

1 Reuben Yeroushalmi (SBN 193981)  
reuben@yeroushalmi.com  
2 Alexandra Purcell (SBN 347862)  
alexandra@yeroushalmi.com  
3 **YEROUSHALMI & YEROUSHALMI\***  
4 9100 Wilshire Boulevard, Suite 240W  
Beverly Hills, California 90212  
5 Telephone: (310) 623-1926  
6 Facsimile: (310) 623-1930

7 Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF ALAMEDA**

11  
12 CONSUMER ADVOCACY GROUP, INC.,  
13 in the public interest,

14 Plaintiff,

15 v.

16 ASIA PACIFIC GROCERS LLC, dba JUST  
17 ASIAN FOOD, a New Jersey Limited  
Liability Company;  
18 EVERLASTING DISTRIBUTORS, INC., a  
New Jersey Corporation;  
19 GOLDEN FORTUNE IMPORT & EXPORT  
20 CORPORATION, a New Jersey Corporation;  
21 ARKO FOODS INTERNATIONAL, INC.,  
dba ASIAN COMMODITIES COMPANY, a  
California Corporation;  
22 JANS ENTERPRISES CORPORATION, a  
23 California Corporation;  
and DOES 1-70,

24 Defendants.  
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**ELECTRONICALLY FILED**  
Superior Court of California  
County of Alameda  
10/19/2023

Chad Finke, Executive Officer / Clerk of the Court

By:           D. Drew           Deputy

CASE NO. 23CV039809

FIRST AMENDED COMPLAINT FOR  
PENALTY, INJUNCTION, AND  
RESTITUTION

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 five causes of action  
2 against defendants ASIA PACIFIC GROCERS LLC, dba JUST ASIAN FOOD,  
3 EVERLASTING DISTRIBUTORS, INC., GOLDEN FORTUNE IMPORT & EXPORT  
4 CORPORATION, ARKO FOODS INTERNATIONAL, INC., dba ASIAN COMMODITIES  
5 COMPANY, JANS ENTERPRISES CORPORATION, and DOES 1-70 as follows:

6 **THE PARTIES**

- 7 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
8 organization qualified to do business in the State of California. CAG is a person within  
9 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
10 as a private attorney general, brings this action in the public interest as defined under  
11 Health and Safety Code Section 25249.7, subdivision (d).
- 12 2. Defendant ASIA PACIFIC GROCERS LLC, dba JUST ASIAN FOOD (“PACIFIC”) is  
13 a New Jersey Limited Liability Company qualified to do business in New Jersey and  
14 doing business in the State of California at all relevant times herein.
- 15 3. Defendant EVERLASTING DISTRIBUTORS, INC. (“EVERLASTING”) is a New  
16 Jersey Corporation qualified to do business in New Jersey and doing business in the  
17 State of California at all relevant times herein.
- 18 4. Defendant GOLDEN FORTUNE IMPORT & EXPORT CORPORATION  
19 (“FORTUNE”) is a New Jersey Corporation qualified to do business in New Jersey and  
20 doing business in the State of California at all relevant times herein.
- 21 5. Defendant ARKO FOODS INTERNATIONAL, INC., dba ASIAN COMMODITIES  
22 COMPANY (“ARKO”) is a California Corporation, qualified to do business in  
23 California, and doing business in the State of California at all relevant times herein.
- 24 6. Defendant JANS ENTERPRISES CORPORATION (“JANS”) is a California  
25 Corporation, qualified to do business in California, and doing business in the State of  
26 California at all relevant times herein.

1 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-70,  
2 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
3 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
4 informed, believes, and thereon alleges that each fictitiously named defendant is  
5 responsible in some manner for the occurrences herein alleged and the damages caused  
6 thereby.

7 8. At all times mentioned herein, the term “Defendants” includes PACIFIC,  
8 EVERLASTING, FORTUNE, ARKO, JANS, and DOES 1-70.

9 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
10 times mentioned herein have conducted business within the State of California.

