

**ROBINSON ZERMAY LLP**  
Alexander K. Robinson (SBN 318125)  
777 S. Alameda, Second Floor  
Los Angeles, California 90021  
Tel: (213) 257-9299  
Email: ak@robinsonzermay.com

Attorneys for Plaintiff  
VALENTINO MCCOY-GARCIA

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
2/05/2025 10:30 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By E. Galicia, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF LOS ANGELES**

VALENTINO MCCOY-GARCIA,  
Plaintiff,

vs.

KLUTCH BRANDS LLC, A DELAWARE  
LIMITED LIABILITY COMPANY, HAPPY  
FRUIT CA, LLC, A CALIFORNIA LIMITED  
LIABILITY COMPANY AND DOES 1  
THROUGH 100, INCLUSIVE,  
Defendants.

Case No.: **25STCV03271**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF  
(Health & Safety Code § 25249.6 et seq.)**

**JURY TRIAL DEMANDED**

## I. INTRODUCTION

1. This action arises from Defendants' knowing and intentional violations of California's Proposition 65, which requires businesses to provide clear and reasonable warnings before exposing individuals to chemicals known to cause cancer or reproductive harm.

2. Defendants manufacture, sell, and distribute cannabis products (the “Products”), including but not limited to:

- Happy Fruit – Strawberry Lifted Lemonade Rosin Gummies
- Happy Fruit – Moon Berry - Dozioz Rosin Gummies
- Happy Fruit – Peaceful Pineapple Rosin Gummies
- Happy Fruit – Peach Paradise Rosin Gummies
- Happy Fruit – Raspberry Rosin Gummies
- Happy Fruit – Berry Cool Rosin Gummies
- Happy Fruit – Sublime Lemon Lime Rosin Gummies

3. California law mandates that warnings be prominently displayed and readily accessible. Title 27, California Code of Regulations, Section 25601, states that a warning must be "likely to be seen, read, and understood by an ordinary individual under customary conditions of purchase or use."

4. Defendants have engaged in a deliberate scheme to conceal Proposition 65 warnings by hiding the required warnings underneath peel-back labels, rendering them invisible at the time of purchase or initial use.



5. Defendants' conduct violates Proposition 65 and constitutes fraudulent, unfair, and unlawful business practices under California Business & Professions Code § 17200 et seq.

6. Plaintiff seeks immediate injunctive relief, civil penalties, and corrective measures to remedy Defendants' ongoing violations and protect California consumers from preventable harm.

## II. PARTIES

7. Plaintiff VALENTINO MCCOY-GARCIA (“Plaintiff”) is a California resident, with an interest in protecting the health of California citizens through the elimination or reduction of toxic exposure from consumer products. He brings this action in the public interest pursuant to Health and Safety Code, section 25249.7.

8. Defendant KLUTCH BRANDS LLC (“KLUTCH”) is a limited liability company formed and existing under the laws of Delaware. KLUTCH is not registered to do business in California, yet KLUTCH does business in the County of Los Angeles, within the meaning of Health and Safety Code, section 25249.11. KLUTCH manufactures, imports, sells, or distributes the Products in California and Los Angeles County. Rochford (defined *infra*) is the registered agent of Klutch.

9. Defendant HAPPY FRUIT, CA LLC (“HAPPY FRUIT CA”) is a limited liability company formed and existing under the laws of California. Happy Fruit CA is registered to do business in California, and does business in the County of Los Angeles, within the meaning of Health and Safety Code, section 25249.11. Happy Fruit CA manufactures, imports, sells, or distributes the Products in California and Los Angeles County. The mailing address Happy Fruit CA is 4154 N 35TH PL PHOENIX, AZ 85018, a property associated with Rochford.

10. Plaintiff is informed and believes, and thereon alleges, that additional entities and individuals are involved in the manufacture, importation, sale, or distribution of the Products and should be held jointly liable, including, but not limited to:

- HAPPY FRUIT LLC, a California limited liability company;

- HAPPY FRUIT CA L.L.C., a Colorado limited liability company;
- HAPPY FRUIT HOLDCO, LLC, a Delaware limited liability company;
- HF TECHNOLOGIES LLC, a Delaware limited liability company;
- HFS PARTNERS LLC, a Delaware limited liability company;
- MARK SCRUGGS (“SCRUGGS”);
- ALEC MICHAEL ROCHFORD (“ROCHFORD”); and
- CHRON MAYWOOD, LLC, a California limited liability company, who holds the Department of Cannabis Control licenses that the Defendants operate under, as they do not have licenses of their own.

