

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mel Red Recana

1 Davar Danialpour, Esq., SBN 257374
CORNERSTONE LAW FIRM, PC
2 357 South Robertson Blvd. 2nd Floor STE 400
3 Beverly Hills, California 90211
Telephone: (310) 444-0055
4 Facsimile: (310) 444-0066
5 Email: david@davarlaw.com

6 Attorneys for Plaintiff,
7 CONSUMER RIGHTS ADVOCATES, LLC.

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

11 CONSUMER RIGHTS ADVOCATES, LLC., a) 12 Limited Liability Company, in the public) 13 interest,) 14 Plaintiff,) 15 v.) 16 CAMINO REAL FOODS, INC.; and DOES 1) 17 through 50, inclusive,) 18 Defendant(s).) 19) 20) 21) 22) 23) 24) 25) 26) 27) 28)	CASE NO.: 22STCV32052 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.) UNLIMITED CIVIL
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Plaintiff, CONSUMER RIGHTS ADVOCATES, LLC., in the public interest, based on information and belief and investigation of counsel, alleges one (1) cause of action against Defendants, CAMINO REAL FOODS, INC. and DOES 1 through 50, inclusive as follows:

THE PARTIES

1. Plaintiff, CONSUMER RIGHTS ADVOCATES, LLC. (“CRA” or “Plaintiff”) is an organization dedicated to protecting the public from environmental health hazards and toxic exposures. CRA is based in Los Angeles, California, and is incorporated under the laws of the State of California. CRA is a “person” within the meaning of *Health & Safety Code §25249.11(a)* and brings this

1 enforcement action in the public interest pursuant to *Health & Safety Code §25249.7(d)*. CRA is an
2 environmental advocacy group that has prosecuted a number of Proposition 65 cases in the public
3 interest. These cases resulted in significant public benefits, including the reformulation of products to
4 remove toxic chemicals and to make them safer for consumers.

5 **2.** Defendant, CAMINO REAL FOODS, INC. is a California corporation with its
6 headquarters and principal place of business in the state of California. Defendant is a person in the
7 course of doing business within the meaning of *Health & Safety Code § 25249.11*. Upon information
8 and belief, Plaintiff contends that Defendant has conducted business within California at all relevant
9 times herein.

10 **3.** Upon information and belief, Plaintiff contends that CAMINO REAL FOODS, INC.
11 (hereinafter, “Defendant”) manufactures, imports, sells, distributes, and/or operates facilities that place
12 LAS CAMPANAS RED HOT BEEF BURRITOS; UPC No. 0-7960613014-5 (the “PRODUCTS”) into
13 the stream of commerce in California. Due to chemicals in the PRODUCTS, the Defendants are required
14 to provide “clear and reasonable” warnings to consumers about the chemicals under Proposition 65.

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

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

22 **6.** At all times mentioned herein, Defendants were legally responsible for compliance with
23 the provisions of Proposition 65. Whenever an allegation regarding any act of any Defendant is made
24 herein, such allegation shall be deemed to mean that Defendants, or its agents, officers, directors,
25 managers, supervisors, or employees, did or so authorize such acts while engaged in the affairs of
26 Defendants business operations and/or while acting within the course and scope of employment.
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1 because the Defendants conducted, and continue to conduct business in the County of Los Angeles
2 with respect to the consumer PRODUCTS that are the subject of this action. Said PRODUCTS are
3 marketed, offered for sale, sold, used, and/or consumed without clear and reasonable warnings in
4 the County of Los Angeles.

5
6 **BACKGROUND AND PRELIMINARY FACTS**

7 **12.** In 1986, California voters approved an initiative to address growing concerns about
8 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to chemicals
9 that cause cancer, birth defects, or other reproductive harm.” *Ballot Pamphlet, Proposed Law,*
10 *Gen. Election (Nov.4, 1986) at p.3.* The initiative, the Safe Drinking Water and Toxic Enforcement
11 Act of 1986, codified at *Health & Safety Code § 25249.5, et seq.* (“Proposition 65”), helps to
12 protect California’s drinking water sources from contamination, to allow consumers to make
13 informed choices about the PRODUCTS they buy, and to enable persons to protect themselves
14 from toxic chemicals as they see fit.

