

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

09/20/2024 at 03:24:38 PM

By: Damaree Franklin,
Deputy Clerk

ENTORNO LAW, LLP

Noam Glick (SBN 251582)
Craig M. Nicholas (SBN 178444)
Jake W. Schulte (SBN 293777)
Janani Natarajan (SBN 346770)

225 Broadway, Suite 1900
San Diego, California 92101
Tel: (619) 629-0527
Email: noam@entornolaw.com
Email: craig@entornolaw.com
Email: jake@entornolaw.com
Email: janani@entornolaw.com

Attorneys for Plaintiff
Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

HANSCOMB & MARRA INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: **24CV092524**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1
2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendant’s failure to inform the People of exposure to cadmium, a known
5 developmental/reproductive toxin. Defendant exposes consumers to cadmium by manufacturing,
6 importing, selling, and/or distributing flax seeds including, but not limited to, Flax Seed, Whole - 1 Lb
7 (“Products”). Defendant knows and intends that customers will ingest Products containing cadmium.

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

13 3. California identified and listed cadmium as a chemical known to cause developmental/
14 reproductive toxicity as early as May 1, 1997.

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

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

II.
PARTIES

22
23 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
24 corporation in the State of California dedicated to protecting the health of California citizens through
25 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
26 interest pursuant to Health and Safety Code, section 25249.7.

27 ///

28 ///

1 **IV.**
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

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

8 15. Defendant manufactured, imported, sold, and/or distributed Products containing
9 cadmium in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and
10 believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to
11 occur into the future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendant failed to
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
14 to cadmium through reasonably foreseeable use of the Products.

15 17. Products expose individuals to cadmium through direct ingestion. This exposure is a
16 natural and foreseeable consequence of Defendant placing Products into the stream of commerce. As
17 such, Defendant intends that consumers will ingest Products, exposing them to cadmium.

18 18. Defendant knew or should have known that the Products contained cadmium and
19 exposed individuals to cadmium in the ways provided above. The Notice informed Defendant of the
20 presence of cadmium in the Products. Likewise, media coverage concerning cadmium and related
21 chemicals in consumer products provided constructive notice to Defendant.

22 19. Defendant's actions in this regard were deliberate and not accidental.

23 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
24 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
25 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
26 The Notice alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in
27 California of the health hazards associated with exposures to cadmium contained in the Products.

28 21. The appropriate public enforcement agencies provided with the Notice failed to
commence and diligently prosecute a cause of action against Defendant.

