

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
5/31/2024 10:45 AM  
David W. Slayton,  
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By D. Williams, Deputy Clerk

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF LOS ANGELES**

9  
10  
11 **BERJ PARSEGHIAN**, in the public interest,  
12  
13 **Plaintiff,**

14 **v.**

15 **Impetus Brands, Inc.; Amazon.com Services,**  
16 **LLC; and DOES 1 through 100, inclusive,**  
17 **Defendants.**

Civil Action No.: **24STCV13601**

**COMPLAINT FOR INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

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

**KJT** LAWGROUP LLP  
Jivalagian | Thomassian

1 Berj Parseghian, in the public interest, based on information and belief and investigation of  
2 counsel, except for information based on knowledge, hereby makes the following allegations.  
3

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants’ continuing failure to adequately warn  
6 individuals in California that they are being exposed to lead, a chemical known to the State of  
7 California to cause cancer and other reproductive harm. Such exposures have occurred, and  
8 continue to occur, through the manufacture, distribution, sale and consumption of Defendants’ Hi -  
9 Human Improvement - The easiest to digest protein powder - Vanilla; UPC #: 6 28451 90515 8  
10 (the “Product”). The Product is available to consumers in California through a multitude of retail  
11 channels including, without limitation (a) third-party traditional brick-and-mortar retail locations; (b)  
12 via the internet through Defendants’ website; and (c) via the internet through third-party retail  
13 websites. Consumers are exposed to lead when they consume the Product.

14 2. Under California’s Proposition 65, Health and Safety Code § 25249.5, et seq., it is  
15 unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals  
16 known to the State to cause cancer, birth defects or other reproductive harm without providing clear  
17 and reasonable warnings to individuals prior to their exposure. Defendants introduce a product  
18 contaminated with significant quantities of lead into the California marketplace, exposing consumers  
19 of the Product to lead.

20 3. Despite the fact that the Defendants expose consumers to lead, Defendants provide  
21 no warning, or inadequate warnings about the reproductive hazards associated with lead exposure.  
22 Defendants’ conduct thus violates the warning provision of Proposition 65, Health & Safety Code §  
23 25249.6.

24 **PARTIES**

25 4. Plaintiff brings this enforcement action in the public interest pursuant to Health &  
26 Safety Code § 25249.7(d).  
27  
28



1 by the State of California as known to cause cancer, birth defects or other reproductive harm above  
2 certain levels without a “clear and reasonable warning” unless the business responsible for the  
3 exposure can prove that it fits within a statutory exemption. Health & Safety Code § 25249.6 states  
4 in pertinent part:

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

8 13. The State of California has officially listed lead as a chemical known to cause cancer  
9 and reproductive harm.

10 14. The level of exposure to a chemical causing reproductive toxicity under Proposition  
11 65 is determined by multiplying the level in question times the reasonably anticipated rate of  
12 exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer  
13 products, the level of exposure is calculated using the reasonably anticipated rate of intake or  
14 exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

15 15. Defendants’ Product contains sufficient quantities of lead such that consumers,  
16 including pregnant women, who consume the Product are exposed to lead. The primary route of  
17 exposure for the violations is direct ingestion when consumers orally ingest the Product. These  
18 exposures occur in homes, workplaces and everywhere in California where the Product is  
19 consumed.

20 16. During the relevant one-year period herein, no clear and reasonable warning was  
21 provided with the Product regarding the reproductive hazards of lead.

22 17. Any person acting in the public interest has standing to enforce violations of  
23 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid  
24 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
25 within such time. Health & Safety Code § 25249.7(d).

26 18. More than sixty days prior to naming each Defendant in this lawsuit, Plaintiff  
27 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General, the  
28 District Attorneys of every county in California, the City Attorneys of every California city with a

1 population greater than 750,000 and to the named Defendants. In compliance with Health & Safety  
2 Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1)  
3 the name and address of each violator; (2) the statute violated; (3) the time period during which  
4 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure  
5 to lead from the Product, and (b) the specific type of Product sold and used in violation of  
6 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of  
7 the violations described in each Notice.

8           19. Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney  
9 General, the District Attorneys of every county in California, the City Attorneys of every California  
10 city with a population greater than 750,000 and to the named Defendants. The Notice of Violation  
11 of Proposition 65 was filed on or about May 30, 2023. In compliance with Health & Safety Code §  
12 25249.7(d) and 11 C.C.R. § 3101, each Certificate certified that Plaintiff's counsel: (1) has  
13 consulted with one or more persons with relevant and appropriate experience or expertise who  
14 reviewed facts, studies or other data regarding the exposures to lead alleged in each Notice; and (2)  
15 based on the information obtained through such consultations, believes that there is a reasonable  
16 and meritorious case for a citizen enforcement action based on the facts alleged in each Notice. In  
17 compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served  
18 on the Attorney General included factual information-provided on a confidential basis-sufficient to  
19 establish the basis for the Certificate, including the identity of the person(s) consulted by the  
20 Plaintiff's counsel and the facts, studies or other data reviewed by such persons.

21           20. None of the public prosecutors with the authority to prosecute violations of  
22 Proposition 65 has commenced and/or is diligently prosecuting a cause of action against  
23 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of  
24 Plaintiff's Notices.

25           21. Defendants both know and intend that individuals will consume the Product, thus  
26 exposing them to lead.

27           22. Under Proposition 65, an exposure is "knowing" where the party responsible for  
28

1 such exposure has:  
2

3 Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety  
4 Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required.  
5 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
6 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division  
7 2, § 12201).

8 23. Defendants have been informed of the lead in their Products by the 60-Day Notice  
9 of Violation and accompanying Certificate of Merit served on them.

10 24. Defendants also have constructive knowledge that the Products contain lead due to  
11 the widespread media coverage concerning the problem of lead in consumer products.

12 25. As entities that manufacture, import, distribute and/or sell the Product for use in the  
13 California marketplace, Defendants know or should know that the Product contains lead and that  
14 individuals who consume the Product will be exposed to lead. The lead exposures to consumers  
15 who consume the Product are a natural and foreseeable consequence of Defendant's placing the  
16 Product into the stream of commerce.

17 26. Nevertheless, Defendants continue to expose consumers to lead without prior clear  
18 and reasonable warnings regarding the reproductive hazards of lead.

19 27. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to  
20 filing this Complaint.

21 28. Any person "violating or threatening to violate" Proposition 65 may be enjoined in  
22 any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is  
23 defined to mean "to create a condition in which there is a substantial probability that a violation will  
24 occur." Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to  
25 exceed \$2,500 per day for each violation of Proposition 65.

26 **CAUSE OF ACTION**

27 (Violations of the Health & Safety Code 25249.6)



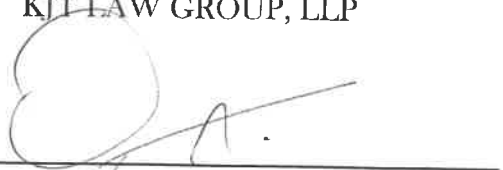
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- 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other applicable theory or doctrine, grant Plaintiff her reasonable attorneys' fees and costs of suit; and
- 5. That the Court grant such other and further relief as may be just and proper.

Dated: May 30, 2024

KJT LAW GROUP, LLP

By:



Tro Krikorian, Esq.  
Attorneys for Plaintiff  
BERJ PARSEGHIAN