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8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

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 ABACUS BUSINESS CAPITAL, INC. DBA
17 ISLAND PACIFIC SUPERMARKETS,
18 INC., a California Corporation;
19 and DOES 1-40,

20 Defendants.

CASE NO. **25STCV21985**

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)

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25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action
26 against defendants ABACUS BUSINESS CAPITAL, INC. DBA ISLAND PACIFIC
27 SUPERMARKETS, INC., and DOES 1-40 as follows:
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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 ABACUS BUSINESS CAPITAL, INC. DBA ISLAND PACIFIC SUPERMARKETS, INC. (“ABACUS”) is a California Corporation qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, 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.
4. At all times mentioned herein, the term “Defendants” includes ABACUS and DOES 1-40.
5. 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.
6. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing

agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the Defendants was a person doing business within the meaning of Health and Safety Code Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more employees at all relevant times.

JURISDICTION

8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other trial courts. This Court has jurisdiction over this action pursuant to Health and Safety Code Section 25249.7, which allows enforcement of violations of Proposition 65 in any Court of competent jurisdiction.
9. This Court has jurisdiction over Defendants named herein because Defendants either reside or are located in this State or are foreign corporations authorized to do business in California, are registered with the California Secretary of State, or who do sufficient business in California, have sufficient minimum contacts with California, or otherwise intentionally avail themselves of the markets within California through their manufacture, distribution, promotion, marketing, or sale of their products within California to render the exercise of jurisdiction by the California courts permissible under traditional notions of fair play and substantial justice.
10. Venue is proper in the County of Los Angeles because one or more of the instances of wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or because Defendants conducted, and continue to conduct, business in the County of Los Angeles with respect to the consumer product that is the subject of this action.

BACKGROUND AND PRELIMINARY FACTS

11. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to

chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.

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

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

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

15. Plaintiff identified certain practices of manufacturers and distributors of Seafood Products of exposing, knowingly and intentionally, persons in California to Lead and Lead Compounds and Cadmium and Cadmium Compounds, of such products without

1 first providing clear and reasonable warnings of such to the exposed persons prior to the
2 time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

3 16. On October 1, 1992 the Governor of California added Lead and Lead Compounds
4 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
5 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
6 twenty (20) months after addition of Lead to the list of chemicals known to the State to
7 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
8 discharge prohibitions.

9 17. On February 27, 1987, the Governor of California added Lead to the list of chemicals
10 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
11 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
12 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
13 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
14 the State to cause developmental and reproductive toxicity, Lead became fully subject to
15 Proposition 65 warning requirements and discharge prohibitions.

16 18. On May 1, 1997, the Governor of California added Cadmium and Cadmium Compounds
17 (“Cadmium”) to the list of chemicals known to the State to cause developmental and
18 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the
19 State to cause developmental, and male reproductive toxicity. Pursuant to Health and
20 Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of
21 Cadmium to the list of chemicals known to the State to cause developmental and
22 reproductive toxicity, Cadmium became fully subject to Proposition 65 warning
23 requirements and discharge prohibitions.

24 **SATISFACTION OF PRIOR NOTICE**

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

- 1 a. On or about April 25, 2025, Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to ABACUS, and to the California Attorney General,
4 County District Attorneys, and City Attorneys for each city containing a
5 population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Sardines in Tomato Sauce.
- 7 b. On or about May 2, 2025, Plaintiff gave notice of alleged violations of Health
8 and Safety Code Section 25249.6, concerning consumer products exposures
9 subject to a private action to ABACUS, and to the California Attorney General,
10 County District Attorneys, and City Attorneys for each city containing a
11 population of at least 750,000 people in whose jurisdictions the violations
12 allegedly occurred, concerning the Sardines in Tomato Sauce.
- 13 c. On or about April, 25, 2025, Plaintiff gave notice of alleged violations of Health
14 and Safety Code Section 25249.6, concerning consumer products exposures
15 subject to a private action to ABACUS, and to the California Attorney General,
16 County District Attorneys, and City Attorneys for each city containing a
17 population of at least 750,000 people in whose jurisdictions the violations
18 allegedly occurred, concerning the Sardines in Fresh Herbs and Hot Corn Oil.
- 19 d. On or about May 2, 2025, Plaintiff gave notice of alleged violations of Health
20 and Safety Code Section 25249.6, concerning consumer products exposures
21 subject to a private action to ABACUS, and to the California Attorney General,
22 County District Attorneys, and City Attorneys for each city containing a
23 population of at least 750,000 people in whose jurisdictions the violations
24 allegedly occurred, concerning the Sardines in Fresh Herbs and Hot Corn Oil.

