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8 *Attorneys for Plaintiff*

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

**12/12/2025**  
Clerk of the Court  
BY: DAEJA ROGERS  
Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

EMA BELL,

Plaintiff,

vs.

GELSON'S MARKETS,

Defendant.

Case No.:

**CGC-25-632015**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

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

**BACKGROUND OF THE CASE**

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

2. This complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to lead and cadmium, toxic chemicals found in (a) clams, (b) mussels, (c) scallops, and (d) oysters (collectively, the "Products" and each a "Product") sold, packaged, and/or distributed by defendant Gelson's Markets ("Gelson's" or "Defendant") and manufactured, distributed, and/or sold by Superior Seafood Co. in California.

1           3.       Lead<sup>1</sup> and cadmium<sup>2</sup> are harmful chemicals known to the State of California to  
2 cause cancer and birth defects or other reproductive harm.

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

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

15           6.       Plaintiff alleges that Defendant manufactured, sold, packaged, and/or distributed in  
16 California, without a requisite exposure warning, Products that expose persons to lead and  
17 cadmium when consumed.

18           7.       Defendant’s failure to warn consumers and other individuals in California of the  
19 health hazards associated with exposure to lead and cadmium in conjunction with the  
20 manufacturing, sale, packaging, and/or distribution of the Products is a violation of Proposition 65  
21 and subjects Defendant to the enjoinder and civil penalties described herein.

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23 <sup>1</sup> 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 <sup>2</sup> 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.

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

9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendant to provide purchasers or consumers of the Products with required warnings related to the dangers and health hazards associated with exposure to lead and cadmium pursuant to Health and Safety Code § 25249.7(a).

10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

## PARTIES

11. Plaintiff is a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items. She brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

12. Defendant Gelson's Markets, through its business, effectively imports, distributes, sells, manufactures, packages, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, manufactures, packages, and/or offers the Products for sale or use in the State of California.

13. Plaintiff alleges that defendant Gelson's Markets is a "person" in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

## VENUE AND JURISDICTION

14. Venue is proper in the County of San Francisco because one or more of the instances of wrongful conduct occurred, and continue to occur in this county and/or because Defendant conducted, and continues to conduct, business in the County of San Francisco with respect to the Products.

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

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

#### 7                                   **STATUTORY BACKGROUND**

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

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

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

17           19.     In this case, exposures are caused by consumer products. A “Consumer Product” is  
18 defined as “any article, or component part thereof, including food, that is produced, distributed, or  
19 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §  
20 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of  
21 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer  
22 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other  
23 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a  
24 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the  
25 course of doing business ... shall provide a warning to any person to whom the product is sold or  
26 transferred unless the product is packaged or labeled with a clear and reasonable warning.”  
27  
28



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 23. On October 1, 1987, the state of California listed cadmium as a chemical known to  
4 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
5 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On May 1,  
6 1997, the State of California listed cadmium as a chemical known to cause birth defects or other  
7 reproductive harm. In summary, cadmium was listed under Proposition 65 as a chemical known  
8 to the State to cause cancer and birth defects or other reproductive harm.

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

14 25. Defendant has processed, marketed, manufactured, packaged, distributed, offered  
15 to sell and/or sold the Products in California since at least June 5, 2025 with respect to the clams  
16 and scallops, since at least June 6, 2025 with respect to the mussels, and since at least September  
17 25, 2025 with respect to the oysters. The Products continue to be distributed, marketed, sold, and  
18 offered for sale in California without the requisite warning information.

19 26. At all times relevant to this action, Defendant has knowingly and intentionally  
20 exposed users and/or consumers of the Products to lead and cadmium without first giving a clear  
21 and reasonable exposure warning to such individuals.

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

**SATISFACTION OF NOTICE REQUIREMENTS**

28. Plaintiff purchased the Products from Gelson's in California. At the time of purchase, Defendant did not provide a Proposition 65 exposure warning for lead and cadmium or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

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

30. The laboratory provided the results of its analysis. Results of this test determined that consumption of a serving size of the Products will expose California consumers to lead and cadmium amount above established safe harbor levels (collectively, the "Chemical Test Reports" and each a "Chemical Test Report").

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

32. On June 5, 2025 (clams and scallops), June 6, 2025 (mussels), and September 25, 2025 (oysters), Plaintiff received from the analytical chemist exposure assessment reports which concluded that persons in California who consume the Products will be exposed to levels of lead and cadmium that require a Proposition 65 exposure warning.

