

SUMMONS ON 1ST AMENDED COMPLAINT
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

Electronically FILED by
Superior Court of California,
County of Los Angeles
12/06/2023 10:06 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By S. Bolden, Deputy Clerk

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Albertsons Companies, Inc. dba Pavilions; Conagra Company; Conagra Brands, Inc.; Conagra Foods, Inc.; DOES 1 - 100

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CLEAN PRODUCT ADVOCATES LLC, a California Limited Liability Company

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Los Angeles County Superior Court
111 North Hill Street, Los Angeles, California 90012

CASE NUMBER:
(Número del Caso):
23STCV26933

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Elham Shabatian SBN 221953; Cliffwood Law Firm; 12100 Wilshire Blvd., Suite 800, Los Angeles, Ca. 90025; (310) 200-3227

DATE: 12/06/2023 Clerk, by _____, Deputy
(Fecha) David W. Slayton, Executive Officer/Clerk of Court (Secretario) S. Bolden (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

1 CLIFFWOOD LAW FIRM
2 ELHAM SHABATIAN (SBN 221953)
3 12100 Wilshire Boulevard
4 Suite 800
5 Los Angeles, California 90025
6 Tel: (310) 200-3227
7 Email: ellie@cliffwoodlaw.com

8 Attorneys for Plaintiff
9 Clean Product Advocates, LLC

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 CLEAN PRODUCT ADVOCATES LLC, a)
13 California Limited Liability)
14 Company,)

15 PLAINTIFF,)

16 vs.)

17 Albertsons Companies, Inc. dba)
18 Pavilions; Conagra Company;)
19 Conagra Brands, Inc.; Conagra)
20 Foods, Inc.; DOES 1 -100,)

21 DEFENDANTS.)
22)
23)
24)
25)
26)
27)
28)

Case No. 23STCV26933
FIRST AMENDED COMPLAINT FOR
PENALTY AND INJUNCTION
Violation of Proposition 65,
the Safe Drinking Water and
Toxic Enforcement Act of 1986
(Health & Safety Code Sections
25249.5, et. seq.)
ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000.00)

1 INTRODUCTION

2 1. This Complaint is a representative action brought by
3 Clean Product Advocates, LLC ("Plaintiff" or "CPA") in the
4 public interest of the citizens of the State of California (the
5 "People"). Plaintiff seeks to remedy Defendants' failure to
6 inform the People of exposure to "LEAD" and "CADMIUM", known
7 carcinogens. Defendants continue to expose consumers to LEAD
8 and/or CADMIUM by either manufacturing, and/or importing, and/or
9 selling and/or distributing food products including, but not
10 limited to, Plant Based Be'f Burger (UPC 842234000827); Celeste
11 Pizza (UPC 019600046301); Plant Based Meatball Marinara (UPC
12 072655040007) and Power Bowls (UPC 072655011137) ("Sources").
13 Defendants therefore know and intend that customers will ingest
14 products containing LEAD and/or CADMIUM under California's Safe
15 Drinking Water and Toxic Enforcement Act of 1986, and California
16 Health and Safety Code sections 25249.6 et. seq. ("Proposition
17 65") which states that "[n]o person in the course of doing
18 business shall knowingly and intentionally expose any individual
19 to a chemical known to the state to cause cancer or reproductive
20 toxicity without first giving clear and reasonable warning to
21 such individual " (Health & Safety Code Section 25249.6).

23 2. California has identified and listed LEAD and CADMIUM as
24 chemicals known to cause cancer as early as on or about October
25 1, 1992, and as chemicals known to cause developmental/
26 reproductive toxicity as of on or about February 27, 1987.

1 3. Defendants have failed to sufficiently warn consumers and
2 individuals in California about potential exposure to LEAD and
3 CADMIUM in connection with Defendants' manufacture and/or
4 import, and/or sale, and/or distribution of Products in
5 violation of Proposition 65.

