

SUMMONS (CITACION JUDICIAL)

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

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

Roxy Trading Inc.; San Gabriel Superstore; T S Emporium; DOES 1 - 100

**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), 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), the California Courts Online Self-Help Center (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), 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), en el Centro de Ayuda de las Cortes de California, (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
400 Civic Center Plaza, Pomona, Ca. 91766

CASE NUMBER:
(Número del Caso):
23PSCV03880

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: _____ Clerk, by _____, Deputy
(Fecha) (Secretario) (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):

Electronically FILED by
Superior Court of California,
County of Los Angeles
12/14/2023 1:21 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By N. Serrano, Deputy Clerk

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

8 Attorneys for Plaintiff
9 Clean Product Advocates, LLC

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

13 **23PSCV03880**

14 Clean Product Advocates LLC, a)
15 California Limited Liability) COMPLAINT FOR PENALTY AND
16 Company,) INJUNCTION
17)
18 PLAINTIFF,) Violation of Proposition 65,
19) the Safe Drinking Water and
20 vs.) Toxic Enforcement Act of 1986
21) (Health & Safety Code Sections
22) 25249.5, et. seq.)
23 Roxy Trading Inc.;, San)
24 Gabriel Superstore; T S) ACTION IS AN UNLIMITED CIVIL
25 Emporium; DOES 1 - 100) CASE (exceeds \$25,000.00)
26)
27 DEFENDANTS.)
28)

INTRODUCTION

1. This Complaint is a representative action brought by Clean Product Advocates, LLC ("Plaintiff" or "CPA") in the public interest of the citizens of the State of California (the "People"). Plaintiff seeks to remedy Defendants' failure to inform the People of exposure to CADMIUM and LEAD, known carcinogens. Defendants continue to expose consumers to CADMIUM

1 and LEAD by manufacturing, and/or importing, and/or selling
2 and/or distributing food products including, but not limited to,
3 "Squid Cracker" ("Source" or "Products") in the first cause of
4 action and "Lobster Crackers" ("Source" or "Products") in the
5 second cause of action. Defendants therefore know and intend
6 that customers will ingest products containing CADMIUM and/or
7 LEAD.

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 and LEAD as
17 chemicals known to cause cancer as early as on or about October
18 1, 1992, and as chemicals known to cause developmental and/or
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 and LEAD in connection with Defendants' manufacture, import,
23 sale, or distribution of Products in violation of Proposition
24 65.
25

26 5. Plaintiff seeks injunctive relief compelling Defendants
27

1 to sufficiently warn consumers in California before exposing
2 them to CADMIUM and LEAD in Products (Health & Safety Code
3 Section 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 6. Plaintiff CPA is a LLC operating in the State of California
9 dedicated to protecting the health of California citizens
10 through the elimination or reduction of toxic exposure from
11 consumer products. It brings this action in the public interest
12 pursuant to Health & Safety Code Section 25249.7.

13 7. Defendant Roxy Trading Inc., LLC or ("Defendant") is a
14 California Corporation organized and existing under the laws of
15 the State of California and either manufacturers and/or imports,
16 and/or sells and/or distributes Products in Los Angeles County
17 and throughout the State of California, within the meaning of
18 Health & Safety Code Section 25249.11. Defendant is also
19 qualified to do business in California. Plaintiff is informed
20 and believes and thereon alleges that Defendant has conducted
21 business within California at all relevant times herein.

22 8. Defendant TS Emporium or ("Defendant") is a business
23 entity organized and existing under the laws of the State of
24 California and either manufacturers and/or imports, and/or sells
25
26
27
28

1 and/or distributes Products in Los Angeles County and throughout
2 the State of California, within the meaning of Health & Safety
3 Code Section 25249.11. Defendant is also qualified to do
4 business in California. Plaintiff is informed and believes and
5 thereon alleges that Defendant has conducted business within
6 California at all relevant times herein.

