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CONSUMER ADVOCACY GROUP, INC.

FILED
Superior Court of California
County of Los Angeles

06/23/2025

David W. Stryker, Executive Officer / Clerk of Court

By: R. Lee Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

BRISTOL FARMS, a California
Corporation;
UNITED NATURAL FOODS, INC., a
Delaware Corporation;
and DOES 1-20,

Defendants.

CASE NO. 24STCV21138

SECOND AMENDED 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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
against defendants BRISTOL FARMS, UNITED NATURAL FOODS, INC., and DOES 1-20
as follows:

THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) 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).
2. Defendant BRISTOL FARMS (“BRISTOL” or “BRISTOL FARMS”) is a California Corporation qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant UNITED NATURAL FOODS, INC. (“UNFI”) is a Delaware Corporation qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
5. At all times mentioned herein, the term “Defendants” includes BRISTOL, UNFI, and DOES 1-20.
6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-20, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of

1 the other Defendants. All actions of each of the Defendants alleged in this Complaint
2 were ratified and approved by every other Defendant or their officers or managing
3 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
4 alleged wrongful conduct of each of the other Defendants. UNFI was the middle-man
5 supplier which transports the products from the manufacturer of the product Seasnax
6 LLC to the retailer Bristol Farms who then sold the products to California consumers.

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

11 **JURISDICTION**

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

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

16. Plaintiff identified certain practices of manufacturers and distributors of Seaweed Chips of exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium Compounds, of such products without first providing clear and reasonable warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

17. On October 1, 1987 the Governor of California added Cadmium and Cadmium Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known to the State to cause cancer, Cadmium became fully subject to Proposition 65 warning requirements and discharge prohibitions.

18. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known to the State to cause developmental and reproductive toxicity, Cadmium became fully subject to Proposition 65 warning requirements and discharge prohibitions.

SATISFACTION OF PRIOR NOTICE

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

- a. On or about February 29, 2024, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to BRISTOL, and to the California Attorney General, County District Attorneys, and City Attorneys for each city

1 containing a population of at least 750,000 people in whose jurisdictions the
2 violations allegedly occurred, concerning the Seaweed Chips I.

3 i. On or about October 16, 2024, Plaintiff gave notice of alleged violations
4 of Health and Safety Code Section 25249.6, concerning consumer
5 products exposures subject to a private action to UNFI, and to the
6 California Attorney General, County District Attorneys, and City
7 Attorneys for each city containing a population of at least 750,000
8 people in whose jurisdictions the violations allegedly occurred,
9 concerning the Seaweed Chips I.

10 b. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to BRISTOL, and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a
14 population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Seaweed Chips I.

16 i. On or about October 22, 2024, Plaintiff gave notice of alleged violations
17 of Health and Safety Code Section 25249.6, concerning consumer
18 products exposures subject to a private action to UNFI, and to the
19 California Attorney General, County District Attorneys, and City
20 Attorneys for each city containing a population of at least 750,000
21 people in whose jurisdictions the violations allegedly occurred,
22 concerning the Seaweed Chips I.

23 c. On or about February 29, 2024, 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 BRISTOL, and to the California
26 Attorney General, County District Attorneys, and City Attorneys for each city
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1 containing a population of at least 750,000 people in whose jurisdictions the
2 violations allegedly occurred, concerning the Seaweed Chips II.

3 i. On or about October 16, 2024, Plaintiff gave notice of alleged violations
4 of Health and Safety Code Section 25249.6, concerning consumer
5 products exposures subject to a private action to UNFI, and to the
6 California Attorney General, County District Attorneys, and City
7 Attorneys for each city containing a population of at least 750,000
8 people in whose jurisdictions the violations allegedly occurred,
9 concerning the Seaweed Chips II.

10 d. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to BRISTOL, and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a
14 population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Seaweed Chips II.

16 i. On or about October 22, 2024, Plaintiff gave notice of alleged violations
17 of Health and Safety Code Section 25249.6, concerning consumer
18 products exposures subject to a private action to UNFI, and to the
19 California Attorney General, County District Attorneys, and City
20 Attorneys for each city containing a population of at least 750,000
21 people in whose jurisdictions the violations allegedly occurred,
22 concerning the Seaweed Chips II.

23 20. Before sending the notice of alleged violations, Plaintiff investigated the consumer
24 products involved, the likelihood that such products would cause users to suffer
25 significant exposures to Cadmium, and the corporate structure of each of the Defendants.

26 21. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
27 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
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1 Plaintiff who executed the certificate had consulted with at least one person with relevant
2 and appropriate expertise who reviewed data regarding the exposures to Cadmium, the
3 subject Proposition 65-listed chemical of this action. Based on that information, the
4 attorney for Plaintiff who executed the Certificate of Merit believed there was a
5 reasonable and meritorious case for this private action. The attorney for Plaintiff
6 attached to the Certificate of Merit served on the Attorney General the confidential
7 factual information sufficient to establish the basis of the Certificate of Merit.

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

11 23. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
12 gave notice of the alleged violations to BRISTOL, UNFI, and the public prosecutors
13 referenced in Paragraph 19.

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

17 **FIRST CAUSE OF ACTION**

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

21 **Seaweed I**

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

24 26. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of **Seaweed Chips I**, including but not limited to
26 "SeaSnax"; "CHOMPERZ"; "CRUNCHY SEAWEED CHIPS"; "Original"; "Naturally
27 Delicious!"; "1 oz (30g)"; "Manufactured for: SeaSnax"; "Product of Korea"; "SCH-
28 SNK-ORI"; "UPC 811201020205".

