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David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Ayala, Deputy Clerk

6 Attorneys for Plaintiff EnviroProtect, LLC

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**

10 ENVIROPROTECT, LLC, in the public  
11 interest,

12 Plaintiff,

13 vs.

14 CITRUS BLUE COMPANY, a California  
15 Corporation; HOMEGOODS, LLC., a  
16 Delaware Limited Liability Company; and  
DOES 1 through 50, inclusive,

17 Defendants.  
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Case Number: **24STCV19140**

**COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES**

**Violation of Proposition 65, the Safe  
Drinking Water and Toxic Enforcement Act  
of 1986 (Health and Safety Code § 25249.5 et  
seq.)**

19  
20 Plaintiff EnviroProtect, LLC (“EP” or “Plaintiff”), in the public interest, alleges as follows  
21 as to matters within its own knowledge, and on information and belief as to all other matters:  
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**INTRODUCTION**

23 1. This action seeks to remedy the alleged failure of the Citrus Blue Company (“CITRUS  
24 BLUE”) or (“Defendant”), HomeGoods, LLC (“HomeGoods”), and DOES 1-50 (hereinafter  
25 collectively as “Defendants”) to warn consumers in California that they are being exposed to  
26 lead, a substance known to the State of California to cause cancer and  
27 developmental/reproductive toxicity. Plaintiff alleges such exposures have occurred through the  
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1 manufacture, distribution, sale, and consumer consumption of certain of Defendants' products  
2 including the "Organic Matcha Superfood Mix" (the "Product" or "Products"). California  
3 consumers are directly exposed to lead through the ingestion of the Products.

4 2. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and  
5 Safety Code Section 25249.5 *et seq.* (hereinafter "Proposition 65"), it is unlawful for businesses  
6 to knowingly and intentionally expose individuals in California to chemicals known to the State  
7 to cause cancer and/or birth defects or other reproductive harm above the safe harbor levels,  
8 which include the No Significant Risk Levels ("NSRLs") and/or Maximum Allowable Dose  
9 Levels ("MADLs") without providing "clear and reasonable" warnings to individuals prior to  
10 their exposure.

11 3. Despite the fact that Defendants' Products allegedly expose consumers to levels of lead  
12 above the listed MADLs, Plaintiff contends that Defendants failed to provide any warnings  
13 whatsoever about the carcinogenic and reproductive hazards associated with lead exposure.  
14 Moreover, Defendants' manufacture, packaging, distribution, marketing, and/or sales of the  
15 Products without the required health hazard warnings, causes consumers to be involuntarily,  
16 unknowingly, and unwittingly exposed to levels of lead that violate Proposition 65. Thus,  
17 Defendants' conduct subjects them to civil penalties and injunctive relief.

#### 18 **JURISDICTION AND VENUE**

19 4. This Court has jurisdiction over this action pursuant to Cal. Health & Safety Code §  
20 25249.7, which allows enforcement in any court of competent jurisdiction. The California  
21 Superior Court has jurisdiction over this action pursuant to California Constitution Article VI,  
22 Section 10, which grants the Superior Court "original jurisdiction in all cases except those given  
23 by statute to other trial courts." The statute under which this is brought does not specify any other  
24 court with jurisdiction.

25 5. This Court has jurisdiction over Defendants because they are business entities that do  
26 sufficient business, have sufficient minimum contacts, or otherwise intentionally avails themselves  
27 of the California market through the sale, marketing, or use of the Products in the California  
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1 market and/or by having such other contact with California so as to render the exercise of  
2 jurisdiction over them by the California courts consistent with traditional notions of fair play and  
3 substantial justice.

4 6. Venue is proper in this Court because, upon information and belief, one or more of the  
5 violations arise in Los Angeles County.

6 **THE PARTIES**

7 7. EP is a limited liability company organized under the laws of California acting in the  
8 interest of the general public seeking to further, among other causes, the protection of the  
9 environment, awareness of dangerous chemicals in consumer products, and corporate  
10 accountability. EP is a “person” within the meaning of Cal. Health & Safety Code § 25249.11(a)  
11 and brings this enforcement action in the public interest pursuant to Cal. Health & Safety Code §  
12 25249.7(d).

