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County of Alameda  
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By: Xian-xii Bowie,  
Deputy Clerk

7 Attorneys for Plaintiff  
ENVIRONMENTAL HEALTH ADVOCATES, INC.  
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF ALAMEDA**

11 ENVIRONMENTAL HEALTH ADVOCATES,  
INC.,

12 Plaintiff,

13 v.

14 QUEST NUTRITION, LLC, a Delaware  
limited liability company; THE SIMPLY  
GOOD FOODS COMPANY, a Delaware  
15 corporation; AMAZON.COM, INC., a  
Delaware corporation; and DOES 1 through  
16 100, inclusive,

17 Defendants.  
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Case No.: **22CV020969**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendants’ failure to inform the People of exposure to lead, a known carcinogen.  
5 Defendants expose consumers to lead by manufacturing, importing, selling, and/or distributing protein  
6 chips including, but not limited to, Quest Tortilla Style Protein Chips Loaded Taco (“Products”).  
7 Defendants know and intend that customers will ingest Products containing lead.

8           2.       Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California  
9 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing  
10 business shall knowingly and intentionally expose any individual to a chemical known to the state to  
11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
12 individual. . . .” (Health & Safety Code, § 25249.6.)

13           3.       California identified and listed lead as a chemical known to cause cancer as early as  
14 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February  
15 27, 1987.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to lead in connection with Defendants’ manufacture, import, sale, or distribution of  
18 Products. This is a violation of Proposition 65.

19           5.       Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers  
20 in California before exposing them to lead in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff  
21 also seeks civil penalties against Defendants for its violations of Proposition 65 along with attorney’s  
22 fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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25           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a  
26 corporation in the State of California dedicated to protecting the health of California citizens through  
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
28 interest pursuant to Health and Safety Code, section 25249.7.

1 7. Defendant QUEST NUTRITION, LLC (“Quest”) is a limited liability company  
2 organized and existing under the laws of Delaware. Quest is registered to do business in California, and  
3 does business in the County of Alameda, within the meaning of Health and Safety Code, section  
4 25249.11. Quest manufactures, imports, sells, or distributes the Products in California and Alameda  
5 County.

6 8. Defendant THE SIMPLY GOOD FOODS COMPANY (“SGF”) is a corporation  
7 organized and existing under the laws of Delaware. SGF is registered to do business in California, and  
8 does business in the County of Alameda, within the meaning of Health and Safety Code, section  
9 25249.11. SGF manufactures, imports, sells, or distributes the Products in California and Alameda  
10 County.

11 9. Defendant AMAZON.COM, INC. (“Amazon”) is a corporation organized and existing  
12 under the laws of Delaware. Amazon is registered to do business in California, and does business in the  
13 County of Alameda, within the meaning of Health and Safety Code, section 25249.11. Amazon  
14 manufactures, imports, sells, or distributes the Products in California and Alameda County.

15 10. Plaintiff does not know the true names and/or capacities, whether individual, partners,  
16 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues  
17 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true  
18 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and  
19 thereon alleges that these defendants are responsible in whole or in part for the remedies and penalties  
20 sought herein.

21 **III.**  
22 **VENUE AND JURISDICTION**

23 11. California Constitution Article VI, Section 10 grants the Superior Court original  
24 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code  
25 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court  
26 has jurisdiction.

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1           21.       More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a  
2 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff  
3 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
4 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in  
5 California of the health hazards associated with exposures to lead contained in the Products.

6           22.       The appropriate public enforcement agencies provided with the Notice failed to  
7 commence and diligently prosecute a cause of action against Defendants.

8           23.       Individuals exposed to lead contained in Products through direct ingestion resulting  
9 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.  
10 There is no other plain, speedy, or adequate remedy at law.

11          24.       Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation  
12 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also  
13 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff prays for judgment against Defendants as follows:

3 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that  
4 damages total a minimum of \$1,000,000.00;

5 2. A preliminary and permanent injunction against Defendants from manufacturing,  
6 importing, selling, and/or distributing Products in California without providing a clear and reasonable  
7 warning as required by Proposition 65 and related Regulations;

8 3. Reasonable attorney’s fees and costs of suit; and

9 4. Such other and further relief as may be just and proper.

10 Respectfully submitted:

11 Dated: November 2, 2022

**ENTORNO LAW, LLP**

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14 By:   
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15 Jake W. Schulte

16 Craig M. Nicholas

17 Attorneys for Plaintiff

18 Environmental Health Advocates, Inc.  
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