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Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

KRINOS FOODS LLC, a New York Limited
Liability Company;

KRINOS HOLDINGS, INC., a New York
Corporation;

BAA INTERNATIONAL ENTERPRISES,
INC. dba GARDEN FRESH FARMER'S
MARKET, a California Corporation;
and DOES 1-20,

Defendants.

CASE NO. **25STCV11683**

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 KRINOS FOODS LLC; KRINOS HOLDINGS, INC.; BAA
INTERNATIONAL ENTERPRISES, INC. dba GARDEN FRESH FARMER'S MARKET;
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 KRINOS FOODS LLC (“KRINOS LLC”) is a New York Limited Liability Company, qualified to do business in New York, and doing business in the State of California at all relevant times herein.
3. Defendant KRINOS HOLDINGS, INC. (“KRINOS INC”) is a New York Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Defendant BAA INTERNATIONAL ENTERPRISES, INC. dba GARDEN FRESH FARMER’S MARKET (“BAA”) is a California corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
5. 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.
6. At all times mentioned herein, the term “Defendants” includes KRINOS LLC, KRINOS INC, BAA, and DOES 1-20.
7. 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.
8. 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

1 Defendants. In conducting the activities alleged in this Complaint, each of the
2 Defendants was acting within the course and scope of this agency, service, or
3 employment, and was acting with the consent, permission, and authorization of each of
4 the other Defendants. All actions of each of the Defendants alleged in this Complaint
5 were ratified and approved by every other Defendant or their officers or managing
6 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
7 alleged wrongful conduct of each of the other Defendants.

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

12 **JURISDICTION**

- 13 10. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
14 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
15 those given by statute to other trial courts. This Court has jurisdiction over this action
16 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
17 violations of Proposition 65 in any Court of competent jurisdiction.
- 18 11. This Court has jurisdiction over Defendants named herein because Defendants either
19 reside or are located in this State or are foreign corporations authorized to do business in
20 California, are registered with the California Secretary of State, or who do sufficient
21 business in California, have sufficient minimum contacts with California, or otherwise
22 intentionally avail themselves of the markets within California through their
23 manufacture, distribution, promotion, marketing, or sale of their products within
24 California to render the exercise of jurisdiction by the California courts permissible
25 under traditional notions of fair play and substantial justice.
- 26 12. Venue is proper in the County of Los Angeles because one or more of the instances of
27 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
28

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 13. 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 14. 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 15. 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 16. 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).

17. Plaintiff identified certain practices of manufacturers and distributors of Sardines in Sunflower Oil of exposing, knowingly and intentionally, persons in California to Lead and Lead 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.
18. On October 1, 1992, the Governor of California added Lead and Lead Compounds (“Lead”) 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 Lead to the list of chemicals known to the State to cause cancer, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.
19. On February 27, 1987, the Governor of California added Lead to the list of chemicals known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to cause developmental and reproductive toxicity, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.

SATISFACTION OF PRIOR NOTICE

20. Plaintiff served the following notices for alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures:
- a. On or about November 4, 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 KRINOS LLC, KRINOS INC, BAA, and to the California Attorney General, County District Attorneys, and City

1 Attorneys for each city containing a population of at least 750,000 people in
2 whose jurisdictions the violations allegedly occurred, concerning the Sardines in
3 Sunflower Oil.

- 4 b. On or about November 12, 2024, Plaintiff gave notice of alleged violations of
5 Health and Safety Code Section 25249.6, concerning consumer products
6 exposures subject to a private action to KRINOS LLC, KRINOS INC, BAA,
7 and to the California Attorney General, County District Attorneys, and City
8 Attorneys for each city containing a population of at least 750,000 people in
9 whose jurisdictions the violations allegedly occurred, concerning the Sardines in
10 Sunflower Oil.

11 21. Before sending the notice of alleged violations, Plaintiff investigated the consumer
12 products involved, the likelihood that such products would cause users to suffer
13 significant exposures to Lead, and the corporate structure of each of the Defendants.

14 22. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
15 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
16 Plaintiff who executed the certificate had consulted with at least one person with relevant
17 and appropriate expertise who reviewed data regarding the exposures to Lead, the
18 subject Proposition 65-listed chemical of this action. Based on that information, the
19 attorney for Plaintiff who executed the Certificate of Merit believed there was a
20 reasonable and meritorious case for this private action. The attorney for Plaintiff
21 attached to the Certificate of Merit served on the Attorney General the confidential
22 factual information sufficient to establish the basis of the Certificate of Merit.

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

1 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notice of the alleged violations to KRINOS LLC, KRINOS INC, BAA, and the
3 public prosecutors referenced in Paragraph 20.

4 25. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
5 any applicable district attorney or city attorney has commenced and is diligently
6 prosecuting an action against the Defendants.

7
8 **FIRST CAUSE OF ACTION**

9 **(By CONSUMER ADVOCACY GROUP, INC. and against KRINOS LLC,**
10 **KRINOS INC, BAA, and DOES 1-10 for Violations of Proposition 65, The Safe**
11 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
12 **25249.5, *et seq.*))**

13 **Seafood Products I**

14 26. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
15 as though fully set forth herein.

16 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Sardines in Sunflower Oil (“Sardines I”).

18 28. Sardines I contain Lead.

19 29. Defendants knew or should have known that Lead has been identified by the State of
20 California as a chemical known to cause cancer, and reproductive toxicity, and therefore
21 was subject to Proposition 65 warning requirements. Defendants were also informed of
22 the presence of Lead in Sardines I within Plaintiff’s notice of alleged violations further
23 discussed above at Paragraph 20b.