15 **13.** Proposition 65 requires the Governor of California to publish a list of chemicals
16 known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
17 *§ 25249.8.* The list, which the Governor updates at least once a year, contains over 900 chemicals
18 and chemical families. Proposition 65 imposes warning requirements and other controls that apply
19 to Proposition 65-listed chemicals.

20 **14.** All businesses with ten (10) or more employees that operate or sell PRODUCTS in
21 California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
22 from knowingly discharging Proposition 65-listed chemicals into sources of drinking water (*Health*
23 *& Safety Code, § 25249.5*) and (2) required to provide “clear and reasonable” warnings before
24 knowingly and/ or intentionally exposing a person to a proposition 65-listed chemical (*Health &*
25 *Safety Code, § 25249.6*).

26 **15.** To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed
27 by the State of California as known to cause cancer, birth defects or other reproductive harm above
28 certain levels without a “clear and reasonable warning” unless the business responsible for the

1 exposure can prove that it fits within a statutory exemption. Health & Safety Code §25249.6 states,
2 in pertinent part:

3
4 No person in the course of doing business shall knowingly and
5 intentionally expose any individual to a chemical known to the state to
6 cause cancer or reproductive toxicity without first giving clear and
7 reasonable warning to such individual. . .

8 **16.** Proposition 65 provides that any person “violating or threatening to violate” the
9 statute may be enjoined in a court of competent jurisdiction. *Health & Safety Code § 25249.7.*
10 “Threaten to violate” means “to create a condition in which there is a substantial probability that a
11 violation will occur.” *Id.*, § 25249.11 (e). Defendants are also liable for civil penalties of up to
12 \$2,500.00 per day per violation, recoverable in a civil action. *Id.*, § 25249.7 (b).

13 **17.** Plaintiff identified certain practices of manufacturers or distributors of the LAS
14 CAMPANAS RED HOT BEEF BURRITOS, who both in the past and presently, knowingly and
15 intentionally expose persons in California to LEAD (“LEAD”) in such PRODUCTS without first
16 providing clear and reasonable warnings of such to the exposed persons prior to the time of
17 exposure. Plaintiff later discerned that Defendants engaged in such practice.

18 **18.** On February 27, 1987, the Governor of California added LEAD to the list of
19 chemicals known to the State to cause developmental toxicity in the fetus and male and female
20 reproductive toxicity. *Cal. Code Regs. Tit. 27, §27001 (c)*. The Proposition 65 warning
21 requirements and discharge prohibitions became applicable to LEAD within twenty (20) months
22 after LEAD was added to the list of chemicals known to cause birth defects and reproductive
23 toxicity. *Health & Safety Code §§ 25249.9 and 25249.10.*

24 **19.** On October 1, 1992, the Governor of California added LEAD to the list of
25 chemicals known to the State to cause cancer. *Cal. Code Regs. Tit. 27 §27001(b)*. The Proposition
26 65 warning requirements and discharge prohibitions became applicable to LEAD within twenty
27 (20) months after LEAD was added to the list of chemicals known to cause cancer. *Health & Safety*
28 *Code §§ 25249.9 and 25249.10.*

1 **20.** There is no safe level of exposure to LEAD and even minute amounts of LEAD
2 have been proven harmful to children and adults. *See, e.g.*, Report of the Advisory Committee on
3 Childhood LEAD Poisoning Prevention of the U.S. Centers for Disease Control and Prevention,
4 “Low Level LEAD Exposure Harms Children: A Renewed Call For Primary Prevention,” January
5 4, 2012. A study performed by the California Office of Environmental Health Hazard Assessment
6 determined that exposures to LEAD even at levels previously considered safe have now been
7 shown to cause adverse health effects, including reduced cognitive ability and significant
8 diminution of intellectual potential. Carlisle, J., *et al.*, “A Blood LEAD Benchmark for Assessing
9 Risks from Childhood LEAD Exposure,” *Journal of Environmental Science & Health*, 44, 2009.
10 This conclusion is based on a meta-study of 1,333 children who participated in seven international
11 studies. *See* Lanphear, B., *et al.*, “Low-Level Environmental LEAD Exposure and Children’s
12 Intellectual Function: An International Pooled Analysis,” *Environmental Health Perspectives*,
13 113:7, 2005.

