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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/15/2026
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 vs.

14 THE KROGER CO.,

15 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-26-637039

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

18 **BACKGROUND OF THE CASE**

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

25 2. This complaint is a representative action brought by Plaintiff in the public interest
26 of the citizens of the State of California to enforce the People’s right to be informed of the health
27 hazards caused by exposure to lead, a toxic chemical found in (a) *Simple Truth*™ gluten free
28 animal crackers, UPC # 011110862549, (b) *Private Selection*™ mackerel filets in extra virgin
olive oil, UPC# 011110023339, and (c) *Kroger*® gluten free white bread, UPC# 011110116857

1 manufactured, sold, and/or distributed by defendant The Kroger Co. (“Kroger” or “Defendant”) in
2 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 Defendant distributes and/or offers for sale in California,
22 without a requisite exposure warning, (a) *Simple Truth*[™] gluten free animal crackers, UPC #
23 011110862549, (b) *Private Selection*[™] mackerel filets in extra virgin olive oil, UPC#
24 011110023339, and (c) *Kroger*[®] gluten free white bread, UPC# 011110116857 (collectively, the
25 “Products” and each a “Product”) that expose persons to lead when consumed for their intended
26 purpose.

27 7. Defendant’s failure to warn consumers and other individuals in California of the
28 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of

1 the Products is a violation of Proposition 65 and subjects Defendant to the enjoinder and civil
2 penalties described herein.

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

5 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
6 Defendant to provide purchasers or users of the Products with required warnings related to the
7 dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code §
8 25249.7(a).

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

10 **PARTIES**

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

15 12. Defendant The Kroger Co., through its business, effectively imports, distributes,
16 sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct
17 that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
18 Plaintiff alleges that defendant The Kroger Co. is a "person" in the course of doing business within
19 the meaning of Health & Safety Code sections 25249.6 and 25249.11.

20 **VENUE AND JURISDICTION**

21 13. Venue is proper in the County of San Francisco because one or more of the
22 instances of wrongful conduct occurred, and continue to occur in this county and/or because
23 Defendant conducted, and continues to conduct, business in the County of San Francisco with
24 respect to the Products. Because the Products are distributed, marketed, and sold to consumers
25 throughout San Francisco County, the alleged Proposition 65 violations necessarily occurred here.
26 Upon information and belief, the Products are consistently in the stream of commerce and available
27 to consumers for purchase in the City and County of San Francisco.

1 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
2 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
3 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
4 course of doing business ... shall provide a warning to any person to whom the product is sold or
5 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

19 20. Proposition 65 provides that any “person who violates or threatens to violate” the
20 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
21 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
22 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
23 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
24 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

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 **FACTUAL BACKGROUND**

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

8 22. The exposures that are the subject of the Notices 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 23. Defendant has processed, marketed, distributed, offered to sell and/or sold the
14 Products in California since at least February 19, 2025 with respect to the *Simple Truth*[™] gluten
15 free animal crackers; since at least April 16, 2025 with respect to the *Private Selection*[™] mackerel
16 filets in extra virgin olive oil; and since at least January 14, 2026 with respect to the *Kroger*[®]
17 gluten free white bread. Upon information and belief, the Products are consistently in the stream
18 of commerce and available to consumers for purchase in the City and County of San Francisco
19 and the alleged Proposition 65 violations necessarily occurred here. The Products continue to be
20 distributed, offered for sale and/or sold in California without the requisite warning information.

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

24 25. As a proximate result of acts by Defendant, as a person in the course of doing
25 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
26 California, including in San Francisco County, have been exposed to lead without a clear and
27 reasonable warning on the Products. The individuals subject to the violative exposures include
28

1 normal and foreseeable users and consumers that consumption the Products, as well as all others
2 exposed to the Products.

3 **SATISFACTION OF NOTICE REQUIREMENTS**

4 26. On February 19, 2025 (*Simple Truth*[™] gluten free animal crackers), April 16, 2025
5 (*Private Selection*[™] mackerel filets in extra virgin olive oil), and January 14, 2026 (*Kroger*[®]
6 gluten free white bread), Plaintiff purchased the Products from Kroger in California. At the time
7 of purchases, Defendant did not provide a Proposition 65 exposure warning for lead or any other
8 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
9 *supra*.

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

12 28. The laboratory provided the results of its analysis. Results of these tests determined
13 the Products expose consumers to lead (collectively, the “Chemical Test Reports” and each a
14 “Chemical Test Report”).

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

20 30. On April 17, 2025 (*Simple Truth*[™] gluten free animal crackers), August 25, 2025
21 (*Private Selection*[™] mackerel filets in extra virgin olive oil), and February 18, 2026 (*Kroger*[®]
22 gluten free white bread), Plaintiff received from the analytical chemist exposure assessment reports
23 which concluded that persons in California who consume the Products will be exposed to levels
24 of lead that require a Proposition 65 exposure warning.

