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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/29/2026
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7
8 COUNTY OF SAN FRANCISCO

9 EMA BELL,

10 Plaintiff,

11 vs.

12 UNILEVER MANUFACTURING (US)
13 INC., THE KROGER CO.,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-26-637420

14 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause
15 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 cadmium, a toxic chemical found in Knorr® stroganoff pasta sides
26 sold and/or distributed by defendant Unilever Manufacturing (US) Inc. ("Unilever") and/or
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28

1 defendant The Kroger Co. (“Kroger”) (collectively, “Defendants” and each a “Defendant”) in
2 California.

3 3. Cadmium is a harmful chemical known to the State of California to cause cancer
4 and birth defects or other reproductive harm. On October 1, 1987, the State of California listed
5 cadmium as a chemical known to the State to cause cancer. On May 1, 1997, the State of California
6 listed cadmium as a chemical known to the State to cause birth defects or other reproductive harm.

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

13 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
14 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
15 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
16 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
17 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
18 25249.7.

19 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
20 without a requisite exposure warning, *Knorr*® stroganoff pasta sides (the “Products”) that exposes
21 persons to cadmium when consumed for their intended purpose.

22 7. Defendants’ failure to warn consumers and other individuals in California of the
23 health hazards associated with exposure to cadmium in conjunction with the sale and/or
24 distribution of the Products is a violation of Proposition 65 and subjects Defendants to the
25 injunction and civil penalties described herein.

26 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition
27 65 in accordance with Health and Safety Code § 25249.7(b).

1 information and belief, the Products are consistently in the stream of commerce and available to
2 consumers for purchase in the City and County of San Francisco.

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

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

15 **STATUTORY BACKGROUND**

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

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

23 No person in the course of doing business shall knowingly and intentionally expose any
24 individual to a chemical known to the state to cause cancer or reproductive toxicity without
first giving clear and reasonable warning to such individual...

25 19. In this case, exposures are caused by consumer products. A “Consumer Product” is
26 defined as “any article, or component part thereof, including food, that is produced, distributed, or
27 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §
28

1 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of
2 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer
3 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
4 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
5 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
6 course of doing business ... shall provide a warning to any person to whom the product is sold or
7 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

8 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
9 more of the following methods individually or in combination:¹

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

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

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

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

21 21. Proposition 65 provides that any “person who violates or threatens to violate” the
22 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
23 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
24 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
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26
27 ¹ 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.

penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

FACTUAL BACKGROUND

22. On October 1, 1987, the State of California listed cadmium as a chemical known to the State to cause cancer. On May 1, 1997, the State of California listed cadmium as a chemical known to the State to cause birth defects or other reproductive harm. In summary, cadmium was listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.

23. The exposures that are the subject of the Notice result from the purchase, acquisition, and recommended consumption of the Products. The primary route of exposure to cadmium is through ingestion. When foods contaminated with cadmium are consumed, ingestion of cadmium will occur. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure.

24. Defendants have processed, marketed, distributed, offered to sell and/or sold the Products in California since at least April 15, 2025. The Products continue to be distributed and sold in California without the requisite warning information.

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

26. As a proximate result of acts by each Defendant, as a person in the course of doing business within the meaning of H&S Code § 25249.11, individuals throughout the State of California, including in San Francisco County, have been exposed to cadmium without a clear and reasonable warning on the Products. The individuals subject to the violative exposures include normal and foreseeable users and consumers that consumption the Products, as well as all others exposed to the Products.

SATISFACTION OF NOTICE REQUIREMENTS

27. Plaintiff purchased the Products from Kroger in California. At the time of purchase, Defendants did not provide a Proposition 65 exposure warning for cadmium or any other

1 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
2 *supra*.

3 28. The Products were sent to a testing laboratory to determine if, and what amount of,
4 cadmium a consumer would be exposed to per serving size.

5 29. The laboratory provided the results of its analysis. Results of this test determined
6 the Product exposes consumers to cadmium (the “Chemical Test Report”).

7 30. Plaintiff provided the Chemical Test Report and Products to an analytical chemist
8 to determine if, based on the findings of the Chemical Test Report and the reasonable and
9 foreseeable consumption of the Products, exposure to cadmium will occur at levels that require
10 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
11 the California Code of Regulations.

12 31. On April 15, 2025, Plaintiff received from the analytical chemist an exposure
13 assessment report which concluded that persons in California who consume the Products will be
14 exposed to levels of cadmium that require a Proposition 65 exposure warning.

15 32. On April 15, 2025, Plaintiff gave notice of alleged violation of Health and Safety
16 Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens to
17 cadmium contained in the Products without proper warning, subject to a private action to
18 Defendants and to the California Attorney General’s office and the offices of the County District
19 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
20 the herein violations allegedly occurred.

21 33. The Notice complied with all procedural requirements of Proposition 65 including
22 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
23 least one person with relevant and appropriate expertise who reviewed relevant data regarding
24 cadmium exposure, and that counsel believed there was meritorious and reasonable cause for a
25 private action.

26 34. After receiving the Notice, and to Plaintiff’s best information and belief, none of
27 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
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1 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
2 are the subject of the Notice.

3 35. Plaintiff is commencing this action more than sixty (60) days from the date of the
4 Notice to Defendants, as required by law.

5 **FIRST CAUSE OF ACTION**

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

7 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of
8 this Complaint as though fully set forth herein.

9 37. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer
10 of the Product.

11 38. Consumption of the Products will expose consumers to cadmium, a hazardous
12 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

13 39. The Product does not comply with the Proposition 65 warning requirements.

14 40. Plaintiff, based on her best information and belief, avers that at all relevant times
15 herein, and at least since April 15, 2025, continuing until the present, that Defendants have
16 continued to knowingly and intentionally expose California users and consumers of the Product to
17 cadmium without providing required warnings under Proposition 65.

18 41. The exposures that are the subject of the Notice result from the purchase,
19 acquisition, and recommended consumption of the Products. The primary route of exposure to
20 cadmium is through ingestion. When foods contaminated with cadmium are consumed, ingestion
21 of cadmium will occur. No clear and reasonable warning is provided with the Products regarding
22 the health hazards of exposure.

23 42. Plaintiff, based on her best information and belief, avers that such exposures will
24 continue every day until clear and reasonable warnings are provided to purchasers and users or
25 until this known toxic chemical is removed from the Products.

26 43. Defendants have knowledge that the normal and reasonably foreseeable
27 consumption of the Products exposes individuals to cadmium, and Defendants intend those
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1 exposures to cadmium will occur by their deliberate, non-accidental participation in the
2 importation, distribution, sale and offering of the Products to consumers in California

3 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
4 Complaint.

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

8 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
9 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
12 relief:

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

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

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

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

21 Dated: May 29, 2026

BRODSKY SMITH

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