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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

APS&EE, LLC, a limited liability company,)

Plaintiff,)

v.)

NEW ENGLAND GREENS, LLC, a limited)
liability company, and DOES 1 through 100,)
inclusive,)

Defendants.)

CASE NO. 25STCV22241

**PLAINTIFF'S COMPLAINT FOR
CIVIL PENALTIES AND INJUNCTIVE
RELIEF**

(Health & Safety Code § 25249.6 et seq.)

Judge:

Dept.:

Compl. Filed:

Unlimited Jurisdiction

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INTRODUCTION

1. This Complaint is brought by Plaintiff, APS&EE, LLC (“Plaintiff”) in the public interest of the citizens of the State of California, a representative action to enforce the People’s right to be informed of the presence of lead (“Lead”), a chemical known to the State of California to cause cancer and birth defects or other reproductive harm, in Vibrant Health Green Vibrance and Vibrant Health Maximum Vibrance (dietary supplements) sold by Defendants.

2. The purpose of this Complaint is to remedy Defendants’ continuing failure to warn California residents about the risk of exposure to the Lead in the products manufactured, distributed, sold, and/or offered for sale to consumers in California.

3. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell Vibrant Health Green Vibrance supplement, including but not limited to 0-74306-80001-5, and Vibrant Health Maximum Vibrance supplement, including but not limited to 0-74306-80128-9 (collectively, the “Products”).

4. Children and adults are exposed to the Lead when they consume, ingest, touch, mouth, handle, inhale, or otherwise use the Products.

5. Hazardous levels of the Lead are found in the Products manufactured, distributed, sold, and/or offered for sale by Defendants to consumers in California.

6. California Health and Safety Code section 25249.6 et seq. (“Proposition 65”) provides in pertinent part: “[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 giving clear and reasonable warning to such individual...”

7. Studies repeatedly conclude that exposure to the Lead is hazardous to the health of children and adults. Children are especially vulnerable to the toxic effects of Lead. Accordingly, California has listed the Lead as a chemical known to the state to cause cancer and birth defects or other reproductive harm, and therefore subject to Proposition 65 warning requirements.

8. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell the Products without the required warnings. Defendants’ conduct violates the warning

requirements of Proposition 65.

PARTIES

9. Plaintiff is an organization based in California acting in the public interest. Plaintiff brings this action in the public interest pursuant to California Health and Safety Code section 25249.7(d).

10. Defendant, NEW ENGLAND GREENS, LLC is a person in the course of doing business within the meaning of California Health and Safety Code section 25249.11. NEW ENGLAND GREENS, LLC manufactures, distributes, and/or sells the Products for sale and use in California.

11. DOES 1 through 100 are each a person in the course of doing business within the meaning of California Health and Safety Code section 25249.11. DOES 1 through 100 manufacture, distribute, and/or sell the Products for sale and use in California. The true names of DOES 1 through 100 are unknown to Plaintiff at this time. When their identities are discovered, Plaintiff's Complaint shall be amended to reflect their true names.

12. The defendants identified in paragraphs 10-11 shall collectively be referred to herein as "Defendants".

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to California Health and Safety Code section 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California Constitution Article VI, Section 10, because this lawsuit is based on a cause not given by statute to other trial courts. Moreover, this action belongs in unlimited jurisdiction since the amount in controversy exceeds \$35,000 and Plaintiff seeks permanent injunctive relief.

14. This Court has jurisdiction over Defendants because each is a person, firm, corporation, or association with sufficient minimum contacts in the State of California, or otherwise purposefully avails itself to the California market as to render jurisdiction by the California courts consistent with traditional notions of fair play and substantial justice.

15. Venue is proper in Los Angeles County Superior Court because one or more

1 occurrences of the wrongful conduct occurred, and continues to occur, in Los Angeles County,
2 and/or because Defendants conducted, and continue to conduct, business in this County with
3 respect to the Products.

4 **FIRST CAUSE OF ACTION**

5 **(Violations of Health & Safety Code Section 25249.6 et seq.)**

6 16. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
7 Paragraphs 1 through 15, inclusive.

8 17. On January 27, 2025, Plaintiff served a Sixty-Day Notice of Violation with a
9 Certificate of Merit (the “Notice”), to NEW ENGLAND GREENS, LLC, VITAMIN SHOPPE
10 INDUSTRIES LLC, and the various public enforcement agencies with respect to the Proposition
11 65 violations related to Lead in the Vibrant Health Green Vibrance supplement. In addition, on
12 said date, in compliance with Health & Safety Code section 25249.7(d), Plaintiff provided
13 confidential factual information sufficient to establish the basis for the Certificate of Merit to the
14 California Attorney General. Furthermore, on May 1, 2025, Plaintiff served a Supplemental
15 Sixty-Day Notice of Violation with a Certificate of Merit (the “Notice”), to NEW ENGLAND
16 GREENS, LLC, VITAMIN SHOPPE INDUSTRIES LLC, and the various public enforcement
17 agencies with respect to the Proposition 65 violations related to Lead in both the Vibrant Health
18 Green Vibrance and Vibrant Health Maximum Vibrance supplements. In addition, on said date,
19 in compliance with Health & Safety Code section 25249.7(d), Plaintiff provided confidential
20 factual information sufficient to establish the basis for the Certificate of Merit to the California
21 Attorney General.

