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 Consumer Advocacy Group, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF ALAMEDA**

ENVIRONMENTAL HEALTH ADVOCATES,  
 INC.; and  
 CONSUMER ADVOCACY GROUP, INC., in  
 the public interest,

Plaintiffs,

v.

FISH TALES HOLDING B.V., a Dutch private  
 limited company;  
 SEA TALES NORTH AMERICA INC. DBA  
 SEA TALES USA, a New York Corporation;  
 and DOES 1 through 100, inclusive,

Defendants.

**ELECTRONICALLY FILED**  
 Superior Court of California  
 County of Alameda  
**04/04/2025**

Chad Finke, Executive Officer / Clerk of the Court

By: D. Franklin Deputy

Case No.: 24CV092295

**FIRST AMENDED COMPLAINT FOR  
 CIVIL PENALTIES AND INJUNCTIVE  
 RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

1. This Complaint is a representative action brought by Environmental Health Advocates, Inc. and Consumer Advocacy Group, Inc. (collectively referred to as “Plaintiffs”) in the public interest of the citizens of the State of California (“the People”). Plaintiffs seek to remedy Defendant’s failure to inform the People of exposure to lead, a known carcinogen and reproductive/developmental toxin, and cadmium, a known reproductive/developmental toxin. Defendant exposes consumers to lead by manufacturing, importing, selling, and/or distributing sardines including, but not limited to, Sea Tales Sardines in Spicy Tomato Sauce. Defendant exposes consumers to lead and cadmium by manufacturing, importing, selling, and/or distributing sardines including, but not limited to, Sea Tales Smoked Mussels in Oil (Sardines and Mussels collectively referred to as “Products”). Defendant knew and intended that customers will ingest Products containing lead and cadmium.

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

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

4. California identified and listed cadmium as a chemical known to cause developmental/reproductive toxicity on May 1, 1997.

5. Defendant failed to sufficiently warn consumers and individuals in California about potential exposure to lead and cadmium in connection with Defendant’s manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

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

**II.  
PARTIES**

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

8. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff") is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).

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9. Defendant FISH TALES HOLDING B.V. ("Fish Tales") is a private limited company organized and existing under the laws of the Netherlands. Fish Tales is registered to do business in California, and does business in the County of Alameda, within the meaning of Health and Safety Code, section 25249.11. Fish Tales manufactures, imports, sells, or distributes the Products in California and Alameda County.

10. Defendant SEA TALES NORTH AMERICA INC. DBA SEA TALES USA ("Sea Tales") is a New York Corporation, and doing business in the State of California at all relevant times herein.

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

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

**III.**  
**VENUE AND JURISDICTION**

13. 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.

14. 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. Defendant conducted and continues to conduct business in this County as it relates to Products.

15. Defendant has sufficient minimum contacts in the State of California or otherwise purposefully avails itself of the California market. Exercising jurisdiction over Defendant would be consistent with traditional notions of fair play and substantial justice.

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**IV.**  
**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**(Violation of Proposition 65 – Against all Defendants, Alleged by all Plaintiffs)**  
**Seafood Products**

16. Plaintiffs repeat and incorporate by reference paragraphs 1 through 15 of this complaint as though fully set forth herein.

17. On or about January 26, 2023 and October 12, 2023, Plaintiffs gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to SEA TALES, FISH TALES, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Sardines in Can (“Sardines”).

18. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Sardines, including but not limited to “Sea Tales”; “Seafood With A Story”; “Pilchard”; “Sardines in Water”; “Net Wt. 4.2 oz (120 g)”; “Dr. Wt. 3 oz (85 g)”; “Lot Number:

1 L282E”; “Best Before: 06/2025”; “Distributed by Sea Tales USA”; “Produced in Portugal”;  
2 “B09474RLKX”; “UPC 8 10046 53013 9”.

3 19. Sardines contain Lead.

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

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

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

27 23. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
28 Persons sustain exposures by eating and consuming Sardines.

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

7           25.     Plaintiffs are informed, believe, and thereon allege that each violation of Proposition 65  
8 mentioned herein is ever continuing. Plaintiffs further allege and believe that the violations alleged  
9 herein will continue to occur into the future.

10          26.     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 Sardines, pursuant to Health and Safety Code  
12 Section 25249.7(b).

13          27.     Plaintiffs have engaged in good faith efforts to resolve the claims alleged herein prior  
14 to filing this Complaint.

15                               **SECOND CAUSE OF ACTION**  
16                               **(Violation of Proposition 65 – Against all Defendants, Alleged solely by CAG)**  
17                               **Canned Seafood**

18          28.     CAG repeats and incorporates by reference paragraphs 1 through 27 of this complaint  
19 as though fully set forth herein.

20          29.     On or about December 22, 2023, CAG gave notice of alleged violations of Health and  
21 Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to  
22 SEA TALES, FISH TALES, and to the California Attorney General, County District Attorneys, and  
23 City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions  
24 the violations allegedly occurred, concerning the Smoked Mussels ("Mussels").

25          30.     Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
26 distributor, promoter, or retailer of Mussels, including but not limited to "SEA TALES"; "SMOKED  
27 MUSSELS IN OIL"; "NT WT 7 OZ (200g)"; "DR WT 4.2 OZ (120g)"; "UPC 810046531082".

28          31.     Mussels contain Lead and Cadmium.

32. Defendants knew or should have known that Lead and Cadmium have been identified by the State of California as a chemical known to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead and Cadmium in Mussels within CAG's notice of alleged violations further discussed above at Paragraph 29.

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

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

35. The principal routes of exposure are through ingestion, especially direct (oral) ingestion. Persons sustain exposures by eating and consuming Mussels.

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

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

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

39. CAG has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

#### PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendant as follows:

1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that damages total a minimum of \$1,000,000;
2. A preliminary and permanent injunction against Defendant from manufacturing, importing, selling, and/or distributing Products in California without providing a clear and reasonable warning as required by Proposition 65 and related Regulations;
3. Reasonable attorney's fees and costs of suit; and
4. Such other and further relief as may be just and proper.

Respectfully submitted:

Dated: March 28, 2025

ENTORNO LAW, LLP

By:





Noam Glick

Craig M. Nicholas  
Jake W. Schulte  
Janani Natarajan

Attorneys for Plaintiff  
Environmental Health Advocates, Inc.

Respectfully submitted:

Dated: March 28, 2025

**YEROUSHALMI & YEROUSHALMI\***

By: /s/ Reuben Yeroushalmi  
Reuben Yeroushalmi

Attorneys for Plaintiff  
Consumer Advocacy Group, Inc.