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SUPERIOR COURT OF THE STATE OF CALIFORNIA

7
8 COUNTY OF LOS ANGELES

9 GABRIEL ESPINOZA,

10 Plaintiff,

11 vs.

12 BRIDGFORD FOODS CORPORATION,
SPORTSMAN'S WAREHOUSE, INC.,

13 Defendants.

Case No.: 26STCV11522

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

14 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following
15 cause of action in the public interest of the citizens of the State of California.

16 **BACKGROUND OF THE CASE**

17 1. Plaintiff brings this representative action on behalf of all California citizens to
18 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
19 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
20 "[n]o person in the course of doing business shall knowingly and intentionally expose any
21 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
22 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People's right to be informed of the health
25 hazards caused by exposure to lead and/or cadmium, toxic chemicals found in (a) Ready to Eat
26 Mexican beef wraps (lead and cadmium), and (b) Ready to Eat apple turnover sandwiches (lead)
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1 sold and/or distributed by defendant Bridgford Foods Corporation and/or defendant Sportsman's
2 Warehouse, Inc. (collectively, "Defendants" and each a "Defendant") in California.

3 3. Lead¹ and cadmium² are harmful chemicals known to the State of California to
4 cause cancer and birth defects or other reproductive harm.

5 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
6 within California or sell products therein to comply with Proposition 65 regulations. Included in
7 such regulations is the requirement that businesses must label any product containing a Proposition
8 65-listed chemical that will create an exposure above safe harbor levels with a "clear and
9 reasonable" warning before "knowingly and intentionally" exposing any person to any such listed
10 chemical.

11 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
12 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
13 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
14 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
15 actions of a defendant which "violate or threaten to violate" the statute. Health & Safety Code §
16 25249.7.

17 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
18 without a requisite exposure warning, (a) Ready to Eat Mexican beef wraps (lead and cadmium),
19 and (b) Ready to Eat apple turnover sandwiches (lead) (collectively, the "Products" and each a
20 "Product") that expose persons to lead and/or cadmium when consumed for their intended purpose.

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23 ¹ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
24 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
25 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

26 ² On October 1, 1987, the state of California listed cadmium as a chemical known to cause cancer
27 and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs.
28 Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On May 1, 1997, the State
of California listed cadmium as a chemical known to cause birth defects or other reproductive
harm.

1 **VENUE AND JURISDICTION**

2 14. Venue is proper in the County of Los Angeles because one or more of the instances
3 of wrongful conduct occurred, and continue to occur in this county and/or because Defendants
4 conducted, and continue to conduct, business in the County of Los Angeles with respect to the
5 Products.

6 15. This Court has jurisdiction over this action pursuant to California Constitution
7 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
8 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
9 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
10 jurisdiction over this lawsuit.

11 16. This Court has jurisdiction over Defendants because each Defendant is either a
12 citizen of the State of California, has sufficient minimum contacts with the State of California, is
13 registered with the California Secretary of State as foreign corporations authorized to do business
14 in the State of California, and/or has otherwise purposefully availed itself of the California market.
15 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent
16 and permissible with traditional notions of fair play and substantial justice.

17 **STATUTORY BACKGROUND**

18 17. The people of the State of California declared in Proposition 65 their right “[t]o be
19 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
20 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

21 18. To effect this goal, Proposition 65 requires that individuals be provided with a
22 “clear and reasonable warning” before being exposed to substances listed by the State of California
23 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
24 pertinent part:

25 No person in the course of doing business shall knowingly and intentionally expose any
26 individual to a chemical known to the state to cause cancer or reproductive toxicity without
27 first giving clear and reasonable warning to such individual...
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1 19. In this case, exposures are caused by consumer products. A “Consumer Product” is
2 defined as “any article, or component part thereof, including food, that is produced, distributed, or
3 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §
4 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of
5 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer
6 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
7 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
8 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
9 course of doing business ... shall provide a warning to any person to whom the product is sold or
10 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

11 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
12 more of the following methods individually or in combination:³

13 a. A warning that appears on a product’s label or other labeling.

14 b. Identification of the product at the retail outlet in a manner which provides
15 a warning. Identification may be through shelf labeling, signs, menus, or a combination
16 thereof.

17 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
18 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
19 with such conspicuousness, as compared with other words, statements, designs, or devices
20 in the label, labeling or display as to render it likely to be read and understood by an
21 ordinary individual under customary conditions of purchase or use.

22 d. A system of signs, public advertising identifying the system and toll-free
23 information services, or any other system that provides clear and reasonable warnings.

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27 ³ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, *et.seq.*, as amended on August 30,
2016, and operative on August 30, 2018.

1 The Products continue to be distributed and sold in California without the requisite warning
2 information.

3 26. At all times relevant to this action, Defendants have knowingly and intentionally
4 exposed users and/or consumers of the Products to lead and/or cadmium without first giving a
5 clear and reasonable exposure warning to such individuals.

