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ELECTRONICALLY
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Superior Court of California,
County of San Francisco

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Clerk of the Court
BY: BENJAMIN YUST
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 GOLDEN PEARL TRADING
CORPORATION, DANDY FOOD
PRODUCTS, MITSUWA CORP.,

15 *Defendants.*

Case No.:

CGC-26-638768

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

16 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following
17 cause of action in the public interest of the citizens of the State of California.

BACKGROUND OF THE CASE

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

24 2. This complaint is a representative action brought by Plaintiff in the public interest
25 of the citizens of the State of California to enforce the People's right to be informed of the health
26 hazards caused by exposure to lead, a toxic chemical found in *Dandy's Brand®* shrimp flavored
27 chips sold and/or distributed by defendant Golden Pearl Trading Corporation, and/or defendant
28

1 Dandy Food Products, and/or defendant Mitsuwa Corp. (collectively, “Defendants” and each a
2 “Defendant”) in California.

3 3. Lead¹ is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm.

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

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

17 6. Plaintiff alleges that Defendants manufactured, sold, packaged, and/or distributed
18 *Dandy’s Brand*® shrimp flavored chips (the “Products”) in California, without a requisite
19 exposure warning, that expose persons to lead when consumed.

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

26 ¹ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
27 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
28 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.

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 consumers 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 Golden Pearl Trading Corporation, 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. Defendant Dandy Food Products, 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.

14. Defendant Mitsuwa Corp., 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.

15. Plaintiff alleges that each Defendant is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

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17. 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.

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

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

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

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

14 22. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
15 more of the following methods individually or in combination:²

- 16 a. A warning that appears on a product’s label or other labeling.
- 17 b. Identification of the product at the retail outlet in a manner which provides
18 a warning. Identification may be through shelf labeling, signs, menus, or a combination
19 thereof.
- 20 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
21 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
22 with such conspicuousness, as compared with other words, statements, designs, or devices
23 in the label, labeling or display as to render it likely to be read and understood by an
24 ordinary individual under customary conditions of purchase or use.

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27 ² 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 d. A system of signs, public advertising identifying the system and toll-free
2 information services, or any other system that provides clear and reasonable warnings.

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

9 **FACTUAL BACKGROUND**

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

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

21 26. Defendants have processed, marketed, manufactured, packaged, distributed,
22 offered to sell and/or sold the Products in California since at least April 17, 2025. Upon information
23 and belief, the Products are consistently in the stream of commerce and available to consumers for
24 purchase in the City and County of San Francisco and the alleged Proposition 65 violations
25 necessarily occurred here. The Products continue to be distributed, marketed, sold, and offered for
26 sale in California without the requisite warning information.

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

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

10 **SATISFACTION OF NOTICE REQUIREMENTS**

11 29. On April 17, 2025, Plaintiff purchased the Products from Defendants in California.
12 At the time of purchase, Defendants did not provide a Proposition 65 exposure warning for lead
13 or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as
14 described *supra*.

15 30. On May 7, 2025, the Products were sent to a testing laboratory to determine if, and
16 what amount of, lead a consumer would be exposed to per serving size.

17 31. On May 27, 2025, the laboratory provided the results of its analysis. Results of this
18 test determined that consumption of a serving size of the Products will expose California
19 consumers to lead amount above established safe harbor levels (the “Chemical Test Report”).

20 32. Plaintiff provided the Chemical Test Report and Products to an analytical chemist
21 to determine if, based on the findings of the Chemical Test Report and the reasonable and
22 foreseeable consumption of the Products, exposure to lead will occur at levels that require
23 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
24 the California Code of Regulations.

25 33. On July 11, 2025, Plaintiff received from the analytical chemist an exposure
26 assessment report which concluded that persons in California who consume the Products will be
27 exposed to levels of lead that require a Proposition 65 exposure warning.

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

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

12 36. After receiving the Notice, and to Plaintiff’s best information and belief, none of
13 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
14 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
15 are the subject of the Notice.

16 37. On October 10, 2025, more than five business days after Defendants received the
17 Notice, Plaintiff purchased the Products a second time from Defendants in California. At the time
18 of purchase, Defendants did not provide a Proposition 65 compliant exposure warning.

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

21 **FIRST CAUSE OF ACTION**

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

23 39. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 38 of
24 this Complaint as though fully set forth herein.

25 40. Defendants have, at all times mentioned herein, acted as manufacturer, packager,
26 marketer, distributor, and/or retailer of the Products.

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

1 42. The Product does not comply with the Proposition 65 warning requirements. The
2 violations of Proposition 65 alleged herein are ongoing and continuous and will continue to occur
3 into the future.

4 43. Plaintiff, based on his best information and belief, avers that at all relevant times
5 herein, and since at least July 11, 2025, continuing through the present, that Defendants have
6 continued to knowingly and intentionally expose California consumers of the Products to lead
7 without providing required warnings under Proposition 65.

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

13 45. Plaintiff, based on his best information and belief, avers that such exposures will
14 continue every day until clear and reasonable warnings are provided to purchasers and consumers
15 or until this known toxic chemical is removed from the Products.

16 46. Defendants have knowledge that the normal and reasonably foreseeable
17 consumption of the Products exposes individuals to lead, and Defendants intend that exposures to
18 lead will occur by its deliberate, non-accidental participation in the importation, manufacturing,
19 packaging, marketing, distribution, sale and offering of the Products to consumers in California

20 47. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
21 Complaint.

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

24 49. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
25 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 Defendants 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 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: July 8, 2026

BRODSKY SMITH

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