

1 Reuben Yeroushalmi (SBN 193981)

2 [reuben@yeraushalmi.com](mailto:reuben@yeraushalmi.com)

3 Tara Heckard-Bryant (SBN 212534)

4 [tara@yeraushalmi.com](mailto:tara@yeraushalmi.com)

5 **YEROUSHALMI & YEROUSHALMI\***

6 9100 Wilshire Boulevard, Suite 240W

7 Beverly Hills, California 90212

8 Telephone: (310) 623-1926

9 Facsimile: (310) 623-1930

10 Attorneys for Plaintiff,

11 CONSUMER ADVOCACY GROUP, INC.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

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

16 Plaintiff,

17 v.

18 EUCLID SEAFOOD, INC. DBA SONG HY  
19 SUPERMARKET; a California Corporation.  
20 and DOES 1-20,

21 Defendants.

CASE NO. **24STCV13715**

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)

22  
23 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action  
24 against defendants EUCLID SEAFOOD, INC. DBA SONG HY SUPERMARKET, and DOES  
25 1-20 as follows:

26 **THE PARTIES**

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

28

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

5 **JURISDICTION**

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

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

19 10. Venue is proper in the County of Los Angeles because one or more of the instances of  
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
21 because Defendants conducted, and continue to conduct, business in the County of Los  
22 Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 11. In 1986, California voters approved an initiative to address growing concerns about  
25 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
26 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
27 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
28

1 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
2 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources  
3 from contamination, to allow consumers to make informed choices about the products  
4 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
5 fit.

6 12. Proposition 65 requires the Governor of California to publish a list of chemicals known  
7 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
8 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
9 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
10 other controls that apply to Proposition 65-listed chemicals.

11 13. All businesses with ten (10) or more employees that operate or sell products in California  
12 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
13 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
14 water (*Health & Safety Code* § 25249.5), and (2) required to provide "clear and  
15 reasonable" warnings before exposing a person, knowingly and intentionally, to a  
16 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

17 14. Proposition 65 provides that any person "violating or threatening to violate" the statute  
18 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
19 25249.7. "Threaten to violate" means "to create a condition in which there is a  
20 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
21 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
22 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

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

28

1 16. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
2 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
3 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
4 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
5 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
6 discharge prohibitions.

7 17. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
8 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
9 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
10 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
11 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
12 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
13 Proposition 65 warning requirements and discharge prohibitions.

14 **SATISFACTION OF PRIOR NOTICE**

15 18. 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 August 18, 2023, Plaintiff gave notice of alleged violations of  
18 Health and Safety Code Section 25249.6, concerning consumer products  
19 exposures subject to a private action to EUCLID, and to the California Attorney  
20 General, County District Attorneys, and City Attorneys for each city containing  
21 a population of at least 750,000 people in whose jurisdictions the violations  
22 allegedly occurred, concerning the Dried Croaker.
- 23 b. On or about August 18, 2023, Plaintiff gave notice of alleged violations of  
24 Health and Safety Code Section 25249.6, concerning consumer products  
25 exposures subject to a private action to EUCLID, and to the California Attorney  
26 General, County District Attorneys, and City Attorneys for each city containing  
27

1 a population of at least 750,000 people in whose jurisdictions the violations  
2 allegedly occurred, concerning the Dried Grouper.

3 19. 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, and the corporate structure of each of the Defendants.

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

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

18 22. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
19 gave notice of the alleged violations to EUCLID, and the public prosecutors referenced  
20 in Paragraph 18.

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

24 **FIRST CAUSE OF ACTION**

25 **(By CONSUMER ADVOCACY GROUP, INC. and against EUCLID, and DOES**  
26 **1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
27 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

28 **Dried Seafoods**

1 24. Plaintiff repeats and incorporates by reference paragraphs 1 through 23 of this complaint  
2 as though fully set forth herein.

3 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Dried Croaker (“Dried Croaker”), including but not  
5 limited to “SK”; “Dried Salted Croaker Fish”; “Net Wt. 142 g”; “Packed for: HKF  
6 Trading Company”; “Product of Vietnam”; “UPC 4893230011313”

7 26. Dried Croaker contains Lead.