15 **21.** Young children are especially susceptible to the toxic effects of LEAD. Children
16 show a greater sensitivity to LEAD’s effects than do adults. Adverse health impacts from LEAD
17 exposure generally occur in children at lower blood LEAD levels than in adults. Children absorb
18 and retain more LEAD in proportion to their weight than do adults. Young children also show a
19 greater prevalence of iron deficiency, a condition that can increase gastrointestinal absorption of
20 LEAD. The body accumulates LEAD over a lifetime and releases it slowly, so even small doses
21 received in childhood, over time, can cause adverse health impacts, including but not limited to
22 reproductive toxicity, later in life. For example, in times of physiological stress, such as pregnancy,
23 the body can mobilize accumulated stores of LEAD in tissue and bone, thereby increasing the level
24 of LEAD in the blood and increasing the risk of harm to the fetus.

26 **22.** LEAD exposures for pregnant women are also of particular concern in light of
27 evidence that even short-term LEAD exposures *in utero* may have long-term harmful effects. *See,*
28 *e.g.*, Hu, H., *et al.*, “Fetal LEAD Exposure at Each State of Pregnancy as a Predictor of Infant
Mental Development,” *Environmental Health Perspectives*, 114:11, 2006; Schnaas, L., *et al.*,

1 “Reduced Intellectual Development in Children with Prenatal LEAD Exposure,” *Environmental*
2 *Health Perspectives*, 114:5, 2006. Increased LEAD exposure during pregnancy has also been
3 shown to cause an increased risk of premature birth and increased blood pressure in both the
4 mother during pregnancy and the child after birth. *See, e.g.,* Vigeh, M., *et al.*, “Blood LEAD at
5 Currently Acceptable Levels May Cause Preterm Labour,” *Occupational & Environmental*
6 *Medicine*, 68:231-234, 2010; Zhang, A., *et al.*, “Association Between Prenatal LEAD Exposure
7 and Blood Pressure in Children,” *Environmental Health Perspectives*, 120:3, 2012; Wells, E., *et*
8 *al.*, “Low-Level LEAD Exposure and Elevations in Blood Pressure During Pregnancy,”
9 *Environmental Health Perspectives*, 119:5, 2011.

11 **23.** The MADL for LEAD as a chemical known to cause reproductive toxicity is 0.5
12 micrograms per day. (Cal. Code Regs., tit. 27, §25805, subd. (b).) The No Significant Risk Level
13 for LEAD as a carcinogen is 15 micrograms per day. (Cal. Code Regs., tit. 27, §25705, subd. (b).)

14 **24.** The level of exposure to a chemical causing cancer or reproductive toxicity under
15 Proposition 65 is determined by multiplying the level in question times the reasonably anticipated
16 rate of exposure for an individual to a given medium. *27 C.C.R. § 25821(b)*. For exposure to
17 consumer PRODUCTS, the level of exposure is calculated using the reasonably anticipated rate of
18 intake or exposure for average users of the consumer PRODUCT. *27 C.C.R. § 25821(C)(2)*.

19 **25.** Burritos is one of the oldest foods known to humans as it was first developed as
20 early as 1500 B.C. in the region that is known as Mexico today. Burritos are filled with savory
21 ingredients, most often a meat such as beef, chicken, or pork, and often include other ingredients,
22 such as rice, cooked beans (either whole or refried), vegetables, such as lettuce and tomatoes,
23 cheese, and condiments such as salsa, pico de gallo, guacamole or crema. Burritos have since
24 become one of the most commonly consumed foods in the U.S.

26 **26.** Defendants manufacture and distribute LAS CAMPANAS RED HOT BEEF
27 BURRITOS, which contain sufficient quantities of LEAD such that consumers, including pregnant
28 women and children, who consume the burritos are exposed to a significant amount of LEAD. The
primary route of exposure for the violations is direct ingestion when people consume the burritos.

1 **32.** Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney
2 General, the District Attorneys of every county in California, the City Attorneys of every city in
3 California with a population greater than 750,000 and to the named Defendants. In compliance with
4 *Health & Safety Code* § 2521-9.7(d) and *11 C.C.R. § 3101*, each Certificate certified that Plaintiff’s
5 counsel: (1) has consulted with one or more persons with relevant and appropriate experience or
6 expertise who reviewed facts, studies or other data regarding the exposures to LEAD alleged in
7 each Notice; and (2) based on the information obtained through such consultations, believes that
8 there is a reasonable and meritorious case for a citizen enforcement action based on the facts
9 alleged in each Notice.
10

11 **33.** In reliance on the expert’s evaluation of the PRODUCTS, Plaintiff’s counsel is
12 informed and believes and thereon alleges that there is a reasonable and meritorious case against
13 Defendants for this private action.