24 30. Plaintiff’s allegations regarding Sardines I concerns “[c]onsumer products exposure[s],”
25 which “is an exposure that results from a person’s acquisition, purchase, storage,
26 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
27 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).
28 Sardines I are consumer products, and, as mentioned herein, exposures to Lead took
place as a result of such normal and foreseeable consumption and use.

1 31. Plaintiff is informed, believes, and thereon alleges that between November 12, 2021, and
2 the present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Sardines I, which Defendants manufactured, distributed, or sold
4 as mentioned above, to Lead, without first providing any type of clear and reasonable
5 warning of such to the exposed persons before the time of exposure. Defendants have
6 distributed and sold Sardines I in California. Defendants know and intend that California
7 consumers will use and consume Sardines I, thereby exposing them to Lead. Further,
8 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sardines I
9 under a brand or trademark that is owned or licensed by the Defendants or an entity
10 affiliated thereto; have knowingly introduced Lead into Sardines I or knowingly caused
11 Lead to be created in Sardines I; have covered, obscured or altered a warning label that
12 has been affixed to Sardines I by the manufacturer, producer, packager, importer,
13 supplier or distributor of Sardines I; have received a notice and warning materials for
14 exposure from Sardines I without conspicuously posting or displaying the warning
15 materials; and/or have actual knowledge of potential exposure to Lead from Sardines I.
16 Defendants thereby violated Proposition 65.

17 32. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
18 Persons sustain exposures by eating and consuming Sardines I.

19 33. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
20 Proposition 65 as to Sardines I have been ongoing and continuous, as Defendants
21 engaged and continue to engage in conduct which violates Health and Safety Code
22 Section 25249.6, including the manufacture, distribution, promotion, and sale of
23 Sardines I, so that a separate and distinct violation of Proposition 65 occurred each and
24 every time a person was exposed to Lead by Sardines I as mentioned herein.

25 34. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
26 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
27 violations alleged herein will continue to occur into the future.
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1 35. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to Lead from Sardines I, pursuant to Health
3 and Safety Code Section 25249.7(b).

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

6
7 **SECOND CAUSE OF ACTION**

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

12 **Seafood Products II**

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

15 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Sardines in Sunflower Oil ("Sardines II") identified
17 as: "Delamaris"; "1879"; "SARDINES"; "in sunflower oil"; "For Delamaris d.o.o.";
18 "Imported by: KRINOS FOODS L.L.C."; "Best Before: 20.03.2024"; "L200318";
19 "AA05P"; "UPC 3838929411662".

20 39. Sardines II contain Lead.

21 40. Defendants knew or should have known that Lead has been identified by the State of
22 California as a chemical known to cause cancer, and reproductive, and therefore was
23 subject to Proposition 65 warning requirements. Defendants were also informed of the
24 presence of Lead in Sardines II within Plaintiff's notice of alleged violations further
25 discussed above at Paragraph 20a.

26 41. Plaintiff's allegations regarding Sardines II concerns "[c]onsumer products exposure[s],"
27 which "is an exposure that results from a person's acquisition, purchase, storage,
28 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b).*

1 Sardines II are consumer products, and, as mentioned herein, exposures to Lead took
2 place as a result of such normal and foreseeable consumption and use.

3 42. Plaintiff is informed, believes, and thereon alleges that between November 4, 2021, and
4 the present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Sardines II, which Defendants manufactured, distributed, or sold
6 as mentioned above, to Lead, without first providing any type of clear and reasonable
7 warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold Sardines II in California. Defendants know and intend that
9 California consumers will use and consume Sardines II, thereby exposing them to Lead.
10 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
11 Sardines II under a brand or trademark that is owned or licensed by the Defendants or an
12 entity affiliated thereto; have knowingly introduced Lead into Sardines II or knowingly
13 caused Lead to be created in Sardines II; have covered, obscured or altered a warning
14 label that has been affixed to Sardines II by the manufacturer, producer, packager,
15 importer, supplier or distributor of Sardines II; have received a notice and warning
16 materials for exposure from Sardines II without conspicuously posting or displaying the
17 warning materials; and/or have actual knowledge of potential exposure to Lead from
18 Sardines II. Defendants thereby violated Proposition 65.

19 43. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
20 Persons sustain exposures by eating and consuming Sardines II.

21 44. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
22 Proposition 65 as to Sardines II have been ongoing and continuous, as Defendants
23 engaged and continue to engage in conduct which violates Health and Safety Code
24 Section 25249.6, including the manufacture, distribution, promotion, and sale of
25 Sardines II, so that a separate and distinct violation of Proposition 65 occurred each and
26 every time a person was exposed to Lead by Sardines II as mentioned herein.

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

4 46. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Lead from Sardines II, pursuant to Health
6 and Safety Code Section 25249.7(b).

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

9
10 **PRAYER FOR RELIEF**

11 Plaintiff demands against each of the Defendants as follows:

- 12 1. A permanent injunction mandating Proposition 65-compliant warnings;
13 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
14 3. Costs of suit;
15 4. Reasonable attorney fees and costs; and
16 5. Any further relief that the court may deem just and equitable.

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18 Dated: April 22, 2025

YEROUSHALMI & YEROUSHALMI*

19 /s/ Reuben Yeroushalmi

20 Reuben Yeroushalmi
21 Attorneys for Plaintiff,
22 CONSUMER ADVOCACY GROUP, INC.
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