13 8. EP is informed and believes, and thereon alleges, that defendant CITRUS BLUE is a  
14 California Corporation that supplies food products to various retail stores in the state of California  
15 as well as ships such products directly to California consumers. CITRUS BLUE is a “person in  
16 the course of doing business” within the meaning of Cal. Health & Safety Code § 25249.11(b).  
17 CITRUS BLUE is subject to Proposition 65 as it employs ten or more persons and has employed  
18 ten or more persons at all relevant times to this action.

19 9. EP is informed and believes, and thereon alleges, that HomeGoods is a Delaware entity,  
20 which has distributed and sold numerous Products into the state of California. HomeGoods is a  
21 “person in the course of doing business” within the meaning of Cal. Health & Safety Code §  
22 25249.11(b)

23 10. EP is unaware of the true names or capacities of the Defendants sued herein under the  
24 fictitious names DOES 1-50 but prays for leave to amend and serve such fictitiously named  
25 Defendants pursuant to California Code of Civil Procedure § 474, once their names and capacities  
26 become known.

1 11. EP is informed and believes, and thereon alleges, that each and all of the acts and  
2 omissions alleged herein were performed by, or are attributable to, Defendants and DOES 1-50,  
3 each acting as the agent for the other, with legal authority to act on the other's behalf. Upon  
4 information and belief, the acts of Defendants were in accordance with, and represent the official  
5 policies of Defendants.

6 12. At all times herein mentioned, upon information and belief, the Defendants, and each of  
7 them, ratified each and every act or omission complained of herein. At all times herein  
8 mentioned, upon information and belief, Defendants, and each of them, aided and abetted the acts  
9 and omissions of each and all the other Defendants proximately causing the damages herein  
10 alleged.

11 13. EP is informed and believes, and thereon alleges, that each of the Defendants is in some  
12 manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences,  
13 and transactions alleged herein.

14 **STATUTORY AND REGULATORY BACKGROUND**

15 14. The People of the State of California declared in Proposition 65 their right "[t]o be  
16 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
17 harm." (Section 1(b) of Initiative Measure, Proposition 65).

18 15. To effectuate this goal, Proposition 65 requires that individuals be provided with a "clear  
19 and reasonable warning" before being exposed to substances listed by the State of California as  
20 causing cancer or reproductive toxicity. Cal. Health and Safety Code §25249.6 states, in pertinent  
21 part:

22 No person in the course of doing business shall knowingly and  
23 intentionally expose any individual to a chemical known to the  
24 state to cause cancer or reproductive toxicity without first giving  
25 clear and reasonable warning to such individual....

26 16. A product exposure to a chemical is one that "results from a person's acquisition,  
27 purchase, storage, consumption, or other reasonably foreseeable use of a product . . . ." 27 C.C.R.  
28 §25600(h).

1 17. In this case, the exposures are caused by consumption of food. Consumer products are  
2 defined as “any article, or component part thereof, including food, that is produced, distributed, or  
3 sold for the personal use, consumption or enjoyment of a consumer.” 27 C.C.R. §25102(i).

4 18. Proposition 65 provides that any “person who violates or threatens to violate” the statute  
5 may be enjoined in a court of competent jurisdiction. Cal. Health & Safety Code §25249.7. The  
6 phrase “threaten to violate” is defined to mean creating “a condition in which there is a substantial  
7 probability that a violation will occur” Cal. Health & Safety Code §25249.11(e). Violators are  
8 liable for civil penalties of up to \$2,500 per day for each violation of the Act. Cal. Health &  
9 Safety Code §25249.7.