11 10. Upon information and belief, at all times relevant to this action, each of the Defendants,  
12 including DOES 1-70, was an agent, servant, or employee of each of the other  
13 Defendants. In conducting the activities alleged in this Complaint, each of the  
14 Defendants was acting within the course and scope of this agency, service, or  
15 employment, and was acting with the consent, permission, and authorization of each of  
16 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
17 were ratified and approved by every other Defendant or their officers or managing  
18 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
19 alleged wrongful conduct of each of the other Defendants.

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

### 24 **JURISDICTION**

25 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
26 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
27 those given by statute to other trial courts. This Court has jurisdiction over this action  
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1 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
2 violations of Proposition 65 in any Court of competent jurisdiction.

3 13. This Court has jurisdiction over Defendants named herein because Defendants either  
4 reside or are located in this State or are foreign corporations authorized to do business in  
5 California, are registered with the California Secretary of State, or who do sufficient  
6 business in California, have sufficient minimum contacts with California, or otherwise  
7 intentionally avail themselves of the markets within California through their  
8 manufacture, distribution, promotion, marketing, or sale of their products within  
9 California to render the exercise of jurisdiction by the California courts permissible  
10 under traditional notions of fair play and substantial justice.

11 14. Venue is proper in the County of Alameda because one or more of the instances of  
12 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or  
13 because Defendants conducted, and continue to conduct, business in the County of  
14 Alameda with respect to the consumer product that is the subject of this action.

15 **BACKGROUND AND PRELIMINARY FACTS**

16 15. In 1986, California voters approved an initiative to address growing concerns about  
17 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
18 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
19 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
20 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
21 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
22 from contamination, to allow consumers to make informed choices about the products  
23 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
24 fit.

25 16. Proposition 65 requires the Governor of California to publish a list of chemicals known  
26 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
27 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
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1 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
2 other controls that apply to Proposition 65-listed chemicals.

3 17. All businesses with ten (10) or more employees that operate or sell products in California  
4 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
5 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
6 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and  
7 reasonable” warnings before exposing a person, knowingly and intentionally, to a  
8 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

9 18. Proposition 65 provides that any person "violating or threatening to violate" the statute  
10 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
11 25249.7. "Threaten to violate" means "to create a condition in which there is a  
12 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
13 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
14 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

15 19. Plaintiff identified certain practices of manufacturers and distributors of Fried Anchovy  
16 of exposing, knowingly and intentionally, persons in California to Inorganic Arsenic  
17 Compounds, and/or Inorganic Arsenic Oxides of such products without first providing  
18 clear and reasonable warnings of such to the exposed persons prior to the time of  
19 exposure. Plaintiff later discerned that Defendants engaged in such practice.

20 20. Plaintiff identified certain practices of manufacturers and distributors of Crispy Anchovy  
21 of exposing, knowingly and intentionally, persons in California to Lead and Lead  
22 Compounds of such products without first providing clear and reasonable warnings of  
23 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that  
24 Defendants engaged in such practice.

25 21. Plaintiff identified certain practices of manufacturers and distributors of Dried Squid of  
26 exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium  
27 Compounds, and Lead and Lead Compounds of such products without first providing  
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1 clear and reasonable warnings of such to the exposed persons prior to the time of  
2 exposure. Plaintiff later discerned that Defendants engaged in such practice.

3 22. Plaintiff identified certain practices of manufacturers and distributors of Dried Salted  
4 Rabbitfish of exposing, knowingly and intentionally, persons in California to Lead and  
5 Lead Compounds of such products without first providing clear and reasonable warnings  
6 of such to the exposed persons prior to the time of exposure. Plaintiff later discerned  
7 that Defendants engaged in such practice.

8 23. Plaintiff identified certain practices of manufacturers and distributors of Dried Laver of  
9 exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium  
10 Compounds, and Lead and Lead Compounds of such products without first providing  
11 clear and reasonable warnings of such to the exposed persons prior to the time of  
12 exposure. Plaintiff later discerned that Defendants engaged in such practice.

