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9 CONSUMER ADVOCACY GROUP, INC.

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County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By A. Munoz, Deputy Clerk

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 GLANBIA PERFORMANCE NUTRITION
17 (NA), INC., a Florida Corporation;
18 GLANBIA PERFORMANCE NUTRITION
19 (MANUFACTURING), INC., a Delaware
20 Corporation;
21 THE ISOPURE COMPANY, LLC, a
22 Delaware Limited Liability Company;
23 IHERB, LLC, a Delaware Limited Liability
24 Company;
25 and DOES 1-20,

26 Defendants.

CASE NO. **25STCV21979**

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)

27 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
28 against defendants GLANBIA PERFORMANCE NUTRITION (NA), INC.; GLANBIA
PERFORMANCE NUTRITION (MANUFACTURING), INC; THE ISOPURE COMPANY,
LLC; IHERB, LLC 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 GLANBIA PERFORMANCE NUTRITION (NA), INC. (“GLANBIA NA”) is a Florida corporation, qualified to do business in the State of California and doing business in the State of California at all relevant times herein.
3. Defendant GLANBIA PERFORMANCE NUTRITION (MANUFACTURING), INC. (“GLANBIA MFG”) is a Delaware corporation, qualified to do business in the State of California and doing business in the State of California at all relevant times herein.
4. Defendant THE ISOPURE COMPANY, LLC (“ISOPURE”) is a Delaware Limited Liability Company, doing business in the State of California at all relevant times herein.
5. Defendant IHERB, LLC (“IHERB”) is a Delaware Limited Liability Company, qualified to do business in the State of California and doing business in the State of California at all relevant times herein.
6. 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.
7. At all times mentioned herein, the term “Defendants” includes GLANBIA NA, GLANBIA MFG, ISOPURE, IHERB, and DOES 1-20.
8. 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.

- 1 9. Upon information and belief, at all times relevant to this action, each of the Defendants,
2 including DOES 1-20, was an agent, servant, or employee of each of the other
3 Defendants. In conducting the activities alleged in this Complaint, each of the
4 Defendants was acting within the course and scope of this agency, service, or
5 employment, and was acting with the consent, permission, and authorization of each of
6 the other Defendants. All actions of each of the Defendants alleged in this Complaint
7 were ratified and approved by every other Defendant or their officers or managing
8 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
9 alleged wrongful conduct of each of the other Defendants.
- 10 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
11 Defendants was a person doing business within the meaning of Health and Safety Code
12 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
13 employees at all relevant times.

14 **JURISDICTION**

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

1 13. Venue is proper in the County of Los Angeles because one or more of the instances of
2 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
3 because Defendants conducted, and continue to conduct, business in the County of Los
4 Angeles with respect to the consumer product that is the subject of this action.

5 **BACKGROUND AND PRELIMINARY FACTS**

6 14. In 1986, California voters approved an initiative to address growing concerns about
7 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
8 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
9 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
10 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
11 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
12 from contamination, to allow consumers to make informed choices about the products
13 they buy, and to enable persons to protect themselves from toxic chemicals as they see
14 fit.

15 15. Proposition 65 requires the Governor of California to publish a list of chemicals known
16 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
17 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
18 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
19 other controls that apply to Proposition 65-listed chemicals.

20 16. All businesses with ten (10) or more employees that operate or sell products in California
21 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
22 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
23 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
24 reasonable” warnings before exposing a person, knowingly and intentionally, to a
25 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

26 17. Proposition 65 provides that any person "violating or threatening to violate" the statute
27 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
28

25249.7. "Threaten to violate" means "to create a condition in which there is a 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).

18. Plaintiff identified certain practices of manufacturers and distributors of Protein Powder 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.

19. 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.

20. 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

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

- a. On or about April 4, 2025, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures

subject to a private action to GLANBIA NA, GLANBIA MFG, ISOPURE, and IHERB, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Protein Powder.

- b. On or about April 11, 2025, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to GLANBIA NA, GLANBIA MFG, ISOPURE, and IHERB, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Protein Powder.

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

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

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

1 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notice of the alleged violations GLANBIA NA, GLANBIA MFG, ISOPURE, and
3 IHERB, and the public prosecutors referenced in Paragraph 21.

4 26. 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 GLANBIA NA,
10 GLANBIA MFG, ISOPURE, IHERB, and DOES 1-10 for Violations of
11 Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986
(Health & Safety Code, §§ 25249.5, et seq.))**

12 **Supplements I**

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

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

17 29. Protein Powder I contains Lead.

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

23 31. Plaintiff’s allegations regarding Protein Powder 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)*. Protein Powder 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 32. Plaintiff is informed, believes, and thereon alleges that between April 11, 2022 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Protein Powder 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 Protein Powder I in California. Defendants know
7 and intend that California consumers will use and consume Protein Powder I, thereby
8 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
9 Defendants are selling Protein Powder 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 Protein Powder I or knowingly caused Lead to be created in Protein Powder I;
12 have covered, obscured or altered a warning label that has been affixed to Protein
13 Powder I by the manufacturer, producer, packager, importer, supplier or distributor of
14 Protein Powder I; have received a notice and warning materials for exposure from
15 Protein Powder I without conspicuously posting or displaying the warning materials;
16 and/or have actual knowledge of potential exposure to Lead from Protein Powder I.
17 Defendants thereby violated Proposition 65.

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

20 34. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Protein Powder 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 Protein
24 Powder I, so that a separate and distinct violation of Proposition 65 occurred each and
25 every time a person was exposed to Lead by Protein Powder I as mentioned herein.
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1 35. 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 36. 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 Protein Powder I, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

9
10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against GLANBIA NA,
12 GLANBIA MFG, ISOPURE, IHERB, and DOES 11-20 for Violations of
13 Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986
(Health & Safety Code, §§ 25249.5, et seq.))**

14 **Supplements II**

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

17 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Protein Powder II (“Protein Powder II”), identified as
19 “ISOPURE”; “Plant-Based Protein Powder”; “EXP/USE BY: 2026.05.16”; “BATCH #:
20 0001231107”; “Manufactured By: The Isopure Company, LLC”; “UPC 089094025427”.

21 40. Protein Powder II contains Lead.

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

27 42. Plaintiff’s allegations regarding Protein Powder II concerns “[c]onsumer products
28 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
3 *25602(b)*. Protein Powder II are consumer products, and, as mentioned herein,
4 exposures to Lead took place as a result of such normal and foreseeable consumption and
5 use.

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

23 44. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
24 Persons sustain exposures by eating and consuming Protein Powder I.

25 45. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations of
26 Proposition 65 as to Protein Powder II have been ongoing and continuous, as Defendants
27 engaged and continue to engage in conduct which violates Health and Safety Code
28

1 Section 25249.6, including the manufacture, distribution, promotion, and sale of Protein
2 Powder II, so that a separate and distinct violation of Proposition 65 occurred each and
3 every time a person was exposed to Lead by Protein Powder II as mentioned herein.

4 46. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
5 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
6 violations alleged herein will continue to occur into the future.

7 47. Based on the allegations herein, Defendants are liable for civil penalties of up to
8 \$2,500.00 per day per individual exposure to Lead from Protein Powder II, pursuant to
9 Health and Safety Code Section 25249.7(b).

10 48. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
11 filing this Complaint.

12 **PRAYER FOR RELIEF**

13 Plaintiff demands against each of the Defendants as follows:

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

19
20 Dated: July 25, 2025

YEROUSHALMI & YEROUSHALMI*

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22
23 /s/ Reuben Yeroushalmi

24 Reuben Yeroushalmi
25 Attorneys for Plaintiff,
26 CONSUMER ADVOCACY GROUP, INC.
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