1 2	ENTORNO LAW, LLP Noam Glick (SBN 251582) Jake W. Schulte (SBN 293777)	ELECTRONICALLY FILED Superior Court of California,
3	Craig M. Nicholas (SBN 178444) 225 Broadway, Suite 1900	County of Alameda
	San Diego, California 92101	11/02/2022 at 02:44:31 PM
4 5	Tel: (619) 629-0527 Email: noam@entornolaw.com Email: jake@entornolaw.com	By: Angela Linhares, Deputy Clerk
6	Email: craig@entornolaw.com	
7	Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES,	INC.
8		
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
10		COUNTY OF ALAMEDA
11	ENVIRONMENTAL HEALTH ADVOCATES, INC.,	Case No.: 22CV020984
12	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF
13		(Health & Safety Code § 25249.6 et seq.)
14	OREGON SEAFOODS LLC, an Oregon limited liability company; GOLDEN GAIT MERCANTILE LLC, a California limited	
15	liability company; and DOES 1 through 100, inclusive,	
16	Defendants.	
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## I. INTRODUCTION

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This Complaint is a representative action brought by Environmental Health Advocates,
 Inc. ("Plaintiff") in the public interest of the citizens of the State of California ("the People"). Plaintiff
 seeks to remedy Defendants' failure to inform the People of exposure to lead, arsenic, and mercury,
 known carcinogens and reproductive toxins. Defendants expose consumers to lead, arsenic, and mercury
 by manufacturing, importing, selling, and/or distributing seafood curry including, but not limited to, Sea
 Fare Pacific Albacore Curry ("Products"). Defendants know and intend that customers will ingest
 Products containing lead, arsenic, and mercury.

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

California identified and listed lead as a chemical known to cause cancer as early as
 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February
 27, 1987. Arsenic was listed as a carcinogen on February 27, 1987. Mercury was listed as a reproductive
 toxin on July 1, 1990.

Defendants failed to sufficiently warn consumers and individuals in California about
 potential exposure to lead, arsenic, and mercury, in connection with Defendants' manufacture, import,
 sale, or distribution of Products. This is a violation of Proposition 65.

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

## II. <u>PARTIES</u>

27 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a
28 corporation in the State of California dedicated to protecting the health of California citizens through

the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
 interest pursuant to Health and Safety Code, section 25249.7.

7. Defendant OREGON SEAFOODS LLC ("Oregon") is a limited liability company
organized and existing under the laws of Oregon. Oregon is registered to do business in California, and
does business in the County of Alameda, within the meaning of Health and Safety Code, section
25249.11. Oregon manufactures, imports, sells, or distributes the Products in California and Alameda
County.

8 8. Defendant GOLDEN GAIT MERCANTILE LLC ("Golden Gait") is a limited liability
9 company organized and existing under the laws of California. Golden Gait is registered to do business
10 in California, and does business in the County of Alameda, within the meaning of Health and Safety
11 Code, section 25249.11. Golden Gait manufactures, imports, sells, or distributes the Products in
12 California and Alameda County.

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

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<u>VENUE AND JURISDICTION</u> nia Constitution Article VI, Section 10 grants the S

III.

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

11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
County. Defendants conducted and continue to conduct business in this County as it relates to Products.

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1 12. Defendants have sufficient minimum contacts in the State of California or otherwise
 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would
 be consistent with traditional notions of fair play and substantial justice.

## IV. <u>CAUSES OF ACTION</u>

## FIRST CAUSE OF ACTION (Violation of Proposition 65 – Against all Defendants)

13. Plaintiff incorporates by reference each and every allegation contained above.

14. Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm.

10 15. Defendants manufactured, imported, sold, and/or distributed Products containing lead,
 11 arsenic, and mercury in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed
 12 and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue
 13 to occur into the future.

14 16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
 15 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
 16 to lead, arsenic, and mercury through reasonably foreseeable use of the Products.

17 17. Products expose individuals to lead, arsenic, and mercury through direct ingestion. This
 18 exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of
 19 commerce. As such, Defendants intend that consumers will ingest Products, exposing them to lead,
 20 arsenic, and mercury.

18. Defendants knew or should have known that the Products contained lead, arsenic, and
 mercury and exposed individuals to lead, arsenic, and mercury in the ways provided above. The Notice
 informed Defendants of the presence of lead, arsenic, and mercury in the Products. Likewise, media
 coverage concerning lead, arsenic, mercury and related chemicals in consumer products provided
 constructive notice to Defendants.

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Defendants' actions in this regard were deliberate and not accidental.

27 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
 28 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff

provided the Notice to the various required public enforcement agencies along with a certificate of merit.
 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
 California of the health hazards associated with exposures to lead, arsenic, and mercury contained in the
 Products.

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

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

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

13 [*Rest of page intentionally left blank.*]

1	PRAYER FOR RELIEF			
2	Wherefore, Plaintiff prays for judgment against Defendants as follows:			
3	1.	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.	3. Reasonable attorney's fees and costs of suit; and		
9	4.	4. Such other and further relief as may be just and proper.		
10	Respectfully	y submitted:		
11	Dated: Nove	ember 2, 2022	ENTORNO LAW, LLP	
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13		P	Noan Slit	
14		By:	Noam Glick	
15		J	Jake W. Schulte	
16		(	Craig M. Nicholas	
17			Attorneys for Plaintiff	
18		I	Environmental Health Advocates, Inc.	
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