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Joseph R. Manning, Jr., Esq. (State Bar No. 223381)
MANNING LAW, APC
20062 S.W. Birch St. Suite 200
Newport Beach, CA 92660
(949) 200-8755 Phone
(866) 843-8308 Fax

Attorneys for Plaintiff
CALSAFE RESEARCH CENTER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE-CENTRAL JUDICIAL DISTRICT

CALSAFE RESEARCH CENTER, INC., a
California non-profit corporation

Plaintiff,

v.

MCCORMICK & COMPANY,
INCORPORATED, a California foreign stock
corporation; and DOES 1 to 10,

Defendants.

CASE No.: 30-2022-0128916-CU-TT-CXC

**FIRST AMENDED COMPLAINT FOR
CIVIL PENALTIES AND INJUNCTIVE
RELIEF**

Health & Safety Code §25249.5, *et seq.*

*(Assigned for All Purposes to Judge Randall J.
Sherman, Dept. CX105)*

Action Filed: October 28, 2022
Trial Date: None

INTRODUCTION

1. This Complaint is brought by plaintiff Calsafe Research Center, Inc. (“Plaintiff”) in the public interest of the People of the State of California to enforce their right to be informed of the presence of chemicals listed by the State of California, pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”), including Lead.

2. Plaintiff seeks to remedy Defendants’ failure to warn citizens of the State of

1 California, in violation of Proposition 65, about the presence of Lead (“Listed Chemical”) in the
2 Defendant MCCORMICK & COMPANY, INCORPORATED’s (“Defendant”) Zatarain’s, Dirty
3 Rice offered for sale throughout the State of California (“Products”).

4 3. Defendant’s Products contain the Listed Chemical and consumers of Products in the
5 State of California are exposed to the Listed Chemical through dermal exposure and ingestion of
6 the Products.

7 4. Defendants know and intend that their Products expose consumers in the State of
8 California to the Listed Chemical.

9 5. Attached hereto and incorporated by reference is a copy of the letter (“60-Day
10 Notice”), dated June 3, 2022, which Plaintiff sent to Defendant, Stater Bros. Markets and
11 California’s Attorney General. Identical letters were sent to every District Attorney in the state, to
12 the City Attorneys of every California city with a population greater than 775,000 and to all
13 Defendants. Attached to the 60-Day Notices were Certificates of Merit attesting to the reasonable
14 and meritorious basis for this action, Certificates of Service attesting to service of the letters on each
15 entity described above, and a description of Proposition 65 prepared by the California Office of
16 Environmental Health Hazard Assessment. Furthermore, factual information sufficient to establish
17 the basis of the Certificates of Merit was enclosed with the 60-Day Notices sent to California’s
18 Attorney General.

19 6. After receiving the claims asserted in the 60-Day Notice, the public enforcement
20 agencies identified in Paragraph 5 have failed to commence and diligently prosecute a cause of
21 action against Defendants under Proposition 65.

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1 PARTIES

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3 7. Plaintiff is a non-profit corporation organized under California law dedicated to
4 protecting the public from environmental health hazards and toxic exposures. Plaintiff is based in
5 Newport Beach, CA. Plaintiff is a person within the meaning of Health and Safety Code section
6 25249.11 and brings this enforcement action in the public interest pursuant to Health and Safety
7 Code section 25249.7(d). Health and Safety Code section 25249.7 (d) specifies that actions to
8 enforce Proposition 65 may be brought by a person in the public interest, provided certain notice
9 requirements and no other public prosecutor is diligently prosecuting an action for the same
10 violation(s).

11
12 8. The Defendant is a “Person” in the course of doing business within the meaning of
13 H&S Code §25249.11(a) – “Person” means an individual, trust, firm, joint stock company,
14 corporation, company partnership, limited liability company, and association.

15 9. The Defendant is a California foreign stock corporation that manufactures,
16 distributes, and/or offers for sale in the State of California, Products that contain the Listed
17 Chemical.

18
19 10. DOES 1 through 10, which manufacture, distribute, and/or offer for sale in the
20 State of California Products that contain the Listed Chemical, are each person in the course of
21 doing business within the meaning of Health and Safety Code section 25249.11. At this time, the
22 true names and capacities of DOES 1 through 10, inclusive, are unknown to Plaintiff, who,
23 therefore, sues said defendants by their fictitious names pursuant to Code of Civil Procedure section
24 474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named
25 defendants is responsible for the acts and occurrences alleged herein. When ascertained, their true
26

1 names and capacities shall be reflected in an amended complaint.

2 **JURISDICTION AND VENUE**

3
4 11. This Court has jurisdiction over this action pursuant to California Constitution
5 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except
6 those given by statute to other trial courts.” The statute under which this action is brought does not
7 specify any other court with jurisdiction.

8
9 12. This Court has jurisdiction over Defendants based on Plaintiff’s information and
10 good faith belief that each Defendant is a person, firm, corporation, or association that is a citizen
11 of the State of California, has sufficient minimum contacts in the State of California, and/or
12 otherwise purposefully avails itself of the California market. Defendants’ purposeful availment
13 renders the exercise of personal jurisdiction by the Court consistent with traditional notions of fair
14 play and substantial justice.

15
16 13. Venue in this action is proper in Court because Defendants manufacture, distribute,
17 offer for sale, sell, and/or serve Products that contain the Listed Chemical. Liability for Plaintiff’s
18 cause of action, or some parts thereof, has accordingly arisen during the times relevant to this
19 Complaint and Plaintiff accordingly seeks civil penalties and forfeitures imposed by statutes.