6 4. Plaintiff seeks injunctive relief compelling Defendants
7 to sufficiently warn consumers in California before exposing
8 them to LEAD or CADMIUM in Products (Health & Safety Code
9 Section 25249.7(a)). Plaintiff also seeks civil penalties
10 against Defendants for their violations of Proposition 65 along
11 with reasonable attorney's fees and legal costs (Health & Safety
12 Code Section 25249.7(b)).

13 PARTIES

14 5. Plaintiff CPA is an LLC operating in the State
15 of California dedicated to protecting the health of California
16 citizens through the elimination or reduction of toxic exposure
17 from consumer products. It brings this action in the public
18 interest pursuant to Health & Safety Code Section 25249.7.

19 6. Defendant Albertsons Company, Inc. DBA Pavilions, is a
20 Corporation that either manufactures and/or imports, and/or
21 sells and/or distributes Products (Plant Based Be'f Burgers UPC
22 842234000827 and Power Bowls UPC 072655011137 only) in Los
23 Angeles County and throughout the State of California, within
24 the meaning of Health & Safety Code Section 25249.11.

25 7. Defendant Conagra Company is a business entity, form
26
27
28

1 unknown, that either manufactures and/or imports, and/or sells
2 and/or distributes Products in Los Angeles County and throughout
3 the State of California, within the meaning of Health & Safety
4 Code Section 25249.11.

5 8. Defendant Conagra Brands, Inc. is a business entity,
6 form unknown, that either manufactures and/or imports, and/or
7 sells and/or distributes Products in Los Angeles County and
8 throughout the State of California, within the meaning of Health
9 & Safety Code Section 25249.11.

10 9. Defendant Conagra Foods, Inc. is a business entity, form
11 unknown, that either manufactures and/or imports, and/or sells
12 and/or distributes Products in Los Angeles County and throughout
13 the State of California, within the meaning of Health & Safety
14 Code Section 26249.11.

15
16 10. Defendants DOES 1 through 100, inclusive, are sued
17 herein under fictitious names. Their true names and capacities
18 are unknown to Plaintiff. When their true names and capacities
19 are ascertained, plaintiff will amend this complaint by
20 inserting their true names and capacities herein. Plaintiff is
21 informed and believes and thereon alleges, that each of the
22 fictitiously named defendants is responsible in some manner for
23 the occurrences alleged in this complaint and that Plaintiff's
24 damages as alleged in this complaint were proximately caused by
25 such defendants.
26
27
28

1 11. Plaintiff is informed and believes and thereon alleges,
2 that at all times alleged in this complaint, each defendant was
3 the agent, alter ego, servant, joint venturer, joint employer
4 and/or employee, of each of the remaining defendants, and in
5 doing the things hereinafter alleged, was acting within the
6 course and scope of said relationships and with the permission
7 and consent of all other co-defendants. All conduct was also
8 ratified by Defendants and each of them.
9

10 **JURISDICTION AND VENUE**

11 12. California Constitution Article VI, Section 10, grants
12 the Superior Court original jurisdiction in all cases except
13 those given by statute to other trial courts. The Health and
14 Safety Code statutes upon which this action is based does not
15 give jurisdiction to any other Court. As such, this Court has
16 jurisdiction over this action.
17

18 13. Venue is proper in Los Angeles County Superior Court
19 pursuant to Code of Civil Procedure Sections 394, 395 and 395.5
20 as wrongful conduct as alleged in this complaint has occurred
21 and continues to occur in this County.

22 14. Defendants have sufficient minimum contacts in the
23 State of California or otherwise purposefully avail themselves
24 of the California market. Exercising jurisdiction over
25 Defendants would therefore be consistent with traditional
26 notions of fair play and substantial justice.
27

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of Proposition 65 - Against all Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15. Plaintiff incorporates by reference herein, each and every allegation set forth above in this complaint.

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

17. More than sixty days prior to the filing of this lawsuit naming each Defendant, Plaintiff issued 60-Day Notices Of Violation dated November 14, 2022, January 9, 2023, February 6, 2023 and February 8, 2023 ("Notices") as required by and in compliance with Proposition 65. Plaintiff provided said Notices to the various required public enforcement agencies along with Certificates of Merit. The Notices alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposure to LEAD and/or CADMIUM contained in their products.

