

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Gail Killefer

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroshalmi.com

3 **YERUSHALMI & YERUSHALMI\***

4 9100 Wilshire Boulevard, Suite 240W

5 Beverly Hills, California 90212

6 Telephone: (310) 623-1926

7 Facsimile: (310) 623-1930

8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 CONSUMER ADVOCACY GROUP, INC.,  
13 in the public interest,

14 Plaintiff,

15 v.

16 WALMART, INC., a Delaware Corporation;  
17 WALMART.COM USA, LLC, a California  
18 Limited Liability Company;  
19 KREASSIVE, INC., a California  
20 Corporation;  
21 KREASSIVE, LLC, a California Limited  
22 Liability Company;  
23 JEOLLANAM-DO LOS ANGELES TRADE  
24 OFFICE, INC., a California Corporation;  
25 and DOES 1-20,

26 Defendants.

27 CASE NO. **22STCV38483**

28 COMPLAINT FOR PENALTY AND  
INJUNCTION

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

ACTION IS AN UNLIMITED CIVIL  
CASE (exceeds \$25,000)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action  
against defendants WALMART, INC.; WALMART.COM USA, LLC; KREASSIVE, INC.;

1 KREASSIVE, LLC; JEOLLANAM-DO LOS ANGELES TRADE OFFICE, INC., and DOES  
2 1-20 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
5 organization qualified to do business in the State of California. CAG is a person within  
6 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
7 as a private attorney general, brings this action in the public interest as defined under  
8 Health and Safety Code Section 25249.7, subdivision (d).
- 9 2. Defendant WALMART, INC. (“WALMART INC.”) is a Delaware Corporation, and  
10 doing business in the State of California at all relevant times herein.
- 11 3. Defendant WALMART.COM USA, LLC (“WALMART.COM LLC”) is a California  
12 Limited Liability Company, qualified to do business and doing business in the State of  
13 California at all relevant times herein.
- 14 4. Defendant KREASSIVE, INC. (“KREASSIVE INC.”) is a California Corporation,  
15 qualified to do business and doing business in the State of California at all relevant times  
16 herein.
- 17 5. Defendant KREASSIVE, LLC (“KREASSIVE LLC”) is a California Limited Liability  
18 Company, qualified to do business and doing business in the State of California at all  
19 relevant times herein.
- 20 6. Defendant JEOLLANAM-DO LOS ANGELES TRADE OFFICE, INC.  
21 (“JEOLLANAM-DO”) is a California Corporation, qualified to do business and doing  
22 business in the State of California at all relevant times herein.
- 23 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20,  
24 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
25 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
26 informed, believes, and thereon alleges that each fictitiously named defendant is
- 27  
28

1 responsible in some manner for the occurrences herein alleged and the damages caused  
2 thereby.

3 8. At all times mentioned herein, the term “Defendants” includes WALMART INC.,  
4 WALMART.COM LLC, KREASSIVE INC., KREASSIVE LLC, JEOLLANAM-DO,  
5 and DOES 1-20.

6 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
7 times mentioned herein have conducted business within the State of California.

8 10. Upon information and belief, at all times relevant to this action, each of the Defendants,  
9 including DOES 1-20, was an agent, servant, or employee of each of the other  
10 Defendants. In conducting the activities alleged in this Complaint, each of the  
11 Defendants was acting within the course and scope of this agency, service, or  
12 employment, and was acting with the consent, permission, and authorization of each of  
13 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
14 were ratified and approved by every other Defendant or their officers or managing  
15 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
16 alleged wrongful conduct of each of the other Defendants.

17 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
18 Defendants was a person doing business within the meaning of Health and Safety Code  
19 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
20 employees at all relevant times.

21 **JURISDICTION**

22 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
23 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
24 those given by statute to other trial courts. This Court has jurisdiction over this action  
25 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
26 violations of Proposition 65 in any Court of competent jurisdiction.

1 13. This Court has jurisdiction over Defendants named herein because Defendants either  
2 reside or are located in this State or are foreign corporations authorized to do business in  
3 California, are registered with the California Secretary of State, or who do sufficient  
4 business in California, have sufficient minimum contacts with California, or otherwise  
5 intentionally avail themselves of the markets within California through their  
6 manufacture, distribution, promotion, marketing, or sale of their products within  
7 California to render the exercise of jurisdiction by the California courts permissible  
8 under traditional notions of fair play and substantial justice.

