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RAMY KAUFLEDER EDEN

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**05/04/2023** at 04:03:38 PM  
Clerk of the Superior Court  
By Kristin Sorianosos, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

RAMY KAUFLEDER EDEN

Plaintiff,

v.

WHOLE MART INTERNATIONAL, LLC  
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2023-00019127-CU-MC-CTL

**COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES**

(Violation of Health & Safety Code section  
25249.5, *et seq.*)

1 Plaintiff Ramy Kaufler Eden (“Plaintiff”), by and through his attorneys, alleges the following  
2 based on information and belief and investigation of counsel:

3 **INTRODUCTION**

4 1. Defendant Whole Mart International, LLC (“Defendant”) produces and sells a line of  
5 spices and supplements to the public under the “Balboa International Market” brand. This line of  
6 products includes Balboa International Market brand garam masala (“Garam Masala”) and sour grape  
7 powder (“Grape Powder”). These two products are collectively referred to herein as the “Products.”

8 2. Unfortunately, the Products contain the chemical Lead, which is known to the State of  
9 California to cause cancer and birth defects and other reproductive harm. By selling these Products to  
10 California consumers, Defendant exposes individuals—including children and pregnant women who  
11 are particularly susceptible to Lead’s toxic effects—to Lead without warning of such exposure. This  
12 Complaint (“Complaint”) seeks to remedy Defendant’s failure to warn of these toxic exposures and  
13 hold Defendant accountable for violating California’s Proposition 65.

14 3. California’s Proposition 65, codified in California Health & Safety Code section  
15 25249.5, *et seq.*, makes it unlawful for businesses to knowingly and intentionally expose individuals  
16 in California to chemicals known to the State to cause cancer, birth defects or other reproductive harm  
17 without first providing clear and reasonable warnings to the exposed individuals.

18 4. Defendant, either directly or through their downstream customers, introduces the  
19 Products—which contain significant quantities of Lead—into the California marketplace, thereby  
20 exposing the Products’ consumers to Lead. Defendant does so without providing any warnings  
21 whatsoever about the carcinogenic or reproductive hazards associated with Lead exposure resulting  
22 from consumption of its Products. Defendant’s conduct thus violates the warning provision of  
23 Proposition 65. *See* Health & Saf. Code § 25249.6.

24 **PARTIES**

25 5. Plaintiff is a citizen of the State of California acting in the interest of the general public  
26 to promote awareness of exposures to toxic chemicals in products sold in California and to improve  
27 human health by reducing hazardous substances contained in such products. He brings this action in  
28 the public interest pursuant to Health & Safety Code section 25249.7(d).



1 **STATUTORY BACKGROUND**

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

5 13. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by  
6 the State of California as known to cause cancer, birth defects or other reproductive harm above certain  
7 levels without a “clear and reasonable warning” unless the business responsible for the exposure can  
8 prove that it fits within a statutory exemption. Health & Safety Code section 25249.6 states, in  
9 pertinent part: “No person in the course of doing business shall knowingly and intentionally expose  
10 any individual to a chemical known to the state to cause cancer or reproductive toxicity without first  
11 giving clear and reasonable warning to such individual . . . .” Health & Saf. Code § 25249.6

12 14. An exposure to a chemical in a consumer product is one “which results from a person’s  
13 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a consumer good,  
14 or any exposure that results from receiving a consumer service.” Cal. Code Regs. tit. 27, § 25602(b).

15 15. Health and Safety Code section 25603(c) states that “a person in the course of doing  
16 business ... shall provide a warning to any person to whom the product is sold or transferred unless the  
17 product is packaged or labeled with a clear and reasonable warning.” Such warning may be provided,  
18 *inter alia*, by a warning on the product’s label. *See* Health & Saf. Code § 25603.1. These warnings  
19 must be prominently placed with such conspicuousness, as compared with other words, statements,  
20 designs, or devices in the label to render the warning likely to be read and understood by an ordinary  
21 individual under customary conditions of purchase or use.

