

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**12/10/2024 at 05:50:24 PM**

By: Damaree Franklin,  
Deputy Clerk

1 Reuben Yeroushalmi (SBN 193981)

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

3 **YEROUSHALMI & YEROUSHALMI\***

4 9100 Wilshire Boulevard, Suite 240W

5 Beverly Hills, California 90212

6 Telephone: (310) 623-1926

7 Facsimile: (310) 623-1930

8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

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

14 Plaintiff,

15 v.

16 EASTLAND FOOD CORPORATION, a

17 Maryland Corporation;

18 EASTLAND FOOD INTERNATIONAL

19 CORPORATION, a California Corporation;

20 and DOES 1-10,

21 Defendants.

CASE NO. **24CV102670**

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 \$35,000)

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges one cause of action against  
2 defendants EASTLAND FOOD CORPORATION, EASTLAND FOOD INTERNATIONAL  
3 CORPORATION, and DOES 1-10 as follows:

4 **THE PARTIES**

- 5 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
6 organization qualified to do business in the State of California. CAG is a person within  
7 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
8 as a private attorney general, brings this action in the public interest as defined under  
9 Health and Safety Code Section 25249.7, subdivision (d).
- 10 2. Defendant EASTLAND FOOD CORPORATION (“EASTLAND”) is a Maryland  
11 Corporation qualified to do business in Maryland, and doing business in the State of  
12 California at all relevant times herein.
- 13 3. Defendant EASTLAND FOOD INTERNATIONAL CORPORATION (“EASTLAND  
14 INTL”) is a California Corporation qualified to do business in California, and doing  
15 business in the State of California at all relevant times herein.
- 16 4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-10,  
17 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
18 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
19 informed, believes, and thereon alleges that each fictitiously named defendant is  
20 responsible in some manner for the occurrences herein alleged and the damages caused  
21 thereby.
- 22 5. At all times mentioned herein, the term “Defendants” includes EASTLAND,  
23 EASTLAND INTL, and DOES 1-10.
- 24 6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
25 times mentioned herein have conducted business within the State of California.
- 26 7. Upon information and belief, at all times relevant to this action, each of the Defendants,  
27 including DOES 1-10, was an agent, servant, or employee of each of the other  
28

1 Defendants. In conducting the activities alleged in this Complaint, each of the  
2 Defendants was acting within the course and scope of this agency, service, or  
3 employment, and was acting with the consent, permission, and authorization of each of  
4 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
5 were ratified and approved by every other Defendant or their officers or managing  
6 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
7 alleged wrongful conduct of each of the other Defendants.

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

### 12 JURISDICTION

- 13 9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
14 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
15 those given by statute to other trial courts. This Court has jurisdiction over this action  
16 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
17 violations of Proposition 65 in any Court of competent jurisdiction.
- 18 10. This Court has jurisdiction over Defendants named herein because Defendants either  
19 reside or are located in this State or are foreign corporations authorized to do business in  
20 California, are registered with the California Secretary of State, or who do sufficient  
21 business in California, have sufficient minimum contacts with California, or otherwise  
22 intentionally avail themselves of the markets within California through their  
23 manufacture, distribution, promotion, marketing, or sale of their products within  
24 California to render the exercise of jurisdiction by the California courts permissible  
25 under traditional notions of fair play and substantial justice.
- 26 11. Venue is proper in the County of Alameda because one or more of the instances of  
27 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or  
28

1 because Defendants conducted, and continue to conduct, business in the County of  
2 Alameda with respect to the consumer product that is the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 12. In 1986, California voters approved an initiative to address growing concerns about  
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
10 from contamination, to allow consumers to make informed choices about the products  
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
12 fit.

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

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

24 15. Proposition 65 provides that any person "violating or threatening to violate" the statute  
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
26 25249.7. "Threaten to violate" means "to create a condition in which there is a  
27 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

28

1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

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

8 17. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
9 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
10 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
11 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
12 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
13 discharge prohibitions.

14 18. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
15 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
16 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
17 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
18 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
19 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
20 Proposition 65 warning requirements and discharge prohibitions.

21 **SATISFACTION OF PRIOR NOTICE**

22 19. Plaintiff served the following notices for alleged violations of Health and Safety Code  
23 Section 25249.6, concerning consumer products exposures:

- 24 a. On or about December 12, 2023, Plaintiff gave notice of alleged violations of  
25 Health and Safety Code Section 25249.6, concerning consumer products  
26 exposures subject to a private action to EASTLAND, EASTLAND INTL, and to  
27 the California Attorney General, County District Attorneys, and City Attorneys

1 for each city containing a population of at least 750,000 people in whose  
2 jurisdictions the violations allegedly occurred, concerning the Crispy Sardines.

3 20. 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 21. 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 22. 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 23. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
19 gave notice of the alleged violations to EASTLAND, EASTLAND INTL, and the public  
20 prosecutors referenced in Paragraph 19.

21 24. 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 EASTLAND,**  
26 **EASTLAND INTL, and DOES 1-10 for Violations of Proposition 65, The Safe**  
27 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**  
28 **25249.5, *et seq.*))**

1 **Seafood Snacks**

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

4 26. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
5 distributor, promoter, or retailer of Crispy Sardines, including but not limited to:  
6 “CHAOLAY”; “Crispy White Sardine”; “Net. WT. 3.53 Oz (100g)”; “PRODUCT OF  
7 THAILAND”; “12401101”; “UPC 083737241014”.

8 27. Crispy Sardines contain Lead.

9 28. Defendants knew or should have known that relevant chemical has been identified by the  
10 State of California as a chemical known to cause cancer, and reproductive toxicity and  
11 therefore was subject to Proposition 65 warning requirements. Defendants were also  
12 informed of the presence of Lead in Crispy Sardines within Plaintiff's notice of alleged  
13 violations further discussed above at Paragraph 19a.

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

20 30. Plaintiff is informed, believes, and thereon alleges that between December 12, 2020 and  
21 the present, each of the Defendants knowingly and intentionally exposed California  
22 consumers and users of Crispy Sardines, which Defendants manufactured, distributed, or  
23 sold as mentioned above, to Lead, without first providing any type of clear and  
24 reasonable warning of such to the exposed persons before the time of exposure.  
25 Defendants have distributed and sold Crispy Sardines in California. Defendants know  
26 and intend that California consumers will use and consume Crispy Sardines, thereby  
27 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that

28

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

10 31. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
11 Persons sustain exposures by eating and consuming Crispy Sardines.

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

18 33. 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 34. 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 Crispy Sardines, pursuant to  
23 Health and Safety Code Section 25249.7(b).

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

26 **PRAYER FOR RELIEF**

27 Plaintiff demands against each of the Defendants as follows:  
28



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

6  
7 Dated: December 10, 2024

YEROUSHALMI & YEROUSHALMI\*

8  
9  
10 */s/ Reuben Yeroushalmi*  
11 Reuben Yeroushalmi  
12 Attorneys for Plaintiff,  
13 CONSUMER ADVOCACY GROUP, INC.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28