11. Plaintiff does not know the true names and/or capacities, whether individual, partners, or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues said defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that some or all of the entities and individuals described in paragraph 5 may be DOE defendants in this action. Plaintiff will seek leave to amend this Complaint when the true names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and thereon alleges that these defendants are responsible in whole or in part for harm caused by the violations of Prop 65 and should be held accountable.

### **III. VENUE AND JURISDICTION**

12. California Constitution Article VI, Section 10 grants the Superior Court original jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code statute upon which this action is based does not give jurisdiction to any other court. As such, this Court has jurisdiction.

13. Venue is proper in Los Angeles County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendants conducted and continues to conduct business in this County as it relates to the Products.

14. Defendants have sufficient minimum contacts in the State of California or otherwise purposefully avails itself of the California market. Exercising jurisdiction over Defendants would be consistent with traditional notions of fair play and substantial justice.

#### IV. STATUTORY BACKGROUND

### A. The Proposition 65 Warning Requirement

15. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute passed as "Proposition 65" by a vote of the People in November of 1986.

16. The warning requirement of Proposition 65 is contained in Health and Safety Code section 25249.6, which provides: "No 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 giving clear and reasonable warning to such individual, except as provided in Section 25249.10."

17. Proposition 65 establishes a procedure by which California, through its Governor or a designee, develops and maintains a list of chemicals known to the State to cause cancer or reproductive toxicity. (Health & Saf. Code, § 25249.8). A warning concerning a listed chemical must be given beginning one year after the chemical first appears on the list. (Id., § 25249.10, subd. (b)).

18. Proposition 65 regulations provide that a warning is deemed to be "clear and reasonable" if it complies with the requirements of California Code of Regulations, title 27, section 25601 et seq., including if the name of the chemical is included in the warning, and the warning is prominently displayed on a label, labeling, or sign with such conspicuousness as compared with other words, statements, designs, or devices on the label, labeling, or sign, as to render the warning likely to be seen, read, and understood by an ordinary individual under customary conditions of purchase or use. (Cal. Code Regs., tit. 27, § 25601).

19. Any person acting in the public interest may initiate a civil action against violators, provided they comply with the statute's pre-suit notice requirements. (Health & Saf. Code, § 25249.7, subd. (d)).

20. Proposition 65 authorizes injunctive relief and civil penalties of up to \$2,500 per day for each violation. (Id., § 25249.7, subd. (b))

## B. The Unfair Competition Law

21. California Business and Professions Code section 17200 provides that "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice." Section 17203 of the Business and Professions Code provides that "[a]ny person who engages, has engaged or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction." Actions for relief under the Unfair Competition Law may be prosecuted by the Attorney General in a court of competent jurisdiction. (Bus. & Prof. Code, § 17204).

22. Section 17206, subdivision (a) of the Business and Professions Code provides that "[a]ny person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney." These penalties are cumulative to each other and to the remedies or penalties available under all other laws of this state. (Id., § 17205).

## V. FACTS

## Defendants' Failure to Provide Proposition 65 Warnings for Their Products and Unfair Business Practices

23. The Office of Environmental Health Hazard Assessment ("OEHHA") is the State of California's lead agency for implementing Proposition 65 and is responsible for maintaining the list of chemicals known to cause cancer or reproductive harm. On January 3, 2020, OEHHA officially listed Delta-9-Tetrahydrocannabinol (THC) as a chemical known to cause

developmental and reproductive toxicity under Proposition 65. (Cal. Code Regs., tit. 27, § 27001, subd. (c)).

24. Defendants knowingly and intentionally sell cannabis-infused edible products containing Delta-9-THC without providing the legally required "clear and reasonable warning" before exposure.

25. Defendants deliberately conceal the required Proposition 65 warning by placing it underneath peel-back labels, rendering it invisible at the point of sale and before ingestion. Under Title 27, California Code of Regulations, Section 25601(a), a warning must be prominently displayed in a manner likely to be "seen, read, and understood" by an ordinary individual before exposure occurs. A hidden warning does not satisfy this requirement and violates Proposition 65.