13 24. Plaintiff identified certain practices of manufacturers and distributors of Agar-Agar of  
14 exposing, knowingly and intentionally, persons in California to Lead and Lead  
15 Compounds of such products without first providing clear and reasonable warnings of  
16 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that  
17 Defendants engaged in such practice.

18 25. Plaintiff identified certain practices of manufacturers and distributors of Sardines of  
19 exposing, knowingly and intentionally, persons in California to Lead and Lead  
20 Compounds of such products without first providing clear and reasonable warnings of  
21 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that  
22 Defendants engaged in such practice.

23 26. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
24 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
25 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
26 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
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1 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
2 discharge prohibitions.

3 27. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
4 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
5 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
6 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
7 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
8 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
9 Proposition 65 warning requirements and discharge prohibitions.

10 28. On October 1, 1987 the Governor of California added Cadmium and Cadmium  
11 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer  
12 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections  
13 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of  
14 chemicals known to the State to cause cancer, Cadmium became fully subject to  
15 Proposition 65 warning requirements and discharge prohibitions.

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

23 30. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list  
24 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,  
25 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental  
26 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty  
27 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to  
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1 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject  
2 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic  
3 Oxides is hereinafter referred to as “Arsenic”.

4 **SATISFACTION OF PRIOR NOTICE**

5 31. Plaintiff served the following notices for alleged violations of Health and Safety Code  
6 Section 25249.6, concerning consumer products exposures:

- 7 a. On or about March 28, 2022, Plaintiff gave notice of alleged violations of  
8 Health and Safety Code Section 25249.6, concerning consumer products  
9 exposures subject to a private action to PACIFIC, ARKO, and to the California  
10 Attorney General, County District Attorneys, and City Attorneys for each city  
11 containing a population of at least 750,000 people in whose jurisdictions the  
12 violations allegedly occurred, concerning the Fried Anchovy.
- 13 b. On or about May 3, 2022, Plaintiff gave notice of alleged violations of Health  
14 and Safety Code Section 25249.6, concerning consumer products exposures  
15 subject to a private action to PACIFIC and to the California Attorney General,  
16 County District Attorneys, and City Attorneys for each city containing a  
17 population of at least 750,000 people in whose jurisdictions the violations  
18 allegedly occurred, concerning the Crispy Anchovy.
- 19 c. On or about May 3, 2022, Plaintiff gave notice of alleged violations of Health  
20 and Safety Code Section 25249.6, concerning consumer products exposures  
21 subject to a private action to PACIFIC, JANS, and to the California Attorney  
22 General, County District Attorneys, and City Attorneys for each city containing  
23 a population of at least 750,000 people in whose jurisdictions the violations  
24 allegedly occurred, concerning the Dried Squid.
- 25 d. On or about October 25, 2022, Plaintiff gave notice of alleged violations of  
26 Health and Safety Code Section 25249.6, concerning consumer products  
27 exposures subject to a private action to PACIFIC, EVERLASTING, FORTUNE,  
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1 and to the California Attorney General, County District Attorneys, and City  
2 Attorneys for each city containing a population of at least 750,000 people in  
3 whose jurisdictions the violations allegedly occurred, concerning the Dried  
4 Salted Rabbitfish.

5 e. On or about January 26, 2023, Plaintiff gave notice of alleged violations of  
6 Health and Safety Code Section 25249.6, concerning consumer products  
7 exposures subject to a private action to PACIFIC and to the California Attorney  
8 General, County District Attorneys, and City Attorneys for each city containing  
9 a population of at least 750,000 people in whose jurisdictions the violations  
10 allegedly occurred, concerning the Dried Laver.

11 f. On or about June 13, 2023, Plaintiff gave notice of alleged violations of Health  
12 and Safety Code Section 25249.6, concerning consumer products exposures  
13 subject to a private action to ARKO and to the California Attorney General,  
14 County District Attorneys, and City Attorneys for each city containing a  
15 population of at least 750,000 people in whose jurisdictions the violations  
16 allegedly occurred, concerning the Agar-Agar.

17 g. On or about July 3, 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 PACIFIC 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 Sardines.