7 9. Defendant San Gabriel Superstore or ("Defendant") is a
8 business entity organized and existing under the laws of the
9 State of California and either manufacturers and/or imports,
10 and/or sells and/or distributes Products in Los Angeles County
11 and throughout the State of California, within the meaning of
12 Health & Safety Code Section 25249.11. Defendant is also
13 qualified to do business in California. Plaintiff is informed
14 and believes and thereon alleges that Defendant has conducted
15 business within California at all relevant times herein.

17 10. Defendants DOES 1 through 100, inclusive, are sued
18 herein under fictitious names. Their true names and capacities
19 are unknown to Plaintiff. When their true names and capacities
20 are ascertained, plaintiff will amend this complaint by
21 inserting their true names and capacities herein. Plaintiff is
22 informed and believes and thereon alleges, that each of the
23 fictitiously named defendants is responsible in some manner for
24 the occurrences alleged in this complaint and that Plaintiff's
25
26
27
28

1 damages as alleged in this complaint were proximately caused by
2 such defendants.

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

12 JURISDICTION AND VENUE

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

20 13. Venue is proper in Los Angeles County Superior Court
21 pursuant to Code of Civil Procedure Sections 394, 395 and 395.5
22 as wrongful conduct as alleged in this complaint has occurred
23 and continues to occur in this County.

24 14. Defendants have sufficient minimum contacts in the
25 State of California or otherwise purposefully avail themselves
26 of the California market. Exercising jurisdiction over
27

1 Defendants would therefore be consistent with traditional
2 notions of fair play and substantial justice.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **Violation of Proposition 65 - Against Defendants**
6 **Roxy Trading Inc., TS Emporium & DOES 1 - 100**

7 15. Plaintiff incorporates by reference herein, each and
8 every allegation set forth above in this complaint above.

9 16. Proposition 65 mandates that California citizens be
10 informed about exposures to chemicals that cause cancer, birth
11 defects, and other reproductive harm.

12 17. More than sixty days prior to the filing of this
13 lawsuit naming each Defendant, Plaintiff issued a 60-Day Notice
14 Of Violation dated December 23, 2022 ("Notice") as required by
15 and in compliance with Proposition 65. Plaintiff provided said
16 Notice to the various required public enforcement agencies along
17 with a Certificate of Merit. The Notice alleged that Defendants
18 violated Proposition 65 by failing to sufficiently warn
19 consumers in California of the health hazards associated with
20 exposure to CADMIUM and LEAD contained in their Products.
21

22
23 18. The appropriate public enforcement agencies provided
24 with the Notice failed to commence and diligently prosecute a
25 cause of action against Defendants.
26
27
28

1 19. At all times relevant herein, Defendants manufactured
2 and/or imported and/or sold and/or distributed Products (Squid
3 Cracker) containing CADMIUM and LEAD in violation of Health and
4 Safety Code Sections 25249.6 et. seq. Plaintiff is informed and
5 believes and thereon alleges that such violations have continued
6 after receipt of the Notice described above and such conduct
7 will continue to occur into the future.

8 20. In manufacturing, importing, selling and/or
9 distributing Products, Defendants failed to provide a clear and
10 reasonable warning to consumers in the State of California who
11 may be exposed to CADMIUM and LEAD through reasonably
12 foreseeable use of the Products.

13 21. The Products exposed individuals to CADMIUM and LEAD
14 through direct ingestion. This exposure is a natural and
15 foreseeable consequence of Defendants placing the Products into
16 the stream of commerce. As such Defendants intend that consumers
17 will ingest said Products, exposing them to CADMIUM and LEAD .

18 22. Defendants knew or should have known that the Products
19 contained CADMIUM and LEAD and exposed individuals to CADMIUM
20 and LEAD as described above in this complaint. The Notice
21 described above in this complaint informed Defendants of the
22 presence of CADMIUM and LEAD in their products. Likewise, media
23 coverage concerning CADMIUM and LEAD and related chemicals in
24
25
26
27
28

1 consumer products provided "Constructive Notice" to Defendants.
2 Defendants' actions, therefore, were deliberate and not
3 accidental.

