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David W. Slayton,
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By Y. Ayala, Deputy Clerk

6 Attorneys for Plaintiff,
7 BERJ PARSEGHIAN

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

12 BERJ PARSEGHIAN, in the public interest,

13 Plaintiff,

14 v.

15 Side Step Sweets LLC; Walmart, Inc.; Wal-
16 Mart.com USA LLC; and DOES 1 through 100,
17 inclusive,

18 Defendants.

Civil Action No.: **26STCV13030**

**COMPLAINT FOR INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

[Cal. Health and Safety Code Sec. 25249.6, *et
seq.*]

KJT LAWGROUP LLP
Jivalagian | Thomassian

1
2 Berj Parseghian, in the public interest, based on information and belief and investigation of
3 counsel, except for information based on knowledge, hereby makes the following allegations.

4
5 **INTRODUCTION**

6 1. This Complaint seeks to remedy Defendants' continuing failure to adequately warn
7 individuals in California that they are being exposed to lead, a chemical known to the State of
8 California to cause cancer and other reproductive harm. Such exposures have occurred, and
9 continue to occur, through the manufacture, distribution, sale and consumption of Defendants'
10 Enjoy Small World Wins Gummies - Sour - Strawberry. Green Apple. Peach. Watermelon Lime;
11 UPC #: 6 05245 01125 7 and Enjoy Small World Wins Gummies - Classic - Strawberry. Green
12 Apple. Peach. Watermelon Lime; UPC #: 6 05245 01124 0 (the "Product"). The Product is
13 available to consumers in California through a multitude of retail channels including, without
14 limitation (a) third-party traditional brick-and-mortar retail locations; (b) via the internet through
15 Defendants' website; and (c) via the internet through third-party retail websites. Consumers are
16 exposed to lead when they consume the Product.

17 2. Under California's Proposition 65, Health and Safety Code § 25249.5, et seq., it is
18 unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals
19 known to the State to cause cancer, birth defects or other reproductive harm without providing clear
20 and reasonable warnings to individuals prior to their exposure. Defendants introduce a product
21 contaminated with significant quantities of lead into the California marketplace, exposing consumers
22 of the Product to lead.

23 3. A retail seller is responsible for providing the warning required by Section 25249.6 of
24 the Act for a consumer product exposure only when one or more of the following circumstances
25 exist:

26 (1) The retail seller is selling the product under a brand or trademark that is owned or
27 licensed by the retail seller or an affiliated entity;

28 (2) The retail seller has knowingly introduced a listed chemical into the product, or

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knowingly caused a listed chemical to be created in the product;

(3) The retail seller has covered, obscured or altered a warning label that has been affixed to the product pursuant to subsection (b);

(4) The retail seller has received a notice and warning materials for the exposure pursuant to subsections (b) and (c) and the retail seller has sold the product without conspicuously posting or displaying the warning; or

(5) The retail seller has actual knowledge of the potential consumer product exposure requiring the warning, and there is no manufacturer, producer, packager, importer, supplier, or distributor of the product who:

(A) Is a "person in the course of doing business" under Section 25249.11(b) of the Act, and

(B) Has designated an agent for service of process in California, or has a place of business in California.

4. Despite the fact that the Defendants expose consumers to lead, Defendants provide no warning, or inadequate warnings about the reproductive hazards associated with lead exposure. Defendants' conduct thus violates the warning provision of Proposition 65, Health & Safety Code § 25249.6.

PARTIES

5. Plaintiff brings this enforcement action in the public interest pursuant to Health & Safety Code § 25249.7(d).

6. Defendant SIDE STEP SWEETS LLC ("SIDE STEP") is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11 SIDE STEP manufactures, distributes and/or sells the Product for sale and use in California.

7. Defendant WALMART, INC. ("WALMART") is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. WALMART is a retail seller that sells the Product for sale and use in California.

8. Defendant WAL-MART.COM USA LLC ("WAL-MART.COM") is a person in

1 the course of doing business within the meaning of Health & Safety Code § 25249.11. WAL-
2 MART.COM is a retail seller that sells the Product for sale and use in California.