23 32. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
24 products involved, the likelihood that such products would cause users to suffer  
25 significant exposures to Lead, Cadmium, and Arsenic, and the corporate structure of  
26 each of the Defendants.

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

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

14 35. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
15 gave notice of the alleged violations to PACIFIC, EVERLASTING, FORTUNE, ARKO,  
16 JANS, and the public prosecutors referenced in Paragraph 31.

17 36. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
18 any applicable district attorney or city attorney has commenced and is diligently  
19 prosecuting an action against the Defendants.

20  
21 **FIRST CAUSE OF ACTION**

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

25 **Seafood Snacks**

26 37. Plaintiff repeats and incorporates by reference paragraphs 1 through 36 of this complaint  
27 as though fully set forth herein.

28 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
distributor, promoter, or retailer of Fried Anchovy ("Seafood Snacks"), including but not

1 limited to: "SeaKid;" "Crispy Spicy Dilis;" "Crispy Fried Spicy Headless Anchovy;"  
2 "Net. Wt. 40 g (1.41 oz);" "Exclusively Distributed By Asian Commodities;" "Product of  
3 the Philippines;" "L07L;" "UPC 4 804888 017091"

4 39. Seafood Snacks contains Arsenic.

5 40. Defendants knew or should have known that Arsenic has been identified by the State of  
6 California as a chemical known to cause reproductive toxicity and therefore was subject  
7 to Proposition 65 warning requirements. Defendants were also informed of the presence  
8 of Arsenic in Seafood Snacks within Plaintiff's notice of alleged violations further  
9 discussed above at Paragraph 31a.

10 41. Plaintiff's allegations regarding Seafood Snacks concerns "[c]onsumer products  
11 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
12 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
13 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
14 *25602(b)*. Seafood Snacks is a consumer product, and, as mentioned herein, exposures  
15 to Arsenic took place as a result of such normal and foreseeable consumption and use.

16 42. Plaintiff is informed, believes, and thereon alleges that between March 28, 2019 and the  
17 present, each of the Defendants knowingly and intentionally exposed California  
18 consumers and users of Seafood Snacks, which Defendants manufactured, distributed, or  
19 sold as mentioned above, to Arsenic, without first providing any type of clear and  
20 reasonable warning of such to the exposed persons before the time of exposure.

21 Defendants have distributed and sold Seafood Snacks in California. Defendants know  
22 and intend that California consumers will use and consume Seafood Snacks, thereby  
23 exposing them to Arsenic. Further, Plaintiff is informed, believes, and thereon alleges  
24 that Defendants are selling Seafood Snacks under a brand or trademark that is owned or  
25 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced  
26 Arsenic into Seafood Snacks or knowingly caused Arsenic to be created in Seafood  
27 Snacks; have covered, obscured or altered a warning label that has been affixed to  
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1 Seafood Snacks by the manufacturer, producer, packager, importer, supplier or  
2 distributor of Seafood Snacks; have received a notice and warning materials for exposure  
3 from Seafood Snacks without conspicuously posting or displaying the warning materials;  
4 and/or have actual knowledge of potential exposure to Arsenic from Seafood Snacks.  
5 Defendants thereby violated Proposition 65.

6 43. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,  
7 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating  
8 and consuming Seafood Snacks, and additionally by handling Seafood Snacks without  
9 wearing gloves or any other personal protective equipment, or by touching bare skin or  
10 mucous membranes with gloves after handling Seafood Snacks, as well as through direct  
11 and indirect hand to mouth contact, hand to mucous membrane, or even breathing in  
12 particulate matter dispersed from Seafood Snacks.

13 44. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
14 Proposition 65 as to Seafood Snacks have been ongoing and continuous, as Defendants  
15 engaged and continue to engage in conduct which violates Health and Safety Code  
16 Section 25249.6, including the manufacture, distribution, promotion, and sale of Seafood  
17 Snacks, so that a separate and distinct violation of Proposition 65 occurred each and  
18 every time a person was exposed to Arsenic by Seafood Snacks as mentioned herein.