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

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

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

23 **37.** Plaintiff is informed, believes and thereon alleges that none of the public
24 prosecutors with the authority to prosecute violations of Proposition 65 has commenced or is
25 diligently prosecuting an action against the Defendants under *Health and Safety Code* section
26 25249.5, *et seq.* based on the allegations herein.

27 **38.** Plaintiff has engaged in good faith efforts to resolve the alleged violation prior to
28 filing this Complaint. See exhibit “B.”

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

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

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

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

23 50. Based on the allegations herein, Defendants are liable for civil penalties of up to
24 \$2,500.00 per day per individual exposure to LEAD from the PRODUCTS, pursuant to Health and
25 Safety Code §25249.7(b).

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27 **PRAYER FOR RELIEF**

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

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

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

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

4. Such other and further relief that the Court may deem just and equitable.

DATED: 09/30/2022

BY: 

CORNERSTONE LAW FIRM, PC
Davar Danialpour, Esq.
Attorneys for Plaintiffs,
Consumer Rights Advocates, LLC

Exhibit “A”

60-Day Notice of Violation

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH
Cal. Health & Safety Code § 25249.5, et seq.
("Proposition 65")

DATE: July 6, 2022

TO: **Camino Real Foods Inc; Camino Real Kitchens**
Nissin Foods (U.S.A.) Co., Inc.; Nissin Foods Holdings Co., Ltd.; Nissin Foods Group
California Attorney General's Office
District Attorney's Office for All California Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento, and Los Angeles

FROM: Consumer Rights Advocates, LLC

I. INTRODUCTION

Consumer Rights Advocates, LLC ("CRA") is the noticing entity, acting in the interest of the general public. It seeks to reduce or eliminate the presence of hazardous substances in consumer products sold in California, and to ensure that California consumers are aware of the presence of such substances in consumer goods so that they can make an educated effort to limit their own exposure where deemed necessary.

This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6, *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violators CAMINO REAL FOODS INC; CAMINO REAL KITCHENS; NISSIN FOODS (U.S.A.) CO., INC.; NISSIN FOODS HOLDINGS CO., LTD.; NISSIN FOODS GROUP (the "Violators"). The violations covered by this Notice consist of a summary of Proposition 65, Statement of Violation, Number and Duration of Violation, Product Category/Type, Listed Chemical(s), Preservation of Evidence, Product Exposure, Routes of Exposure, and type of harm resulting from exposure to the chemicals ("Listed Chemicals") as follows:

Product Exposure:	See Section VI. and VII. Exhibit A
Listed Chemical:	Lead
Routes of Exposure:	Ingestion and Dermal Absorption
Type of Harm:	Birth Defect and other Reproductive Harm

II. PROPOSITION 65 INFORMATION – SUMMARY

A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the Lead agency designated under Proposition 65, is enclosed with the copy of the Notice served on the Notice Recipients. For more information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900.

III. STATEMENT OF VIOLATIONS

The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in section VI. and the specific toxicant(s)/Listed Chemical(s) is set forth in Exhibit A of Section VII. All products within the category covered by this Notice shall be referred to hereinafter as the "Covered Product(s)" or "Product(s)". Exposures to the Listed Chemical from the use of the Products have been occurring without the "clear and reasonable warning" required by Proposition 65. The method of the warning should be a label on the product itself. Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from contact with the Products, California citizens lack the information

necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Products.

The Notice Recipients knowingly and intentionally exposed, and continue to knowingly and intentionally expose, consumers within the State of California to the Listed Chemical(s), a chemical known to the State of California to cause cancer, birth defects, and other reproductive harm, without first giving clear and reasonable warning of this exposure to such individuals. In particular, the Notice Recipients failed to provide a clear and reasonable warning to consumers that the Listed Product exposes consumers to Listed Chemical(s).

IV. NUMBER AND DURATION OF VIOLATIONS

Each and every sale of a Covered Product to a consumer in California without a clear and reasonable warning is a violation, including transactions made over-the-counter, through the internet, and/or via catalog by the Notice Recipients and any other sellers of the Covered Products. These violations have been occurring since at least July 6, 2021, as well as every day since the Covered Products were first introduced and sold in the State of California. These violations will continue until “clear and reasonable warning” are provided prior to exposure of the Listed Chemicals.