9 14. Venue is proper in the County of Los Angeles because one or more of the instances of  
10 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
11 because Defendants conducted, and continue to conduct, business in the County of Los  
12 Angeles with respect to the consumer product that is the subject of this action.

13 **BACKGROUND AND PRELIMINARY FACTS**

14 15. In 1986, California voters approved an initiative to address growing concerns about  
15 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
16 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
17 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
18 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
19 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
20 from contamination, to allow consumers to make informed choices about the products  
21 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
22 fit.

23 16. Proposition 65 requires the Governor of California to publish a list of chemicals known  
24 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
25 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
26 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
27 other controls that apply to Proposition 65-listed chemicals.

28

- 1 17. All businesses with ten (10) or more employees that operate or sell products in California  
2 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
3 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
4 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and  
5 reasonable” warnings before exposing a person, knowingly and intentionally, to a  
6 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 7 18. Proposition 65 provides that any person "violating or threatening to violate" the statute  
8 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
9 25249.7. "Threaten to violate" means "to create a condition in which there is a  
10 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
11 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
12 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 13 19. Plaintiff identified certain practices of manufacturers and distributors of Roasted  
14 Seaweed and Nori Seaweed of exposing, knowingly and intentionally, persons in  
15 California to Lead and Lead Compounds, Cadmium and Cadmium Compounds of such  
16 products without first providing clear and reasonable warnings of such to the exposed  
17 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged  
18 in such practice.
- 19 20. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
20 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
21 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
22 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
23 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
24 discharge prohibitions.
- 25 21. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
26 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
27 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
28

1 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
2 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
3 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
4 Proposition 65 warning requirements and discharge prohibitions.

5 22. On October 1, 1987 the Governor of California added Cadmium and Cadmium  
6 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer  
7 (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections  
8 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of  
9 chemicals known to the State to cause cancer, Cadmium became fully subject to  
10 Proposition 65 warning requirements and discharge prohibitions.

11 23. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals  
12 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
13 *tit. 27, § 27001(c)*). Cadmium is known to the State to cause developmental, and male  
14 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
15 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known  
16 to the State to cause developmental and reproductive toxicity, Cadmium became fully  
17 subject to Proposition 65 warning requirements and discharge prohibitions.

18 **SATISFACTION OF PRIOR NOTICE**

19 24. Plaintiff served the following notices for alleged violations of Health and Safety Code  
20 Section 25249.6, concerning consumer products exposures:

- 21 a. On or about May 26, 2022, Plaintiff gave notice of alleged violations of Health  
22 and Safety Code Section 25249.6, concerning consumer products exposures  
23 subject to a private action to WALMART INC., KREASSIVE INC.,  
24 KREASSIVE LLC, JEOLLANAM-DO, and to the California Attorney General,  
25 County District Attorneys, and City Attorneys for each city containing a  
26 population of at least 750,000 people in whose jurisdictions the violations  
27 allegedly occurred, concerning the Roasted Seaweed.

1           b. On or about June 10, 2022, Plaintiff gave notice of alleged violations of Health  
2           and Safety Code Section 25249.6, concerning consumer products exposures  
3           subject to a private action to WALMART INC., WALMART.COM LLC,  
4           KREASSIVE INC., KREASSIVE LLC, and to the California Attorney General,  
5           County District Attorneys, and City Attorneys for each city containing a  
6           population of at least 750,000 people in whose jurisdictions the violations  
7           allegedly occurred, concerning the Nori Seaweed.

8           25. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
9           products involved, the likelihood that such products would cause users to suffer  
10          significant exposures to Lead and Cadmium, and the corporate structure of each of the  
11          Defendants.

12          26. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
13          attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
14          Plaintiff who executed the certificate had consulted with at least one person with relevant  
15          and appropriate expertise who reviewed data regarding the exposures to Lead and  
16          Cadmium, the subject Proposition 65-listed chemical of this action. Based on that  
17          information, the attorney for Plaintiff who executed the Certificate of Merit believed  
18          there was a reasonable and meritorious case for this private action. The attorney for  
19          Plaintiff attached to the Certificate of Merit served on the Attorney General the  
20          confidential factual information sufficient to establish the basis of the Certificate of  
21          Merit.