19 45. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
20 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
21 violations alleged herein will continue to occur into the future.

22 46. Based on the allegations herein, Defendants are liable for civil penalties of up to  
23 \$2,500.00 per day per individual exposure to Arsenic from Seafood Snacks, pursuant to  
24 Health and Safety Code Section 25249.7(b).

25 47. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
26 filing this Complaint.

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1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PACIFIC, and DOES**  
3 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

4 **Anchovy**

5 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 47 of this complaint  
6 as though fully set forth herein.

7 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
8 distributor, promoter, or retailer of Crispy Anchovy (“Anchovy”), including but not  
9 limited to: "Carl's "; "Crispy Anchovy Hot & Spicy"; "Net Wt. 1.41 oz (40g)";  
10 "Expiration Date: 04/10/22"; "Lot No. CAH0410F"; "UPC 4 809011 259270"

11 50. Anchovy contains Lead.

12 51. Defendants knew or should have known that Lead has been identified by the State of  
13 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
14 was subject to Proposition 65 warning requirements. Defendants were also informed of  
15 the presence of Lead in Anchovy within Plaintiff's notice of alleged violations further  
16 discussed above at Paragraph 31b.

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

23 53. Plaintiff is informed, believes, and thereon alleges that between May 3, 2019 and the  
24 present, each of the Defendants knowingly and intentionally exposed California  
25 consumers and users of Anchovy, which Defendants manufactured, distributed, or sold  
26 as mentioned above, to Lead, without first providing any type of clear and reasonable  
27 warning of such to the exposed persons before the time of exposure. Defendants have  
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1 distributed and sold Anchovy in California. Defendants know and intend that California  
2 consumers will use and consume Anchovy, thereby exposing them to Lead. Further,  
3 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Anchovy  
4 under a brand or trademark that is owned or licensed by the Defendants or an entity  
5 affiliated thereto; have knowingly introduced Lead into Anchovy or knowingly caused  
6 Lead to be created in Anchovy; have covered, obscured or altered a warning label that  
7 has been affixed to Anchovy by the manufacturer, producer, packager, importer, supplier  
8 or distributor of Anchovy; have received a notice and warning materials for exposure  
9 from Anchovy without conspicuously posting or displaying the warning materials;  
10 and/or have actual knowledge of potential exposure to Lead from Anchovy. Defendants  
11 thereby violated Proposition 65.

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

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

25 56. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
26 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
27 violations alleged herein will continue to occur into the future.

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1 57. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to Lead from Anchovy, pursuant to Health  
3 and Safety Code Section 25249.7(b).

4 58. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
5 filing this Complaint.

6  
7 **THIRD CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against PACIFIC, JANS, and**  
9 **DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
10 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Seafood Product I**

12 59. Plaintiff repeats and incorporates by reference paragraphs 1 through 58 of this complaint  
13 as though fully set forth herein.

14 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
15 distributor, promoter, or retailer of Dried Squid (“Seafood Product I”), including but not  
16 limited to: "Masarap"; "Dried Steam Squid Punit"; "Net Wt. 3.52 oz (100 g)"; "Best  
17 Before 11.28.2022"; "Distributed by Jans Enterprises Corp"; "UPC 8 997032 927066"

18 61. Seafood Product I contains Lead and Cadmium.

19 62. Defendants knew or should have known that Lead and Cadmium have been identified by  
20 the State of California as chemicals known to cause cancer, and reproductive toxicity and  
21 therefore were subject to Proposition 65 warning requirements. Defendants were also  
22 informed of the presence of Lead and Cadmium in Seafood Product I within Plaintiff's  
23 notice of alleged violations further discussed above at Paragraph 31c.

24 63. Plaintiff's allegations regarding Seafood Product I concerns “[c]onsumer products  
25 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
26 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
27 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
28 *25602(b)*. Seafood Product I is a consumer product, and, as mentioned herein, exposures

1 to Lead and Cadmium took place as a result of such normal and foreseeable consumption  
2 and use.

