

1 Evan J. Smith, Esquire (SBN 242352)  
2 Ryan P. Cardona, Esquire (SBN 302113)  
3 BRODSKY SMITH  
4 9465 Wilshire Blvd., Ste. 300  
Beverly Hills, CA 90212  
Telephone: (877) 534-2590  
Facsimile: (310) 247-0160

5 *Attorneys for Plaintiff*

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**01/09/2026**  
**Clerk of the Court**  
BY: RONNIE OTERO  
Deputy Clerk

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
7 COUNTY OF SAN FRANCISCO

8  
9 EMA BELL,

10 Plaintiff,

11 vs.

12 GELSON'S MARKETS,

13 Defendant.

Case No.: CGC-25-632015

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

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

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

16 **BACKGROUND OF THE CASE**

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

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

1 and sold, packaged, and/or distributed by defendant Gelson's Markets ("Gelson's") (Superior  
2 Seafood and Gelson's collectively the "Defendants" and each a "Defendant" herein) in California.

3 3. Lead<sup>1</sup> and cadmium<sup>2</sup> 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

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23 <sup>1</sup> 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 <sup>2</sup> 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. She 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 Superior Seafood Co., through its business, effectively imports,  
22 distributes, sells, manufactures, packages, and/or offers the Products for sale or use in the State of  
23 California, or it implies by its conduct that it imports, distributes, sells, manufactures, packages,  
24 and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant  
25 Superior Seafood Co. is a "person" in the course of doing business within the meaning of Health  
26 & Safety Code sections 25249.6 and 25249.11.

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15. 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.

## STATUTORY BACKGROUND

18. 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           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:<sup>3</sup>

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.

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26  
27 <sup>3</sup> 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           21.     Proposition 65 provides that any “person who violates or threatens to violate” the  
2 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
3 “threaten to violate” is defined to mean creating “a condition in which there is a substantial  
4 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil  
5 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
6 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

### 7                                   **FACTUAL BACKGROUND**

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

14           23.     On October 1, 1987, the state of California listed cadmium as a chemical known to  
15 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
16 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On May 1,  
17 1997, the State of California listed cadmium as a chemical known to cause birth defects or other  
18 reproductive harm. In summary, cadmium was listed under Proposition 65 as a chemical known  
19 to the State to cause cancer and birth defects or other reproductive harm.

20           24.     The exposures that are the subject of the Notices result from the purchase,  
21 acquisition, and recommended consumption of the Products. The primary route of exposure to lead  
22 and cadmium is through ingestion. When foods contaminated with lead and cadmium are  
23 consumed, ingestion of lead and cadmium will occur. No clear and reasonable warning is provided  
24 with the Products regarding the health hazards of exposure.

25           25.     Defendants have processed, marketed, manufactured, packaged, distributed,  
26 offered to sell and/or sold the Products in California since at least October 27, 2025 with respect  
27 to the Products. The Products continue to be distributed, marketed, sold, and offered for sale in  
28 California without the requisite warning information.

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

4           27.     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 and cadmium without a  
7 clear and reasonable warning on the Products. The individuals subject to the violative exposures  
8 include normal and foreseeable users and consumers that use the Products, as well as all others  
9 exposed to the Products.

10                           **SATISFACTION OF NOTICE REQUIREMENTS**

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

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

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

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

26           32.     On June 5, 2025 (clams and scallops), June 6, 2025 (mussels), and September 25,  
27 2025 (oysters), Plaintiff received from the analytical chemist exposure assessment reports which  
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1 concluded that persons in California who consume the Products will be exposed to levels of lead  
2 and cadmium that require a Proposition 65 exposure warning.

3 33. On October 27, 2025, Plaintiff gave notice of alleged violation of Health and Safety  
4 Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendants concerning the  
5 exposure of California citizens to lead and cadmium contained in the Products without proper  
6 warning, subject to a private action to Defendants and to the California Attorney General’s office  
7 and the offices of the County District attorneys and City Attorneys for each city with a population  
8 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at  
9 Exhibit A – C a true and correct copy of each Notice.

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

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

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

### 21 **FIRST CAUSE OF ACTION**

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

23 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of  
24 this First Amended Complaint as though fully set forth herein.

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



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

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

7           41. Plaintiff, based on her best information and belief, avers that at all relevant times  
8 herein, and since at least October 27, 2025 with respect to the Products, continuing through the  
9 present, that Defendants have continued to knowingly and intentionally expose California  
10 consumers of the Products to lead and cadmium without providing required warnings under  
11 Proposition 65.

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

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

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

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

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

## PRAYER FOR RELIEF

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

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

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

Dated: January 9, 2026

BRODSKY SMITH

By:

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

*Attorneys for Plaintiff*

# EXHIBIT “A”

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

October 27, 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 Gelson's Markets 12121 W. Olympic Blvd., W. Los Angeles, CA 90064
President/CEO Superior Seafood Co. c/o Paul DiGirlando 1621 W. 25 <sup>th</sup> St., Ste. 228 San Pedro, CA 90731	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

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<sup>1</sup> 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 St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Gelson's Markets; Superior Seafood Co.
3. **Time Period of Exposure:** Violations have been occurring since at least October 27, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Scallops	Gelson's Sea Scallops 246473014001
Clams	Gelson's Clams 246044717805

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

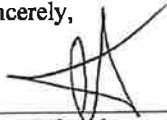
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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of 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 be 'Evan J. Smith', is 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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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.

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<sup>1</sup> 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):** Gelson's Markets; Superior Seafood Co.
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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 <sup>2</sup>	Non- Exclusive Examples of the Product
Mussels	Gelson's Mussels 246190913663

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**

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## **III. RESOLUTION OF THE CLAIMS**

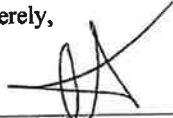
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure 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 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.

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<sup>2</sup> 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](mailto: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 “C”

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

October 27, 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 Superior Seafood Co. c/o Paul DiGiriamo 1621 W. 25 <sup>th</sup> St., Ste. 228 San Pedro, CA 90731

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

<sup>1</sup> 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):** Gelson's Markets; Superior Seafood Co.
3. **Time Period of Exposure:** Violations have been occurring since at least October 27, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead and Cadmium are listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Oysters	Gelson's Oysters UPC# 246172 920252

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**

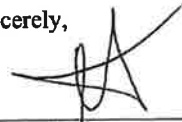
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure 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 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.

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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