10 19. On February 27, 1987, the State of California officially listed lead as a chemical known to  
11 cause developmental toxicity in the fetus and male and female reproductive toxicity. On October  
12 1, 1992, the State of California officially listed lead as a chemical known to cause cancer. One  
13 year after lead was listed as a chemical known to cause cancer and reproductive/developmental  
14 toxicity, lead became subject to the clear and reasonable warning requirement under Proposition  
15 65. 27 C.C.R. §27001(c); Cal. Health & Safety Code §25249.10(b). Due to the toxicity of lead,  
16 the California Office of Environmental Health Hazard Assessment (“OEHHA”) set the NSRL for  
17 lead as a carcinogen at 15 micrograms per day and a MADL for lead as a chemical known to cause  
18 reproductive toxicity at 0.5 micrograms per day.

19 **STATEMENT OF RELEVANT FACTS**

20 20. EP purchased the Product in January 2024.

21 21. To test Defendants’ Product for lead, EP engaged a well-respected and accredited testing  
22 laboratory to determine the amount of lead contained in the Products pursuant to testing methods  
23 adopted by the Federal Consumer Products Safety Commission. The testing revealed that the  
24 Product had levels of lead that Plaintiff believes would result in exposure of lead to consumers far  
25 higher than the limit proscribed by MADL.

1 22. Plaintiff alleges that Defendants' Products contain sufficient quantities of lead such that  
2 individuals who ingest the Products are exposed to significant amounts of lead through the  
3 average and intended use of the Products.

4 23. Plaintiff alleges that Defendants know and intend that consumers will use the Products in  
5 the manner stated above and that they will be exposed to any chemicals such as lead that exist in  
6 the Products.

7 24. At all times relevant to this action, Defendants, therefore, have knowingly and  
8 intentionally exposed the consumers of the Products to lead without first giving a clear and  
9 reasonable warning to such individuals.

10 25. EP is informed and believes, and thereon alleges, that Defendants have, since at least  
11 January 2024, and continuing through the present, exposed consumers to lead without providing  
12 clear and reasonable warnings regarding the carcinogenic and reproductive hazards of ingesting  
13 lead.

14 26. As a proximate result of acts by Defendants, as persons in the course of doing business  
15 within the meaning of Health & Safety Code §25249.11, Plaintiff alleges they have subjected  
16 consumers to violative exposures through the normal and foreseeable use of the Products.

17 27. Any person acting in the public interest has standing to enforce violations of Proposition  
18 65 provided that such person has supplied the requisite public enforcers with a valid 60-Day  
19 Notice of Violation and such public enforcers are not diligently prosecuting the action with such  
20 time. Cal. Health & Safety Code §25249.7(d).

21 28. On January 24, 2024, EP provided a "60-Day Notice of Violations of California Health &  
22 Safety Code Section 25249.5 et seq." ("Notice") to the California Attorney General, the District  
23 Attorneys of every county in California, and the City Attorneys of every California city with a  
24 population greater than 750,000 where EP alleges a violation occurred. Defendants were also  
25 provided a copy of the Notice. The Notice included, *inter alia*, the following information: the  
26 name, address, and telephone number of the noticing individual; the name of the alleged violator;  
27 the statute violated; the approximate time period during which violations occurred; and  
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1 descriptions of the violations including the chemicals involved, the routes of toxic exposure, and  
2 the specific product or type of product causing the violations. The Notice package to Defendants  
3 also included the most recent version of Appendix A, the Final Adopted Regulatory Text for Title  
4 27 of the California Code of Regulations, Section 5903 as amended. In compliance with  
5 California Health & Safety Code § 25249.7(d) and 11 C.C.R. §3102, EP provided factual  
6 information – on a confidential basis – to the Attorney General sufficient to satisfy the basis for  
7 the Certificate of Merit, including the testing performed by EP, and/or its litigation consultants,  
8 and the facts, studies, or other data supporting the Certificate.

9 29. After expiration of the sixty (60) day notice period, the appropriate public enforcement  
10 agencies have failed to commence and diligently prosecute a cause of action under California  
11 Health & Safety Code §25249.5 *et seq.* against Defendants based on the allegations herein.

12 30. EP has engaged in good faith efforts to resolve the claims alleged herein prior to filing this  
13 complaint. However, the parties were unable to reach a resolution.