3 64. Plaintiff is informed, believes, and thereon alleges that between May 3, 2019 and the  
4 present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of Seafood Product I, which Defendants manufactured, distributed,  
6 or sold as mentioned above, to Lead and Cadmium, without first providing any type of  
7 clear and reasonable warning of such to the exposed persons before the time of exposure.  
8 Defendants have distributed and sold Seafood Product I in California. Defendants know  
9 and intend that California consumers will use and consume Seafood Product I, thereby  
10 exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and  
11 thereon alleges that Defendants are selling Seafood Product I under a brand or trademark  
12 that is owned or licensed by the Defendants or an entity affiliated thereto; have  
13 knowingly introduced Lead and Cadmium into Seafood Product I or knowingly caused  
14 Lead and Cadmium to be created in Seafood Product I; have covered, obscured or altered  
15 a warning label that has been affixed to Seafood Product I by the manufacturer,  
16 producer, packager, importer, supplier or distributor of Seafood Product I; have received  
17 a notice and warning materials for exposure from Seafood Product I without  
18 conspicuously posting or displaying the warning materials; and/or have actual  
19 knowledge of potential exposure to Lead and Cadmium from Seafood Product I.  
20 Defendants thereby violated Proposition 65.

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

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

8 67. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
10 violations alleged herein will continue to occur into the future.

11 68. Based on the allegations herein, Defendants are liable for civil penalties of up to  
12 \$2,500.00 per day per individual exposure to Lead and Cadmium from Seafood Product  
13 I, pursuant to Health and Safety Code Section 25249.7(b).

14 69. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
15 filing this Complaint.

16  
17 **FOURTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against PACIFIC,**  
19 **EVERLASTING, FORTUNE, and DOES 31-40 for Violations of Proposition 65,**  
20 **The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety***  
21 ***Code, §§ 25249.5, et seq.))***

22  
23 **Seafood Product II**

24 70. Plaintiff repeats and incorporates by reference paragraphs 1 through 69 of this complaint  
25 as though fully set forth herein.

26 71. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
27 distributor, promoter, or retailer of Dried Salted Rabbitfish ("Seafood Product II"),  
28 including but not limited to: "Lucia"; "Dried Salted Rabbitfish (Danggit) Butterfly Cut";  
"Net Wt. 113g (4oz.)"; "Product of the Philippines"; "Distributed and Imported by  
Golden Fortune Import and Export Corp."; "UPC 0 54152 30217 8"

1 72. Seafood Product II contains Lead.

2 73. Defendants knew or should have known that Lead has been identified by the State of  
3 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
4 was subject to Proposition 65 warning requirements. Defendants were also informed of  
5 the presence of Lead in Seafood Product II within Plaintiff's notice of alleged violations  
6 further discussed above at Paragraph 31d.

7 74. Plaintiff's allegations regarding Seafood Product II concerns "[c]onsumer products  
8 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
9 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
10 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
11 *25602(b)*. Seafood Product II is a consumer product, and, as mentioned herein,  
12 exposures to Lead took place as a result of such normal and foreseeable consumption and  
13 use.

14 75. Plaintiff is informed, believes, and thereon alleges that between October 25, 2019 and  
15 the present, each of the Defendants knowingly and intentionally exposed California  
16 consumers and users of Seafood Product II, which Defendants manufactured, distributed,  
17 or sold as mentioned above, to Lead, without first providing any type of clear and  
18 reasonable warning of such to the exposed persons before the time of exposure.  
19 Defendants have distributed and sold Seafood Product II in California. Defendants know  
20 and intend that California consumers will use and consume Seafood Product II, thereby  
21 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that  
22 Defendants are selling Seafood Product II under a brand or trademark that is owned or  
23 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced  
24 Lead into Seafood Product II or knowingly caused Lead to be created in Seafood Product  
25 II; have covered, obscured or altered a warning label that has been affixed to Seafood  
26 Product II by the manufacturer, producer, packager, importer, supplier or distributor of  
27 Seafood Product II; have received a notice and warning materials for exposure from  
28

1 Seafood Product II without conspicuously posting or displaying the warning materials;  
2 and/or have actual knowledge of potential exposure to Lead from Seafood Product II.  
3 Defendants thereby violated Proposition 65.

