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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 JRD IMC, LLC, a Delaware limited liability  
company; ATALANTA CORPORATION, a  
15 Delaware corporation; RESTAURANT  
DEPOT LLC, a Delaware limited liability  
16 company; and DOES 1 through 100, inclusive,

17 Defendants.  
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Case No.: **22CV020981**

**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, cadmium, and arsenic,  
5 known carcinogens. Defendants expose consumers to lead, cadmium, and arsenic by manufacturing,  
6 importing, selling, and/or distributing clams including, but not limited to, Chef’s Quality Whole Baby  
7 Clams (“Products”). Defendants know and intend that customers will ingest Products containing lead,  
8 cadmium, and arsenic.

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. Cadmium was listed as a carcinogen on October 1, 1987 and listed as a developmental and  
17 reproductive toxin on May 1, 1997. Arsenic was listed as a carcinogen on February 27, 1987.

18           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
19 potential exposure to lead, cadmium, and arsenic 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, cadmium, and arsenic 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**

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

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

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

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

22 **III.**  
23 **VENUE AND JURISDICTION**

24 11. California Constitution Article VI, Section 10 grants the Superior Court original  
25 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code  
26 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court  
27 has jurisdiction.  
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1 12. Venue is proper in Alameda County Superior Court pursuant to Code of Civil  
2 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this  
3 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

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

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8 **IV.**  
**CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION**  
10 **(Violation of Proposition 65 – Against all Defendants)**

11 14. Plaintiff incorporates by reference each and every allegation contained above.

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

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

18 17. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to  
19 provide a clear and reasonable warning to consumers and individuals in California who may be exposed  
20 to lead, cadmium, and arsenic through reasonably foreseeable use of the Products.

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

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

1           20.       Defendants’ actions in this regard were deliberate and not accidental.

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

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

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

13          24.       Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation  
14 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also  
15 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:   
Noam Glick

15 Jake W. Schulte

16 Craig M. Nicholas

17 Attorneys for Plaintiff

18 Environmental Health Advocates, Inc.  
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