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8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

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

14 Plaintiff,

15 v.

16 WALMART INC., a Delaware Corporation;
17 WAL-MART.COM USA, LLC, a California
18 Limited Liability Company;
19 PHILIPPINE FOODTRADE
20 CORPORATON, a California Corporation;
21 ABACUS BUSINESS CAPITAL, INC. DBA
22 ISLAND PACIFIC SUPERMARKETS, a
23 California Corporation;
24 SHUN FAT SUPERMARKET INC. DBA
25 SAN GABRIEL SUPERSTORE, a California
26 Corporation;
27 and DOES 1-60,

28 Defendants.

CASE NO. **25STCV32756**

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 six causes of action against
defendants WALMART INC.; WAL-MART.COM USA, LLC; PHILIPPINE FOODTRADE
CORPORATION., ABACUS BUSINESS CAPITAL, INC. DBA ISLAND PACIFIC

1 SUPERMARKETS, SHUN FAT SUPERMARKET INC. DBA SAN GABRIEL
2 SUPERSTORE, and DOES 1-60 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
5 organization qualified to do business in the State of California. CAG is a person within
6 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
7 as a private attorney general, brings this action in the public interest as defined under
8 Health and Safety Code Section 25249.7, subdivision (d).
- 9 2. Defendant WALMART INC. ("WALMART") is a Delaware Corporation, qualified to
10 do business in the State of California and doing business in the State of California at all
11 relevant times herein.
- 12 3. Defendant WAL-MART.COM USA, LLC ("WAL-MART.COM") is a California
13 Limited Liability Company, qualified to do business in the state of California and doing
14 business in the State of California at all relevant times herein.
- 15 4. Defendant PHILIPPINE FOODTRADE CORPORATION ("PHILIPPINE
16 FOODTRADE") is a California Corporation, qualified to do business in the State of
17 California and doing business in the State of California at all relevant times herein.
- 18 5. Defendant ABACUS BUSINESS CAPITAL, INC. DBA ISLAND PACIFIC
19 SUPERMARKETS ("ABACUS") is a California Corporation, qualified to do business in
20 the State of California and doing business in the State of California at all relevant times
21 herein.
- 22 6. Defendant SHUN FAT SUPERMARKET INC. DBA SAN GABRIEL SUPERSTORE
23 ("SHUN FAT") is a California Corporation, qualified to do business in the State of
24 California and doing business in the State of California at all relevant times herein.
- 25 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,
26 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
27 Complaint to allege their true names and capacities when ascertained. Plaintiff is
28

1 informed, believes, and thereon alleges that each fictitiously named defendant is
2 responsible in some manner for the occurrences herein alleged and the damages caused
3 thereby.

4 8. At all times mentioned herein, the term "Defendants" includes WALMART, WAL-
5 MART.COM, PHILIPPINE FOODTRADE, ABACUS, SHUN FAT, and DOES 1-60.

6 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
7 times mentioned herein have conducted business within the State of California.

8 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
9 including DOES 1-60, was an agent, servant, or employee of each of the other
10 Defendants. In conducting the activities alleged in this Complaint, each of the
11 Defendants was acting within the course and scope of this agency, service, or
12 employment, and was acting with the consent, permission, and authorization of each of
13 the other Defendants. All actions of each of the Defendants alleged in this Complaint
14 were ratified and approved by every other Defendant or their officers or managing
15 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
16 alleged wrongful conduct of each of the other Defendants.

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

21 **JURISDICTION**

22 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
23 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
24 those given by statute to other trial courts. This Court has jurisdiction over this action
25 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
26 violations of Proposition 65 in any Court of competent jurisdiction.

- 1 13. This Court has jurisdiction over Defendants named herein because Defendants either
2 reside or are located in this State or are foreign corporations authorized to do business in
3 California, are registered with the California Secretary of State, or who do sufficient
4 business in California, have sufficient minimum contacts with California, or otherwise
5 intentionally avail themselves of the markets within California through their
6 manufacture, distribution, promotion, marketing, or sale of their products within
7 California to render the exercise of jurisdiction by the California courts permissible
8 under traditional notions of fair play and substantial justice.
- 9 14. Venue is proper in the County of Los Angeles because one or more of the instances of
10 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
11 because Defendants conducted, and continue to conduct, business in the County of Los
12 Angeles with respect to the consumer product that is the subject of this action.