3 9.

4 10. The true names of DOES 1 through 100 are unknown to Plaintiff at this time. When
5 their identities are ascertained, the Complaint shall be amended to reflect their true names.

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7 **JURISDICTION AND VENUE**

8 11. The Court has jurisdiction over this action pursuant to Health & Safety Code §
9 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
10 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
11 other trial courts.

12 12. This Court has jurisdiction over Defendants as business entities that do sufficient
13 business, have sufficient minimum contacts in California or otherwise intentionally avails itself of the
14 California market through the sale, marketing or use of the Product in California and/or by having
15 such other contacts with California so as to render the exercise of jurisdiction over them by the
16 California courts consistent with traditional notions of fair play and substantial justice.

17 13. Venue is proper in Los Angeles County Superior Court because one or more of the
18 violations arise in the County of Los Angeles.

19
20 **BACKGROUND FACTS**

21 14. The People of the State of California have declared by initiative under Proposition
22 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
23 other reproductive harm.” Proposition 65 § 1(b).

24 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed
25 by the State of California as known to cause cancer, birth defects or other reproductive harm above
26 certain levels without a “clear and reasonable warning” unless the business responsible for the
27 exposure can prove that it fits within a statutory exemption. Health & Safety Code § 25249.6 states
28

1 in pertinent part:

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

5 16. The State of California has officially listed lead as a chemical known to cause cancer
6 and reproductive harm.

7 17. The level of exposure to a chemical causing reproductive toxicity under Proposition
8 65 is determined by multiplying the level in question times the reasonably anticipated rate of
9 exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer
10 products, the level of exposure is calculated using the reasonably anticipated rate of intake or
11 exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

12 18. Defendant SIDE STEP manufactures, distributes and/or sells the Product for sale
13 and use in California.

14 19. Defendant WALMART is a retail seller that sells the Product in California.

15 20. Defendant WAL-MART.COM is a retail seller that sells the Product in California.

16 21. Defendants' Product contains sufficient quantities of lead such that consumers,
17 including pregnant women, who consume the Product are exposed to lead. The primary route of
18 exposure for the violations is direct ingestion when consumers orally ingest the Product. These
19 exposures occur in homes, workplaces and everywhere in California where the Product is
20 consumed.

21 22. During the relevant one-year period herein, no clear and reasonable warning was
22 provided with the Product regarding the reproductive hazards of lead.

23 23. Any person acting in the public interest has standing to enforce violations of
24 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
25 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
26 within such time. Health & Safety Code § 25249.7(d).

27 24. More than sixty days prior to naming each Defendant in this lawsuit, Plaintiff
28 provided a 60-Day "Notice of Violation of Proposition 65" to the California Attorney General, the

1 District Attorneys of every county in California, the City Attorneys of every California city with a
2 population greater than 750,000 and to the named Defendants. In compliance with Health & Safety
3 Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1)
4 the name and address of each violator; (2) the statute violated; (3) the time period during which
5 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure
6 to lead from the Product, and (b) the specific type of Product sold and used in violation of
7 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of
8 the violations described in each Notice.

9 25. Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney
10 General, the District Attorneys of every county in California, the City Attorneys of every California
11 city with a population greater than 750,000 and to the named Defendants. The Notice of Violation
12 of Proposition 65 was filed on or about April 24, 2025. In compliance with Health & Safety Code §
13 25249.7(d) and 11 C.C.R. § 3101, each Certificate certified that Plaintiff's counsel: (1) has
14 consulted with one or more persons with relevant and appropriate experience or expertise who
15 reviewed facts, studies or other data regarding the exposures to lead alleged in each Notice; and (2)
16 based on the information obtained through such consultations, believes that there is a reasonable
17 and meritorious case for a citizen enforcement action based on the facts alleged in each Notice. In
18 compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served
19 on the Attorney General included factual information-provided on a confidential basis-sufficient to
20 establish the basis for the Certificate, including the identity of the person(s) consulted by the
21 Plaintiff's counsel and the facts, studies or other data reviewed by such persons.

