

1 **ENTORNO LAW, LLP**
2 Noam Glick (SBN 251582)
3 Craig M. Nicholas (SBN 178444)
4 Jake W. Schulte (SBN 293777)
5 Janani Natarajan (SBN 346770)
6 225 Broadway, Suite 1900
7 San Diego, California 92101
8 Tel: (619) 629-0527
9 Email: noam@entornolaw.com
10 Email: craig@entornolaw.com
11 Email: jake@entornolaw.com
12 Email: janani@entornolaw.com

13 Attorneys for Plaintiff
14 Environmental Health Advocates, Inc.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **IN AND FOR THE COUNTY OF ALAMEDA**

17 ENVIRONMENTAL HEALTH ADVOCATES,
18 INC.,

19 Plaintiff,

20 v.

21 WORLDWIDE SPORT NUTRITIONAL
22 SUPPLEMENTS, INC., a New York
23 corporation; WORLDPANTRY.COM MDC
24 LLC, a Delaware limited liability company;
25 AMAZON.COM, INC., a Delaware
26 corporation; and DOES 1 through 100,
27 inclusive,

28 Defendants.

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

03/07/2024 at 04:29:33 PM

By: Milagros Cortez,
Deputy Clerk

Case No.: **24CV066823**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1
2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendants' failure to inform the People of exposure to lead, a known carcinogen.
5 Defendants expose consumers to lead by manufacturing, importing, selling, and/or distributing chips
6 including, but not limited to, Pure Protein Popped Crisps – Hickory Barbecue (“Products”). Defendants
7 know and intend that customers will ingest Products containing lead.

8 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California
9 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
10 business shall knowingly and intentionally expose any individual to a chemical known to the state to
11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
12 individual. . . .” (Health & Safety Code, § 25249.6.)

13 3. California identified and listed lead as a chemical known to cause cancer as early as
14 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February
15 27, 1987.

16 4. Defendants failed to sufficiently warn consumers and individuals in California about
17 potential exposure to lead in connection with Defendants' manufacture, import, sale, or distribution of
18 Products. This is a violation of Proposition 65.

19 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
20 in California before exposing them to lead in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
21 also seeks civil penalties against Defendants for violations of Proposition 65 along with attorney’s fees
22 and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

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24 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
25 corporation in the State of California dedicated to protecting the health of California citizens through
26 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
27 interest pursuant to Health and Safety Code, section 25249.7.
28

1 7. Defendant Worldwide Sport Nutritional Supplements, Inc. ("Worldwide Sport") is a
2 corporation organized and existing under the laws of New York. Worldwide Sport is registered to do
3 business in California, and does business in the County of Alameda, within the meaning of Health and
4 Safety Code, section 25249.11. Worldwide Sport manufactures, imports, sells, or distributes the
5 Products in California and Alameda County.

6 8. Defendant Worldpantry.com MDC LLC ("Worldpantry") is a limited liability company
7 organized and existing under the laws of Delaware. Worldpantry is registered to do business in
8 California, and does business in the County of Alameda, within the meaning of Health and Safety Code,
9 section 25249.11. Worldpantry manufactures, imports, sells, or distributes the Products in California
10 and Alameda County.

11 9. Defendant Amazon.com, Inc. ("Amazon") is a corporation organized and existing under
12 the laws of Delaware. Amazon is registered to do business in California, and does business in the County
13 of Alameda, within the meaning of Health and Safety Code, section 25249.11. Amazon manufactures,
14 imports, sells, or distributes the Products in California and Alameda County.

15 10. Plaintiff does not know the true names and/or capacities, whether individual, partners,
16 or corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
17 said Defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true
18 names and capacities of these Defendants have been ascertained. Plaintiff is informed and believes and
19 thereon alleges that these Defendants are responsible in whole or in part for the remedies and penalties
20 sought herein.

21 11. At all times mentioned, Defendants were the agents, alter egos, servants, joint venturers,
22 joint employers, or employees for each other. Defendants acted with the consent of the other Co-
23 Defendants and acted within the course, purpose, and scope of their agency, service, or employment.
24 All conduct was ratified by Defendants, and each of them.

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III.
VENUE AND JURISDICTION

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

13. Venue is proper in Alameda County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendants conducted and continue to conduct business in this County as it relates to Products.

14. Defendants have sufficient minimum contacts in the State of California or otherwise purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would be consistent with traditional notions of fair play and substantial justice.

IV.
CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of Proposition 65 – Against all Defendants)

15. Plaintiff incorporates by reference each and every allegation contained above.

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

17. Defendants manufactured, imported, sold, and/or distributed Products containing lead in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

18. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to provide a clear and reasonable warning to consumers and individuals in California who may be exposed to lead through reasonably foreseeable use of the Products.

19. Products expose individuals to lead through direct ingestion. This exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As such, Defendants intend that consumers will ingest Products, exposing them to lead.

1 Respectfully submitted:

2 Dated: March 5, 2024

ENTORNO LAW, LLP

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4 By: 
5 Noam Glick

6 Craig M. Nicholas
7 Jake W. Schulte
8 Janani Natarajan

9 Attorneys for Plaintiff
10 Environmental Health Advocates, Inc.

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