V. ROUTE OF EXPOSURE

California consumers and other individuals, through the act of using and consuming the Covered Product, are exposed to the Listed Chemical. Consumers ingest the Listed Chemical by eating the Covered Product, or when they touch and handle the Covered Products, transfer the Listed Chemical from the Covered Products onto their fingers and hands, and transfer the Listed Chemical from their fingers and hands to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Covered Products.

By way of example, exposures occur when California Citizens use the Product as an ingredient, eat, sample, or otherwise ingest the Product. These acts cause consumers and other individuals to be exposed to the Listed Chemical through the routine consumption of all or a portion of the product containing the Listed Chemical. People likely to be exposed include both children and adults including women of childbearing age.

VI. PRODUCT CATEGORY/TYPE

Identified below is a specific example of Covered Products recently purchased and witnessed as being available for purchase or use in California (the “Exemplar Product”). Based on publicly available information, the retailers, distributors, and/or manufacturers of the Exemplar Product is also provided.

The Exemplar Product is identified for the Notice Recipients’ benefit to assist in their investigation of the allegations set forth in this Notice. **The Exemplar Product is not meant to be an exhaustive or comprehensive identification of each specific offending product falling within the specific type or category of Covered Products at issue in this Notice.** The Exemplar Product is a representative of a class of products called “LAS CAMPANAS BURRITOS”. It is the CRA’s position that the Notice Recipients are obligated to conduct a good-faith investigation into other specific products falling within the type or category of Covered Products that have been manufactured, imported, distributed, sold, shipped, stored, or are otherwise within the Notice Recipients’ custody or control, so as to ensure the requisite toxic warnings were and are provided to California citizens prior to purchase.

<u>Exemplar Product</u>	<u>Chain of Commerce</u>	
	<u>Wholesaler; Retailer</u>	<u>Manufacturer; Importer; Distributor</u>
Las Campanas Red Hot Beef Burritos UPC: 0-7960613014-5	CAMINO REAL FOODS INC; CAMINO REAL KITCHENS; NISSIN FOODS (U.S.A.) CO., INC.; NISSIN FOODS HOLDINGS CO., LTD.; NISSIN FOODS GROUP	CAMINO REAL FOODS INC; CAMINO REAL KITCHENS; NISSIN FOODS (U.S.A.) CO., INC.; NISSIN FOODS HOLDINGS CO., LTD.; NISSIN FOODS GROUP

VII. EXHIBIT A – LISTED CHEMICAL

<u>Product Category / Type</u>	<u>Toxicant(s)</u>
Burrito	Lead

VIII. RESOLUTION OF NOTICED CLAIMS

Consistent with the goals of Proposition 65 and a desire to have these violations corrected, CRA is interested in seeking a resolution of this matter that includes a binding written agreement by the Violators to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) reformulate the Covered Product so as to eliminate further exposures to the Covered Chemical(s) or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposure to the Covered chemical(s), as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement with CRA will resolve its claims; such an agreement may not satisfy the public prosecutors.

Proposition 65 requires that notice of intent to sue be given to the violators(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code § 25249.7(d)(1)*. With this letter, CRA gives notice of the alleged violations to the Violator and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice, CRA may file suit. *See Cal. Code Civ. Proc. § 1013; Cal. Health & Safety Code § 25249.7(d)(1); and Cal. Code Regs. Tit. 27 § 25903(d)(1)*. Per *Cal. Code Regs. Tit. 27, § 25600.2(g)* (2018) the retail seller noticed on this 60-Day Notice is hereby requested to promptly provide the names and contact information for the manufacturer(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) of the Listed Products in this Notice.

Consumer Rights Advocates, LLC remains open and willing to discuss the possibilities of resolving its grievance short of formal litigation.

IX. PRESERVATION OF EVIDENCE

This Notice also serves as a demand that the Notice Recipients preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence of the Listed Chemicals in the Covered Product; purchase and sales information for Covered Products (i.e., list of purchasers and quantity sold; list of manufacture(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) and quantity in each transaction, as well as the current inventory of the Covered Product in stock); efforts to comply with Proposition 65 with respect to the Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered Products; and representative exemplars of each specific model falling within the Covered Products. This demand applies to all relevant evidence for Covered Products sold in the State of California, as far back as July 6, 2021, through the date of any trial of the claims alleged in this Notice.