14 **FIRST CAUSE OF ACTION**

15 **(Injunctive Relief Pursuant to Cal. Health & Safety Code §25249.5 *et seq.*)**

16 31. EP incorporates by reference and re-alleges as if fully stated herein the material allegations  
17 set out in paragraphs 1 through 30, inclusive.

18 32. By committing the acts alleged in this Complaint, Plaintiff alleges that Defendants at all  
19 times relevant to this action, and continuing through the present, have violated California Health  
20 & Safety Code §25249.6 by, in the course of doing business, knowingly and intentionally  
21 exposing individuals in California to chemicals known to the State of California to cause cancer or  
22 reproductive toxicity without first giving clear and reasonable warnings to such persons who  
23 consume the Products containing lead, pursuant to California Health & Safety Code §§25249.6  
24 and 25249.11(f).

25 33. By the above-described acts, Plaintiff alleges Defendants have violated California Health  
26 & Safety Code §25249.6 and are therefore subject to preliminary and permanent injunctions  
27 ordering Defendants to stop violating Proposition 65, to provide warnings to all present and future  
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1 customers, and to provide warnings to Defendants' past customers who purchased or used the  
2 Products without receiving a clear and reasonable warning.

3 34. An action for injunctive relief under Proposition 65 is specifically authorized by California  
4 Health & Safety Code §25249.7(a).

5 35. Plaintiff alleges that Defendant's actions in selling the Products without clear and  
6 reasonable warnings will irreparably harm the citizens of the State of California, for which harm  
7 they have no plain, speedy, or adequate remedy at law.

8 36. In the absence of preliminary and then permanent injunctive relief, Plaintiff alleges that  
9 Defendants will continue to create a substantial risk of irreparable injury by continuing to cause  
10 consumers to be involuntarily, unknowingly, and unwittingly exposed to lead through the  
11 consumption of the Products.

12 **SECOND CAUSE OF ACTION**

13 **(Civil Penalties Pursuant to Cal. Health & Safety Code §25249.5 *et seq*)**

14 37. EP incorporates by reference and re-alleges as if fully stated herein the material allegations  
15 set out in paragraphs 1 through 36, inclusive.

16 38. By committing the acts alleged in this Complaint, Plaintiff alleges Defendants at all times  
17 relevant to this action, and continuing through the present, have violated California Health &  
18 Safety Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing  
19 individuals in California to chemicals known to the State of California to cause cancer or  
20 reproductive toxicity without first giving clear and reasonable warnings to such persons who  
21 consume the Products containing lead, pursuant to California Health & Safety Code §§25249.6  
22 and 25249.11(f).

23 39. By engaging in the above-described acts, Plaintiff alleges Defendants are liable, pursuant  
24 to California Health & Safety Code §25249.7(b), for a civil penalty of up to \$2,500 per day per  
25 violation for each unlawful exposure to lead from the Products in an amount in excess of \$1  
26 million.



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**PRAYER FOR RELIEF**

WHEREFORE, EP prays for relief and judgment against Defendants, and each of them, as follows:

**As to the Causes of Action**

1. A preliminary and permanent injunction, pursuant to California Health & Safety Code Code §25249.7(a), enjoining Defendants, their agents, employees, assigns and all persons acting in concert or participating with Defendants, from manufacturing, distributing, marketing, or selling the Products in California without either reformulating the Products or providing a clear and reasonable warning, within the meaning of Proposition 65, that consumers of the Products are exposed to lead;

2. An Order pursuant to California Health & Safety Code §25249.7(a) compelling Defendants to use best methods to identify and locate each individual who purchased the Products during the statutory period, and to provide a warning to such person that the use of the Products will expose them to chemicals known to cause cancer and/or reproductive toxicity;

3. An assessment of civil penalties pursuant to California Health & Safety Code §25249.7(b) against Defendants in the amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

4. For an award to EP of its reasonable attorneys’ fees and costs of suit incurred herein; and

5. For such equitable or other relief as the Court may deem just and proper.

Dated: July 31, 2024

AXS LAW GROUP LA LLP



James Kawahito  
Attorneys for Plaintiff  
ENVIROPROTECT, LLC