13 **BACKGROUND AND PRELIMINARY FACTS**

- 14 15. In 1986, California voters approved an initiative to address growing concerns about
15 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
16 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
17 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
18 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
19 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
20 from contamination, to allow consumers to make informed choices about the products
21 they buy, and to enable persons to protect themselves from toxic chemicals as they see
22 fit.
- 23 16. Proposition 65 requires the Governor of California to publish a list of chemicals known
24 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
25 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
26 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
27 other controls that apply to Proposition 65-listed chemicals.
- 28

- 1 17. All businesses with ten (10) or more employees that operate or sell products in California
2 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
3 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
4 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
5 reasonable” warnings before exposing a person, knowingly and intentionally, to a
6 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 7 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
8 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
9 25249.7. "Threaten to violate" means "to create a condition in which there is a
10 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
11 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
12 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 13 19. Plaintiff identified certain practices of manufacturers and distributors of Seafood
14 Products of exposing, knowingly and intentionally, persons in California to Lead and
15 Lead Compounds and Cadmium and Cadmium Compounds of such products without
16 first providing clear and reasonable warnings of such to the exposed persons prior to the
17 time of exposure. Plaintiff later discerned that Defendants engaged in such practice.
- 18 20. On October 1, 1992 the Governor of California added Lead and Lead Compounds
19 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
20 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
21 twenty (20) months after addition of Lead to the list of chemicals known to the State to
22 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
23 discharge prohibitions.
- 24 21. On February 27, 1987, the Governor of California added Lead to the list of chemicals
25 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
26 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
27 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
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1 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
2 the State to cause developmental and reproductive toxicity, Lead became fully subject to
3 Proposition 65 warning requirements and discharge prohibitions.

4 22. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
5 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
6 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
7 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
8 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
9 to the State to cause developmental and reproductive toxicity, Cadmium became fully
10 subject to Proposition 65 warning requirements and discharge prohibitions.

11 **SATISFACTION OF PRIOR NOTICE**

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

14 a. On or about June 16, 2025, Plaintiff gave notice of alleged violations of Health
15 and Safety Code Section 25249.6, concerning consumer products exposures
16 subject to a private action to WALMART, WAL-MART.COM, PHILIPPINE
17 FOODTRADE, and to the California Attorney General, County District
18 Attorneys, and City Attorneys for each city containing a population of at least
19 750,000 people in whose jurisdictions the violations allegedly occurred,
20 concerning the Dried Herring.

21 b. On or about June 9, 2025, Plaintiff gave notice of alleged violations of Health
22 and Safety Code Section 25249.6, concerning consumer products exposures
23 subject to a private action to WALMART, WAL-MART.COM, PHILIPPINE
24 FOODTRADE, and to the California Attorney General, County District
25 Attorneys, and City Attorneys for each city containing a population of at least
26 750,000 people in whose jurisdictions the violations allegedly occurred,
27 concerning the Dried Herring.

- 1 c. On or about July 3, 2025, Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to PHILIPPINE FOODTRADE, ABACUS and to the
4 California Attorney General, County District Attorneys, and City Attorneys for
5 each city containing a population of at least 750,000 people in whose
6 jurisdictions the violations allegedly occurred, concerning the Smoked Herring.
- 7 d. On or about June 26, 2025, Plaintiff gave notice of alleged violations of Health
8 and Safety Code Section 25249.6, concerning consumer products exposures
9 subject to a private action to PHILIPPINE FOODTRADE, ABACUS and to the
10 California Attorney General, County District Attorneys, and City Attorneys for
11 each city containing a population of at least 750,000 people in whose
12 jurisdictions the violations allegedly occurred, concerning the Smoked Herring.
- 13 e. On or about March 6, 2025, Plaintiff gave notice of alleged violations of Health
14 and Safety Code Section 25249.6, concerning consumer products exposures
15 subject to a private action to PHILIPPINE FOODTRADE, SHUN FAT and to
16 the California Attorney General, County District Attorneys, and City Attorneys
17 for each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Sardines in
19 Tomato Sauce.
- 20 f. On or about February 27, 2025, Plaintiff gave notice of alleged violations of
21 Health and Safety Code Section 25249.6, concerning consumer products
22 exposures subject to a private action to PHILIPPINE FOODTRADE, SHUN
23 FAT and to the California Attorney General, County District Attorneys, and
24 City Attorneys for each city containing a population of at least 750,000 people
25 in whose jurisdictions the violations allegedly occurred, concerning the Sardines
26 in Tomato Sauce.
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1 24. Before sending the notice of alleged violations, Plaintiff investigated the consumer
2 products involved, the likelihood that such products would cause users to suffer
3 significant exposures to Lead and Cadmium, and the corporate structure of each of the
4 Defendants.