33. On June 5, 2025 (clams and scallops), June 6, 2025 (mussels), and September 25, 2025 (oysters), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the "Notices" and each a "Notice") to Defendant concerning the exposure of California citizens to lead and cadmium contained in the Products without proper warning, subject to a private action to Defendant and to the California Attorney General's office and the offices of the County District attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibit A – C a true and correct copy of each Notice.

1           34.     The Notices complied with all procedural requirements of Proposition 65 including  
2 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at  
3 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead  
4 and cadmium exposure, and that counsel believed there was meritorious and reasonable cause for  
5 a private action.

6           35.     After receiving the Notices, and to Plaintiff's best information and belief, none of  
7 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
8 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are  
9 the subject of the Notice.

10          36.     Plaintiff is commencing this action more than sixty (60) days from the date of the  
11 Notices to Defendant, as required by law.

12                               **FIRST CAUSE OF ACTION**

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

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

16          38.     Defendant has, at all times mentioned herein, acted as manufacturer, packager,  
17 marketer, distributor, and/or retailer of the Products.

18          39.     Consumption of the Products will expose consumers to lead and cadmium,  
19 hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to  
20 human health.

21          40.     The Product does not comply with the Proposition 65 warning requirements. The  
22 violations of Proposition 65 alleged herein are ongoing and continuous and will continue to occur  
23 into the future.

24          41.     Plaintiff, based on her best information and belief, avers that at all relevant times  
25 herein, and since at least June 5, 2025 with respect to the clams and scallops, since at least June 6,  
26 2025 with respect to the mussels, and since at least September 25, 2025 with respect to the oysters,  
27 continuing through the present, that Defendant has continued to knowingly and intentionally  
28



1 expose California consumers of the Products to lead and cadmium without providing required  
2 warnings under Proposition 65.

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

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

11 44. Defendant has knowledge that the normal and reasonably foreseeable consumption  
12 of the Products exposes individuals to lead and cadmium, and Defendant intends that exposures to  
13 lead and cadmium will occur by its deliberate, non-accidental participation in the importation,  
14 manufacturing, packaging, marketing, distribution, sale and offering of the Products to consumers  
15 in California

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

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

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

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
3 relief:

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

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

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

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

12 Dated: December 12, 2025

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

16 9465 Wilshire Boulevard, Suite 300

17 Beverly Hills, CA 90212

18 Telephone: (877) 534-2590

19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

# EXHIBIT “A”

LAW OFFICES  
**BRODSKY SMITH**

9465 WILSHIRE BLVD., STE. 300  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
20 BRACE RD., STE. 350  
CHERRY HILL, NJ 08034  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

June 5, 2025

President/CEO Gelson's Markets c/o Mayra Inzunza 16400 Ventura Blvd., Suite 240 Encino, CA 91436	President/CEO Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	President/CEO Gelson's Markets 12121 W. Olympic Blvd., W. Los Angeles, CA 90064

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

## **I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Gelson's Markets
3. **Time Period of Exposure:** Violations have been occurring since at least June 5, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Scallops	Gelson's Sea Scallops 246473014001
Clams	Gelson's Clams 246044717805

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

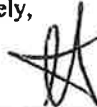
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

**Bell has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).**

Sincerely,



---

Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

# EXHIBIT “B”

LAW OFFICES  
**BRODSKY SMITH**

9465 WILSHIRE BLVD., STE. 300  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
20 BRACE RD., STE. 350  
CHERRY HILL, NJ 08034  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

June 6, 2025

President/CEO Gelson's Markets c/o Mayra Inzunza 16400 Ventura Blvd., Suite 240 Encino, CA 91436	President/CEO Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	

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With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.



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2. **Alleged Violator(s):** Gelson's Markets
3. **Time Period of Exposure:** Violations have been occurring since at least June 6, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Mussels	Gelson's Mussels 246190913663

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

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Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Bell has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).**

Sincerely,

A handwritten signature in black ink, appearing to be 'EJ Smith', written over a horizontal line.

Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

# EXHIBIT “C”

LAW OFFICES  
**BRODSKY SMITH**

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MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

September 25, 2025

President/CEO Gelson's Markets c/o Mark Motsenbocker 13833 Freeway Drive Santa Fe Springs, CA 90670	President/CEO Gelson's Markets 16400 Ventura Blvd., Suite 240 Encino, CA 91426-1802
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

## **I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Gelson's Markets
3. **Time Period of Exposure:** Violations have been occurring since at least September 25, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium are listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Oysters	Gelson's Oysters UPC# 246172 920252

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Bell has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).**

Sincerely,



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Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary