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Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

13 CONSUMER ADVOCACY GROUP, INC.,
14 in the public interest,
15
16 Plaintiff,

17 v.

18 CCONMA, INC., a California Corporation;
19 and DOES 1-20,
20
21 Defendants.

CASE NO. **24STCV09179**

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
2 against defendants CCONMA, INC., and DOES 1-20 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
5 organization qualified to do business in the State of California. CAG is a person within
6 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
7 as a private attorney general, brings this action in the public interest as defined under
8 Health and Safety Code Section 25249.7, subdivision (d).
- 9 2. Defendant CCONMA, INC. (“CCONMA”) is a California Corporation qualified to do
10 business in California, and doing business in the State of California at all relevant times
11 herein.
- 12 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20,
13 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
14 Complaint to allege their true names and capacities when ascertained. Plaintiff is
15 informed, believes, and thereon alleges that each fictitiously named defendant is
16 responsible in some manner for the occurrences herein alleged and the damages caused
17 thereby.
- 18 4. At all times mentioned herein, the term “Defendants” includes CCONMA, and DOES 1-
19 20.
- 20 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
21 times mentioned herein has conducted business within the State of California.
- 22 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
23 including DOES 1-20, was an agent, servant, or employee of each of the other
24 Defendants. In conducting the activities alleged in this Complaint, each of the
25 Defendants was acting within the course and scope of this agency, service, or
26 employment, and was acting with the consent, permission, and authorization of each of
27 the other Defendants. All actions of each of the Defendants alleged in this Complaint
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1 were ratified and approved by every other Defendant or their officers or managing
2 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
3 alleged wrongful conduct of each of the other Defendants.

- 4 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
5 Defendants was a person doing business within the meaning of Health and Safety Code
6 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
7 employees at all relevant times.

8 **JURISDICTION**

- 9 8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
10 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
11 those given by statute to other trial courts. This Court has jurisdiction over this action
12 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
13 violations of Proposition 65 in any Court of competent jurisdiction.
- 14 9. This Court has jurisdiction over Defendants named herein because Defendants either
15 reside or are located in this State or are foreign corporations authorized to do business in
16 California, are registered with the California Secretary of State, or who do sufficient
17 business in California, have sufficient minimum contacts with California, or otherwise
18 intentionally avail themselves of the markets within California through their
19 manufacture, distribution, promotion, marketing, or sale of their products within
20 California to render the exercise of jurisdiction by the California courts permissible
21 under traditional notions of fair play and substantial justice.
- 22 10. Venue is proper in the County of Los Angeles because one or more of the instances of
23 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
24 because Defendants conducted, and continue to conduct, business in the County of Los
25 Angeles with respect to the consumer product that is the subject of this action.

1 **BACKGROUND AND PRELIMINARY FACTS**

- 2 11. In 1986, California voters approved an initiative to address growing concerns about
3 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
4 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
5 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
6 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
7 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
8 from contamination, to allow consumers to make informed choices about the products
9 they buy, and to enable persons to protect themselves from toxic chemicals as they see
10 fit.
- 11 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
12 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
13 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
14 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
15 other controls that apply to Proposition 65-listed chemicals.
- 16 13. All businesses with ten (10) or more employees that operate or sell products in California
17 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
18 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
19 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
20 reasonable” warnings before exposing a person, knowingly and intentionally, to a
21 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 22 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
23 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
24 25249.7. "Threaten to violate" means "to create a condition in which there is a
25 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
26 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
27 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
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1 15. Plaintiff identified certain practices of manufacturers and distributors of Dried Seaweed
2 and Dried Sea Mustard of exposing, knowingly and intentionally, persons in California
3 to Lead and Lead Compounds, Cadmium and Cadmium Compounds, and Inorganic
4 Arsenic Compounds and/or Inorganic Arsenic Oxides of such products without first
5 providing clear and reasonable warnings of such to the exposed persons prior to the time
6 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

7 16. On October 1, 1992 the Governor of California added Lead and Lead Compounds
8 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
9 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
10 twenty (20) months after addition of Lead to the list of chemicals known to the State to
11 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
12 discharge prohibitions.

13 17. On February 27, 1987, the Governor of California added Lead to the list of chemicals
14 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
15 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
16 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
17 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
18 the State to cause developmental and reproductive toxicity, Lead became fully subject to
19 Proposition 65 warning requirements and discharge prohibitions.

20 18. On October 1, 1987 the Governor of California added Cadmium and Cadmium
21 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
22 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections
23 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
24 chemicals known to the State to cause cancer, Cadmium became fully subject to
25 Proposition 65 warning requirements and discharge prohibitions.

26 19. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
27 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
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1 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
2 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
3 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
4 to the State to cause developmental and reproductive toxicity, Cadmium became fully
5 subject to Proposition 65 warning requirements and discharge prohibitions.

6 20. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list
7 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,
8 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental,
9 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
10 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to
11 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject
12 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic
13 Oxides is hereinafter referred to as “Arsenic”.

14 **SATISFACTION OF PRIOR NOTICE**

15 21. Plaintiff served the following notices for alleged violations of Health and Safety Code
16 Section 25249.6, concerning consumer products exposures:

- 17 a. On or about April 19, 2023, Plaintiff gave notice of alleged violations of Health
18 and Safety Code Section 25249.6, concerning consumer products exposures
19 subject to a private action to CCONMA, and to the California Attorney General,
20 County District Attorneys, and City Attorneys for each city containing a
21 population of at least 750,000 people in whose jurisdictions the violations
22 allegedly occurred, concerning the Dried Seaweed.
- 23 b. On or about April 19, 2023, Plaintiff gave notice of alleged violations of Health
24 and Safety Code Section 25249.6, concerning consumer products exposures
25 subject to a private action to CCONMA, and to the California Attorney General,
26 County District Attorneys, and City Attorneys for each city containing a
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1 population of at least 750,000 people in whose jurisdictions the violations
2 allegedly occurred, concerning the Dried Sea Mustard.

3 22. Before sending the notice of alleged violations, Plaintiff investigated the consumer
4 products involved, the likelihood that such products would cause users to suffer
5 significant exposures to Lead, Cadmium, and Arsenic, and the corporate structure of
6 each of the Defendants.

7 23. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
8 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
9 Plaintiff who executed the certificate had consulted with at least one person with relevant
10 and appropriate expertise who reviewed data regarding the exposures to Lead, Cadmium,
11 and Arsenic, the subject Proposition 65-listed chemical of this action. Based on that
12 information, the attorney for Plaintiff who executed the Certificate of Merit believed
13 there was a reasonable and meritorious case for this private action. The attorney for
14 Plaintiff attached to the Certificate of Merit served on the Attorney General the
15 confidential factual information sufficient to establish the basis of the Certificate of
16 Merit.

17 24. Plaintiff's notice of alleged violations also included a Certificate of Service and a
18 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
19 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

20 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
21 gave notice of the alleged violations to CCONMA, and the public prosecutors referenced
22 in Paragraph 21.

23 26. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
24 any applicable district attorney or city attorney has commenced and is diligently
25 prosecuting an action against the Defendants.
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1 **FIRST CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against CCONMA, and DOES**
3 **1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Seaweed**

6 27. Plaintiff repeats and incorporates by reference paragraphs 1 through 26 of this complaint
7 as though fully set forth herein.

8 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dried Seaweed (“Seaweed”), including but not
10 limited to “SEA.D 1965”; “Cut in pieces Seaweed”; “Net Wt. 1.05 oz (30 g)”; “Importer:
11 Cconma Inc.”; “Best Before: 27-03-2023”; “Product of Korea”; “UPC 8 809568
12 510363”.

13 29. Seaweed contains Lead, Cadmium, and Arsenic.

14 30. Defendants knew or should have known that Lead, Cadmium, and Arsenic have been
15 identified by the State of California as chemicals known to cause cancer, and/or
16 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
17 Defendants were also informed of the presence of Lead, Cadmium, and Arsenic in
18 Seaweed within Plaintiff’s notice of alleged violations further discussed above at
19 Paragraph 21a.

20 31. Plaintiff’s allegations regarding Seaweed concerns “[c]onsumer products exposure[s],”
21 which “is an exposure that results from a person’s acquisition, purchase, storage,
22 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
23 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
24 Seaweed is a consumer product, and, as mentioned herein, exposures to Lead, Cadmium,
25 and Arsenic took place as a result of such normal and foreseeable consumption and use.

26 32. Plaintiff is informed, believes, and thereon alleges that between April 19, 2020, and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as

1 mentioned above, to Lead, Cadmium, and Arsenic, without first providing any type of
2 clear and reasonable warning of such to the exposed persons before the time of exposure.
3 Defendants have distributed and sold Seaweed in California. Defendants know and
4 intend that California consumers will use and consume Seaweed, thereby exposing them
5 to Lead, Cadmium, and Arsenic. Further, Plaintiff is informed, believes, and thereon
6 alleges that Defendants are selling Seaweed under a brand or trademark that is owned or
7 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
8 Lead, Cadmium, and Arsenic into Seaweed or knowingly caused Lead, Cadmium, and
9 Arsenic to be created in Seaweed; have covered, obscured or altered a warning label that
10 has been affixed to Seaweed by the manufacturer, producer, packager, importer, supplier
11 or distributor of Seaweed; have received a notice and warning materials for exposure
12 from Seaweed without conspicuously posting or displaying the warning materials; and/or
13 have actual knowledge of potential exposure to Lead, Cadmium, and Arsenic from
14 Seaweed. Defendants thereby violated Proposition 65.

15 33. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
16 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
17 and consuming Seaweed, and additionally by handling Seaweed without wearing gloves
18 or any other personal protective equipment, or by touching bare skin or mucous
19 membranes with gloves after handling Seaweed, as well as through direct and indirect
20 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
21 matter dispersed from Seaweed.

22 34. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
23 Proposition 65 as to Seaweed have been ongoing and continuous, as Defendants engaged
24 and continue to engage in conduct which violates Health and Safety Code Section
25 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed, so
26 that a separate and distinct violation of Proposition 65 occurred each and every time a
27 person was exposed to Lead, Cadmium, and Arsenic by Seaweed as mentioned herein.

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1 35. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
2 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
3 violations alleged herein will continue to occur into the future.

4 36. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Lead, Cadmium, and Arsenic from
6 Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

7 37. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
8 filing this Complaint.

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10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against CCONMA, and DOES**
12 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
13 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

14 **Seaweed**

15 38. Plaintiff repeats and incorporates by reference paragraphs 1 through 37 of this complaint
16 as though fully set forth herein.

17 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Dried Sea Mustard (“Sea Mustard”), including but
19 not limited to “Dried Sea Mustard”; “Net Wt. 3.17 oz (90 g)”; “Importer: Cconma Inc.”;
20 “Product of Korea”; “UPC 8809090180119”.

21 40. Sea Mustard contains Lead, Cadmium, and Arsenic.

22 41. Defendants knew or should have known that Lead, Cadmium, and Arsenic have been
23 identified by the State of California as chemicals known to cause cancer, and/or
24 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
25 Defendants were also informed of the presence of Lead, Cadmium, and Arsenic in Sea
26 Mustard within Plaintiff’s notice of alleged violations further discussed above at
27 Paragraph 21b.

28 42. Plaintiff’s allegations regarding Sea Mustard concerns “[c]onsumer products
exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
3 *25602(b)*. Sea Mustard is a consumer product, and, as mentioned herein, exposures to
4 Lead, Cadmium, and Arsenic took place as a result of such normal and foreseeable
5 consumption and use.

6 43. Plaintiff is informed, believes, and thereon alleges that between April 19, 2020, and the
7 present, each of the Defendants knowingly and intentionally exposed California
8 consumers and users of Sea Mustard, which Defendants manufactured, distributed, or
9 sold as mentioned above, to Lead, Cadmium, and Arsenic, without first providing any
10 type of clear and reasonable warning of such to the exposed persons before the time of
11 exposure. Defendants have distributed and sold Sea Mustard in California. Defendants
12 know and intend that California consumers will use and consume Sea Mustard, thereby
13 exposing them to Lead, Cadmium, and Arsenic. Further, Plaintiff is informed, believes,
14 and thereon alleges that Defendants are selling Sea Mustard under a brand or trademark
15 that is owned or licensed by the Defendants or an entity affiliated thereto; have
16 knowingly introduced Lead, Cadmium, and Arsenic into Sea Mustard or knowingly
17 caused Lead, Cadmium, and Arsenic to be created in Sea Mustard; have covered,
18 obscured or altered a warning label that has been affixed to Sea Mustard by the
19 manufacturer, producer, packager, importer, supplier or distributor of Sea Mustard; have
20 received a notice and warning materials for exposure from Sea Mustard without
21 conspicuously posting or displaying the warning materials; and/or have actual
22 knowledge of potential exposure to Lead, Cadmium, and Arsenic from Sea Mustard.
23 Defendants thereby violated Proposition 65.

24 44. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
25 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
26 and consuming Sea Mustard, and additionally by handling Sea Mustard without wearing
27 gloves or any other personal protective equipment, or by touching bare skin or mucous
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1 membranes with gloves after handling Sea Mustard, as well as through direct and
2 indirect hand to mouth contact, hand to mucous membrane, or even breathing in
3 particulate matter dispersed from Sea Mustard.

4 45. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
5 Proposition 65 as to Sea Mustard have been ongoing and continuous, as Defendants
6 engaged and continue to engage in conduct which violates Health and Safety Code
7 Section 25249.6, including the manufacture, distribution, promotion, and sale of Sea
8 Mustard, so that a separate and distinct violation of Proposition 65 occurred each and
9 every time a person was exposed to Lead, Cadmium, and Arsenic by Sea Mustard as
10 mentioned herein.

11 46. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
12 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
13 violations alleged herein will continue to occur into the future.

14 47. Based on the allegations herein, Defendants are liable for civil penalties of up to
15 \$2,500.00 per day per individual exposure to Lead, Cadmium, and Arsenic from Sea
16 Mustard, pursuant to Health and Safety Code Section 25249.7(b).

17 48. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
18 filing this Complaint.

19 **PRAYER FOR RELIEF**

20 Plaintiff demands against each of the Defendants as follows:

21 49. A permanent injunction mandating Proposition 65-compliant warnings;

22 50. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

23 51. Costs of suit;

24 52. Reasonable attorney fees and costs; and

25 53. Any further relief that the court may deem just and equitable.

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1 Dated: April 11, 2024

YEROUSHALMI & YEROUSHALMI*

2
3 /s/Reuben Yeroushalmi

4 Reuben Yeroushalmi
5 Attorneys for Plaintiff,
6 CONSUMER ADVOCACY GROUP, INC.
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