20 **FIRST CAUSE OF ACTION**

21 **(Violation of Proposition 65 – Against All Defendants)**

22
23 14. Plaintiff refers to, and incorporates by reference, the allegations of all preceding
Paragraphs this Complaint, as though fully set forth herein.

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25 15. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the
above-described acts, Defendants are liable for a violation of Proposition 65.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against Defendants, and each of them, and

DOES 1 through 10, as follows:

1. That the Court, pursuant to Health and Safety Code section 25249.7(a), preliminarily and permanently enjoin Defendants from manufacturing, distributing, offering for sale, selling and/or serving in the State of California Products that contain the Listed Chemical without first providing a "clear and reasonable warning" under Proposition 65;

2. That the Court grant Plaintiff's reasonable attorneys' fees and costs of suit;

3. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess civil

penalties against Defendants in such amount as the Court deems appropriate; and,

4. For such other and further relief as the Court may deem just and proper.

Dated this 27th day of December 2022

MANNING LAW, A.P.C



By:

Joseph R. Manning, Jr., Esq.
Attorneys for Plaintiff

EXHIBIT A



CONSUMER ATTORNEYS

June 3, 2022

NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent CalSafe Research Center, Inc. ("CRC"), 4533 MacArthur Blvd., Ste. 165, Newport Beach, CA 92660; Tel. (949) 630-0413. CRC's Executive Director is Eric Fairon. CRC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

CRC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 et seq., with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), CRC intends to pursue a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

1. McCormick & Company, Inc.
2. Zatarain's, Inc.
3. Stater Bros. Markets



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Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Zatarain's, Dirty Rice, UPC#071429095359

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that CRC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least April 3, 2022, as well as every day since the products were introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, CRC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

CRC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office**



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CONSUMER ATTORNEYS

address and telephone number indicated on the letterhead or at
P65@ManningLawOffice.com.

Sincerely,

Joseph R. Manning, Jr.
P65@ManningLawOffice.com

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Alleged Violators only)
- Factual Information in Support of Certificate of Merit (to AG only)



CONSUMER ATTORNEYS

CERTIFICATE OF MERIT

Re: Calsafe Research Center, Inc.'s Notice of Proposition 65 Violations by McCormick & Company, Inc., and Stater Bros. Markets

I, Joseph R. Manning, Jr., declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established, and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 3, 2022



Joseph R. Manning, Jr.
P65@ManningLawOffice.com



CONSUMER ATTORNEYS

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 20062 S.W. Birch, Newport Beach, CA 92660. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Newport Beach, California.

On June 3, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

| | | | |
|---|--|---|---|
| McCormick & Company, Inc. Corporation Service Company 24 Schilling Rd Ste 1, Hunt Valley, MD 21031 | Lawrence Kurzius McCormick & Company, Inc. 24 Schilling Rd Ste 1, Hunt Valley, MD 21031 | Stater Bros. Markets Sean S. Varner 3750 University Avenue, Suite 610, Riverside, CA 92501 | Peter J. Van Helden Stater Bros. Markets 301 South Tippecanoe Avenue, San Bernardino, CA 92408 |
| Zatarain’s, Inc. McCormick & Company, Inc. 18 Loveton Cir., Sparks, MD 21152 | | | |

On June 3, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT INCLUDING A SUMMARY OF CONFIDENTIAL FACTUAL INFORMATION; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a



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CONSUMER ATTORNEYS

true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On June 3, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

| | |
|--|---|
| Nancy O'Malley, District Attorney Alameda County 7677 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org | Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us |
| Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org | Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us |
| Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us | Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us |
| Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org | Michael Hestrin, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org |
| Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 | Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Avenue San Diego, CA 92101 |



CONSUMER ATTORNEYS

| | |
|---|--|
| Prop65@sacda.org | CityAttyProp65@sandiego.gov |
| Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org | Valerie Lopez, Deputy City Attorney San Francisco City Attorney 1390 Market Street, 7 th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityatty.org |
| Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org | Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Government Center Annex, 4 th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us |
| Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us | Bud Porter, Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org |
| Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org | Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us |
| Gregory D. Totten, District Attorney Ventura County 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org | Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org |

On June 3, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on June 3, 2022, in Newport Beach, California.



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CONSUMER ATTORNEYS



Krystal Garzon



CONSUMER ATTORNEYS

Service List

| | | |
|--|--|--|
| District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120 | District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637 | District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 |
| District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642 | District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903 | District Attorney, Shasta County 1355 West Street Redding, CA 96001 |
| District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965 | District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338 | District Attorney, Sierra County 100 Courthouse Square, 2nd Floor Downieville, CA 95936 |
| District Attorney, Colusa County 310 6 th Street Colusa, CA 95932 | District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482 | District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097 |
| District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531 | District Attorney, Merced County 550 W. Main Street Merced, CA 95340 | District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 |
| District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667 | District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 |
| District Attorney, Fresno County 2100 Tulare St., Fresno, CA 93721 | District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517 | District Attorney, Sutter County 463 2nd Street Yuba City, CA 95991 |
| District Attorney, Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959 | District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080 |
| District Attorney, Humboldt County 825 5th Street 4th Floor Eureka, CA 95501 | District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678 | District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093 |
| District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243 | District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971 | District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370 |
| District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023 | District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 | San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113 |
| District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453 | District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101 | District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012 |