

1 **ENTORNO LAW, LLP**
Noam Glick (SBN 251582)
2 Jake W. Schulte (SBN 293777)
Craig M. Nicholas (SBN 178444)
3 225 Broadway, Suite 1900
San Diego, California 92101
4 Tel: (619) 629-0527
Email: noam@entornolaw.com
5 Email: jake@entornolaw.com
Email: craig@entornolaw.com
6

ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
11/02/2022 at 02:44:31 PM
By: Angela Linhares,
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 OREGON SEAFOODS LLC, an Oregon
limited liability company; GOLDEN GAIT
15 MERCANTILE LLC, a California limited
liability company; and DOES 1 through 100,
inclusive,
16

17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No.: **22CV020984**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1
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, arsenic, and mercury,
5 known carcinogens and reproductive toxins. Defendants expose consumers to lead, arsenic, and mercury
6 by manufacturing, importing, selling, and/or distributing seafood curry including, but not limited to, Sea
7 Fare Pacific Albacore Curry (“Products”). Defendants know and intend that customers will ingest
8 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.)

14 3. California identified and listed lead as a chemical known to cause cancer as early as
15 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February
16 27, 1987. Arsenic was listed as a carcinogen on February 27, 1987. Mercury was listed as a reproductive
17 toxin on July 1, 1990.

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

21 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
22 in California before exposing them to lead, arsenic, and mercury in Products. (Health & Safety Code,
23 § 25249.7(a).) Plaintiff also seeks civil penalties against Defendants for its violations of Proposition 65
24 along with attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

25
26
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

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

3 7. Defendant OREGON SEAFOODS LLC (“Oregon”) is a limited liability company
4 organized and existing under the laws of Oregon. Oregon is registered to do business in California, and
5 does business in the County of Alameda, within the meaning of Health and Safety Code, section
6 25249.11. Oregon manufactures, imports, sells, or distributes the Products in California and Alameda
7 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.

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

19 **III.**
20 **VENUE AND JURISDICTION**

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.

25 11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
26 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
27 County. Defendants conducted and continue to conduct business in this County as it relates to Products.
28

1 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
2 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
3 California of the health hazards associated with exposures to lead, arsenic, and mercury contained in the
4 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.

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

13 *[Rest of page intentionally left blank.]*
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

12
13
14 By: 
Noam Glick

15 Jake W. Schulte

16 Craig M. Nicholas

17 Attorneys for Plaintiff

18 Environmental Health Advocates, Inc.
19
20
21
22
23
24
25
26
27
28