22 26. None of the public prosecutors with the authority to prosecute violations of
23 Proposition 65 has commenced and/or is diligently prosecuting a cause of action against
24 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of
25 Plaintiff's Notices.

26 27. Defendants both know and intend that individuals will consume the Product, thus
27 exposing them to lead.
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1 28. Under Proposition 65, an exposure is “knowing” where the party responsible for
2 such exposure has:

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4 Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety
5 Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required.
6 27 C.C.R.§ 25102(n). This knowledge may be either actual or constructive. *See, e.g.,* Final
7 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division
8 2, § 12201).

9 29. Defendants have been informed of the lead in their Products by the 60-Day Notice
10 of Violation and accompanying Certificate of Merit served on them.

11 30. Defendants also have constructive knowledge that the Products contain lead due to
12 the widespread media coverage concerning the problem of lead in consumer products.

13 31. As entities that manufacture, import, distribute and/or sell the Product for use in the
14 California marketplace, Defendants know or should know that the Product contains lead and that
15 individuals who consume the Product will be exposed to lead. The lead exposures to consumers
16 who consume the Product are a natural and foreseeable consequence of Defendant’s placing the
17 Product into the stream of commerce.

18 32. Nevertheless, Defendants continue to expose consumers to lead without prior clear
19 and reasonable warnings regarding the reproductive hazards of lead.

20 33. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to
21 filing this Complaint.

22 34. Any person “violating or threatening to violate” Proposition 65 may be enjoined in
23 any court of competent jurisdiction. Health & Safety Code § 25249.7. “Threaten to violate” is
24 defined to mean “to create a condition in which there is a substantial probability that a violation will
25 occur.” Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to
26 exceed \$2,500 per day for each violation of Proposition 65.
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CAUSE OF ACTION

(Violations of the Health & Safety Code 25249.6)

35. Plaintiff realleges and incorporates by reference as if specifically set forth herein Paragraphs 1 through 27, inclusive.

36. By placing the Product into the stream of commerce, each Defendant is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11.

37. A retail seller is required to provide a warning for consumer product exposure under Section 25249.6 of the Act under specific conditions: if they sell the product under their own or an affiliated entity's brand, if they have intentionally added or caused the creation of a listed chemical in the product, if they have tampered with an existing warning label, if they fail to display a provided warning, or if they are aware of the exposure risk and there is no responsible manufacturer, producer, packager, importer, supplier, or distributor with a business presence or designated agent in California. Defendants WALMART and WAL-MART.COM are retail sellers that sell the Product in California.

38. Lead is a chemical listed by the State of California as known to cause cancer and other reproductive harm.

39. Defendants know that average use of the Product will expose users of the Product to lead. Defendants intend that the Product be used in a manner that results in exposures to lead from the Products.

40. Defendants have failed, and continue to fail, to provide clear and reasonable warnings regarding the reproductive toxicity of lead to users of the Products.

41. By committing the acts alleged above, Defendants have at all times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to lead without first giving clear and reasonable warnings to such individuals regarding the reproductive toxicity of lead.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess civil penalties against the Defendants in the amount of \$2,500 per day for each violation of Proposition 65;
2. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and permanently enjoin Defendants from offering the Product for sale in California without either reformulating the Products such that no Proposition 65 warnings are required or providing prior clear and reasonable warnings, as Plaintiff shall specify in further application to the Court;
3. That the Court, pursuant to Health & Safety Code § 25249.7(a), order Defendants to take action to stop ongoing unwarranted exposures to lead resulting from use of Product sold, as Plaintiff shall specify in further application to the Court;
4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other applicable theory or doctrine, grant Plaintiff her reasonable attorneys' fees and costs of suit; and
5. That the Court grant such other and further relief as may be just and proper.

Dated: April 22, 2026

KJT LAW GROUP, LLP

By: 

Tre Krikorian, Esq.
Attorneys for Plaintiff
BERJ PARSEGHIAN