4 76. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,  
5 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating  
6 and consuming Seafood Product II, and additionally by handling Seafood Product II  
7 without wearing gloves or any other personal protective equipment, or by touching bare  
8 skin or mucous membranes with gloves after handling Seafood Product II, as well as  
9 through direct and indirect hand to mouth contact, hand to mucous membrane, or even  
10 breathing in particulate matter dispersed from Seafood Product II.

11 77. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
12 Proposition 65 as to Seafood Product II have been ongoing and continuous, as  
13 Defendants engaged and continue to engage in conduct which violates Health and Safety  
14 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
15 Seafood Product II, so that a separate and distinct violation of Proposition 65 occurred  
16 each and every time a person was exposed to Lead by Seafood Product II as mentioned  
17 herein.

18 78. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
20 violations alleged herein will continue to occur into the future.

21 79. Based on the allegations herein, Defendants are liable for civil penalties of up to  
22 \$2,500.00 per day per individual exposure to Lead from Seafood Product II, pursuant to  
23 Health and Safety Code Section 25249.7(b).

24 80. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
25 filing this Complaint.

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1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PACIFIC, and DOES**  
3 **41-50 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 81. Plaintiff repeats and incorporates by reference paragraphs 1 through 80 of this complaint  
7 as though fully set forth herein.

8 82. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Dried Laver (“Seaweed”), including but not limited  
10 to: “Haizhilin”; “Dried Laver”; “Net Wt. 100g (3.5 oz)”; “Producer: Fuzhou Hai Lin  
11 Food Co., Ltd.”; “Product No: Q/LHLS0001S”; “Product of China”; “UPC 6 922738  
12 565320”

13 83. Seaweed contains Lead and Cadmium.

14 84. Defendants knew or should have known that Lead and Cadmium have been identified by  
15 the State of California as chemicals known to cause cancer, and reproductive toxicity and  
16 therefore were subject to Proposition 65 warning requirements. Defendants were also  
17 informed of the presence of Lead and Cadmium in Seaweed within Plaintiff’s notice of  
18 alleged violations further discussed above at Paragraph 31e.

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

25 86. Plaintiff is informed, believes, and thereon alleges that between January 26, 2020 and the  
26 present, each of the Defendants knowingly and intentionally exposed California  
27 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as  
28 mentioned above, to Lead and Cadmium, without first providing any type of clear and

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

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

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

1 89. 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 90. 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 and Cadmium from Seaweed,  
6 pursuant to Health and Safety Code Section 25249.7(b).

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

9  
10 **SIXTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ARKO, and DOES 51-  
12 60 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 92. Plaintiff repeats and incorporates by reference paragraphs 1 through 91 of this complaint  
16 as though fully set forth herein.

17 93. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
18 distributor, promoter, or retailer of Agar-Agar, including but not limited to “Angelina”;  
19 “Agar-Agar White (Gulaman)”; “Net Wt. 0.7 oz (20 g)”; “To be cooked before eating”;  
20 “Packed for & Distributed by: Asian Commodities”; “DT98257AG”; “Product of  
21 Philippines”; “UPC 077396125723”.

22 94. Agar-Agar contains Lead.

23 95. Defendants knew or should have known that Lead has been identified by the State of  
24 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
25 was subject to Proposition 65 warning requirements. Defendants were also informed of  
26 the presence of Lead in Agar-Agar within Plaintiff’s notice of alleged violations further  
27 discussed above at Paragraph 31f.

28 96. Plaintiff’s allegations regarding Agar-Agar concerns “[c]onsumer products exposure[s],”  
which “is an exposure that results from a person’s acquisition, purchase, storage,

1 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
2 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).  
3 Agar-Agar are consumer products, and, as mentioned herein, exposures to Lead took  
4 place as a result of such normal and foreseeable consumption and use.

