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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

06/08/2026
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CGC-26-637650

EMA BELL,

Plaintiff,

vs.

H MART COMPANIES, INC.,

Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

Plaintiff Ema Bell ("Plaintiff"), by and through her 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 Bibigo seaweed chips (the "Product") sold, packaged, and/or distributed in California by defendant H Mart Companies, Inc. ("H Mart" or "Defendant").

1 3. Lead¹ and cadmium² are harmful chemicals known to the State of California to
2 cause cancer and birth defects or other reproductive harm.

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

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

15 6. Plaintiff alleges that Defendant manufactured, sold, packaged, and/or distributed in
16 California, without a requisite exposure warning, the Product that exposes persons to lead and
17 cadmium when consumed.

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

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 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
2 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
3 jurisdiction over this lawsuit.

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

11 **STATUTORY BACKGROUND**

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

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

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

21 18. In this case, exposures are caused by consumer products. A “Consumer Product” is
22 defined as “any article, or component part thereof, including food, that is produced, distributed, or
23 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §
24 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of
25 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer
26 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
27 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
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1 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
2 course of doing business ... shall provide a warning to any person to whom the product is sold or
3 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

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

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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.

FACTUAL BACKGROUND

21. 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.

22. 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. In summary, cadmium was listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.

23. The exposures that are the subject of the Notice result from the purchase, acquisition, and recommended consumption of the Product. 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 Product regarding the health hazards of exposure.

24. Defendant has processed, marketed, manufactured, packaged, distributed, offered to sell and/or sold the Product in California since at least January 15, 2026. The Product continues to be distributed, marketed, sold, and offered for sale in California without the requisite warning information.

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

26. As a proximate result of acts by Defendant, as a person in the course of doing business within the meaning of H&S Code § 25249.11, individuals throughout the State of California, including in San Francisco County, have been exposed to lead and cadmium without a

1 clear and reasonable warning on the Product. The individuals subject to the violative exposures
2 include normal and foreseeable users and consumers that use the Product, as well as all others
3 exposed to the Product.

4 **SATISFACTION OF NOTICE REQUIREMENTS**

5 27. On January 15, 2026, Plaintiff purchased the Product from H Mart in California. At
6 the time of purchase, Defendant did not provide a Proposition 65 exposure warning for lead and
7 cadmium or any other Proposition 65 listed chemical in a manner consistent with H&S Code §
8 25603.1 as described *supra*.

9 28. On February 9, 2026, the Product was sent to a testing laboratory to determine if,
10 and what amount of, lead and cadmium a consumer would be exposed to per serving size.

11 29. On February 16, 2026, the laboratory provided the results of its analysis. Results of
12 this test determined that consumption of a serving size of the Product will expose California
13 consumers to lead and cadmium amount above established safe harbor levels (the “Chemical Test
14 Report”).

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

20 31. On February 24, 2026, Plaintiff received from the analytical chemist exposure
21 assessment reports which concluded that persons in California who consume the Product will be
22 exposed to levels of lead and cadmium that require a Proposition 65 exposure warning.

23 32. On February 24, 2026, Plaintiff gave notice of alleged violation of Health and
24 Safety Code § 25249.6 (the “Notice”) to Defendant concerning the exposure of California citizens
25 to lead and cadmium contained in the Product without proper warning, subject to a private action
26 to Defendant and to the California Attorney General’s office and the offices of the County District
27 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
28 the herein violations allegedly occurred.

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

6 34. After receiving the Notice, and to Plaintiff's best information and belief, none of
7 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
8 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
9 the subject of the Notice.

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

12 **FIRST CAUSE OF ACTION**

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

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

16 37. Defendant has, at all times mentioned herein, acted as manufacturer, packager,
17 marketer, distributor, and/or retailer of the Product.

18 38. Consumption of the Product will expose consumers to lead and cadmium,
19 hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to
20 human health.

21 39. The Product does not comply with the Proposition 65 warning requirements. The
22 violations of Proposition 65 alleged herein are ongoing and continuous and will continue to occur
23 into the future.

24 40. Plaintiff, based on her best information and belief, avers that at all relevant times
25 herein, and since at least February 24, 2026, continuing through the present, that Defendant has
26 continued to knowingly and intentionally expose California consumers of the Product to lead and
27 cadmium without providing required warnings under Proposition 65.

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

6 42. Plaintiff, based on her best information and belief, avers that such exposures will
7 continue every day until clear and reasonable warnings are provided to purchasers and consumers
8 or until these known toxic chemicals are removed from the Product.

9 43. Defendant has knowledge that the normal and reasonably foreseeable consumption
10 of the Product exposes individuals to lead and cadmium, and Defendant intends that exposures to
11 lead and cadmium will occur by its deliberate, non-accidental participation in the importation,
12 manufacturing, packaging, marketing, distribution, sale and offering of the Product to consumers
13 in California

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

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

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

PRAYER FOR RELIEF

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

- A. That the court assess civil penalties against 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);
- B. That the court preliminarily and permanently enjoin Defendant mandating Proposition 65 compliant warnings on the Product;
- 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: June 8, 2026

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