26. Defendants have been on notice of this violation since at least December 2, 2024, when they received a 60-Day Notice of Violation (the "Notice") pursuant to Health & Safety Code § 25249.7(d). The Notice identified the specific type of consumer product which caused the violation and outlined the specific failure to provide clear and reasonable warnings regarding Delta-9-THC exposure. The Notice complied with all legal requirements, including:

- Proper service on the Attorney General and relevant enforcement agencies.
- Identification of the listed chemical (THC) and its method of exposure (ingestion).
- Inclusion of a Certificate of Merit, confirming that scientific data supports the claim.
- A demand that Defendants rectify their non-compliance or face enforcement action.

27. Despite receiving this Notice, Defendants failed to take corrective action and continued to distribute non-compliant products. Instead of complying with Proposition 65, Defendants, through their attorney GianDominic Vitiello, issued a response falsely claiming that the Notice was "legally deficient" for failing to list specific Universal Product Identifiers (UPCs)

1 or Stock Keeping Units (SKUs), citing **California Code of Regulations, Title 27, Section**  
2 **25902(e)**, in support of his claim. However, this argument is legally baseless. **California Code**  
3 **of Regulations, Title 27, Section 25902(e), does not exist.**

4 28. In an email dated January 17, 2025, Defendants' counsel, GianDominic Vitiello,  
5 asserted that Happy Fruit CA, LLC is merely an “intellectual property holding company” with  
6 no responsibility under Proposition 65. However, this claim is contradicted by public evidence,  
7 including sales events, promotional activities, and direct participation of Klutch Brands’  
8 leadership in marketing Happy Fruit-branded products. Moreover, Defendants' claim that they  
9 “may have fewer than 10 employees” lacks supporting documentation and appears to be an  
10 attempt to invoke the small business exemption without basis.

11 29. Defendants’ continued sale of non-compliant products, despite receiving proper  
12 legal notice, constitutes a willful and knowing violation of Proposition 65. These violations are  
13 ongoing and will continue unless the Court issues injunctive relief mandating compliance.

14 30. Plaintiff seeks to hold Defendants accountable for their deceptive practices,  
15 obtain civil penalties for each day of non-compliance, and ensure that California consumers  
16 receive the legally required warnings before exposure to Delta-9-THC in Defendants’ products.

17  
18 **VI.**  
19 **ALTER EGO AND SINGLE BUSINESS ENTERPRISE ALLEGATIONS**

20 **Single Business Enterprise Doctrine**

21 31. Plaintiff is informed and believes, and thereon alleges, that Defendant Klutch  
22 and its affiliated entities—including but not limited to Happy Fruit CA LLC, Happy Fruit LLC,  
23 and related entities—operate as a single business enterprise designed to obscure liability while  
24 maintaining operational control over the manufacture, distribution, and sale of the Products in  
25 California.  
26  
27  
28



1           **A. Unity of Interest and Ownership**

2           32.       Common Ownership and Management. KLUTCH and its affiliated entities share  
3 common owners, directors, and officers, including Scruggs and Rochford, who exert control over  
4 the entire corporate structure.