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

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

18 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
19 gave notice of the alleged violations to WALMART, WAL-MART.COM, PHILIPPINE
20 FOODTRADE, ABACUS, SHUN FAT and the public prosecutors referenced in
21 Paragraph 23.

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

25 **FIRST CAUSE OF ACTION**

26 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART, WAL-**
27 **MART.COM, PHILIPPINE FOODTRADE, and DOES 1-10 for Violations of**
28 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
(*Health & Safety Code*, §§ 25249.5, et seq.))

Seafood Products I

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

30. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Herring (“Dried Herring I”).

31. Dried Herring I contains Lead and Cadmium.

32. Defendants knew or should have known that the State of California has identified Lead as a chemical known to cause cancer, developmental toxicity and reproductive toxicity, and Cadmium as a chemical known to cause developmental and reproductive toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead and Cadmium in Dried Herring I within Plaintiff’s notice of alleged violations further discussed above at Paragraph 23a.

33. Plaintiff’s allegations regarding Dried Herring I concerns “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s acquisition, purchase, storage, 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). Dried Herring I are consumer products, and, as mentioned herein, exposures to Lead and Cadmium took place as a result of such normal and foreseeable consumption and use.

34. Plaintiff is informed, believes, and thereon alleges that between June 16, 2022, and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Dried Herring I, which Defendants manufactured, distributed, or sold as mentioned above, to Lead and Cadmium, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Dried Herring I in California. Defendants know and intend that California consumers will use and consume Dried Herring I, thereby exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and

1 thereon alleges that Defendants are selling Dried Herring I under a brand or trademark
2 that is owned or licensed by the Defendants or an entity affiliated thereto; have
3 knowingly introduced Lead and Cadmium into Dried Herring I or knowingly caused
4 Lead and Cadmium to be created in Dried Herring I; have covered, obscured or altered a
5 warning label that has been affixed to Dried Herring I by the manufacturer, producer,
6 packager, importer, supplier or distributor of Dried Herring I; have received a notice and
7 warning materials for exposure from Dried Herring I without conspicuously posting or
8 displaying the warning materials; and/or have actual knowledge of potential exposure to
9 Lead and Cadmium from Dried Herring I. Defendants thereby violated Proposition 65.

10 35. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
11 Persons sustain exposures by eating and consuming Dried Herring I.

12 36. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Dried Herring I have been ongoing and continuous, as Defendants
14 engaged and continue to engage in conduct which violates Health and Safety Code
15 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried
16 Herring I, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to Lead and Cadmium by Dried Herring I as mentioned
18 herein.

19 37. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
20 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
21 violations alleged herein will continue to occur into the future.

22 38. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Herring I,
24 pursuant to Health and Safety Code Section 25249.7(b).

25 39. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
26 filing this Complaint.

1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART, WAL-**
3 **MART.COM, PHILIPPINE FOODTRADE, and DOES 11-20 for Violations of**
4 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
5 **(Health & Safety Code, §§ 25249.5, et seq.))**

6 **Seafood Products II**

7 40. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
8 as though fully set forth herein.

9 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Dried Herring ("Dried Herring II"), identified as "A1
11 Tropics Since 1970"; "KEEP REFRIGERATED"; "A Filipino Favorite"; "Dried Salted
12 Herring"; "Tunsoy Headless Fully Eviscerated"; "Trust Tropics"; "Lot No 70916237
13 5188"; "UPC 030283010038".

14 42. Dried Herring II contains Lead and Cadmium.

15 43. Defendants knew or should have known that the State of California has identified Lead
16 as a chemical known to cause cancer, developmental toxicity and reproductive toxicity,
17 and Cadmium as a chemical known to cause developmental and reproductive toxicity,
18 and therefore was subject to Proposition 65 warning requirements. Defendants were also
19 informed of the presence of Lead and Cadmium in Dried Herring II within Plaintiff's
20 notice of alleged violations further discussed above at Paragraph 23b.

21 44. Plaintiff's allegations regarding Dried Herring II concerns "[c]onsumer products
22 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
23 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
24 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
25 *25602(b)*. Dried Herring II are consumer products, and, as mentioned herein, exposures
26 to Lead and Cadmium took place as a result of such normal and foreseeable consumption
27 and use.

28 45. Plaintiff is informed, believes, and thereon alleges that between June 9, 2022, and the
present, each of the Defendants knowingly and intentionally exposed California

1 consumers and users of Dried Herring II, which Defendants manufactured, distributed, or
2 sold as mentioned above, to Lead and Cadmium, without first providing any type of clear
3 and reasonable warning of such to the exposed persons before the time of exposure.

4 Defendants have distributed and sold Dried Herring II in California. Defendants know
5 and intend that California consumers will use and consume Dried Herring II, thereby
6 exposing them to Herring II. Further, Plaintiff is informed, believes, and thereon alleges
7 that Defendants are selling Dried Herring II under a brand or trademark that is owned or
8 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
9 Lead and Cadmium into Dried Herring II or knowingly caused Lead and Cadmium to be
10 created in Dried Herring II; have covered, obscured or altered a warning label that has
11 been affixed to Dried Herring II by the manufacturer, producer, packager, importer,
12 supplier or distributor of Dried Herring II; have received a notice and warning materials
13 for exposure from Dried Herring II without conspicuously posting or displaying the
14 warning materials; and/or have actual knowledge of potential exposure to Lead and
15 Cadmium from Dried Herring II. Defendants thereby violated Proposition 65.

16 46. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
17 Persons sustain exposures by eating and consuming Dried Herring II.

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

25 48. 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 49. 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 and Cadmium from Dried Herring II,
3 pursuant to Health and Safety Code Section 25249.7(b).

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

6
7 **THIRD CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against PHILIPPINE**
9 **FOODTRADE, ABACUS, and DOES 21-30 for Violations of Proposition 65, The**
10 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***
11 **§§ 25249.5, *et seq.*))**

12 **Seafood Products III**

13 50. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
14 as though fully set forth herein.

15 51. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Smoked Herring (“Smoked Herring I”).

17 52. Smoked Herring I contains Lead.

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

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

1 55. Plaintiff is informed, believes, and thereon alleges that between July 3, 2022, and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Smoked Herring I, which Defendants manufactured, distributed,
4 or sold as mentioned above, to Lead, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.
6 Defendants have distributed and sold Smoked Herring I in California. Defendants know
7 and intend that California consumers will use and consume Smoked Herring I, thereby
8 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
9 Defendants are selling Smoked Herring I under a brand or trademark that is owned or
10 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
11 Lead into Smoked Herring I or knowingly caused Lead to be created in Smoked Herring
12 I; have covered, obscured or altered a warning label that has been affixed to Smoked
13 Herring I by the manufacturer, producer, packager, importer, supplier or distributor of
14 Smoked Herring I; have received a notice and warning materials for exposure from
15 Smoked Herring I without conspicuously posting or displaying the warning materials;
16 and/or have actual knowledge of potential exposure to Lead from Smoked Herring I.
17 Defendants thereby violated Proposition 65.

18 56. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
19 Persons sustain exposures by eating and consuming Smoked Herring I.

20 57. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Smoked Herring I have been ongoing and continuous, as Defendants
22 engaged and continue to engage in conduct which violates Health and Safety Code
23 Section 25249.6, including the manufacture, distribution, promotion, and sale of Smoked
24 Herring I, so that a separate and distinct violation of Proposition 65 occurred each and
25 every time a person was exposed to Lead by Smoked Herring I as mentioned herein.
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1 58. 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 59. 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 Smoked Herring I, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

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10 **FOURTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against PHILIPPINE**
12 **FOODTRADE, ABACUS, and DOES 31-40 for Violations of Proposition 65, The**
13 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***
14 **§§ 25249.5, *et seq.*))**

15 **Seafood Products IV**

16 61. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
17 as though fully set forth herein.

18 62. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Smoked Herring ("Smoked Herring II"), identified as
20 "AI Tropics Since 1970"; "Smoked Herring Tinapang Tunsoy Fully Eviscerated"; "Net
21 Wt. 6 oz. (170 grams)"; "Distributed by Philippine Foodtrade Corp. and Foodasia
22 International Corp."; "Lot No. 70423247 5425"; "UPC 0 30283 00907 0".

23 63. Smoked Herring II contains Lead.

24 64. Defendants knew or should have known that the State of California has identified Lead
25 as a chemical known to cause cancer, developmental toxicity and reproductive toxicity,
26 and therefore was subject to Proposition 65 warning requirements. Defendants were also
27 informed of the presence of Lead in Smoked Herring II within Plaintiff's notice of
28 alleged violations further discussed above at Paragraph 23d.

1 65. Plaintiff's allegations regarding Smoked Herring II concerns "[c]onsumer products
2 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
3 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
4 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
5 25602(b). Smoked Herring II are consumer products, and, as mentioned herein,
6 exposures to Lead took place as a result of such normal and foreseeable consumption and
7 use.

8 66. Plaintiff is informed, believes, and thereon alleges that between June 26, 2022, and the
9 present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Smoked Herring II, which Defendants manufactured, distributed,
11 or sold as mentioned above, to Lead, without first providing any type of clear and
12 reasonable warning of such to the exposed persons before the time of exposure.
13 Defendants have distributed and sold Smoked Herring II in California. Defendants know
14 and intend that California consumers will use and consume Smoked Herring II, thereby
15 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
16 Defendants are selling Smoked Herring II under a brand or trademark that is owned or
17 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
18 Lead into Smoked Herring II or knowingly caused Lead to be created in Smoked Herring
19 II; have covered, obscured or altered a warning label that has been affixed to Smoked
20 Herring II by the manufacturer, producer, packager, importer, supplier or distributor of
21 Smoked Herring II; have received a notice and warning materials for exposure from
22 Smoked Herring II without conspicuously posting or displaying the warning materials;
23 and/or have actual knowledge of potential exposure to Lead from Smoked Herring II.
24 Defendants thereby violated Proposition 65.

25 67. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
26 Persons sustain exposures by eating and consuming Smoked Herring II.
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1 68. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Smoked Herring II have been ongoing and continuous, as
3 Defendants engaged and continue to engage in conduct which violates Health and Safety
4 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of
5 Smoked Herring II, so that a separate and distinct violation of Proposition 65 occurred
6 each and every time a person was exposed to Lead by Smoked Herring II as mentioned
7 herein.

8 69. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
10 violations alleged herein will continue to occur into the future.

11 70. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to Lead from Smoked Herring II, pursuant to
13 Health and Safety Code Section 25249.7(b).

14 Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
15 filing this Complaint.

16
17 **FIFTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against PHILIPPINE**
19 **FOODTRADE, SHUN FAT, and DOES 41-50 for Violations of Proposition 65, The**
20 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***
21 **§§ 25249.5, *et seq.*))**

22 **Seafood Products V**

23 71. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
24 as though fully set forth herein.

25 72. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
26 distributor, promoter, or retailer of Sardines in Tomato Sauce ("Sardines I").

27 73. Sardines I contains Lead.

28 74. Defendants knew or should have known that the State of California has identified Lead
as a chemical known to cause cancer, developmental toxicity and reproductive toxicity,

1 and therefore was subject to Proposition 65 warning requirements. Defendants were also
2 informed of the presence of Lead in Sardines I within Plaintiff's notice of alleged
3 violations further discussed above at Paragraph 23e.

4 75. Plaintiff's allegations regarding Sardines I concerns "[c]onsumer products exposure[s],"
5 which "is an exposure that results from a person's acquisition, purchase, storage,
6 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
7 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
8 Sardines I are consumer products, and, as mentioned herein, exposures to Lead took
9 place as a result of such normal and foreseeable consumption and use.

10 76. Plaintiff is informed, believes, and thereon alleges that between March 6, 2022, and the
11 present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Sardines I, which Defendants manufactured, distributed, or sold
13 as mentioned above, to Lead, without first providing any type of clear and reasonable
14 warning of such to the exposed persons before the time of exposure. Defendants have
15 distributed and sold Sardines I in California. Defendants know and intend that California
16 consumers will use and consume Sardines I, thereby exposing them to Lead. Further,
17 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sardines I
18 under a brand or trademark that is owned or licensed by the Defendants or an entity
19 affiliated thereto; have knowingly introduced Lead into Sardines I or knowingly caused
20 Lead to be created in Sardines I; have covered, obscured or altered a warning label that
21 has been affixed to Sardines I by the manufacturer, producer, packager, importer,
22 supplier or distributor of Sardines I; have received a notice and warning materials for
23 exposure from Sardines I without conspicuously posting or displaying the warning
24 materials; and/or have actual knowledge of potential exposure to Lead from Sardines I.
25 Defendants thereby violated Proposition 65.

26 77. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
27 Persons sustain exposures by eating and consuming Sardines I.
28

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

7 79. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
8 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
9 violations alleged herein will continue to occur into the future.

10 80. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Lead from Sardines I, pursuant to Health
12 and Safety Code Section 25249.7(b).

13 81. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
14 filing this Complaint.

15 **SIXTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against PHILIPPINE**
17 **FOODTRADE, SHUN FAT, and DOES 51-60 for Violations of Proposition 65, The**
18 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***
§§ 25249.5, *et seq.*))

19 **Seafood Products VI**

20 82. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint
21 as though fully set forth herein.

22 83. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Sardines in Tomato Sauce ("Sardines II"), identified
24 as "AI Tropics"; "Sardines"; "Distributed by: Philippine Foodtrade Corp."; "EXP.
25 28FEB2026"; "TSCTS 280223 BD"; "UPC 030283002156".

26 84. Sardines II contains Lead.
27
28

1 85. Defendants knew or should have known that the State of California has identified Lead
2 as a chemical known to cause cancer, developmental toxicity and reproductive toxicity,
3 and therefore was subject to Proposition 65 warning requirements. Defendants were also
4 informed of the presence of Lead in Sardines II within Plaintiff's notice of alleged
5 violations further discussed above at Paragraph 23f.

6 86. Plaintiff's allegations regarding Sardines II concerns "[c]onsumer products exposure[s],"
7 which "is an exposure that results from a person's acquisition, purchase, storage,
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
9 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
10 Sardines II are consumer products, and, as mentioned herein, exposures to Lead took
11 place as a result of such normal and foreseeable consumption and use.

12 87. Plaintiff is informed, believes, and thereon alleges that between February 27, 2022, and
13 the present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Sardines II, which Defendants manufactured, distributed, or sold
15 as mentioned above, to Lead, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Sardines II in California. Defendants know and intend that
18 California consumers will use and consume Sardines II, thereby exposing them to Lead.
19 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
20 Sardines II under a brand or trademark that is owned or licensed by the Defendants or an
21 entity affiliated thereto; have knowingly introduced Lead into Sardines II or knowingly
22 caused Lead to be created in Sardines II; have covered, obscured or altered a warning
23 label that has been affixed to Sardines II by the manufacturer, producer, packager,
24 importer, supplier or distributor of Sardines II; have received a notice and warning
25 materials for exposure from Sardines II without conspicuously posting or displaying the
26 warning materials; and/or have actual knowledge of potential exposure to Lead from
27 Sardines II. Defendants thereby violated Proposition 65.

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

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

9 90. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
10 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
11 violations alleged herein will continue to occur into the future.

12 91. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to Lead from Sardines II, pursuant to Health
14 and Safety Code Section 25249.7(b).
15 Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
16 filing this Complaint.

17 **PRAYER FOR RELIEF**

18 Plaintiff demands against each of the Defendants as follows:

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

24
25 Dated: November 10, 2025

YEROUSHALMI & YEROUSHALMI*
/s/ Reuben Yeroushalmi
Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.