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Superior Court of California,
County of Alameda

01/21/2025 at 04:13:00 PM

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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 KOREAN FARM, LLC, a Maryland Limited
17 Liability Company;
18 RHEE BROS., LLC, a Maryland Limited
19 Liability Company;
20 AMAZON.COM SERVICES, LLC, a
21 Delaware Limited Liability Company;
22 AMAZON.COM, INC., a Delaware
23 Corporation;
24 and DOES 1-10,

25 Defendants.

CASE NO. **25CV107624**

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)

26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges one cause of action against
27 defendants KOREAN FARM, LLC; RHEE BROS., LLC; AMAZON.COM SERVICES, LLC;
28 AMAZON.COM, INC., and DOES 1-10 as follows:

THE PARTIES

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

- 1 8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
2 times mentioned herein have conducted business within the State of California.
- 3 9. Upon information and belief, at all times relevant to this action, each of the Defendants,
4 including DOES 1-10, was an agent, servant, or employee of each of the other
5 Defendants. In conducting the activities alleged in this Complaint, each of the
6 Defendants was acting within the course and scope of this agency, service, or
7 employment, and was acting with the consent, permission, and authorization of each of
8 the other Defendants. All actions of each of the Defendants alleged in this Complaint
9 were ratified and approved by every other Defendant or their officers or managing
10 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
11 alleged wrongful conduct of each of the other Defendants.
- 12 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
13 Defendants was a person doing business within the meaning of Health and Safety Code
14 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
15 employees at all relevant times.

16 **JURISDICTION**

- 17 11. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
18 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
19 those given by statute to other trial courts. This Court has jurisdiction over this action
20 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
21 violations of Proposition 65 in any Court of competent jurisdiction.
- 22 12. This Court has jurisdiction over Defendants named herein because Defendants either
23 reside or are located in this State or are foreign corporations authorized to do business in
24 California, are registered with the California Secretary of State, or who do sufficient
25 business in California, have sufficient minimum contacts with California, or otherwise
26 intentionally avail themselves of the markets within California through their
27 manufacture, distribution, promotion, marketing, or sale of their products within
28

1 California to render the exercise of jurisdiction by the California courts permissible
2 under traditional notions of fair play and substantial justice.

3 13. Venue is proper in the County of Alameda because one or more of the instances of
4 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or
5 because Defendants conducted, and continue to conduct, business in the County of
6 Alameda with respect to the consumer product that is the subject of this action.

7 **BACKGROUND AND PRELIMINARY FACTS**

8 14. In 1986, California voters approved an initiative to address growing concerns about
9 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
10 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
11 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
12 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
13 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
14 from contamination, to allow consumers to make informed choices about the products
15 they buy, and to enable persons to protect themselves from toxic chemicals as they see
16 fit.

17 15. Proposition 65 requires the Governor of California to publish a list of chemicals known
18 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
19 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
20 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
21 other controls that apply to Proposition 65-listed chemicals.

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

28

1 17. Proposition 65 provides that any person "violating or threatening to violate" the statute
2 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
3 25249.7. "Threaten to violate" means "to create a condition in which there is a
4 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
5 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
6 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

7 18. Plaintiff identified certain practices of manufacturers and distributors of Roasted Laver
8 of exposing, knowingly and intentionally, persons in California to Lead and Lead
9 Compounds, Cadmium and Cadmium Compounds of such products without first
10 providing clear and reasonable warnings of such to the exposed persons prior to the time
11 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

12 19. On October 1, 1992, the Governor of California added Lead and Lead Compounds
13 ("Lead") to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
14 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
15 twenty (20) months after addition of Lead to the list of chemicals known to the State to
16 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
17 discharge prohibitions.

18 20. On February 27, 1987, the Governor of California added Lead to the list of chemicals
19 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
20 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
21 male reproductive toxicity.

22 21. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months
23 after addition of Lead to the list of chemicals known to the State to cause developmental
24 and reproductive toxicity, Lead became fully subject to Proposition 65 warning
25 requirements and discharge prohibitions.

26 22. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
27 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*

28

1 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
2 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
3 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
4 to the State to cause developmental and reproductive toxicity, Cadmium became fully
5 subject to Proposition 65 warning requirements and discharge prohibitions.