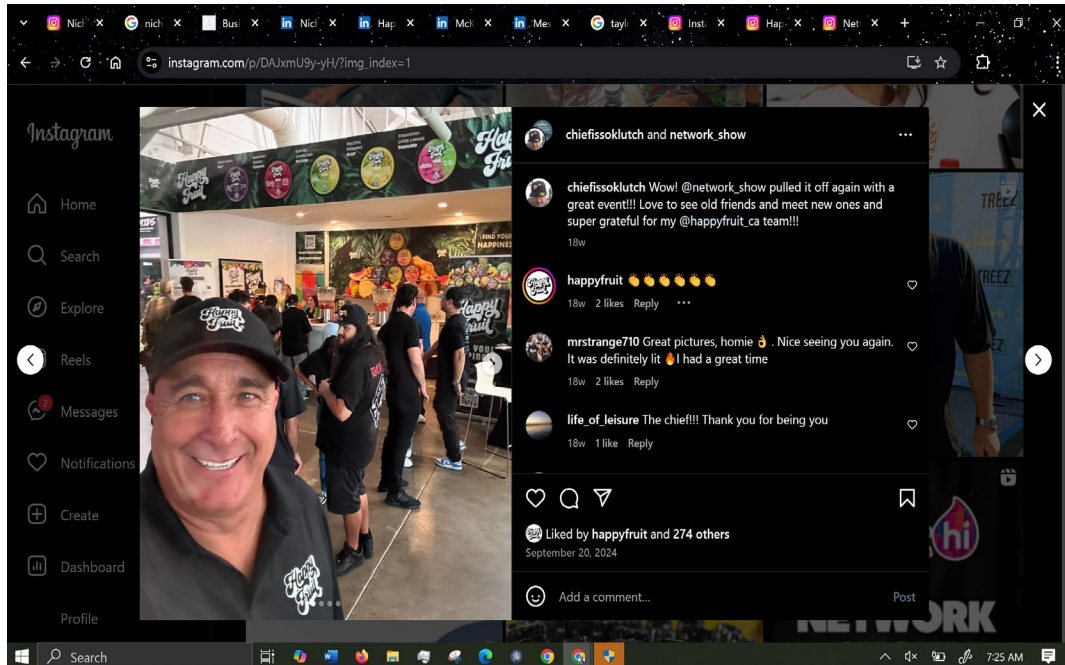


17           33.       Commingling of Assets and Business Operations. Plaintiff is informed and  
18 believes, and thereon alleges, that KLUTCH and its affiliates share financial resources, banking,  
19 office space, employees, supply chains, and marketing infrastructure, failing to observe corporate  
20 separateness.

21           34.       Interdependence and Lack of Arm's-Length Transactions. Plaintiff is informed  
22 and believes that these entities do not transact with one another at arm's length but instead shift  
23 assets, liabilities, and profits between them for strategic advantage, shielding KLUTCH from  
24 liability.

25           35.       Common Business Purpose. Despite their distinct legal registrations, these  
26 entities function as a unified operation for the benefit of the same stakeholders, under the same  
27 leadership, and with the same economic goals. This is exemplified in the image below, where  
28 Klutch Brands Founder Mark Scruggs (@chiefissoklutch) is attending a sales event showcasing

Happy Fruit-branded Products while wearing Happy Fruit merchandise. In his public Instagram post, Scruggs refers to “Happy Fruit CA” as “my team”, reinforcing the unity of interest and common control between the entities.



36. Centralized Decision-Making. Management-level decisions concerning product design, distribution, regulatory compliance, and financial strategy are directed from a single control point, overriding the legal distinctions between these entities.

### **B. Inequitable Result if Corporate Separateness is Recognized**

37. Avoidance of Legal and Financial Responsibilities. Plaintiff is informed and believes that KLUTCH deliberately structured its operations to obscure legal responsibility, allowing it to distribute the Products in California without Proposition 65 compliance while shifting liability onto undercapitalized or foreign entities.

38. Consumer and Regulatory Deception. This scheme creates confusion among consumers, regulators, and enforcement agencies, frustrating efforts to hold any single entity accountable for compliance.

1           39.       Shielding Assets While Shifting Liability. The corporate structure is designed to  
2 frustrate collection efforts, ensuring that liability rests on an entity with minimal assets, while  
3 affiliated entities continue to operate unaffected.

4           40.       Accordingly, KLUTCH and its affiliated entities should be treated as a single  
5 business enterprise, and each should be jointly and severally liable for the violations alleged in  
6 this Complaint.

7  
8                   **Alter Ego Doctrine (Reserved for Amendment After Discovery)**

9           41.       Plaintiff is informed and believes that further discovery will reveal that  
10 KLUTCH, its affiliated entities, and certain individuals—including but not limited to Mark  
11 Scruggs—are not truly separate entities but mere alter egos of one another.

12                   **A. Unity of Interest and Ownership**

13           42.       The financial affairs, business practices, and management decisions of KLUTCH  
14 and its affiliated entities are so interwoven that no true corporate separation exists.

15           43.       There is a pattern of undercapitalization among key entities, with financial  
16 dependency on the controlling figures.

17           44.       Plaintiff is informed and believes that corporate funds are routinely commingled  
18 and used for non-corporate purposes, demonstrating disregard for corporate formalities.