1 27. Seaweed Chips I contain Cadmium.

2 28. Defendants knew or should have known that Cadmium has been identified by the State
3 of California as a chemical known to cause cancer, and Cadmium and therefore was
4 subject to Proposition 65 warning requirements. Defendants were also informed of the
5 presence of Cadmium in Seaweed Chips I within Plaintiff's notice of alleged violations
6 further discussed above at Paragraph 19a and 19b.

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

13 30. Plaintiff is informed, believes, and thereon alleges that between February 29, 2021 and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Seaweed Chips I, which Defendants manufactured, distributed,
16 or sold as mentioned above, to Cadmium, without first providing any type of clear and
17 reasonable warning of such to the exposed persons before the time of exposure.
18 Defendants have distributed and sold Seaweed Chips I in California. Defendants know
19 and intend that California consumers will use and consume Seaweed Chips I, thereby
20 exposing them to Cadmium. Additionally, CAG's investigations show that Defendant
21 Bristol Farms has also sold the product online through its website, to California
22 consumers, without a Proposition 65 warning. CAG has purchased Seaweed products
23 sold by Bristol Farms on its website, without a Proposition 65 warning. Plaintiff believes
24 and thereon alleges that Bristol Farms has failed to provide Proposition 65 warnings for
25 the sales of Seaweed Chips I containing Cadmium, to California consumers, through its
26 website. Moreover, Bristol Farms as the retailer of the product is also liable for
27 injunctive relief as Seasnax LLC, the manufacturer which claims to have less than ten
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(10) employees, has refused to provide warnings on the product and Bristol Farms is the entity selling to California consumers. Defendants thereby violated Proposition 65.

31. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.

Persons sustain exposures by eating and consuming Seaweed Chips I.

32. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Seaweed Chips I 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 Seaweed Chips I, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Cadmium by Seaweed Chips I as mentioned herein.

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

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

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

SECOND CAUSE OF ACTION

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

Seaweed II

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

37. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of **Seaweed Chips II**, including but not limited to

1 “SeaSnax”; “CHOMPERZ”; “CRUNCHY SEAWEED CHIPS”; “Onion”; “Naturally
2 Delicious!”; “1 oz (30g)”; “Manufactured for: SeaSnax”; “Product of Korea”; “SCH-
3 SNK-ONN”; “UPC 811201020212”.

4 38. Seaweed Chips II contain Cadmium.

5 39. Defendants knew or should have known that Cadmium has been identified by the State
6 of California as a chemical known to cause cancer, and Cadmium and therefore was
7 subject to Proposition 65 warning requirements. Defendants were also informed of the
8 presence of Cadmium in Seaweed Chips II within Plaintiff’s notice of alleged violations
9 further discussed above at Paragraph 19c and 19d.

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

16 41. Plaintiff is informed, believes, and thereon alleges that between February 29, 2021 and
17 the present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Seaweed Chips II, which Defendants manufactured, distributed,
19 or sold as mentioned above, to Cadmium, without first providing any type of clear and
20 reasonable warning of such to the exposed persons before the time of exposure.

21 Defendants have distributed and sold Seaweed Chips II in California. Defendants know
22 and intend that California consumers will use and consume Seaweed Chips II, thereby
23 exposing them to Cadmium. Additionally, CAG’s investigations show that Defendant
24 Bristol Farms has also sold the product online through its website, to California
25 consumers, without a Proposition 65 warning. CAG has purchased Seaweed products
26 sold by Bristol Farms on its website, without a Proposition 65 warning. Plaintiff believes
27 and thereon alleges that Bristol Farms has failed to provide Proposition 65 warnings for
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1 the sales of Seaweed Chips I containing Cadmium, to California consumers, through its
2 website. Moreover, Bristol Farms as the retailer of the product is also liable for
3 injunctive relief as Seasnax LLC, the manufacturer which claims to have less than ten
4 (10) employees, has refused to provide warnings on the product and Bristol Farms is the
5 entity selling to California consumers. Defendants thereby violated Proposition 65.

6 42. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.

7 Persons sustain exposures by eating and consuming Seaweed Chips II.

8 43. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
9 Proposition 65 as to Seaweed Chips II have been ongoing and continuous, as Defendants
10 engaged and continue to engage in conduct which violates Health and Safety Code
11 Section 25249.6, including the manufacture, distribution, promotion, and sale of
12 Seaweed Chips II, so that a separate and distinct violation of Proposition 65 occurred
13 each and every time a person was exposed to Cadmium by Seaweed Chips II as
14 mentioned herein.

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

18 45. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to Cadmium from Seaweed Chips II, pursuant
20 to Health and Safety Code Section 25249.7(b).

21 46. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
22 filing this Complaint.

23 **PRAYER FOR RELIEF**

24 Plaintiff demands against each of the Defendants as follows:

- 25 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 26 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
- 27 3. Costs of suit;
- 28 4. Reasonable attorney fees and costs; and

5. Any further relief that the court may deem just and equitable.

Dated: June 23, 2025

YERUSHALMI & YERUSHALMI*

/s/ Reuben Yeroushalmi

Reuben Yeroushalmi

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.