

Tro Krikorian  
Attorneys for Plaintiff  
TAMAR KALOUTIAN