19                   **B. Inequitable Result if the Corporate Veil is Respected**

20           45.       If these corporate entities are treated as distinct, it will facilitate fraud, evade  
21 regulatory enforcement, and allow KLUTCH and its leadership to escape liability.

22           46.       Recognizing corporate separateness under these circumstances would permit a  
23 calculated abuse of the corporate form, rendering Proposition 65 protections meaningless.

24           47.       Plaintiff reserves the right to amend this Complaint to allege Alter Ego liability  
25 against individual defendants, including Mark Scruggs, upon completion of discovery  
26 confirming their misuse of the corporate structure.  
27  
28

**VII.**  
**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**FAILURE TO WARN**

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

48. Plaintiff incorporates by reference each and every allegation contained above.

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

50. Defendants manufactured, imported, sold, and/or distributed the Products containing THC in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined infra) and will continue to occur into the future.

51. In manufacturing, importing, selling, and/or distributing the Products, Defendants failed to provide a clear and reasonable warning to consumers and individuals in California who may be exposed to THC through reasonably foreseeable use of the Products.

52. The Products expose individuals to THC through ingestion. These exposures are natural, foreseeable consequences of Defendants placing the Products into the stream of commerce.

53. Defendants knew or should have known that the Products contained THC, and that they exposed individuals to THC as described above. The Notice informed Defendants of the presence of THC in the Products resulting from the use of the Products. Defendants' action in this regard were deliberate and not accidental.

54. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit. The Notice alleged that Happy Fruit CA violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with

1 exposures to THC through the Products. While the Notice did not explicitly name Klutch, Happy  
2 Fruit CA is its alter ego under the Single Entity Doctrine. As such, Klutch received notice of the  
3 violation through its controlled entity and cannot evade liability by operating under a different  
4 name.

5 55. The appropriate public enforcement agencies provided with the Notice failed to  
6 commence and diligently prosecute a cause of action against Defendants. The Notice was served  
7 on these agencies and Defendants via certified mail.

8 56. Individuals exposed to THC through direct ingestion, as a result of reasonably  
9 foreseeable use, have suffered and continue to suffer irreparable harm. There is no other plain,  
10 speedy, or adequate remedy at law.

11 57. Defendants are liable for a maximum civil penalty of \$2,500 per day for each  
12 violation of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive  
13 relief is also appropriate pursuant to Health and Safety Code, section 25249.7(a).

14 **SECOND CAUSE OF ACTION**  
15 **UNFAIR BUSINESS PRACTICES**  
16 **(Violations of Business and Professions Code Sections 17200 et seq. - Against All**  
17 **Defendants)**

18 58. Plaintiff realleges and incorporates herein by reference all paragraphs above as  
19 though set forth herein.

20 59. Defendants have engaged in unfair, unlawful, and fraudulent business practices  
21 by deliberately concealing Proposition 65 warnings from consumers in violation of California  
22 Business & Professions Code § 17200 et seq.

23 60. The deceptive labeling scheme:

- 24 • Misleads consumers by preventing them from seeing health warnings  
25 before purchase.
- 26 • Gives Defendants an unfair advantage over competitors who comply  
27 with Proposition 65.

- Endangers public health by failing to warn vulnerable consumers, including pregnant individuals and medical cannabis users, about Delta-9-THC exposure risks.

**VIII.**  
**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment against Defendants as follows:

61. A preliminary and permanent injunction requiring Defendants to:
  - Immediately cease selling any cannabis products in California without an externally visible Proposition 65 warning.
  - Conduct a product recall for all non-compliant items currently on the market.
  - Issue corrective advertising disclosing past noncompliance.
  - Submit to court-monitored compliance audits for a period of two years.
62. Civil penalties of \$2,500 per violation per day under Health & Safety Code § 25249.7(b).
63. Restitution and disgorgement of profits gained through unlawful practices.
64. Plaintiff's reasonable attorney's fees and costs.
65. Such further relief as the Court deems just and proper.

Respectfully submitted:

Dated: February 05, 2025

**ROBINSON ZERMAY LLP**

By: 

Alexander K. Robinson

Attorney for Plaintiff  
VALENTINO MCCOY-GARCIA