

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroushalmi.com

3 **YEROUSHALMI & YEROUSHALMI***

9100 Wilshire Boulevard, Suite 240W

3 Beverly Hills, California 90212

4 Telephone: (310) 623-1926

4 Facsimile: (310) 623-1930

5 Attorneys for Plaintiff,

6 CONSUMER ADVOCACY GROUP, INC.

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF LOS ANGELES**

10 CONSUMER ADVOCACY GROUP, INC.,
11 in the public interest,

12 Plaintiff,

13 v.

14 SNACK RIGHT SUPER FOODS, INC., a
15 Florida Corporation;
16 BRAD'S RAW CHIPS, LLC, a Pennsylvania
Limited Liability Company;
17 SPROUTS FARMERS MARKET, INC., a
Delaware Corporation;
18 WAL-MART.COM USA, LLC, a Delaware
Corporation;
19 WALMART, INC., a Delaware Corporation;
20 and DOES 1-20,

21 Defendants.

CASE NO. **26STCV20264**

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$35,000)

22
23
24
25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
26 against defendants SNACK RIGHT SUPER FOODS, INC.; BRAD'S RAW CHIPS, LLC;
27 SPROUTS FARMERS MARKET, INC.; WAL-MART.COM USA, LLC; WALMART, INC.;
28 and DOES 1-20 as follows:

THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant SNACK RIGHT SUPER FOODS, INC. (“SNACK RIGHT”) is a Florida Corporation doing business in the State of California at all relevant times herein.
3. Defendant BRAD’S RAW CHIPS, LLC (“BRAD’S”) is a Pennsylvania Limited Liability Company doing business in the State of California at all relevant times herein.
4. Defendant SPROUTS FARMERS MARKET, INC. (“SPROUTS”) is a Delaware Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
5. Defendant WAL-MART.COM USA, LLC (“WAL-MART.COM”) is a California Limited Liability Company, qualified to do business in California, and doing business in the State of California at all relevant times herein.
6. Defendant WALMART, INC. (“WALMART”) is a is a Delaware Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
8. At all times mentioned herein, the term “Defendants” includes SNACK RIGHT, BRAD’S, SPROUTS, WAL-MART.COM, WALMART, and DOES 1-20.

1 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
2 times mentioned herein have conducted business within the State of California.

3 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
4 including DOES 1-20, was an agent, servant, or employee of each of the other
5 Defendants. In conducting the activities alleged in this Complaint, each of the
6 Defendants was acting within the course and scope of this agency, service, or
7 employment, and was acting with the consent, permission, and authorization of each of
8 the other Defendants. All actions of each of the Defendants alleged in this Complaint
9 were ratified and approved by every other Defendant or their officers or managing
10 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
11 alleged wrongful conduct of each of the other Defendants.

12 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
13 Defendants was a person doing business within the meaning of Health and Safety Code
14 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
15 employees at all relevant times.

16 **JURISDICTION**

17 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
18 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
19 those given by statute to other trial courts. This Court has jurisdiction over this action
20 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
21 violations of Proposition 65 in any Court of competent jurisdiction.

22 13. This Court has jurisdiction over Defendants named herein because Defendants either
23 reside or are located in this State or are foreign corporations authorized to do business in
24 California, are registered with the California Secretary of State, or who do sufficient
25 business in California, have sufficient minimum contacts with California, or otherwise
26 intentionally avail themselves of the markets within California through their
27 manufacture, distribution, promotion, marketing, or sale of their products within
28

California to render the exercise of jurisdiction by the California courts permissible under traditional notions of fair play and substantial justice.

14. Venue is proper in the County of Los Angeles because one or more of the instances of wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or because Defendants conducted, and continue to conduct, business in the County of Los Angeles with respect to the consumer product that is the subject of this action.

BACKGROUND AND PRELIMINARY FACTS

15. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.
16. Proposition 65 requires the Governor of California to publish a list of chemicals known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code* § 25249.8. The list, which the Governor updates at least once a year, contains over 700 chemicals and chemical families. Proposition 65 imposes warning requirements and other controls that apply to Proposition 65-listed chemicals.
17. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and reasonable” warnings before exposing a person, knowingly and intentionally, to a Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

- 1 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
2 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
3 25249.7. "Threaten to violate" means "to create a condition in which there is a
4 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
5 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
6 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 7 19. Plaintiff identified certain practices of manufacturers and distributors of Kale of
8 exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium
9 Compounds of such products without first providing clear and reasonable warnings of
10 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that
11 Defendants engaged in such practice.
- 12 20. On May 1, 1997, the Governor of California added Cadmium and Cadmium Compounds
13 to the list of chemicals known to the State to cause developmental and reproductive
14 toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the State to cause
15 developmental, and male reproductive toxicity. Pursuant to Health and Safety Code
16 Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list
17 of chemicals known to the State to cause developmental and reproductive toxicity,
18 Cadmium became fully subject to Proposition 65 warning requirements and discharge
19 prohibitions.