22 18. None of the public prosecutors with the authority to prosecute Proposition 65
23 violations has commenced and/or is diligently prosecuting the causes of action against
24 Defendants based on the claims asserted in Plaintiff’s Notice.

25 19. By placing the Products into the stream of commerce, each Defendant is a person
26 in the course of doing business within the meaning of Health & Safety Code section 25249.11.

27 20. Defendants knew and intended that consumers, including children, will consume,
28 ingest, touch, mouth, handle, inhale, or otherwise use the Products. Indeed, the Products are

1 marketed as a “Superfood” and “Futurefood”. The Product website, package, and literature
2 linked from the QR Code on the package boast about the Product’s health benefits and urge
3 consumers to “Add America’s #1 superfood to your daily routine.” The package for Vibrant
4 Health Green Vibrance provides: “**Directions:** As a dietary supplement, mix one or two (1 or 2)
5 scoops into 8 ounces of water or your favorite beverage...” Additionally, on the Product website,
6 FAQs provide a Q: “Can I use Green Vibrance more than once a day?” A: “Yes. Green Vibrance
7 may be taken one or two times per day.” The package for Vibrant Health Maximum Vibrance
8 provides: “**Directions:** As a dietary supplement, once each day mix two (2) scoops of Maximum
9 Vibrance as a complete meal...”

10 21. The Maximum Allowable Dose Level (“MADL”) for lead as set by the State of
11 California is 0.5 micrograms per day. 27 Cal Code. Regs. Section 25805. Consuming one serving
12 of the Vibrant Health Green Vibrance will result in ingestion of lead that exceeds the MADL.
13 For example, Plaintiff has certified test results that show that it is made with 0.136 micrograms
14 of lead per gram. According to the product package, one serving size is 11 grams. Thus, one
15 serving will cause a consumer to ingest 1.496 micrograms of lead. Two servings in a day will
16 cause a consumer to ingest 2.992 micrograms of lead. This is almost *six times* the MADL. The
17 results are similar for Vibrant Health Maximum Vibrance: certified test results that show that it
18 is made with 0.060 micrograms of lead per gram. According to the product package, one serving
19 size is 43.92 grams. Thus, one serving will cause a consumer to ingest 2.635 micrograms of lead.

20 22. Defendants knew that the Products contain Lead. Defendants, who are in the
21 business of marketing foods and dietary supplements, also should have known or have
22 constructive knowledge that the Products contain Lead from testing they completed or should
23 have completed and from widespread media coverage and/or other channels of information
24 concerning the presence of Lead in similar products. Defendants had additional knowledge of the
25 violations from receipt of Plaintiff’s Notices, and they continue to sell the Products without
26 Proposition 65 warnings. Moreover, in 2013, Defendants entered into a court-approved Consent
27 Judgment which included specific injunctive relief related to lead content in some of their other
28 food supplements, and the Products at issue do not comply with those injunctive terms.

23. Lead is a chemical listed by the State of California as known to cause cancer and birth defects or other reproductive harm.

24. Defendants' Products contain sufficient quantities of the Lead such that consumers, including children, who consume, ingest, touch, mouth, handle, inhale, or otherwise use the Products are exposed to unsafe levels of Lead. Lead is present in the Products in such a way as to expose individuals to Lead, as exposure is defined by 27 CCR section 25600.1(e): "...that results from a person's acquisition, purchase, storage, consumption, or any reasonably foreseeable use..." Direct and indirect exposure occurs through inhalation, ingestion and/or dermal contact during the reasonably foreseeable use of the Products.

25. Defendants knew or should have known that the reasonably foreseeable use of the Products exposes individuals to Lead through inhalation, ingestion and/or dermal contact.

26. Defendants failed to provide a “clear and reasonable warning” to individuals in the State of California who were or could become exposed to Lead during the reasonably foreseeable use of the Products.

27. By committing the acts alleged in this Complaint, Defendants have violated California Health & Safety Code section 25249.6 et seq. by knowingly and intentionally exposing individuals to Lead without first giving clear and reasonable warnings to such individuals regarding the toxicity of Lead.

28. As a result of Defendants' wrongful conduct, individuals in the State of California have been exposed to Lead through the inhalation, ingestion and/or dermal contact during the reasonably foreseeable use of the Products without a "clear and reasonable warning", and have suffered and continue to suffer harm, each and every day since at least January 27, 2024 to the present.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That the Court, pursuant to California Health & Safety Code section 25249.7(b), assess civil penalties against Defendants in the amount of \$2,500 per day for each violation alleged herein;

1 2. That the Court, pursuant to California Health & Safety Code section 25249.7(a),
2 preliminarily and permanently enjoin Defendants from manufacturing, distributing, or offering
3 the Products for sale in California without providing “clear and reasonable warnings” as defined
4 by 27 CCR section 25601;

5 3. That the Court, pursuant to California Health & Safety Code section 25249.7(a),
6 order Defendants to take action to stop ongoing unwarned exposures to Lead resulting from use
7 of Products sold by Defendants;

8 4. That the Court, pursuant to California Code of Civil Procedure section 1021.5, or
9 any other applicable theory, grant Plaintiff’s reasonable attorneys’ fees and costs of suit; and
10 Such other and further relief as may be just and proper.

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12 Dated: July 29, 2025

LAW OFFICES OF LUCAS T. NOVAK

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14 By: 

15 LUCAS T. NOVAK
16 Attorney for Plaintiff, APS&EE, LLC
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