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10 **KEEP AMERICA SAFE AND BEAUTIFUL**

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

13 **KEEP AMERICA SAFE AND BEAUTIFUL, in**  
14 **the public interest,**

15 **Plaintiff,**

16 **v.**

17 **Kabushiki Kaisha Muso Shoji; and DOES 1**  
18 **through 100, inclusive,**

19 **Defendants.**

Civil Action No.: **23STCV30344**

**COMPLAINT FOR INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

[Cal. Health and Safety Code Sec. 25249.6, *et seq.*]





**BACKGROUND FACTS**

10. The People of the State of California have declared by initiative under Proposition 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.” Proposition 65 § 1(b).

11. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by the State of California as known to cause cancer, birth defects or other reproductive harm above certain levels without a “clear and reasonable warning” unless the business responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety Code § 25249.6 states in pertinent part:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...

12. The State of California has officially listed cadmium as a chemical known to cause cancer and reproductive harm.

13. The level of exposure to a chemical causing reproductive toxicity under Proposition 65 is determined by multiplying the level in question times the reasonably anticipated rate of exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer products, the level of exposure is calculated using the reasonably anticipated rate of intake or exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

14. Defendant’s Product contains sufficient quantities of cadmium such that consumers, including pregnant women, who consume the Product are exposed to cadmium. The primary route of exposure for the violations is direct ingestion when consumers orally ingest the Product. These exposures occur in homes, workplaces and everywhere in California where the Product is consumed.

15. During the relevant one-year period herein, no clear and reasonable warning was provided with the Product regarding the reproductive hazards of cadmium.

16. Any person acting in the public interest has standing to enforce violations of Proposition 65 provided that such person has supplied the requisite public enforcers with a valid

1 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
2 within such time. Health & Safety Code § 25249.7(d).

3 17. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff provided a  
4 60-Day “Notice of Violation of Proposition 65” to the California Attorney General, the District  
5 Attorneys of every county in California, the City Attorneys of every California city with a population  
6 greater than 750,000 and to the named Defendant. In compliance with Health & Safety Code §  
7 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1) the  
8 name and address of each violator; (2) the statute violated; (3) the time period during which  
9 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure  
10 to cadmium from the Product, and (b) the specific type of Product sold and used in violation of  
11 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of  
12 the violations described in each Notice.

13 18. Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney  
14 General, the District Attorneys of every county in California, the City Attorneys of every California  
15 city with a population greater than 750,000 and to the named Defendant. In compliance with  
16 Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each Certificate certified that Plaintiff’s  
17 counsel: (1) has consulted with one or more persons with relevant and appropriate experience or  
18 expertise who reviewed facts, studies or other data regarding the exposures to cadmium alleged in  
19 each Notice; and (2) based on the information obtained through such consultations, believes that  
20 there is a reasonable and meritorious case for an enforcement action based on the facts alleged in  
21 each Notice. In compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each  
22 Certificate served on the Attorney General included factual information-provided on a confidential  
23 basis-sufficient to establish the basis for the Certificate, including the identity of the person(s)  
24 consulted by the Plaintiff’s counsel and the facts, studies or other data reviewed by such persons.

25 19. None of the public prosecutors with the authority to prosecute violations of  
26 Proposition 65 has commenced and/or is diligently prosecuting a cause of action against Defendant  
27 under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of Plaintiff’s  
28

1 Notices.

2 20. Defendant knows and intend that individuals will consume the Product, thus  
3 exposing them to cadmium.

4 21. Under Proposition 65, an exposure is “knowing” where the party responsible for  
5 such exposure has:

6  
7 Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety  
8 Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required.  
9 27 C.C.R.§ 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
10 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division  
11 2, § 12201).

12 22. Defendant has been informed of the cadmium in their Products by the 60-Day  
13 Notice of Violation and accompanying Certificate of Merit served on them.

14 23. Defendant also has constructive knowledge that the Products contain cadmium due  
15 to the widespread media coverage concerning the problem of cadmium in consumer products.

16 24. As entities that manufacture, import, distribute and/or sell the Product for use in the  
17 California marketplace, Defendant knows or should know that the Product contains cadmium and  
18 that individuals who consume the Product will be exposed to cadmium. The cadmium exposures  
19 to consumers who consume the Product are a natural and foreseeable consequence of Defendant  
20 placing the Product into the stream of commerce.

21 25. Nevertheless, Defendant continues to expose consumers to cadmium without prior  
22 clear and reasonable warnings regarding the reproductive hazards of cadmium.

23 26. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to  
24 filing this Complaint.

25 27. Any person “violating or threatening to violate” Proposition 65 may be enjoined in  
26 any court of competent jurisdiction. Health & Safety Code § 25249.7. “Threaten to violate” is  
27 defined to mean “to create a condition in which there is a substantial probability that a violation will  
28 occur.” Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to

1 exceed \$2,500 per day for each violation of Proposition 65.

2 **CAUSE OF ACTION**

3 (Violations of the Health & Safety Code 25249.6)

4 28. Plaintiff realleges and incorporates by reference as if specifically set forth herein  
5 Paragraphs 1 through 27, inclusive.

6 29. By placing the Product into the stream of commerce, each Defendant is a person in  
7 the course of doing business within the meaning of Health & Safety Code § 25249.11.

8 30. Cadmium is a chemical listed by the State of California as known to cause cancer and  
9 other reproductive harm.

10 31. Defendant knows that average use of the Product will expose users of the Product to  
11 cadmium. Defendant intends that the Product be used in a manner that results in exposures to  
12 cadmium from the Products.

13 32. Defendant has failed, and continue to fail, to provide clear and reasonable warnings  
14 regarding the reproductive toxicity of cadmium to users of the Products.

15 33. By committing the acts alleged above, Defendant has at all times relevant to this  
16 Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to cadmium  
17 without first giving clear and reasonable warnings to such individuals regarding the reproductive  
18 toxicity of cadmium.

19 **PRAYER FOR RELIEF**

20 Wherefore, Plaintiff prays for judgment against Defendant as follows:

21 1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess civil penalties  
22 against the Defendant in the amount of \$2,500 per day for each violation of Proposition 65;

23 2. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and  
24 permanently enjoin Defendant from offering the Product for sale in California without either  
25 reformulating the Products such that no Proposition 65 warnings are required or providing prior  
26 clear and reasonable warnings, as Plaintiff shall specify in further application to the Court;  
27  
28

1           3.       That the Court, pursuant to Health & Safety Code § 25249.7(a), order Defendant to  
2 take action to stop ongoing unwarranted exposures to cadmium resulting from use of Product sold,  
3 as Plaintiff shall specify in further application to the Court;

4           4.       That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other  
5 applicable theory or doctrine, grant Plaintiff her reasonable attorneys' fees and costs of suit; and

6           5.       That the Court grant such other and further relief as may be just and proper.  
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8  
9 Dated: December 12, 2023

KJT LAW GROUP, LLP

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12 By: \_\_\_\_\_

Tro Krikorian, Esq.

Attorneys for Plaintiff

KEEP AMERICA SAFE AND BEAUTIFUL

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