22          27. Plaintiff's notice of alleged violations also included a Certificate of Service and a  
23          document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986  
24          (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

25          28. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
26          gave notice of the alleged violations to WALMART INC., WALMART.COM LLC,  
27  
28

1 KREASSIVE INC., KREASSIVE LLC, JEOLLANAM-DO, and the public prosecutors  
2 referenced in Paragraph 24.

3 29. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
4 any applicable district attorney or city attorney has commenced and is diligently  
5 prosecuting an action against the Defendants.

6 **FIRST CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART INC.,**  
8 **KREASSIVE INC., KREASSIVE LLC, JEOLLANAM-DO, and DOES 1-10 for**  
9 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act**  
10 **of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

11 **Seaweed I**

12 30. Plaintiff repeats and incorporates by reference paragraphs 1 through 29 of this complaint  
13 as though fully set forth herein.

14 31. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
15 distributor, promoter, or retailer of Roasted Seaweed (“Seaweed”), including but not  
16 limited to “Chef’s Gim”; “Organic Premium Roasted Seaweed”; “JeollaNamdo”; “Net  
17 Wt. 0.7 oz (20 g)”; “Product of Korea”; “Best By Nov 26 2021”; “Distributed By  
18 Kreassive”; “UPC 8 809990 272372”.

19 32. Seaweed contains Cadmium.

20 33. Defendants knew or should have known that Cadmium has been identified by the State  
21 of California as a chemical known to cause cancer, and reproductive toxicity and  
22 therefore was subject to Proposition 65 warning requirements. Defendants were also  
23 informed of the presence of Cadmium in Seaweed within Plaintiff’s notice of alleged  
24 violations further discussed above at Paragraph 24a.

25 34. Plaintiff’s allegations regarding Seaweed concerns “[c]onsumer products exposure[s],”  
26 which “is an exposure that results from a person’s acquisition, purchase, storage,  
27 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
28 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b).*



1 Seaweeds are consumer products, and, as mentioned herein, exposures to Cadmium took  
2 place as a result of such normal and foreseeable consumption and use.

3 35. Plaintiff is informed, believes, and thereon alleges that between May 26, 2019, and the  
4 present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as  
6 mentioned above, to Cadmium, without first providing any type of clear and reasonable  
7 warning of such to the exposed persons before the time of exposure. Defendants have  
8 distributed and sold Seaweed in California. Defendants know and intend that California  
9 consumers will use and consume Seaweed, thereby exposing them to Cadmium. Further,  
10 Plaintiff is  
11 informed, believes, and thereon alleges that Defendants are selling Product under a brand  
12 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;  
13 have knowingly introduced relevant chemical into product or knowingly caused relevant  
14 chemical to be created in Product; have covered, obscured or altered a warning label that  
15 has been affixed to Product by the manufacturer, producer, packager, importer, supplier  
16 or distributor of Product; have received a notice and warning materials for exposure from  
17 Product without conspicuously posting or displaying the warning materials; and/or have  
18 actual knowledge of potential exposure to relevant chemical from Product. Defendants  
19 thereby violated Proposition 65.

20 36. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
21 Persons sustain exposures by handling Seaweed without wearing gloves or any other  
22 personal protective equipment, or by touching bare skin or mucous membranes with  
23 gloves after handling Seaweed, as well as through direct and indirect hand to mouth  
24 contact, hand to mucous membrane, or breathing in particulate matter dispersed from  
25 Seaweed.

26 37. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
27 Proposition 65 as to Seaweed have been ongoing and continuous, as Defendants engaged  
28

1 and continue to engage in conduct which violates Health and Safety Code Section  
2 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed, so  
3 that a separate and distinct violation of Proposition 65 occurred each and every time a  
4 person was exposed to Cadmium by Seaweed as mentioned herein.

5 38. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
6 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
7 violations alleged herein will continue to occur into the future.

8 39. Based on the allegations herein, Defendants are liable for civil penalties of up to  
9 \$2,500.00 per day per individual exposure to Cadmium from Seaweed, pursuant to  
10 Health and Safety Code Section 25249.7(b).