18. The appropriate public enforcement agencies provided with the Notices failed to commence and diligently prosecute a cause of action against Defendants.

19. At all times relevant herein, Defendants manufactured and/or imported and/or sold and/or distributed Products, including, Plant Based Be'f Burgers (UPC 842234000827); Celeste

1 Pizzas (UPC 019600046301); Plant Based Meatball Marinara (UPC
2 072655040007) and Power Bowls (UPC 072655011137), containing LEAD
3 and/or CADMIUM in violation of Health and Safety Code Sections
4 25249.6 et. seq. Plaintiff is informed and believes and thereon
5 alleges that such violations have continued after receipt of the
6 Notices described above and such conduct will continue to occur
7 into the future.

8 20. In manufacturing, and/or importing, and/or selling
9 and/or distributing Products, Defendants failed to provide
10 clear and reasonable warnings to consumers in the State of
11 California who may be exposed to LEAD and/or CADMIUM through
12 reasonably foreseeable use of the Products.
13

14 21. The Products exposed individuals to LEAD and/or CADMIUM
15 through direct ingestion of the products described in paragraph
16 19 of this complaint. This exposure is a natural and foreseeable
17 consequence of Defendants placing the Products into the stream
18 of commerce. As such Defendants intend that consumers will
19 ingest said Products, exposing them to LEAD and/or CADMIUM.
20

21 22. Defendants knew or should have known that their
22 Products contained LEAD and/or CADMIUM and exposed individuals
23 to LEAD and/or CADMIUM as described above in this complaint. The
24 Notices described above in this complaint informed Defendants of
25 the presence of LEAD and/or CADMIUM in their products. Likewise,
26 media coverage concerning LEAD and/or CADMIUM related chemicals
27

1 in consumer products provided "Constructive Notice" to
2 Defendants. Defendants' actions, therefore, were deliberate and
3 not accidental.

4 23. Individuals exposed to LEAD and/or CADMIUM contained in
5 Defendants' Products through direct ingestion resulting from
6 reasonably foreseeable use of the Products have suffered and
7 continue to suffer irreparable harm. There is no other plain,
8 speedy or adequate remedy at law other than the relief requested
9 in this complaint.

10
11 24. Defendants are liable for a maximum civil penalty of
12 \$2,500.00 per day for each violation of Proposition 65 pursuant
13 to Health and Safety Code Section 252497(b). Injunctive relief
14 is also appropriate pursuant to Health and Safety Code Section
15 25249.7(a).

16 25. Defendants knew or should have known that their
17 Products contained LEAD and/or CADMIUM and exposed individuals
18 to LEAD and/or CADMIUM as described above in this complaint. The
19 Notices described above in this complaint informed Defendants of
20 the presence of LEAD and/or CADMIUM in their products. Likewise,
21 media coverage concerning LEAD and/or CADMIUM and related
22 chemicals in consumer products provided "Constructive
23 Notice" to Defendants. Defendants' actions, therefore, were
24 deliberate and not accidental.
25
26
27
28

PRAYER FOR RELIEF

1
2 Wherefore, Plaintiff prays for judgment against Defendants,
3 and each of them, as follows:

4 1. Civil penalties in the amount of \$2,500.00 per day for
5 each violation of the law as described above in this complaint.
6 Plaintiff alleges that damages total a minimum of \$1,000,000.00;

7 2. A preliminary and permanent injunction against Defendants
8 from manufacturing, and/or importing, and/or selling and/or
9 distributing Products in California without providing a clear
10 and reasonable warning as required by Proposition 65 and related
11 regulations;
12

13 3. Reasonable attorney's fees and costs of suit;

14 4. Pre-Judgement interest as allowed by law; and

15 5. Such other and further relief as may be just and proper.

16 Respectfully Submitted:

17 Dated: November 10, 2023

CLIFFWOOD LAW FIRM,

18
19 By: *Elham Shabatian*

20 Elham Shabatian

21 Attorney for Plaintiff

22 Clean Product Advocates LLC
23
24
25
26
27
28