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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

07/08/2026
Clerk of the Court
BY: ERNALYN BURA
Deputy Clerk

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF SAN FRANCISCO

8
9 EMA BELL,

10 Plaintiff,

11 vs.

12 MONDELEZ GLOBAL LLC,

13 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-26-638763

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

16 **BACKGROUND OF THE CASE**

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

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People's right to be informed of the health
25 hazards caused by exposure to lead, a toxic chemical found in bars with peanut butter or peanut
26 components distributed for sale, offered for sale, and/or sold by defendant Mondelez Global LLC
27 ("Mondelez" or "Defendant") and its subsidiaries in California.
28

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

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

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

19 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
20 without a requisite exposure warning, bars with peanut butter or peanut components distributed
21 for sale, offered for sale, and/or sold by Defendant and its subsidiaries in California (the
22 “Products”) that expose persons to lead when consumed for their intended purpose.

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

27 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65
28 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 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. She brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

12. Defendant Mondelez Global 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 Mondelez Global LLC 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

13. 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. The Products are distributed, marketed, and sold to consumers throughout San Francisco County, the alleged Proposition 65 violations necessarily occurred here. Upon information and belief, the Products are consistently in the stream of commerce and available to consumers for purchase in the City and County of San Francisco.

14. 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

1 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
2 jurisdiction over this lawsuit.

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

10 **STATUTORY BACKGROUND**

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

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

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

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

1 course of doing business ... shall provide a warning to any person to whom the product is sold or
2 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

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

5 a. A warning that appears on a product’s label or other labeling.

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

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

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

16 20. Proposition 65 provides that any “person who violates or threatens to violate” the
17 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
18 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
19 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
20 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
21 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

22 **FACTUAL BACKGROUND**

23 21. On October 1, 1992, the state of California listed lead as a chemical known to cause
24 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code

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 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
2 1987, the State of California listed lead as a chemical known to cause birth defects or other
3 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
4 State to cause cancer and birth defects or other reproductive harm.

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

10 23. Defendant has processed, marketed, distributed, offered to sell and/or sold the
11 Products in California since at least July 9, 2025. The Products continue to be distributed and sold
12 in California without the requisite warning information.

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

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

22 **SATISFACTION OF NOTICE REQUIREMENTS**

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

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

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

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

8 30. On July 9, 2025, Plaintiff received from the analytical chemist an exposure
9 assessment report which concluded that persons in California who use the Products will be exposed
10 to levels of lead that require a Proposition 65 exposure warning.

11 31. On July 9, 2025, Plaintiff gave notice of alleged violation of Health and Safety
12 Code § 25249.6 (the “Notice”) to Defendant concerning the exposure of California citizens to lead
13 contained in the Products without proper warning, subject to a private action to Defendant and to
14 the California Attorney General’s office and the offices of the County District attorneys and City
15 Attorneys for each city with a population greater than 750,000 persons wherein the herein
16 violations allegedly occurred.

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

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

26 34. Plaintiff is commencing this action more than sixty (60) days from the date of the
27 Notice to Defendant, as required by law.
28

1 **FIRST CAUSE OF ACTION**

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

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

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

7 37. Consumption of the Products will expose consumers to lead, a hazardous chemical
8 found on the Proposition 65 list of chemicals known to be hazardous to human health.

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

10 39. Plaintiff, based on her best information and belief, avers that at all relevant times
11 herein, and at least since July 9, 2025, continuing until the present, that Defendant has continued
12 to knowingly and intentionally expose California users and consumers of the Product to lead
13 without providing required warnings under Proposition 65.

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

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

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

26 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
27 Complaint.
28

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

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

PRAYER FOR RELIEF

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

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

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

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

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

Dated: July 8, 2026

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