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

11 24. Defendants are liable for a maximum civil penalty of
12 \$2,500.00 per day for each violation of Proposition 65 pursuant
13 to Health and Safety Code Section 252497(b). Injunctive relief
14 is also appropriate pursuant to Health and Safety Code Section
15 25249.7(a).
16

17 **SECOND CAUSE OF ACTION**

18 **(Violation of Proposition 65 - Against Defendants**
Roxy Trading Inc., San Gabriel Superstore & DOES 1 - 100

19 25. Plaintiff incorporates by reference herein, each and
20 every allegation set forth above in this complaint except
21 paragraphs 15 through 24 above.

22 26. Proposition 65 mandates that California citizens be
23 informed about exposures to chemicals that cause cancer, birth
24 defects, and other reproductive harm.
25

26 27. More than sixty days prior to the filing of this
27

1 lawsuit naming each Defendant, Plaintiff issued a 60-Day Notice
2 Of Violation dated February 9, 2023 ("Notice") as required by
3 and in compliance with Proposition 65. Plaintiff provided said
4 Notice to the various required public enforcement agencies along
5 with a Certificate of Merit. The Notice alleged that Defendants
6 violated Proposition 65 by failing to sufficiently warn
7 consumers in California of the health hazards associated with
8 exposure to LEAD contained in their products (Lobster Crackers).
9

10
11 28. The appropriate public enforcement agencies provided
12 with the Notice failed to commence and diligently prosecute a
13 cause of action against Defendants.
14

15 29. At all times relevant herein, Defendants manufactured
16 and/or imported and/or sold and/or distributed Products
17 containing LEAD in violation of Health and Safety Code Sections
18 25249.6 et. seq. Plaintiff is informed and believes and thereon
19 alleges that such violations have continued after receipt of the
20 Notice described above and such conduct will continue to occur
21 into the future.
22

23 30. In manufacturing, importing, selling and/or distributing
24
25
26
27
28

1 Products, Defendants failed to provide a clear and reasonable
2 warning to consumers in the State of California who may be
3 exposed to LEAD through reasonably foreseeable use of the
4 Products.

5 31.The Products exposed individuals to LEAD through direct
6 ingestion. This exposure is a natural and foreseeable
7 consequence of Defendants placing the Products into the stream
8 of commerce. As such Defendants intend that consumers will
9 ingest said Products, exposing them to LEAD .
10

11 32.Defendants knew or should have known that their
12 Products contained LEAD and exposed individuals to LEAD as
13 described above in this complaint. The Notice described above in
14 this complaint informed Defendants of the presence of LEAD in
15 their products. Likewise, media coverage concerning LEAD and
16 related chemicals in consumer products provided "Constructive
17 Notice" to Defendants. Defendants' actions, therefore, were
18 deliberate and not accidental.
19

20 33.Individuals exposed to LEAD contained in Defendants'
21 Products through direct ingestion resulting from reasonably
22 foreseeable use of the Products have suffered and continue to
23 suffer irreparable harm. There is no other plain, speedy or
24 adequate remedy at law other than the relief requested in this
25 complaint.
26

27 34.Defendants are liable for a maximum civil penalty of
28

1 \$2,500.00 per day for each violation of Proposition 65 pursuant
2 to Health and Safety Code Section 252497(b). Injunctive relief
3 is also appropriate pursuant to Health and Safety Code Section
4 25249.7(a).

5 **PRAYER FOR RELIEF**

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

8 1. Civil penalties in the amount of \$2,500.00 per day for
9 each violation of the law as described above in this complaint.

10 Plaintiff alleges that damages total a minimum of \$1,000,000.00
11 for each cause of action;
12

13 2. A preliminary and permanent injunction against Defendants
14 from manufacturing, importing, selling and/or distributing
15 Products in California without providing a clear and reasonable
16 warning as required by Proposition 65 and related regulations;

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

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

19 5. Such other and further relief as may be just and proper.
20

21 Respectfully Submitted:

22 Dated: December 14, 2023

CLIFFWOOD LAW FIRM,

23
24 By: 
25 Elham Shabatian
26 Attorney for Plaintiff
27
28