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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

01/21/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 PETRAGEOUS DESIGNS, LIMITED,
15 CENTINELA FEED, INC.,

16 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

CGC-25-621600

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

17 Plaintiff Gabriel Espinoza (“Plaintiff”), by and through his attorneys, alleges the following
18 cause of action in the public interest of the citizens of the State of California.

19 **BACKGROUND OF THE CASE**

20 1. Plaintiff brings this representative action on behalf of all California citizens to
21 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
22 the Health and Safety Code § 25249.5 et seq (“Proposition 65”), which reads, in relevant part,
23 “[n]o person in the course of doing business shall knowingly and intentionally expose any
24 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
25 giving clear and reasonable warning to such individual ...”. Health & Safety Code § 25249.6.

26 2. This complaint is a representative action brought by Plaintiff in the public interest
27 of the citizens of the State of California to enforce the People’s right to be informed of the health
28 hazards caused by exposure to lead, a toxic chemical found in Petrageous Designs ceramic bowls,
UPC # 844534016775 and UPC # 844534016683, sold and/or distributed by defendants

1 Petrageous Designs, Limited and Centinela Feed, Inc. (collectively, “Defendants” and each a
2 “Defendant”) in California.

3 3. Lead is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as
5 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
6 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
7 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
8 cause birth defects or other reproductive harm.

9 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
10 within California or sell products therein to comply with Proposition 65 regulations. Included in
11 such regulations is the requirement that businesses must label any product containing a Proposition
12 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
13 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
14 chemical.

15 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
17 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
18 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
19 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
20 25249.7.

21 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
22 without a requisite exposure warning, Petrageous Designs ceramic bowls, UPC # 844534016775
23 and UPC # 844534016683 (the “Products”) that expose persons to lead when used for their
24 intended purpose.

25 7. Defendants’ failure to warn consumers and other individuals in California of the
26 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of
27 the Products is a violation of Proposition 65 and subjects Defendants to the enjoinder and civil
28 penalties described herein.

1 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
2 State to cause cancer and birth defects or other reproductive harm.

3 23. The exposures that are the subject of the Notice result from the purchase,
4 acquisition, handling and recommended use of the Product. The primary route of exposure to the
5 is through dermal absorption directly through the skin when consumers use, touch, or handle the
6 Products. Exposure through ingestion will occur by touching the Product with subsequent touching
7 of the user's hand to mouth. No clear and reasonable warning is provided with the Products
8 regarding the health hazards of exposure.

9 24. Defendants have processed, marketed, distributed, offered to sell and/or sold the
10 Products in California since at least August 29, 2024. The Products continue to be distributed and
11 sold in California without the requisite warning information.

12 25. At all times relevant to this action, Defendants have knowingly and intentionally
13 exposed users and/or consumers of the Products to lead without first giving a clear and reasonable
14 exposure warning to such individuals.

15 26. As a proximate result of acts by each Defendant, as a person in the course of doing
16 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
17 California, including in San Francisco County, have been exposed to lead without a clear and
18 reasonable warning on the Products. The individuals subject to the violative exposures include
19 normal and foreseeable users and consumers that use the Products, as well as all others exposed to
20 the Products.

21 **SATISFACTION OF NOTICE REQUIREMENTS**

22 27. On July 14, 2024, Plaintiff purchased the Products from Centinela Feed, Inc. At the
23 time of purchase, Defendants did not provide a Proposition 65 exposure warning for lead or any
24 other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
25 *supra*.

26 28. On August 8, 2024, the Products were sent to a testing laboratory to determine if,
27 and what amount of, lead would migrate and/or leach from the Products.

1 29. On August 19, 2024, the laboratory provided the results of its analysis. Results of
2 this test determined the Products expose users to lead (the “Chemical Test Report”).

3 30. Plaintiff provided the Chemical Test Report and Product to an analytical chemist
4 to determine if, based on the findings of the Chemical Test Report and the reasonable and
5 foreseeable use of the Product, exposure to lead will occur at levels that require Proposition 65
6 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California
7 Code of Regulations.

8 31. On August 29, 2024, Plaintiff received from the analytical chemist an exposure
9 assessment report which concluded that persons in California who use the Products will be exposed
10 to levels of lead that require a Proposition 65 exposure warning.

11 32. On August 29, 2024, Plaintiff gave notices of alleged violation of Health and Safety
12 Code § 25249.6 (collectively, the “Notices”) to Defendants concerning the exposure of California
13 citizens to lead contained in the Products without proper warning, subject to a private action to
14 Defendant and to the California Attorney General’s office and the offices of the County District
15 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
16 the herein violations allegedly occurred. See attached at Exhibits “A” – “B” a true and correct copy
17 of the Notices.

18 33. The Notices complied with all procedural requirements of Proposition 65 including
19 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
20 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead
21 exposure, and that counsel believed there was meritorious and reasonable cause for a private
22 action.

23 34. After receiving the Notices, and to Plaintiff’s best information and belief, none of
24 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
25 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
26 are the subject of the Notices.

27 35. Plaintiff is commencing this action more than sixty (60) days from the date of the
28 Notices to Defendants, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiff against Defendant for the Violation of Proposition 65)

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

37. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer of the Product.

38. Use of the Products will exposed users to lead, a hazardous chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

39. The Product does not comply with the Proposition 65 warning requirements.

40. Plaintiff, based on his best information and belief, avers that at all relevant times herein, and at least since August 29, 2024, continuing until the present, that Defendants have continued to knowingly and intentionally expose California users and consumers of the Product to lead without providing required warnings under Proposition 65.

41. The exposures that are the subject of the Notices result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Exposure through ingestion will occur by touching the Products with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure.

42. Plaintiff, based on her best information and belief, avers that such exposures will continue every day until clear and reasonable warnings are provided to purchasers and users or until this known toxic chemical is removed from the Products.

43. Defendants have knowledge that the normal and reasonably foreseeable use of the Products expose individuals to lead, and Defendants intend that exposures to lead will occur by its deliberate, non-accidental participation in the importation, distribution, sale and offering of the Products to consumers in California

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

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

9465 WILSHIRE BLVD., STE. 300
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
20 BRACE RD., STE. 350
CHERRY HILL, NJ 08034
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

August 29, 2024

President/CEO Petrageous Designs, Limited c/o Charles George Jr. 250 Ballardvale Street, Suite 1A Wilmington, MA 01887	President/CEO Petrageous Designs, Limited 14R Hill Street Newburyport, MA 01950
President/CEO Centinela Feed, Inc. c/o Chris Nakagawa 2727 Maricopa St. Torrance, CA 90503	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

I. DESCRIPTION OF THE VIOLATION

- 1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
- 2. **Alleged Violator(s):** Petrageous Designs, Limited.; Centinela Feed, Inc.
- 3. **Time Period of Exposure:** Violations have been occurring since at least August 29, 2024 and are continuing to this day.
- 4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer, birth defects or other reproductive harm.
- 5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Bowl	Petrageous Designs Bowl UPC# 8 44534 01677 5

- 6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “B”

LAW OFFICES
BRODSKY SMITH

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NEW JERSEY OFFICE
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5. **Product:**

Product²	Non- Exclusive Examples of the Product
Bowl	Petrageous Designs Bowl UPC# 8 44534 01668 3

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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Evan J. Smith

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Certificate of Service

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