8 27. Defendants knew or should have known that Lead has been identified by the State of  
9 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
10 was subject to Proposition 65 warning requirements. Defendants were also informed of  
11 the presence of Lead in Dried Croaker within Plaintiff’s notice of alleged violations  
12 further discussed above at Paragraph 18a.

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

19 29. Plaintiff is informed, believes, and thereon alleges that between August 18, 2020 and the  
20 present, each of the Defendants knowingly and intentionally exposed California  
21 consumers and users of Dried Croaker, which Defendants manufactured, distributed, or  
22 sold as mentioned above, to Lead, without first providing any type of clear and  
23 reasonable warning of such to the exposed persons before the time of exposure.

24 Defendants have distributed and sold Dried Croaker in California. Defendants know and  
25 intend that California consumers will use and consume Dried Croaker, thereby exposing  
26 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that  
27 Defendants are selling Dried Croaker under a brand or trademark that is owned or  
28

1 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced  
2 Lead into Dried Croaker or knowingly caused Lead to be created in Dried Croaker; have  
3 covered, obscured or altered a warning label that has been affixed to Dried Croaker by  
4 the manufacturer, producer, packager, importer, supplier or distributor of Dried Croaker;  
5 have received a notice and warning materials for exposure from Dried Croaker without  
6 conspicuously posting or displaying the warning materials; and/or have actual  
7 knowledge of potential exposure to Lead from Dried Croaker. Defendants thereby  
8 violated Proposition 65.

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

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

22 32. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
23 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
24 violations alleged herein will continue to occur into the future.

25 33. Based on the allegations herein, Defendants are liable for civil penalties of up to  
26 \$2,500.00 per day per individual exposure to Lead from Dried Croaker, pursuant to  
27 Health and Safety Code Section 25249.7(b).

28



1 34. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
2 filing this Complaint.

3  
4 **SECOND CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against EUCLID, and DOES**  
6 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
7 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

8 **Dried Seafoods**

9 35. Plaintiff repeats and incorporates by reference paragraphs 1 through 34 of this complaint  
10 as though fully set forth herein.

11 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Dried Grouper (“Dried Grouper”), including but not  
13 limited to “SK”; “Dried Salted Grouper”; “Net Wt. 170 g”; “Packed for: HKF Trading  
14 Company”; “Product of Vietnam”; “UPC 489230011269”

15 37. Dried Grouper contains Lead.

16 38. Defendants knew or should have known that Lead has been identified by the State of  
17 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
18 was subject to Proposition 65 warning requirements. Defendants were also informed of  
19 the presence of Lead in Dried Grouper within Plaintiff’s notice of alleged violations  
20 further discussed above at Paragraph 18b.

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

27 40. Plaintiff is informed, believes, and thereon alleges that between August 18, 2020 and the  
28 present, each of the Defendants knowingly and intentionally exposed California  
consumers and users of Dried Grouper, which Defendants manufactured, distributed, or

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

15 41. 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 Dried Grouper, and additionally by handling Dried Grouper without  
18 wearing gloves or any other personal protective equipment, or by touching bare skin or  
19 mucous membranes with gloves after handling Dried Grouper, as well as through direct  
20 and indirect hand to mouth contact, hand to mucous membrane, or even breathing in  
21 particulate matter dispersed from Dried Grouper.

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

28

1 43. 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 44. 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 from Dried Grouper, pursuant to  
6 Health and Safety Code Section 25249.7(b).

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

9 **PRAYER FOR RELIEF**

10 Plaintiff demands against each of the Defendants as follows:

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

16  
17 Dated: May 31, 2024

YEROUSHALMI & YEROUSHALMI\*

18  
19 */s/ Reuben Yeroushalmi*

20 Reuben Yeroushalmi  
21 Attorneys for Plaintiff,  
22 CONSUMER ADVOCACY GROUP, INC.  
23  
24  
25  
26  
27  
28