11 40. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
12 filing this Complaint.

13  
14  
**SECOND CAUSE OF ACTION**

15 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART INC.,**  
16 **WALMART.COM LLC, KREASSIVE INC., KREASSIVE LLC, and DOES 11-20**  
17 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
**Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

18 **Seaweed II**

19 41. Plaintiff repeats and incorporates by reference paragraphs 1 through 29 of this complaint  
20 as though fully set forth herein.

21 42. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
22 distributor, promoter, or retailer of Nori Seaweed (“Seaweed”), including but not limited  
23 to “Gim’s”; “Roasted Laver”; “100 Sheets”; “Distributed By Kreassive Inc.”; “Product  
24 of Korea”; “UPC 8 803807 881115”.

25 43. Seaweed contains Lead and Cadmium.

26 44. Defendants knew or should have known that Lead and Cadmium has been identified by  
27 the State of California as a chemical known to cause cancer, and reproductive toxicity  
28

1 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
2 informed of the presence of Lead and Cadmium in Seaweed within Plaintiff's notice of  
3 alleged violations further discussed above at Paragraph 24b.

4 45. Plaintiff's allegations regarding Seaweed concerns "[c]onsumer products exposure[s],"  
5 which "is an exposure that results from a person's acquisition, purchase, storage,  
6 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
7 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.

8 Seaweeds are consumer products, and, as mentioned herein, exposures to Lead and  
9 Cadmium took place as a result of such normal and foreseeable consumption and use.

10 46. Plaintiff is informed, believes, and thereon alleges that between June 10, 2019 and the  
11 present, each of the Defendants knowingly and intentionally exposed California  
12 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as  
13 mentioned above, to Lead and Cadmium, without first providing any type of clear and  
14 reasonable warning of such to the exposed persons before the time of exposure.

15 Defendants have distributed and sold Seaweed in California. Defendants know and  
16 intend that California consumers will use and consume Seaweed, thereby exposing them  
17 to Lead and Cadmium. Further, Plaintiff is  
18 informed, believes, and thereon alleges that Defendants are selling Product under a brand  
19 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;  
20 have knowingly introduced relevant chemical into product or knowingly caused relevant  
21 chemical to be created in Product; have covered, obscured or altered a warning label that  
22 has been affixed to Product by the manufacturer, producer, packager, importer, supplier  
23 or distributor of Product; have received a notice and warning materials for exposure from  
24 Product without conspicuously posting or displaying the warning materials; and/or have  
25 actual knowledge of potential exposure to relevant chemical from Product. Defendants  
26 thereby violated Proposition 65.

27  
28

1 47. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
2 Persons sustain exposures by handling Seaweed without wearing gloves or any other  
3 personal protective equipment, or by touching bare skin or mucous membranes with  
4 gloves after handling Seaweed, as well as through direct and indirect hand to mouth  
5 contact, hand to mucous membrane, or breathing in particulate matter dispersed from  
6 Seaweed.

7 48. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
8 Proposition 65 as to Seaweed have been ongoing and continuous, as Defendants engaged  
9 and continue to engage in conduct which violates Health and Safety Code Section  
10 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed, so  
11 that a separate and distinct violation of Proposition 65 occurred each and every time a  
12 person was exposed to Lead and Cadmium by Seaweed as mentioned herein.

13 49. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
14 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
15 violations alleged herein will continue to occur into the future.

16 50. Based on the allegations herein, Defendants are liable for civil penalties of up to  
17 \$2,500.00 per day per individual exposure to Lead and Cadmium from Seaweed,  
18 pursuant to Health and Safety Code Section 25249.7(b).

19 51. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
20 filing this Complaint.

21  
22 **PRAYER FOR RELIEF**

23 Plaintiff demands against each of the Defendants as follows:

- 24 1. A permanent injunction mandating Proposition 65-compliant warnings;  
25 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);  
26 3. Costs of suit;  
27 4. Reasonable attorney fees and costs; and  
28 5. Any further relief that the court may deem just and equitable.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: December 9, 2022

YEROUSHALMI & YEROUSHALMI\*

---

Reuben Yeroushalmi  
Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.