22 16. Proposition 65 provides that any “person who violates or threatens to violate” the  
23 statute may be enjoined in a court of competent jurisdiction. Health & Saf. Code § 25249.7. Violators  
24 are liable for civil penalties of up to \$2,500 per day for each violation of the Act. *See id.* Any person  
25 acting in the public interest has standing to enforce violations of Proposition 65 provided that such  
26 person has supplied the requisite public enforcers with a valid 60-Day Notice of Violation and such  
27 public enforcers are not diligently prosecuting the action within such time. *See* Health & Saf. Code §  
28 25249.7(d).



1 regarding the carcinogenic or reproductive hazards of Lead in the Products.

2 24. At all such times, Defendant knowingly and intentionally exposed consumers of its  
3 Products to Lead without first giving a clear and reasonable warning to such consumers.

4 25. At all such times, Defendant was a “person in the course of doing business” within the  
5 meaning of Health & Safety Code section 25249.11. During such times, as a proximate result of acts  
6 by Defendant, individuals throughout the State of California, including in San Diego County, have  
7 been exposed to Lead via Defendant’s Products without first being provided a clear and reasonable  
8 warning concerning such exposures. The individuals subject to the violative exposures include normal  
9 and foreseeable consumers and users of the Products.

10 **SATISFACTION OF NOTICE REQUIREMENTS**

11 26. More than sixty days prior to naming Defendant in this lawsuit, Plaintiff served a 60-  
12 Day Notice of Violation of Proposition 65 (“Notice”) upon the named Defendant and on the California  
13 Attorney General, the District Attorneys of every county in California, and the City Attorneys of every  
14 California city with a population greater than 750,000 persons.

15 27. The Notice complied with all procedural requirements of Proposition 65, including the  
16 attachment of a Certificate of Merit.

17 28. After receiving the Notice, and to the best of Plaintiff’s information and belief, as of  
18 the filing of this Complaint, none of the noticed public enforcement agencies have commenced and  
19 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged  
20 violations set forth in the Notice.

21 29. Plaintiff is commencing this action more than sixty days from the date of the Notice to  
22 Defendant.

23 **FIRST CAUSE OF ACTION**

24 **(Against Defendant for Violations of Health & Safety Code Section 25249.6 re Garam Masala)**

25 30. Plaintiff hereby repeats and incorporates by reference the preceding paragraphs of this  
26 Complaint as though fully set forth herein.

27 31. Defendant has, at all times mentioned herein, acted as a manufacturer, importer,  
28 distributor, and/or seller of the Garam Masala and a person in the course of doing business within the

1 meaning of Health & Safety Code section 25249.11.

2 32. Defendant's Garam Masala contains Lead, a hazardous chemical known to the State of  
3 California to be hazardous to human health.

4 33. Defendant knows that consumers of its Garam Masala will be exposed to Lead when  
5 the consumers eat that product.

6 34. Defendant's Garam Masala does not comply with Proposition 65's warning  
7 requirements.

8 35. Plaintiff is informed and believes that at all relevant times herein, and at least as of one  
9 year preceding the filing of this Complaint, Defendant knowingly and intentionally exposed California  
10 consumers of the Garam Masala to Lead without providing the warnings required by Proposition 65—  
11 and Defendant continues to do so.

12 36. Plaintiff has engaged in good faith efforts to resolve the claims set forth in this Cause  
13 of Action prior to filing this Complaint.

14 37. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-  
15 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

16 38. Pursuant to Health and Safety Code section 25249.7(a), this Court is specifically  
17 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

18 **SECOND CAUSE OF ACTION**

19 **(Against Defendant for Violations of Health & Safety Code §25249.6 re Grape Powder)**

20 39. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 29 of this  
21 Complaint as though fully set forth herein.

22 40. Defendant has, at all times mentioned herein, acted as a manufacturer, importer,  
23 distributor, and/or seller of the Grape Powder and a person in the course of doing business within the  
24 meaning of Health & Safety Code section 25249.11.

25 41. Defendant's Grape Powder contains Lead, a hazardous chemical known to the State of  
26 California to be hazardous to human health.

27 42. Defendant knows that consumers of its Grape Powder will be exposed to Lead when  
28 the consumers eat that product.






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5. That the Court grant such other and further relief as may be just and proper.

Dated: May 4, 2023

JARRETT CHARO APC

By:   
Jarrett S. Charo, Esq.  
Attorneys for Plaintiff