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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

12/18/2025
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 Case No.: CGC-25-629692

12 GABRIEL ESPINOZA,

13 Plaintiff,

14 vs.

15 GELSON'S MARKETS,

16 Defendant.

**FIRST AMENDED COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE RELIEF**

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

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

19 **BACKGROUND OF THE CASE**

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

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

1 (“Gelson’s”) (Santa Monica Seafood and Gelson’s collectively the “Defendants” and each a
2 “Defendant” herein) in California.

3 3. Lead¹ and cadmium² are harmful chemicals known to the State of California to
4 cause cancer and 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 in California, without a requisite exposure warning, Products that expose persons to lead and
19 cadmium when consumed.

20 7. Defendants’ failure to warn consumers and other individuals in California of the
21 health hazards associated with exposure to lead and cadmium in conjunction with the
22

23 ¹ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
24 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
25 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

26 ² On October 1, 1987, the state of California listed cadmium as a chemical known to cause cancer
27 and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs.
28 Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On May 1, 1997, the State
of California listed cadmium as a chemical known to cause birth defects or other reproductive
harm.

1 manufacturing, sale, packaging, and/or distribution of the Products is a violation of Proposition 65
2 and subjects Defendants to the enjoinder and civil penalties described herein.

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

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

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

21 13. Defendant Santa Monica Seafood Company, through its business, effectively
22 imports, distributes, sells, manufactures, packages, and/or offers the Products for sale or use in the
23 State of California, or it implies by its conduct that it imports, distributes, sells, manufactures,
24 packages, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that
25 defendant Santa Monica Seafood Company is a "person" in the course of doing business within
26 the meaning of Health & Safety Code sections 25249.6 and 25249.11.

1 **VENUE AND JURISDICTION**

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

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

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

17 **STATUTORY BACKGROUND**

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

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

25 No person in the course of doing business shall knowingly and intentionally expose any
26 individual to a chemical known to the state to cause cancer or reproductive toxicity without
27 first giving clear and reasonable warning to such individual...
28

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

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

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

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

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

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

24
25
26
27 ³ 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 oysters. The Products continue to be distributed, marketed, sold, and offered for sale in California
2 without the requisite warning information.

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

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

12 SATISFACTION OF NOTICE REQUIREMENTS

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

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

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

23 31. Plaintiff provided the Chemical Test Reports and Products to an analytical chemist
24 to determine if, based on the findings of the Chemical Test Reports and the reasonable and
25 foreseeable use of the Products, exposure to lead and cadmium will occur at levels that require
26 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
27 the California Code of Regulations.
28

1 38. Defendants have, at all times mentioned herein, acted as manufacturer, packager,
2 marketer, distributor, and/or retailer of the Products.

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

6 40. The Products do not comply with the Proposition 65 warning requirements. The
7 violations of Proposition 65 alleged herein are ongoing and continuous and will continue to occur
8 into the future.

9 41. Plaintiff, based on his best information and belief, avers that at all relevant times
10 herein, and since at least September 19, 2025 with respect to the mussels, since at least September
11 22, 2025 with respect to the clams, since at least September 25, 2025 with respect to the scallops,
12 and since at least September 26, 2025 with respect to the oysters, continuing through the present,
13 that Defendants have continued to knowingly and intentionally expose California consumers of
14 the Product to lead and cadmium without providing required warnings under Proposition 65.

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

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

23 44. Defendants have knowledge that the normal and reasonably foreseeable
24 consumption of the Products exposes individuals to lead and cadmium, and Defendants intend that
25 exposures to lead and cadmium will occur by its deliberate, non-accidental participation in the
26 importation, manufacturing, packaging, marketing, distribution, sale and offering of the Products
27 to consumers in California
28

1 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
2 First Amended Complaint.

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

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

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
10 relief:

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

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

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

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

19 Dated: December 18, 2025

BRODSKY SMITH

20 By: 

21 Evan J. Smith (SBN242352)
22 Ryan P. Cardona (SBN302113)
23 9465 Wilshire Boulevard, Suite 300
24 Beverly Hills, CA 90212
25 Telephone: (877) 534-2590
26 Facsimile: (310) 247-0160

27 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
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NEW YORK OFFICE
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MINEOLA, NY 11501
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PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

September 19, 2025

President/CEO Gelson's Markets c/o Mayra Inzunza 16400 Ventura Blvd., Suite 240 Encino, CA 91436	President/CEO Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	President/CEO Santa Monica Seafood Company 18531 S. Broadwick St., Rancho Dominguez, CA 90220

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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Gelson's Markets; Santa Monica Seafood Company
3. **Time Period of Exposure:** Violations have been occurring since at least September 19, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Mussels	Gelson's Mussels 246190 013400

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 Espinoza 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, Espinoza 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 Espinoza'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.

Espinoza 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

EXHIBIT “B”

LAW OFFICES
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516.741.4977

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

September 22, 2025

President/CEO Gelson's Markets c/o Mayra Inzunza 16400 Ventura Blvd., Suite 240 Encino, CA 91436	President/CEO Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	President/CEO Santa Monica Seafood Company 18531 S. Broadwick St., Rancho Dominguez, CA 90220

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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Gelson’s Markets; Santa Monica Seafood Company
3. **Time Period of Exposure:** Violations have been occurring since at least September 22, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Clams	Gelson’s Clams UPC# 246044 616818

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.

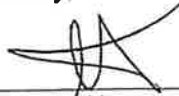
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Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products 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, Espinoza 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 Espinoza’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.

Espinoza 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
BRODSKY SMITH

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PENNSYLVANIA OFFICE
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BALA CYNWYD, PA 19004
610.667.6200

September 25, 2025

President/CEO Gelson's Markets c/o Mayra Inzunza 16400 Ventura Blvd., Suite 240 Encino, CA 91436	President/CEO Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	President/CEO Santa Monica Seafood Company 18531 S. Broadwick St., Rancho Dominguez, CA 90220

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2. **Alleged Violator(s):** Gelson’s Markets; Santa Monica Seafood Company
3. **Time Period of Exposure:** Violations have been occurring since at least September 25, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Scallops	Gelson’s Scallops 246281 304059

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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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 Espinoza 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, Espinoza 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 Espinoza’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.

Espinoza 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 'EJ Smith', written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

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

EXHIBIT “D”

LAW OFFICES
BRODSKY SMITH

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

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

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

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

September 26, 2025

President/CEO Gelson's Markets c/o Mark Motsenbocker 13833 Freeway Drive Santa Fe Springs, CA 90670	President/CEO Gelson's Markets 16400 Ventura Blvd., Suite 240 Encino, CA 91426-1802
President/CEO Gelson's Markets 2627 Lincoln Blvd., Santa Monica, CA 90405	President/CEO Santa Monica Seafood Company 18531 S. Broadwick St., Rancho Dominguez, CA 90220

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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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.

I. DESCRIPTION OF THE VIOLATION

- 1. Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.

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.

2. **Alleged Violator(s):** Gelson's Markets; Santa Monica Seafood Company
3. **Time Period of Exposure:** Violations have been occurring since at least September 26, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium. Lead and cadmium are listed under Proposition 65 as chemicals known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Oysters	Gelson's Oysters UPC# 246172920252

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 Espinoza 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, Espinoza 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 Espinoza'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.

Espinoza 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

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