25 31. On April 17, 2025 (*Simple Truth*[™] gluten free animal crackers), August 25, 2025
26 (*Private Selection*[™] mackerel filets in extra virgin olive oil), and February 18, 2026 (*Kroger*[®]
27 gluten free white bread), Plaintiff gave notice of alleged violation of Health and Safety Code §
28 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning the exposure

1 of California citizens to lead contained in the Products without proper warning, subject to a private
2 action to Defendant and to the California Attorney General's office and the offices of the County
3 District attorneys and City Attorneys for each city with a population greater than 750,000 persons
4 wherein the herein violations allegedly occurred. See attached at Exhibits "A" – "C" a true and
5 correct copy of each Notice.

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

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

15 34. More than five business days after Defendant received the Notices, Plaintiff
16 purchased the Products a second time from Defendant in California. At the time of purchase,
17 Defendant did not provide a Proposition 65 compliant exposure warning.

18 35. Plaintiff is commencing this action more than sixty (60) days from the date of each
19 Notice to Defendant, as required by law.

20 **FIRST CAUSE OF ACTION**

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

22 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of
23 this Complaint as though fully set forth herein.

24 37. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of
25 the Products.

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

28 39. The Products do not comply with the Proposition 65 warning requirements.

1 40. Plaintiff, based on her best information and belief, avers that at all relevant times
2 herein, and since at least April 17, 2025 with respect to the *Simple Truth*[™] gluten free animal
3 crackers; since at least August 25, 2025 with respect to the *Private Selection*[™] mackerel filets in
4 extra virgin olive oil; and since at least February 18, 2026 with respect to the *Kroger*[®] gluten free
5 white bread, continuing until the present, that Defendant has continued to knowingly and
6 intentionally expose California users and consumers of the Products to lead without providing
7 required warnings under Proposition 65.

8 41. The exposures that are the subject of the Notices 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 42. Plaintiff, based on her best information and belief, avers that such exposures will
14 continue every day until clear and reasonable warnings are provided to purchasers and users or
15 until this known toxic chemical is removed from the Products.

16 43. Defendant has knowledge that the normal and reasonably foreseeable consumption
17 of the Products exposes individuals to lead, and Defendant intends that exposures to lead will occur
18 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
19 the Products to consumers in California

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

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

24 46. 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 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: May 15, 2026

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

Attorneys for Plaintiff

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

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BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

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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

April 17, 2025

President/CEO The Kroger Co. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	President/CEO The Kroger Co. 1014 Vine Street Cincinnati, OH 45202
President/CEO The Kroger Co. c/o Corporation Service Company 1160 Dublin Road, Suite 400 Columbus, OH 43215	President/CEO The Kroger Co. of Michigan c/o CSC-Lawyers Incorporating Service (Company) 3410 Belle Chase Way, Suite 600 Lansing, MI 48911
President/CEO Ralphs Grocery Company c/o Corporation Service Company 1160 Dublin Road, Suite 400 Columbus, OH 43215	President/CEO Ralphs Grocery Company c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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

¹ 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.

how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Ema Bell, 222 S. Figueroa Street, Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** The Kroger Co. of Michigan; Ralphs Grocery Company; The Kroger Co.
3. **Time Period of Exposure:** Violations have been occurring since at least April 17, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Crackers	Simple Truth Gluten Free Animal Crackers UPC# 0 11110 86254 9

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

² 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.

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.

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.**

Sincerely,

A handwritten signature in black ink, appearing to read "Evan J. 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 “B”

LAW OFFICES
BRODSKY SMITH

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

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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

August 25, 2025

President/CEO The Kroger Co. c/o Corporation Service Company 1160 Dublin Road, Suite 400 Columbus, OH 43215	President/CEO The Kroger Co. dba Ralphs c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO Ralphs Grocery Company c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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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.

¹ 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):** The Kroger Co.; The Co. dba Ralphs; Ralphs Grocery Company
3. **Time Period of Exposure:** Violations have been occurring since at least August 25, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Mackerel	Private Selection Mackerel Filets in Extra Virgin Olive Oil UPC# 0 11110 02333 9

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.

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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.

² 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.**

Sincerely,

A handwritten signature in black ink, appearing to be 'Evan J. 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
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PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

February 18, 2026

President/CEO The Kroger Co. c/o Corporation Service Company 1160 Dublin Road, Suite 400 Columbus, OH 43215	President/CEO The Kroger Co. dba Ralphs c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO Ralphs Grocery Company c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	President/CEO The Kroger Co. of Michigan c/o CSC-Lawyers Incorporating Service (Company) 3410 Bell Chase Way, Suite 600 Lansing, MI 48911

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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.

¹ 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):** The Kroger Co.; The Kroger Co. dba Ralphs; Ralphs Grocery Company; The Kroger Co. of Michigan
3. **Time Period of Exposure:** Violations have been occurring since at least February 18, 2026 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
<i>Kroger®</i> gluten free breads that are offered for sale and/or sold in California by The Kroger Co.	Kroger Gluten Free White Bread UPC# 0 11110 11685 7

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 the claims in this Notice without engaging in costly and protracted litigation.

² 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.

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