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

21. 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 and Cadmium, 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.

22. 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).

23. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff gave notice of the alleged violations to ABACUS, and the public prosecutors referenced in Paragraph 19.

24. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor any applicable district attorney or city attorney has commenced and is diligently prosecuting an action against the Defendants.

FIRST CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against ABACUS, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Seafood Products I

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

1 26. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Sardines in Tomato Sauce ("Sardines I").
3 27. Sardines I contain Lead and/or Cadmium.
4 28. Defendants knew or should have known that the State of California has identified Lead
5 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,
6 and Cadmium as a chemical known to cause reproductive and developmental toxicity,
7 and therefore was subject to Proposition 65 warning requirements. Defendants were also
8 informed of the presence of Lead and/or Cadmium in Sardines I within Plaintiff's notice
9 of alleged violations further discussed above at Paragraph 19b.
10 29. Plaintiff's allegations regarding Sardines I concerns "[c]onsumer products exposure[s],"
11 which "is an exposure that results from a person's acquisition, purchase, storage,
12 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
13 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
14 Sardines I are consumer products, and, as mentioned herein, exposures to Lead and/or
15 Cadmium took place as a result of such normal and foreseeable consumption and use.
16 30. Plaintiff is informed, believes, and thereon alleges that between May 2, 2022 and the
17 present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Sardines I, which Defendants manufactured, distributed, or sold
19 as mentioned above, to Lead and/or Cadmium, without first providing any type of clear
20 and reasonable warning of such to the exposed persons before the time of exposure.
21 Defendants have distributed and sold Sardines I in California. Defendants know and
22 intend that California consumers will use and consume Sardines I, thereby exposing
23 them to Lead and/or Cadmium. Further, Plaintiff is informed, believes, and thereon
24 alleges that Defendants are selling Sardines I under a brand or trademark that is owned
25 or licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
26 Lead and/or Cadmium into Sardines I or knowingly caused Lead and/or Cadmium to be
27 created in Sardines I; have covered, obscured or altered a warning label that has been
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1 affixed to Sardines I by the manufacturer, producer, packager, importer, supplier or
2 distributor of Sardines I; have received a notice and warning materials for exposure from
3 Sardines I without conspicuously posting or displaying the warning materials; and/or
4 have actual knowledge of potential exposure to Lead and/or Cadmium from Sardines I.
5 Defendants thereby violated Proposition 65.

6 31. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.

7 Persons sustain exposures by eating and consuming Sardines I.

8 32. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
9 Proposition 65 as to Sardines I have been ongoing and continuous, as Defendants
10 engaged and continue to engage in conduct which violates Health and Safety Code
11 Section 25249.6, including the manufacture, distribution, promotion, and sale of
12 Sardines I, so that a separate and distinct violation of Proposition 65 occurred each and
13 every time a person was exposed to Lead and/or Cadmium by Sardines I as mentioned
14 herein.

15 33. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
16 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
17 violations alleged herein will continue to occur into the future.

18 34. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to Lead and/or Cadmium from Sardines I,
20 pursuant to Health and Safety Code Section 25249.7(b).

21 35. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
22 filing this Complaint.

23 **SECOND CAUSE OF ACTION**

24 **(By CONSUMER ADVOCACY GROUP, INC. and against ABACUS, and DOES**
25 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
26 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

27 **Seafood Products II**

1 36. Plaintiff repeats and incorporates by reference paragraphs 1 through 24 of this complaint
2 as though fully set forth herein.

