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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

08/10/2026
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

GABRIEL ESPINOZA,

Plaintiff,

vs.

BRIDGFORD FOODS CORP., BPS
DIRECT, LLC, BASS PRO OUTDOOR
WORLD, LLC,

Defendants.

Case No.:

CGC-26-639753

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his 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, a toxic chemical found in *Bridgford*® Italian sausage with
sauce sandwiches sold and/or distributed by defendant Bridgford Foods Corp., defendant BPS

1 Direct, LLC, and/or defendant Bass Pro Outdoor World, LLC (collectively, “Defendants” and each
2 a “Defendant”) in California.

3 3. Lead is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as
5 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
6 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
7 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
8 cause birth defects or other reproductive harm.

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

15 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
17 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
18 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
19 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
20 25249.7.

21 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
22 without a requisite exposure warning, *Bridgford*® Italian sausage with sauce sandwiches (the
23 “Products”) that expose persons to lead when used for their intended purpose.

24 7. Defendants’ failure to warn consumers and other individuals in California of the
25 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of
26 the Products is a violation of Proposition 65 and subjects Defendants to the enjoinder and civil
27 penalties described herein.
28

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

9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendants to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to lead 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. He brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

12. Defendant Bridgford Foods Corp., through its business, effectively imports, distributes, sells, 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, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Bridgford Foods Corp. is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

13. Defendant BPS Direct, LLC, through its business, effectively imports, distributes, sells, 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, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant BPS Direct, LLC is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14. Defendant Bass Pro Outdoor World, LLC, through its business, effectively imports, distributes, sells, 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, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Bass Pro Outdoor World, LLC is a “person” in

1 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and
2 25249.11.

3 VENUE AND JURISDICTION

4 15. Venue is proper in the County of San Francisco because one or more of the
5 instances of wrongful conduct occurred, and continue to occur in this county and/or because
6 Defendants conducted, and continue to conduct, business in the County of San Francisco with
7 respect to the Products. The Products are distributed, marketed, and sold to consumers throughout
8 San Francisco County, the alleged Proposition 65 violations necessarily occurred here. Upon
9 information and belief, the Products are consistently in the stream of commerce and available to
10 consumers for purchase in the City and County of San Francisco.

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

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

23 STATUTORY BACKGROUND

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

27 19. To effect this goal, Proposition 65 requires that individuals be provided with a
28 “clear and reasonable warning” before being exposed to substances listed by the State of California

1 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
2 pertinent part:

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

6 20. In this case, exposures are caused by consumer products. A “Consumer Product” is
7 defined as “any article, or component part thereof, including food, that is produced, distributed, or
8 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §
9 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of
10 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer
11 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
12 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
13 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
14 course of doing business ... shall provide a warning to any person to whom the product is sold or
15 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

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

- 18 a. A warning that appears on a product’s label or other labeling.
- 19 b. Identification of the product at the retail outlet in a manner which provides
20 a warning. Identification may be through shelf labeling, signs, menus, or a combination
21 thereof.
- 22 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
23 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
24 with such conspicuousness, as compared with other words, statements, designs, or devices

25
26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, *et.seq.* as amended on August 30,
2016, and operative on August 30, 2018.

1 in the label, labeling or display as to render it likely to be read and understood by an
2 ordinary individual under customary conditions of purchase or use.

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

5 22. Proposition 65 provides that any “person who violates or threatens to violate” the
6 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
7 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
8 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
9 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
10 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

11 **FACTUAL BACKGROUND**

12 23. On October 1, 1992, the state of California listed lead as a chemical known to cause
13 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
14 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
15 1987, the State of California listed lead as a chemical known to cause birth defects or other
16 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
17 State to cause cancer and birth defects or other reproductive harm.

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

23 25. Defendants have processed, marketed, distributed, offered to sell and/or sold the
24 Products in California since at least April 10, 2025. The Products continue to be distributed and
25 sold in California without the requisite warning information.

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

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

7 **SATISFACTION OF NOTICE REQUIREMENTS**

8 28. On April 10, 2025, Plaintiff purchased the Products from Defendants in California.
9 At the time of purchase, Defendants did not provide a Proposition 65 exposure warning for lead
10 or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as
11 described *supra*.

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

14 30. The laboratory provided the results of its analysis. Results of this test determined
15 the Product exposes users to lead (the “Chemical Test Report”).

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

21 32. On July 2, 2025, Plaintiff received from the analytical chemist an exposure
22 assessment report which concluded that persons in California who use the Products will be exposed
23 to levels of lead that require a Proposition 65 exposure warning.

24 33. On July 2, 2025, Plaintiff gave notice of alleged violation of Health and Safety
25 Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens to
26 lead contained in the Products without proper warning, subject to a private action to Defendants
27 and to the California Attorney General’s office and the offices of the County District attorneys and
28

1 City Attorneys for each city with a population greater than 750,000 persons wherein the herein
2 violations allegedly occurred.

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

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

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

14 **FIRST CAUSE OF ACTION**

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

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

18 38. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer
19 of the Product.

20 39. Use of the Products will expose users to lead, a hazardous chemical found on the
21 Proposition 65 list of chemicals known to be hazardous to human health.

22 40. The Product does not comply with the Proposition 65 warning requirements.

23 41. Plaintiff, based on his best information and belief, avers that at all relevant times
24 herein, and at least since July 2, 2025, continuing until the present, that Defendants have continued
25 to knowingly and intentionally expose California users and consumers of the Product to lead
26 without providing required warnings under Proposition 65.

27 42. The exposures that are the subject of the Notice result from the purchase,
28 acquisition, and recommended use of the Products. The primary route of exposure to lead is

1 through ingestion. When foods contaminated with lead are consumed, ingestion of lead will occur
2 which will increase blood lead levels. No clear and reasonable warning is provided with the
3 Products regarding the health hazards of exposure.

4 43. Plaintiff, based on his best information and belief, avers that such exposures will
5 continue every day until clear and reasonable warnings are provided to purchasers and users or
6 until this known toxic chemical is removed from the Products.

7 44. Defendants have knowledge that the normal and reasonably foreseeable use of the
8 Products exposes individuals to lead, and Defendants intend that exposures to lead will occur by
9 its deliberate, non-accidental participation in the importation, distribution, sale and offering of the
10 Products to consumers in California

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

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

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

1 **PRAYER FOR RELIEF**

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

4 A. That the court assess civil penalties against each Defendant in the amount of \$2,500
5 per 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 Defendants 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: August 10, 2026

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