6 27. As a proximate result of acts by each Defendant, as a person in the course of doing
7 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
8 California, including in Los Angeles County, have been exposed to lead and/or cadmium without
9 a clear and reasonable warning on the Products. The individuals subject to the violative exposures
10 include normal and foreseeable users and consumers that consumption the Products, as well as all
11 others exposed to the Products.

12 **SATISFACTION OF NOTICE REQUIREMENTS**

13 28. On February 18, 2025, Plaintiff purchased the Products from Sportsman's
14 Warehouse, Inc. At the time of purchase, Defendants did not provide a Proposition 65 exposure
15 warning for lead, cadmium, or any other Proposition 65 listed chemical in a manner consistent
16 with H&S Code § 25603.1 as described *supra*.

17 29. On March 10, 2025, the Products were sent to a testing laboratory to determine if,
18 and what amount of, lead and/or cadmium a consumer would be exposed to per serving size.

19 30. On March 27, 2025, the laboratory provided the results of its analysis. Results of
20 this test determined the Product exposes users to lead and/or cadmium (collectively, the "Chemical
21 Test Reports" and each a "Chemical Test Report").

22 31. Plaintiff provided the Chemical Test Reports and Products to an analytical chemist
23 to determine if, based on the findings of the Chemical Test Reports and the reasonable and
24 foreseeable consumption of the Products, exposure to lead and/or cadmium will occur at levels
25 that require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of
26 Title 27 of the California Code of Regulations.

27 32. On April 10, 2025 (Ready to Eat Mexican beef wraps) and April 17, 2025 (Ready
28 to Eat apple turnover sandwiches), Plaintiff received from the analytical chemist an exposure

1 assessment report which concluded that persons in California who consumption the Products will
2 be exposed to levels of lead and/or cadmium that require a Proposition 65 exposure warning.

3 33. On April 10, 2025 (Ready to Eat Mexican beef wraps) and April 17, 2025 (Ready
4 to Eat apple turnover sandwiches), Plaintiff gave notice of alleged violation of Health and Safety
5 Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendants concerning the
6 exposure of California citizens to lead and/or cadmium contained in the Products without proper
7 warning, subject to a private action to Defendants and to the California Attorney General’s office
8 and the offices of the County District attorneys and City Attorneys for each city with a population
9 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at
10 Exhibits “A” – “B” a true and correct copy of each Notice.

11 34. The Notices complied with all procedural requirements of Proposition 65 including
12 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
13 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead
14 and/or cadmium exposure, and that counsel believed there was meritorious and reasonable cause
15 for a private action.

16 35. After receiving the Notices, and to Plaintiff’s best information and belief, none of
17 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
18 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
19 are the subject of the Notices.

20 36. Plaintiff is commencing this action more than sixty (60) days from the date of each
21 Notice to Defendants, as required by law.

22 **FIRST CAUSE OF ACTION**

23 **(By Plaintiff against Defendants for the Violation of Proposition 65)**

24 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of
25 this Complaint as though fully set forth herein.

26 38. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer
27 of the Products.

1 39. Consumption of the Products will expose consumers to lead and/or cadmium,
2 hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to
3 human health.

4 40. The Products do not comply with the Proposition 65 warning requirements.

5 41. Plaintiff, based on his best information and belief, avers that at all relevant times
6 herein, and since at least April 10, 2025 with respect to the Ready to Eat Mexican beef wraps, and
7 since at least April 17, 2025 with respect to the Ready to Eat apple turnover sandwiches, continuing
8 until the present, that Defendants have continued to knowingly and intentionally expose California
9 users and consumers of the Products to lead and/or cadmium without providing required warnings
10 under Proposition 65.

11 42. The exposures that are the subject of the Notices result from the purchase,
12 acquisition, and recommended consumption of the Products. The primary route of exposure to lead
13 and/or cadmium is through ingestion. When foods contaminated with lead and/or cadmium are
14 consumed, ingestion of lead and/or cadmium will occur. No clear and reasonable warning is
15 provided with the Products regarding the health hazards of exposure.

16 43. Plaintiff, based on his best information and belief, avers that such exposures will
17 continue every day until clear and reasonable warnings are provided to purchasers and consumers
18 or until these known toxic chemicals are removed from the Products.

19 44. Defendants have knowledge that the normal and reasonably foreseeable
20 consumption of the Products exposes individuals to lead and/or cadmium, and Defendants intends
21 that exposures to lead and/or cadmium will occur by its deliberate, non-accidental participation in
22 the importation, distribution, sale and offering of the Products to consumers in California

23 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
24 Complaint.

25 46. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
26 described acts, each Defendant is liable for a maximum civil penalty of \$2,500 per day per
27 violation.

1 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
2 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
5 relief:

6 A. That the court assess civil penalties against each Defendant in the amount of \$2,500
7 per day for each violation for up to 365 days (up to a maximum civil penalty amount per
8 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

9 B. That the court preliminarily and permanently enjoin Defendants mandating
10 Proposition 65 compliant warnings on the Products;

11 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
12 amount of \$50,000.00.

13 D. That the court grant any further relief as may be just and proper.

14 Dated: April 10, 2026

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