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

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

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1 99. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
2 Proposition 65 as to Agar-Agar have been ongoing and continuous, as Defendants  
3 engaged and continue to engage in conduct which violates Health and Safety Code  
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Agar-  
5 Agar, so that a separate and distinct violation of Proposition 65 occurred each and every  
6 time a person was exposed to Lead by Agar-Agar as mentioned herein.

7 100. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
8 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
9 violations alleged herein will continue to occur into the future.

10 101. Based on the allegations herein, Defendants are liable for civil penalties of up to  
11 \$2,500.00 per day per individual exposure to Lead from Agar-Agar, pursuant to Health  
12 and Safety Code Section 25249.7(b).

13 102. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
14 filing this Complaint.

15 **SEVENTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against PACIFIC, and DOES**  
17 **61-70 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
18 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

19 **Seafood Product III**

20 103. Plaintiff repeats and incorporates by reference paragraphs 1 through 102 of this  
21 complaint as though fully set forth herein.

22 104. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
23 distributor, promoter, or retailer of Sardines including but not limited to "Tito Mike's";  
24 "Spicy Hot"; "Spanish Style Sardines"; "In Corn Oil"; "Net Wt. 230 g (8 oz)";  
25 "Processed and Packed by: Tito Mike's Food Company, Inc."; "Product of the  
26 Philippines"; "Lot No. SH 112046"; "Best Before 28 Feb 2024"; "BFAD LOT NO.  
27 RDII-RIX-F-1401"; "UPC 4809011734029".

28 105. Sardines contains Cadmium.



1 106. Defendants knew or should have known that Cadmium has been identified by the State  
2 of California as a chemical known to cause cancer, and reproductive toxicity and  
3 therefore was subject to Proposition 65 warning requirements. Defendants were also  
4 informed of the presence of Cadmium in Sardines within Plaintiff's notice of alleged  
5 violations further discussed above at Paragraph 31g.

6 107. Plaintiff's allegations regarding Sardines concerns "[c]onsumer products exposure[s],"  
7 which "is an exposure that results from a person's acquisition, purchase, storage,  
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
9 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.  
10 Sardines are consumer products, and, as mentioned herein, exposures to Cadmium took  
11 place as a result of such normal and foreseeable consumption and use.

12 108. Plaintiff is informed, believes, and thereon alleges that between July 3, 2020 and the  
13 present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of Sardines, which Defendants manufactured, distributed, or sold as  
15 mentioned above, to Cadmium, without first providing any type of clear and reasonable  
16 warning of such to the exposed persons before the time of exposure. Defendants have  
17 distributed and sold Sardines in California. Defendants know and intend that California  
18 consumers will use and consume Sardines, thereby exposing them to Cadmium. Further,  
19 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sardines  
20 under a brand or trademark that is owned or licensed by the Defendants or an entity  
21 affiliated thereto; have knowingly introduced Cadmium into Sardines or knowingly  
22 caused Cadmium to be created in Sardines; have covered, obscured or altered a warning  
23 label that has been affixed to Sardines by the manufacturer, producer, packager,  
24 importer, supplier or distributor of Sardines; have received a notice and warning  
25 materials for exposure from Sardines without conspicuously posting or displaying the  
26 warning materials; and/or have actual knowledge of potential exposure to Cadmium  
27 from Sardines. Defendants thereby violated Proposition 65.

28

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

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

14 111. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
15 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
16 violations alleged herein will continue to occur into the future.

17 112. Based on the allegations herein, Defendants are liable for civil penalties of up to  
18 \$2,500.00 per day per individual exposure to Cadmium from Sardines, pursuant to  
19 Health and Safety Code Section 25249.7(b).

20 113. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
21 filing this Complaint.

### 22 **PRAYER FOR RELIEF**

23 Plaintiff demands against each of the Defendants as follows:

- 24 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 25 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
- 26 3. Costs of suit;
- 27 4. Reasonable attorney fees and costs; and
- 28 5. Any further relief that the court may deem just and equitable.

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Dated: October 19, 2023

YEROUSHALMI & YEROUSHALMI\*



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Reuben Yeroushalmi  
Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.