X. CERTIFICATE OF MERIT

Pursuant to Health & Safety Code §25249.6 and Title 11, California Code of Regulations, section 3100, a Certificate of Merit is attached hereto. A second copy of the entire notice and Certificate of Merit is served on the Attorney General with all supporting documentation required by section 3102 attached hereto.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Davar Danialpour, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the Listed Chemical that is the subject of this action;
4. Based on the information obtained through those consultations, and on all 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 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. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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: July 6, 2022



Davar Danialpour

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the Lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all full and part-time employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 et seq. of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 et seq. of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title

11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS:

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code

² See Section 25501(a)(4).

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 over the age of 18 and not a party to this case. I am a resident or employed in the county where the mailing occurred. My business address is 357 S. Robertson Blvd. 2ND Floor STE 400 Beverly Hills, CA 90211.

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**
- 3) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**

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:

Current President or CEO Camino Real Foods, Inc. Camino Real Kitchens 2638 East Vernon Ave Vernon, CA 90058-1825	Current President or CEO Nissin Foods (U.S.A.) Co., Inc. Nissin Foods Holdings Co., Ltd. 2001 West Rosecrans Ave Gardena, CA 90249
Corporation Service Company – CSC Lawyers C/O Nissin Foods (U.S.A.) Company, Inc. Nissin Foods Holding Co., Ltd. 2710 Gateway Oaks Dr. STE 150N Sacramento, CA 95833	

Additionally,

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**
- 3) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**
- 4) **Supporting Factual Information Sufficient to establish the bases for Certificate of Merits**

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

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

Additionally,

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**

on each of the parties on the “Distribution List” attached, and depositing it at a U.S. Postal Service office with postage fully prepaid for delivery by First Class Mail, and on each of the parties listed on the “Electronic Service” when a true and correct copy thereof was sent via electronic mail.

Executed on July 6, 2022, in Beverly Hills, California.



Annabel Sebastian

Distribution List

Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Lake County District Attorney 255 N. Forbes Street Lakeport, CA 95453	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
Amador County District Attorney 708 Court Street, Suite 202 Jackson, CA 95642	Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	San Mateo County District Attorney 400 County Ctr., 3 rd Floor Redwood City, CA 94063
Butte County District Attorney 25 County Center Drive, STE 245 Oroville, CA 95965	Los Angeles City Attorney's Office 200 N. Main Street Suite 800 Los Angeles, CA 90012	Shasta County District Attorney 1355 West Street Redding, CA 96001
Colusa County District Attorney 346 Fifth Street Suite 101 Colusa, CA 95932	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	Sierra County District Attorney PO Box 457 Downieville, CA 95936
Del Norte County District Attorney 450 H Street, Suite 171 Crescent City, CA 95531	Marin County District Attorney 3501 Civic Center Drive, Suite 145 San Rafael, CA 94903	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097
El Dorado County District Attorney 778 Pacific St. Placerville, CA 95667	Mendocino County District Attorney PO Box 1000 Ukiah, CA 95482	Solano County District Attorney 675 Texas Street Suite 4500 Fairfield, CA 94533
Glenn County District Attorney PO Box 430 Willows, CA 95988	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	Stanislaus County District Attorney 832 12 th Street, Suite 300 Modesto, CA 95354
Humboldt County District Attorney 825 5 th Street 4 th Floor Eureka, CA 95501	San Bernardino County District Attorney 303 West Third Street San Bernardino, CA 92415	Sutter County District Attorney 463 Second Street Yuba City, CA 95991
Imperial County District Attorney 940 West Main Street Suite 102 El Centro, CA 92243	Mono County District Attorney PO Box 617 Bridgeport, CA 93517	Tehama County District Attorney PO Box 519 Red Bluff, CA 96080
Kern County District Attorney 1215 Truxtun Avenue, 4 th Floor Bakersfield, CA 93301	Orange County District Attorney PO Box 808 Santa Ana, CA 92702	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Kings County District Attorney 1400 West Lacey Boulevard, Building # 4 Hanford, CA 93230	San Benito County District Attorney 419 Fourth Street, 2 nd Floor Hollister, CA 95023	Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370
Berkeley City Attorney's Office 2180 Milvia St, 4 th Floor Berkely, CA 94704	Oakland City Attorney 1 Frank Ogawa Plaza 6 th FL Oakland, CA 94612	Yuba County District Attorney 215 Fifth Street, Suite 152 Marysville, CA 95901

