

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

Orca Bay Foods, LLC; DOES 1 - 100

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
12/12/2023 10:48 AM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Ayala, Deputy Clerk

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Clean Product Advocates LLC, a California Limited Liability Company

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Los Angeles County Superior Court  
111 North Hill Street, Los Angeles, California 90012

CASE NUMBER:  
(Número del Caso):  
**23STCV30256**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Elham Shabatian SBN 221953, Cliffwood Law Firm; 12100 Wilshire Blvd., Suite 800, Los Angeles, Ca 90025; (310) 200-3227

DATE: 12/12/2023 Clerk, by David W. Slayton, Executive Officer/Clerk of Court, Deputy  
(Fecha) (Secretario) Y. Ayala (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED: You are served**
- as an individual defendant.
  - as the person sued under the fictitious name of (specify):
  - on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
  - by personal delivery on (date):

For your protection and privacy, please press the Clear button after you have entered the form.

1 CLIFFWOOD LAW FIRM  
2 ELHAM SHABATIAN (SBN 221953)  
3 12100 Wilshire Boulevard  
4 Suite 800  
5 Los Angeles, California 90025  
6 Tel: (310) 200-3227  
7 Email: ellie@cliffwoodlaw.com

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Superior Court of California,  
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12/12/2023 10:48 AM  
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Executive Officer/Clerk of Court,  
By Y. Ayala, Deputy Clerk

8 Attorneys for Plaintiff  
9 Clean Product Advocates, LLC

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12  
13 **FOR THE COUNTY OF LOS ANGELES**

14 Clean Product Advocates LLC, a ) Case No. **23STCV30256**  
15 California limited liability )  
16 Company, )  
17 )  
18 ) PLAINTIFF, ) COMPLAINT FOR PENALTY AND  
19 ) ) INJUNCTION  
20 vs. )  
21 ) Violation of Proposition 65,  
22 Orca Bay Foods, LLC; DOES 1 - ) the Safe Drinking Water and  
23 100 ) Toxic Enforcement Act of 1986  
24 ) (Health & Safety Code Sections  
25 ) 25249.5, et. seq.)  
26 ) DEFENDANTS. )  
27 ) ACTION IS AN UNLIMITED CIVIL  
28 ) CASE (exceeds \$25,000.00)  
 )  
 )

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31 **INTRODUCTION**

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33 1. This Complaint is a representative action brought by  
34 Clean Product Advocates, LLC ("Plaintiff" or "CPA") in the  
35 public interest of the citizens of the State of California (the  
36 "People"). Plaintiff seeks to remedy Defendants' failure to  
37

1 inform the People of exposure to CADMIUM ,a known carcinogen.  
2 Defendants continue to expose consumers to CADMIUM by either  
3 manufacturing and/or importing and/or selling and/or  
4 distributing food products including, but not limited to,  
5 "Premium Scallops"("Source" or "Products"). Defendants therefore  
6 know and intend that customers will ingest products containing  
7 CADMIUM.

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

16         3. California has identified and listed CADMIUM as a  
17 chemical known to cause cancer as early as on or about October  
18 1, 1992, and as a chemical known to cause developmental/  
19 reproductive toxicity as early as on or about February 27, 1987.

20         4. Defendants have failed to sufficiently warn consumers and  
21 individuals in California about potential exposure to CADMIUM  
22 in connection with Defendants' manufacture, import, sale, or  
23 distribution of Products in violation of Proposition 65.

24         5. Plaintiff seeks injunctive relief compelling Defendants  
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1 to sufficiently warn consumers in California before exposing  
2 them to CADMIUM in Products (Health & Safety Code Section  
3 25249.7(a)). Plaintiff also seeks civil penalties against  
4 Defendants for their violations of Proposition 65 along with  
5 reasonable attorney's fees and legal costs (Health & Safety Code  
6 Section 25249.7(b)).

7 **PARTIES**

8  
9 6. Plaintiff CPA is an LLC operating in the State of California  
10 dedicated to protecting the health of California citizens  
11 through the elimination or reduction of toxic exposure from  
12 consumer products. It brings this action in the public interest  
13 pursuant to Health & Safety Code Section 25249.7.

14  
15 7. Defendant, Orca Bay Foods, LLC is a Limited Liability Company  
16 doing business in the State of California as either a  
17 manufacturer and/or importer, and/or seller and/or distributor  
18 of Products in Los Angeles County and throughout the State of  
19 California, within the meaning of Health & Safety Code Section  
20 25249.11.

