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ELECTRONICALLY
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County of San Francisco

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CGC-26-638664

GABRIEL ESPINOZA,

Plaintiff,

vs.

AMRITA HEALTH FOODS, INC.,
VITACOST.COM, INC.,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

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

BACKGROUND OF THE CASE

1. Plaintiff brings this representative action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part, "[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 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

2. This complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to lead and cadmium, toxic chemicals found in Amrita sunflower butter and jelly protein bars sold and/or distributed by defendant Amrita Health Foods, Inc.

1 (“Amrita”) and/or defendant Vitacost.com, Inc. (“Vitacost”) (collectively, “Defendants” and each
2 a “Defendant”) 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 Amrita sunflower butter and jelly protein bars (the “Products”) in California, without a requisite
19 exposure warning, that expose persons to lead and 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 Amrita Health Foods, Inc., through its business, effectively imports,
16 distributes, sells, manufactures, packages, and/or offers the Products for sale or use in the State of
17 California, or it implies by its conduct that it imports, distributes, sells, manufactures, packages,
18 and/or offers the Products for sale or use in the State of California.

19 13. Defendant Vitacost.com, Inc., through its business, effectively imports, distributes,
20 sells, manufactures, packages, and/or offers the Products for sale or use in the State of California,
21 or it implies by its conduct that it imports, distributes, sells, manufactures, packages, and/or offers
22 the Products for sale or use in the State of California.

23 14. Plaintiff alleges that each Defendant is a "person" in the course of doing business
24 within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

25 **VENUE AND JURISDICTION**

26 15. Venue is proper in the County of San Francisco because one or more of the
27 instances of wrongful conduct occurred, and continue to occur in this county and/or because
28 Defendants conducted, and continues to conduct, business in the County of San Francisco with

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

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

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

17 **STATUTORY BACKGROUND**

18 18. 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 19. 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 20. 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 21. 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.

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

FACTUAL BACKGROUND

23. On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 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. In summary, lead was listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.

24. On October 1, 1987, the state of California listed cadmium as a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. 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.

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

26. Defendants have processed, marketed, manufactured, packaged, distributed, offered to sell and/or sold the Products in California since at least November 7, 2025. Upon information and belief, the Products are consistently in the stream of commerce and available to consumers for purchase in the City and County of San Francisco and the alleged Proposition 65

1 violations necessarily occurred here. The Products continue to be distributed, marketed, sold, and
2 offered for sale in California without the requisite warning information.

3 27. 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 28. 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 29. On November 7, 2025, Plaintiff purchased the Products from Defendants in
14 California. At the time of purchase, Defendants did not provide a Proposition 65 exposure warning
15 for lead and cadmium or any other Proposition 65 listed chemical in a manner consistent with H&S
16 Code § 25603.1 as described *supra*.

17 30. On December 16, 2025, the Products were sent to a testing laboratory to determine
18 if, and what amount of, lead and/or cadmium a consumer would be exposed to per serving size.

19 31. On December 29, 2025, the laboratory provided the results of its analysis. Results
20 of this test determined that consumption of a serving size of the Products will expose California
21 consumers to lead and/or cadmium amount above established safe harbor levels (the “Chemical
22 Test Report”).

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

33. On January 7, 2026, Plaintiff received from the analytical chemist an exposure assessment report which concluded that persons in California who consume the Products will be exposed to levels of lead and cadmium that require a Proposition 65 exposure warning.

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

37. On January 30, 2026, more than five business days after Defendants received the Notice, Plaintiff purchased the Products a second time from Defendants in California. At the time of purchase, Defendants did not provide a Proposition 65 compliant exposure warning.

FIRST CAUSE OF ACTION

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

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

3 41. 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 42. The Product does 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 43. Plaintiff, based on his best information and belief, avers that at all relevant times
10 herein, and since at least January 7, 2026, continuing through the present, that Defendants have
11 continued to knowingly and intentionally expose California consumers of the Products to lead and
12 cadmium without providing required warnings under Proposition 65.

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

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

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

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

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

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

PRAYER FOR RELIEF

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

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

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

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

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

Dated: July 1, 2026

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