Electronic Service

Alameda County District Attorney CEPDProp65@acgov.org	Nevada District Attorney DA.Prop65@co.nevada.ca.us	San Luis Obispo Deputy District Attorney edobroth@co.slo.ca.us
Calaveras County District Attorney Prop65Env@co.calaveras.ca.us	Placer County District Attorney Prop65@placer.ca.gov	Santa Barbara Deputy District Attorney DAProp65@co.santa-barbara.ca.us
Contra Costa Deputy District Attorney sgrassini@contracostada.org	Plumas County District Attorney davidhollister@countyofplumas.com	Santa Clara Supervising Deputy District Attorney EPU@da.sccgov.org
Fresno District Attorney consumerprotection@fresnocountyca.gov	Riverside County District Attorney Prop65@rivcoda.org	Santa Clara City Attorney Proposition65notices@sanjoseca.gov
Inyo County District Attorney inyoda@inyocounty.us	Sacramento County District Attorney Prop65@sacda.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Lassen County Program Coordinator mlatimer@co.lassen.ca.us	San Diego County District Attorney SanDiegoDAProp65@sdcca.org	Sonoma District Attorney Jeannie.Barnes@sonoma-county.org
Mariposa County District Attorney meda@mariposacounty.org	San Diego Deputy City Attorney CityAttyProp65@sandiego.gov	Tulare District Attorney Prop65@co.tulare.ca.us
Merced County District Attorney Prop65@countyofmerced.com	San Francisco Deputy City Attorney Valerie.Lopez@sfcityatt.org	Ventura County District Attorney daspecialops@ventura.org
Monterey County District Attorney Prop65DA@co.monterey.ca.us	San Francisco Assistant District Attorney alexandra.grayner@sfgov.org	Yolo County District Attorney cfepd@yolocounty.org
Napa County District Attorney CEPD@countyofnapa.org	San Joaquin District Attorney DACConsumer.Environmental@sjcda.org	

Exhibit “B”

Cornerstone Law Firm, PC

357 S. Robertson Blvd. 2ND FL
Beverly Hills, CA 90211
Tel: (310) 444-0055
Fax: (310) 444-0066

September 7, 2022

Robert Cross
Marilyn Hesser
Camino Real Foods, Inc.
Camino Real Kitchens
2638 East Vernon Ave
Vernon, CA 90058

RE: NOTICE OF VIOLATION NO. 2022-01459
LAS CAMPANAS RED HOT BEEF BURRITOS
CLAIMANT: CONSUMER RIGHTS ADVOCATES, LLC

Dear Mr. Cross:

This office represents Consumer Rights Advocates, LLC (“CRA”) in its claim against Camino Real Foods, Inc.; Camino Real Kitchens for the violation of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, also known as Proposition 65.

CRA is dedicated to protecting the public from environmental health hazards and toxic exposures. Acting as a private attorney general, CRA intends to bring an enforcement action in the public interest against Camino Real Foods, Inc.; Camino Real Kitchens pursuant to *Health & Safety Code §25249.7(d)*.


On July 6, 2022, CRA served on Camino Real Foods, Inc.; Camino Real Kitchens one (1) Notice of Violation of Proposition 65 alleging that Las Campanas Red Hot Beef Burritos - UPC: 0-7960613014-5, purportedly manufactured, sold, and/or distributed by Camino Real Foods, Inc.; Camino Real Kitchens contains lead in excess of the Safe Harbor Level.

More than 60-days have passed since Camino Real Foods, Inc. was put on notice. We have not heard from Camino Real Foods, Inc. or its attorneys.

Exposure to lead is an important health concern. The lead concentration in this product is almost three (3) times above the Safe Harbor Level. The injuries posed to the general public for ingesting this product includes birth defect and reproductive toxicity. This requires immediate attention. Acting as a private attorney general, CRA intends to bring an enforcement action pursuant to *Health & Safety Code §25249.7(d)* unless we hear from you.

Please do not hesitate to contact me at (310) 444-0055 or david@davarlaw.com should you wish to resolve the forging violation amicably.

Sincerely,



Davar David Danialpour, Esq.