3 37. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Sardines in Tomato Sauce (“Sardines II”), identified
5 as:

6 (i) “Island Pacific”; “Premium Sardines in Tomato Sauce”; “Product of: Island
7 Pacific Supermarket”; “UPC: 0 000000 120012”; and

8 (ii) “Island Pacific”; “Premium Sardines in Tomato Sauce”; “With Chili”; “Product
9 of: Island Pacific Supermarket”; “UPC: 0 000000 120029”.

10 38. Sardines II contain Lead and/or Cadmium.

11 39. Defendants knew or should have known that the State of California has identified Lead a
12 chemical known to cause cancer, reproductive toxicity, and developmental toxicity, and
13 Cadmium as a chemical known to cause reproductive and developmental toxicity, and
14 therefore was subject to Proposition 65 warning requirements. Defendants were also
15 informed of the presence of Lead and/or Cadmium in Sardines II within Plaintiff’s notice
16 of alleged violations further discussed above at Paragraph 19a.

17 40. Plaintiff’s allegations regarding Sardines II concerns “[c]onsumer products exposure[s],”
18 which “is an exposure that results from a person’s acquisition, purchase, storage,
19 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
20 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).
21 Sardines II are consumer products, and, as mentioned herein, exposures to Lead and/or
22 Cadmium. took place as a result of such normal and foreseeable consumption and use.

23 41. Plaintiff is informed, believes, and thereon alleges that between April 25, 2022 and the
24 present, each of the Defendants knowingly and intentionally exposed California
25 consumers and users of Sardines II, which Defendants manufactured, distributed, or sold
26 as mentioned above, to Lead and/or Cadmium, without first providing any type of clear
27 and reasonable warning of such to the exposed persons before the time of exposure.

1 Defendants have distributed and sold Sardines II in California. Defendants know and
2 intend that California consumers will use and consume Sardines II, thereby exposing
3 them to Lead and/or Cadmium. Further, Plaintiff is informed, believes, and thereon
4 alleges that Defendants are selling Sardines II under a brand or trademark that is owned
5 or licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
6 Lead and/or Cadmium into Sardines II or knowingly caused Lead and/or Cadmium to be
7 created in Sardines II; have covered, obscured or altered a warning label that has been
8 affixed to Sardines II by the manufacturer, producer, packager, importer, supplier or
9 distributor of Sardines II; have received a notice and warning materials for exposure
10 from Sardines II without conspicuously posting or displaying the warning materials;
11 and/or have actual knowledge of potential exposure to Lead and/or Cadmium from
12 Sardines II. Defendants thereby violated Proposition 65.

13 42. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.

14 Persons sustain exposures by eating and consuming Sardines II.

15 43. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
16 Proposition 65 as to Sardines II have been ongoing and continuous, as Defendants
17 engaged and continue to engage in conduct which violates Health and Safety Code
18 Section 25249.6, including the manufacture, distribution, promotion, and sale of
19 Sardines II, so that a separate and distinct violation of Proposition 65 occurred each and
20 every time a person was exposed to Lead and/or Cadmium by Sardines II as mentioned
21 herein.

22 44. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
23 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
24 violations alleged herein will continue to occur into the future.

25 45. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to Lead and/or Cadmium from Sardines II,
27 pursuant to Health and Safety Code Section 25249.7(b).

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

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4 **THIRD CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against ABACUS, and DOES**
6 **21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
7 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

8 **Seafood Products III**

9 47. Plaintiff repeats and incorporates by reference paragraphs 1 through 24 of this complaint
10 as though fully set forth herein.

11 48. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Sardines in Fresh Herbs and Hot Corn Oil (“Sardines
13 III”).

14 49. Sardines III contain Lead.

15 50. Defendants knew or should have known that Lead has been identified by the State of
16 California as a chemical known to cause cancer, reproductive toxicity, and
17 developmental toxicity and therefore was subject to Proposition 65 warning
18 requirements. Defendants were also informed of the presence of Lead in Sardines III
19 within Plaintiff’s notice of alleged violations further discussed above at Paragraph 19d.

