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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**04/15/2026**  
Clerk of the Court  
BY: MARIVIC VIRAY  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 vs.

14 CRUNCHIES NATURAL FOOD  
15 COMPANY LLC,

16 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

**CGC-26-635934**

17 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause  
18 of action in the public interest of the citizens of the State of California.

19 **BACKGROUND OF THE CASE**

20 1. Plaintiff brings this representative action on behalf of all California citizens to  
21 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
22 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,  
23 "[n]o 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  
25 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

26 2. This complaint is a representative action brought by Plaintiff in the public interest  
27 of the citizens of the State of California to enforce the People's right to be informed of the health  
28 hazards caused by exposure to lead, a toxic chemical found in *Crunchies*® freeze dried  
strawberries sold and/or distributed by defendant Crunchies Natural Food Company LLC  
("Crunchies" or "Defendant") in California.

1           3.       Lead is a harmful chemical known to the State of California to cause cancer and  
2 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as  
3 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations  
4 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
5 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to  
6 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 Defendant distributes and/or offers for sale in California,  
20 without a requisite exposure warning, *Crunchies*® freeze dried strawberries (the “Products”) that  
21 expose persons to lead when consumed for their intended purpose.

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

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





1 19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
2 more of the following methods individually or in combination:<sup>1</sup>

3 a. A warning that appears on a product's label or other labeling.

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

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

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

14 20. Proposition 65 provides that any "person who violates or threatens to violate" the  
15 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
16 "threaten to violate" is defined to mean creating "a condition in which there is a substantial  
17 probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil  
18 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
19 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

#### 20 **FACTUAL BACKGROUND**

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

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26  
27 <sup>1</sup> 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 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the  
2 State to cause cancer and birth defects or other reproductive harm.

3 22. The exposures that are the subject of the Notice result from the purchase,  
4 acquisition, and recommended consumption of the Products. The primary route of exposure to lead  
5 is through ingestion. When foods contaminated with lead are consumed, ingestion of lead will  
6 occur which will increase blood lead levels. No clear and reasonable warning is provided with the  
7 Products regarding the health hazards of exposure.

8 23. Defendant has manufactured, processed, marketed, distributed, offered to sell  
9 and/or sold the Products in California since at least April 15, 2025. Upon information and belief,  
10 the Products are consistently in the stream of commerce and available to consumers for purchase  
11 in the City and County of San Francisco and the alleged Proposition 65 violations necessarily  
12 occurred here. The Products continue to be distributed, offered for sale and/or sold in California  
13 without the requisite warning information.

14 24. At all times relevant to this action, Defendant has knowingly and intentionally  
15 exposed users and/or consumers of the Products to lead without first giving a clear and reasonable  
16 exposure warning to such individuals.

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

### 23 SATISFACTION OF NOTICE REQUIREMENTS

24 26. On February 19, 2025, Plaintiff purchased the Products from Ralphs. At the time  
25 of purchase, Defendant did not provide a Proposition 65 exposure warning for lead or any other  
26 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described  
27 *supra*.

1           27.     On March 19, 2025, the Products were sent to a testing laboratory to determine if,  
2 and what amount of, lead a consumer would be exposed to per serving size.

3           28.     On April 1, 2025, the laboratory provided the results of its analysis. Results of this  
4 test determined the Product exposes consumers to lead (the “Chemical Test Report”).

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

10          30.     On April 15, 2025, Plaintiff received from the analytical chemist an exposure  
11 assessment report which concluded that persons in California who use the Products will be exposed  
12 to levels of lead that require a Proposition 65 exposure warning.

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

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

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

28

1 34. Plaintiff is commencing this action more than sixty (60) days from the date of the  
2 Notice to Defendant, as required by law.

3 **FIRST CAUSE OF ACTION**

4 **(By Plaintiff against Defendant for the Violation of Proposition 65)**

5 35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of  
6 this Complaint as though fully set forth herein.

7 36. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of  
8 the Product.

9 37. Consumption of the Products will exposed users to lead, a hazardous chemical  
10 found on the Proposition 65 list of chemicals known to be hazardous to human health.

11 38. The Product does not comply with the Proposition 65 warning requirements.

12 39. Plaintiff, based on her best information and belief, avers that at all relevant times  
13 herein, and at least since April 15, 2025, continuing until the present, that Defendant has continued  
14 to knowingly and intentionally expose California users and consumers of the Product to lead  
15 without providing required warnings under Proposition 65.

16 40. The exposures that are the subject of the Notice result from the purchase,  
17 acquisition, and recommended consumption of the Products. The primary route of exposure to lead  
18 is through ingestion. When foods contaminated with lead are consumed, ingestion of lead will  
19 occur which will increase blood lead levels. No clear and reasonable warning is provided with the  
20 Products regarding the health hazards of exposure.

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

24 42. Defendant has knowledge that the normal and reasonably foreseeable consumption  
25 of the Products exposes individuals to lead, and Defendant intends that exposures to lead will occur  
26 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of  
27 the Products to consumers in California

1 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
2 Complaint.

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

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

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
9 relief:

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

13 B. That the court preliminarily and permanently enjoin Defendant mandating  
14 Proposition 65 compliant warnings on the Products;

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

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

18 Dated: April 15, 2026

BRODSKY SMITH

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