21  
22 8. Defendants DOES 1 through 100, inclusive, are sued  
23 herein under fictitious names. Their true names and capacities  
24 are unknown to Plaintiff. When their true names and capacities  
25 are ascertained, plaintiff will amend this complaint by  
26 inserting their true names and capacities herein. Plaintiff is  
27

1 informed and believes and thereon alleges, that each of the  
2 fictitiously named defendants is responsible in some manner for  
3 the occurrences alleged in this complaint and that Plaintiff's  
4 damages as alleged in this complaint were proximately caused by  
5 such defendants.

6 9. Plaintiff is informed and believes and thereon  
7 alleges, that at all times alleged in this complaint, each  
8 defendant was the agent, alter ego, servant, joint venturer,  
9 joint employer and/or employee, of each of the remaining  
10 defendants, and in doing the things hereinafter alleged, was  
11 acting within the course and scope of said relationships and  
12 with the permission and consent of all other co-defendants. All  
13 conduct was also ratified by Defendants and each of them.  
14

15  
16 **JURISDICTION AND VENUE**

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

24 11. Venue is proper in Los Angeles County Superior Court  
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1 pursuant to Code of Civil Procedure Sections 394, 395 and 395.5  
2 as wrongful conduct as alleged in this complaint has occurred  
3 and continues to occur in this County.

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

9  
10 **CAUSES OF ACTION**

11 **FIRST CAUSE OF ACTION**

12 **(Violation of Proposition 65 - Against all Defendants)**

13 13. Plaintiff incorporates by reference herein, each and  
14 every allegation set forth above in this complaint.

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

18 15. More than sixty days prior to the filing of this  
19 lawsuit naming each Defendant, Plaintiff issued a 60-Day Notice  
20 Of Violation ("Notice") as required by and in compliance with  
21 Proposition 65. Plaintiff also provided said Notice to the  
22 various required public enforcement agencies along with a  
23 Certificate of Merit. The Notice alleged that Defendants  
24 violated Proposition 65 by failing to sufficiently warn  
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1 consumers in California of the health hazards associated with  
2 exposure to CADMIUM contained in their Products.

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

6  
7 17. At all times relevant herein, Defendants manufactured  
8 and/or imported and/or sold and/or distributed Products  
9 containing CADMIUM in violation of Health and Safety Code  
10 Sections 25249.6 et. seq. Plaintiff is informed and believes and  
11 thereon alleges that such violations have continued after  
12 receipt of the Notice described above and such conduct will  
13 continue to occur into the future.

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

19  
20 19. The Products described above exposed individuals to  
21 CADMIUM through direct ingestion. This exposure is a natural  
22 and foreseeable consequence of Defendants placing the Products  
23 into the stream of commerce. As such Defendants intend that  
24 consumers will ingest said Products, exposing them to CADMIUM .  
25

26 20. Defendants knew or should have known that their  
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1 Products contained CADMIUM and exposed individuals to CADMIUM  
2 as described above in this complaint. The Notice described above  
3 in this complaint informed Defendants of the presence of CADMIUM  
4 in their products. Likewise, media coverage concerning CADMIUM  
5 and related chemicals in consumer products provided  
6 "Constructive Notice" to Defendants. Defendants' actions,  
7 therefore, were deliberate and not accidental.

8  
9 21. Individuals exposed to CADMIUM contained in  
10 Defendants' Products through direct ingestion resulting from  
11 reasonably foreseeable use of the Products have suffered and  
12 continue to suffer irreparable harm. There is no other plain,  
13 speedy or adequate remedy at law other than the relief requested  
14 in this complaint.

15 22. Defendants are liable for a maximum civil penalty of  
16 \$2,500.00 per day for each violation of Proposition 65 pursuant  
17 to Health and Safety Code Section 252497(b). Injunctive relief  
18 is also appropriate pursuant to Health and Safety Code Section  
19 25249.7(a).  
20

21 **PRAYER FOR RELIEF**

22 Wherefore, Plaintiff prays for judgment against Defendants,  
23 and each of them, as follows pursuant to all causes of action:

24 1. Civil penalties in the amount of \$2,500.00 per day for  
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1 each violation of the law as described above in this complaint.  
2 Plaintiff alleges that damages total a minimum of \$1,000,000.00  
3 for each cause of action;

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

9 3. Reasonable attorney's fees and costs of suit;


10 4. Pre-Judgement interest as allowed by law; and

11 5. Such other and further relief as may be just and proper.

12 Respectfully Submitted:  
13

14 Dated: December 12, 2023

CLIFFWOOD LAW FIRM,

15  
16  
17 By:   
18 Elham Shabatian  
19 Attorney for Plaintiff  
20 Clean Product Advocates LLC  
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