20 51. Plaintiff’s allegations regarding Sardines III concerns “[c]onsumer products
21 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
22 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
23 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
24 25602(b). Sardines III are consumer products, and, as mentioned herein, exposures to
25 Lead took place as a result of such normal and foreseeable consumption and use.

26 52. Plaintiff is informed, believes, and thereon alleges that between May 2, 2022 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Sardines III, which Defendants manufactured, distributed, or
sold as mentioned above, to Lead, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.
2 Defendants have distributed and sold Sardines III in California. Defendants know and
3 intend that California consumers will use and consume Sardines III, thereby exposing
4 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
5 Defendants are selling Sardines III under a brand or trademark that is owned or licensed
6 by the Defendants or an entity affiliated thereto; have knowingly introduced Lead into
7 Sardines III or knowingly caused Lead to be created in Sardines III; have covered,
8 obscured or altered a warning label that has been affixed to Sardines III by the
9 manufacturer, producer, packager, importer, supplier or distributor of Sardines III; have
10 received a notice and warning materials for exposure from Sardines III without
11 conspicuously posting or displaying the warning materials; and/or have actual
12 knowledge of potential exposure to Lead from Sardines III. Defendants thereby violated
13 Proposition 65.

14 53. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
15 Persons sustain exposures by eating and consuming Sardines III.

16 54. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
17 Proposition 65 as to Sardines III have been ongoing and continuous, as Defendants
18 engaged and continue to engage in conduct which violates Health and Safety Code
19 Section 25249.6, including the manufacture, distribution, promotion, and sale of
20 Sardines III, so that a separate and distinct violation of Proposition 65 occurred each and
21 every time a person was exposed to Lead by Sardines III as mentioned herein.

22 55. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
23 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
24 violations alleged herein will continue to occur into the future.

25 56. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to Lead from Sardines III, pursuant to Health
27 and Safety Code Section 25249.7(b).
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1 57. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

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4 **FOURTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against ABACUS, and DOES**
6 **31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
7 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

8 **Seafood Products IV**

9 58. Plaintiff repeats and incorporates by reference paragraphs 1 through 24 of this complaint
10 as though fully set forth herein.

11 59. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Sardines in Fresh Herbs and Hot Corn Oil (“Sardines
13 IV”), identified as: “Ado’s Kitchen”; “GOURMET SARDINES”; “In Fresh Herbs and
14 Hot Corn Oil”; “Net Wt. 8 oz (225g)”; “Product of The Philippines”; “UPC
15 4806533190227”.

16 60. Sardines IV contain Lead.

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

22 62. Plaintiff’s allegations regarding Sardines IV concerns “[c]onsumer products
23 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
24 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
25 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
26 25602(b). Sardines IV are consumer products, and, as mentioned herein, exposures to
27 Lead took place as a result of such normal and foreseeable consumption and use.

28 63. Plaintiff is informed, believes, and thereon alleges that between April 25, 2022 and the
present, each of the Defendants knowingly and intentionally exposed California

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

16 64. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
17 Persons sustain exposures by eating and consuming Sardines IV.

18 65. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
19 Proposition 65 as to Sardines IV have been ongoing and continuous, as Defendants
20 engaged and continue to engage in conduct which violates Health and Safety Code
21 Section 25249.6, including the manufacture, distribution, promotion, and sale of
22 Sardines IV, so that a separate and distinct violation of Proposition 65 occurred each and
23 every time a person was exposed to Lead by Sardines IV as mentioned herein.

24 66. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
25 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
26 violations alleged herein will continue to occur into the future.
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1 67. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to Lead from Sardines IV, pursuant to Health
3 and Safety Code Section 25249.7(b).

4 68. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
5 filing this Complaint.

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7 **PRAYER FOR RELIEF**

8 Plaintiff demands against each of the Defendants as follows:

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

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15 Dated: July 25, 2025

YEROUSHALMI & YEROUSHALMI*

16
17 /s/ Reuben Yeroushalmi

18 Reuben Yeroushalmi
19 Attorneys for Plaintiff,
20 CONSUMER ADVOCACY GROUP, INC.
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