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13 Attorneys for Plaintiff  
14 Environmental Health Advocates, Inc.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

17 ENVIRONMENTAL HEALTH ADVOCATES,  
18 INC.,

19 Plaintiff,

20 v.

21 LEE KUM KEE (U.S.A.) INC., a California  
22 corporation; LEE KUM KEE (USA) FOODS  
23 INC., a California corporation; TAWA  
24 SUPERMARKET, INC., a California  
25 corporation; and DOES 1 through 100,  
26 inclusive,

27 Defendants.

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**06/27/2023 at 02:47:50 PM**

By: Darmekia Oliver,  
Deputy Clerk

Case No.: **23CV037074**

**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 sauce  
6 including, but not limited to, Lee Kum Kee Chili Garlic Sauce (“Products”). Defendants know and  
7 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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24           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a  
25 corporation in the State of California dedicated to protecting the health of California citizens through  
26 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
27 interest pursuant to Health and Safety Code, section 25249.7.  
28



1 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court  
2 has jurisdiction.

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

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

9 **IV.**  
10 **CAUSES OF ACTION**

11 **FIRST CAUSE OF ACTION**  
12 **(Violation of Proposition 65 – Against all Defendants)**

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

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

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

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

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

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

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

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

11           23. The appropriate public enforcement agencies provided with the Notice failed to  
12 commence and diligently prosecute a cause of action against Defendants.

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

16           25. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation  
17 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also  
18 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;

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: June 27, 2023

**ENTORNO LAW, LLP**

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