6
7 **SATISFACTION OF PRIOR NOTICE**

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

- 10 a. On or about August 27, 2024, Plaintiff gave notice of alleged violations of
11 Health and Safety Code Section 25249.6, concerning consumer products
12 exposures subject to a private action to KOREAN FARM, RHEE BROS,
13 AMAZON SERVICES, AMAZON, and to the California Attorney General,
14 County District Attorneys, and City Attorneys for each city containing a
15 population of at least 750,000 people in whose jurisdictions the violations
16 allegedly occurred, concerning the Roasted Laver.
- 17 b. On or about September 3, 2024, Plaintiff gave notice of alleged violations of
18 Health and Safety Code Section 25249.6, concerning consumer products
19 exposures subject to a private action to KOREAN FARM, RHEE BROS,
20 AMAZON SERVICES, AMAZON, and to the California Attorney General,
21 County District Attorneys, and City Attorneys for each city containing a
22 population of at least 750,000 people in whose jurisdictions the violations
23 allegedly occurred, concerning the Roasted Laver.

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

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

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

14 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
15 gave notice of the alleged violations to KOREAN FARM, RHEE BROS, AMAZON
16 SERVICES, AMAZON, and the public prosecutors referenced in Paragraph 23.

17 28. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
18 any applicable district attorney or city attorney has commenced and is diligently
19 prosecuting an action against the Defendants.

20
21 **FIRST CAUSE OF ACTION**

22 **(By CONSUMER ADVOCACY GROUP, INC. and against KOREAN FARM,
23 RHEE BROS, AMAZON SERVICES, AMAZON, and DOES 1-10 for Violations
24 of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986
(Health & Safety Code, §§ 25249.5, et seq.))**

25 **Laver**

26 29. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
27 as though fully set forth herein.
28

1 30. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Roasted Laver (“Laver”), including but not limited to:
3 “Roasted & Seasoned Laver”; “ASSI BRAND”; “2024.10.26”; “NET WT./PODS NET
4 0.17 oz (5g)”; “IMPORTED BY RHEE BROS., INC.”; “UPC 081652071631”;
5 “PRODUCT OF KOREA”; “KOREAN FARM, INC.”.

6 31. Laver contains Lead and Cadmium.

7 32. Defendants knew or should have known that Lead has been identified by the State of
8 California as a chemical known to cause cancer, and that Lead and Cadmium have been
9 identified by the State of California as chemicals known to cause developmental and
10 reproductive toxicity and therefore were subject to Proposition 65 warning requirements.
11 Defendants were also informed of the presence of Lead and Cadmium in Laver within
12 Plaintiff’s notice of alleged violations further discussed above at Paragraph 23a and 23b.

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

19 34. Plaintiff is informed, believes, and thereon alleges that between August 27, 2021, and the
20 present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of Laver, which Defendants manufactured, distributed, or sold as
22 mentioned above, to Lead and Cadmium, without first providing any type of clear and
23 reasonable warning of such to the exposed persons before the time of exposure.
24 Defendants have distributed and sold Laver in California. Defendants know and intend
25 that California consumers will use and consume Laver, thereby exposing them to Lead
26 and Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
27 Defendants are selling Laver under a brand or trademark that is owned or licensed by the
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1 Defendants or an entity affiliated thereto; have knowingly introduced Lead and
2 Cadmium into Laver or knowingly caused Lead and Cadmium to be created in Laver;
3 have covered, obscured or altered a warning label that has been affixed to Laver by the
4 manufacturer, producer, packager, importer, supplier or distributor of Laver; have
5 received a notice and warning materials for exposure from Laver without conspicuously
6 posting or displaying the warning materials; and/or have actual knowledge of potential
7 exposure to Lead and Cadmium from Laver. Defendants thereby violated Proposition 65.
8 35. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
9 Persons sustain exposures by eating and consuming Laver.
10 36. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
11 Proposition 65 as to Laver have been ongoing and continuous, as Defendants engaged
12 and continue to engage in conduct which violates Health and Safety Code Section
13 25249.6, including the manufacture, distribution, promotion, and sale of Laver, so that a
14 separate and distinct violation of Proposition 65 occurred each and every time a person
15 was exposed to Lead and Cadmium by Laver as mentioned herein.
16 37. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
17 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
18 violations alleged herein will continue to occur into the future.
19 38. Based on the allegations herein, Defendants are liable for civil penalties of up to
20 \$2,500.00 per day per individual exposure to Lead and Cadmium from Laver, pursuant
21 to Health and Safety Code Section 25249.7(b).
22 39. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
23 filing this Complaint.

24 **PRAYER FOR RELIEF**

25 Plaintiff demands against each of the Defendants as follows:

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

- 1 4. Reasonable attorney fees and costs; and
2 5. Any further relief that the court may deem just and equitable.
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5 Dated: January 21, 2025

YEROUSHALMI & YEROUSHALMI*

6 */s/ Reuben Yeroushalmi*

7 Reuben Yeroushalmi
8 Attorneys for Plaintiff,
9 CONSUMER ADVOCACY GROUP, INC.
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