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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By G. Robinson, Deputy Clerk

5 Attorneys for Plaintiff
6 Keep America Safe and Beautiful

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 KEEP AMERICA SAFE AND BEAUTIFUL)

11 Plaintiff,)

12 vs.)

13 PATAGONIA PROVISIONS, INC. and)
14 DOES 1 through 50, inclusive,)

15 Defendants.)

Case No.: **23STCV13686**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

**Violation of Proposition 65, The Safe
Drinking Water and Toxic Enforcement
Act of 1986 (Health and Safety Code §
25249.5 *et seq.*)**

UNLIMITED CIVIL

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL (“KASB”), acting in the public
2 interest, alleges a cause of action against Defendants PATAGONIA PROVISIONS, INC and
3 DOES 1 through 50 (hereinafter referred to collectively as “DEFENDANTS”).

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. This Complaint is a representative action brought by plaintiff KASB in the public
6 interest of the citizens of the State of California to enforce the People’s right to be informed of the
7 health hazards caused by exposures to Lead, a heavy metal found in and on the “Patagonia
8 Provisions Organic Savory Grains, Green Kale + Khamut Khorasan Wheat” manufactured,
9 imported, distributed, sold or offered for sale by DEFENDANTS in the State of California.

10 2. By this Complaint, plaintiff seeks to remedy DEFENDANTS’ continuing failure to
11 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300
12 et seq. (“consumers”) they are being exposed to Lead, a substance known to the State of California
13 to cause birth defects or other reproductive harm when they ingest or handle DEFENDANTS’
14 “Patagonia Provisions Organic Savory Grains, Green Kale + Khamut Khorasan Wheat.”

15 3. Detectable levels of Lead are found in and on the “Patagonia Provisions Organic
16 Savory Grains, Green Kale + Khamut Khorasan Wheat” that DEFENDANTS manufacture, import,
17 sell or distribute for sale to individuals throughout California.

18 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified
19 at Health and Safety Code § 25249.6 et seq. (“Proposition 65”), it is unlawful for a person in the
20 course of doing business to knowingly and intentionally expose consumers in California to
21 chemicals known to the State to cause cancer, birth defects or other reproductive harm, without
22 first providing a “clear and reasonable” health hazard warning to such individuals prior to purchase
23 or use.

24 5. KASB contends and alleges DEFENDANTS manufacture, distribute, import, sell,
25 and offer for sale, in and into California “Patagonia Provisions Organic Savory Grains, Green Kale
26 + Khamut Khorasan Wheat” (Bar Code 810981020719)(“PRODUCTS”) containing Lead, without
27 Proposition 65’s requisite health hazard warning regarding the harms associated with exposures to
28 the chemical. DEFENDANTS’ conduct subjects them to civil penalties for each violation,

1 enjoyment as well as preliminary and permanent injunctive relief. Health & Safety Code §
2 25249.7(a) and (b).

3 **PARTIES**

4 6. Plaintiff KASB is a non-profit corporation organized under the laws of California
5 and acting in the interest of the general public, dedicated to protecting the health of California
6 citizens and the environment through the elimination or reduction of toxic chemicals utilized in
7 manufacturing consumer products and to increasing public awareness of those chemicals through
8 the promotion of sound environmental practices and corporate responsibility. KASB is a person
9 within the meaning of Health & Safety Code § 25249.11(a), and it brings this action in the public
10 interest, pursuant to Health and Safety Code § 25249.7(d).

11 7. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant
12 PATAGONIA PROVISIONS, INC was and is a “person” “in the course of doing business” within
13 the meanings of Health and Safety Code §§ 25249.6 and 25249.11.

14 8. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant
15 RECREATIONAL EQUIPMENT, INC. was and is a “person” “in the course of doing business”
16 within the meanings of Health and Safety Code §§ 25249.6 and 25249.11.

17 9. DEFENDANTS manufacture, import, distribute, sell and/or offer the PRODUCT
18 for sale or use in the State of California, or imply by their conduct that they manufacture, import,
19 distribute, sell and/or the PRODUCT for sale or use in the State of California.

20 10. Defendants DOES 1-15 (“MANUFACTURER DEFENDANTS”) are each a person
21 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
22 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and
23 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS
24 offered for sale or use in California.

25 11. Defendants DOES 16-30 (“DISTRIBUTOR DEFENDANTS”) are each a person in
26 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
27 25249.11. DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport,
28

1 or each impliedly does so by its conduct, one or more of the PRODUCTS to individuals,
2 businesses, or retailers for sale or use in the State of California.

3 12. Defendants DOES 31-50 (“RETAILER DEFENDANTS”) are each a person in the
4 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.
5 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the
6 PRODUCTS for sale to individuals in the State of California.

7 13. At this time, the true names of Defendants DOES 1 through 50, inclusive, are
8 unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names,
9 pursuant to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis
10 alleges, each of the fictitiously named Defendants is responsible in some manner for the acts and
11 occurrences alleged herein and the damages caused thereby. When ascertained, their true names
12 and capacities shall be reflected in an amended complaint.

13 **JURISDICTION AND VENUE**

14 14. This Court has jurisdiction over this action, pursuant to Health & Safety Code §
15 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior
16 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,
17 which grants the Superior Court “original jurisdiction in all causes except those given by statute to
18 other trial courts.” The statute under which this action is brought does not specify any other basis
19 of subject matter jurisdiction.

20 15. The California Superior Court has jurisdiction over DEFENDANTS, based on
21 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation
22 or association that is a citizen of the State of California, does sufficient business in California, has
23 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail
24 themselves of the California market through their manufacture, importation, distribution,
25 promotion, marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful
26 availment renders the exercise of personal jurisdiction by California courts consistent with
27 traditional notions of fair play and substantial justice.
28

1 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in
2 the amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined
3 at trial;

4 4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit,
5 incurred herein; and

6 5. That the Court grant any further relief as it deems just and equitable.
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8 DATED: June 14, 2023

AV JUSTICE LAW FIRM PLC



ANTONIO VILLEGAS
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KEEP AMERICA SAFE AND BEAUTIFUL

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