20 SATISFACTION OF PRIOR NOTICE

- 21 21. Plaintiff served the following notices for alleged violations of Health and Safety Code
22 Section 25249.6, concerning consumer products exposures:
- 23 a. On or about February 20, 2026, Plaintiff gave notice of alleged violations of
24 Health and Safety Code Section 25249.6, concerning consumer products
25 exposures subject to a private action to SNACK RIGHT, BRAD'S, WAL-
26 MART.COM, WALMART, and to the California Attorney General, County
27 District Attorneys, and City Attorneys for each city containing a population of at
28

1 least 750,000 people in whose jurisdictions the violations allegedly occurred,
2 concerning the Kale.

- 3 b. On or about March 16, 2026, Plaintiff gave notice of alleged violations of
4 Health and Safety Code Section 25249.6, concerning consumer products
5 exposures subject to a private action to SNACK RIGHT, BRAD'S, SPROUTS,
6 and to the California Attorney General, County District Attorneys, and City
7 Attorneys for each city containing a population of at least 750,000 people in
8 whose jurisdictions the violations allegedly occurred, concerning the Kale.

9 22. Before sending the notice of alleged violations, Plaintiff investigated the consumer
10 products involved, the likelihood that such products would cause users to suffer
11 significant exposures to Cadmium, and the corporate structure of each of the Defendants.

12 23. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
13 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
14 Plaintiff who executed the certificate had consulted with at least one person with relevant
15 and appropriate expertise who reviewed data regarding the exposures to Cadmium, the
16 subject Proposition 65-listed chemical of this action. Based on that information, the
17 attorney for Plaintiff who executed the Certificate of Merit believed there was a
18 reasonable and meritorious case for this private action. The attorney for Plaintiff
19 attached to the Certificate of Merit served on the Attorney General the confidential
20 factual information sufficient to establish the basis of the Certificate of Merit.

21 24. Plaintiff's notice of alleged violations also included a Certificate of Service and a
22 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
23 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

24 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
25 gave notice of the alleged violations to SNACK RIGHT, BRAD'S, WAL-MART.COM,
26 WALMART, SPROUTS, and the public prosecutors referenced in Paragraph 21.

1 26. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
2 any applicable district attorney or city attorney has commenced and is diligently
3 prosecuting an action against the Defendants.

4 **FIRST CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against SNACK RIGHT,**
6 **BRAD’S, WAL-MART.COM, WALMART, and DOES 1-10 for Violations of**
7 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
8 **(Health & Safety Code, §§ 25249.5, et seq.))**

9 **Kale I**

10 27. Plaintiff repeats and incorporates by reference paragraphs 1 through 26 of this complaint
11 as though fully set forth herein.

12 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
13 distributor, promoter, or retailer of Kale Snacks (“Kale Snacks I”), including but not
14 limited to: "BRAD's Plant Based"; "CRUNCHY KALE"; "CHEEZE IT UP"; "LOT:
15 22724-4"; "Manufactured By: Brad's Raw Chips, LLC."; "UPC 813104022362".

16 29. Kale Snacks I contains Cadmium.

17 30. Defendants knew or should have known that Cadmium has been identified by the State
18 of California as a chemical known to cause reproductive toxicity, and therefore was
19 subject to Proposition 65 warning requirements. Defendants were also informed of the
20 presence of Cadmium in Kale Snacks I within Plaintiff's notice of alleged violations
21 further discussed above at Paragraphs 21a.

22 31. Plaintiff's allegations regarding Kale Snacks I concerns “[c]onsumer products
23 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
24 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
25 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
26 25602(b). Kale Snacks I are consumer products, and, as mentioned herein, exposures to
27 Cadmium took place as a result of such normal and foreseeable consumption and use.

1 32. Plaintiff is informed, believes, and thereon alleges that between February 20, 2023 and
2 the present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Kale Snacks I, which Defendants manufactured, distributed, or
4 sold as mentioned above, to Cadmium, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.
6 Defendants have distributed and sold Kale Snacks I in California. Defendants know and
7 intend that California consumers will use and consume Kale Snacks I, thereby exposing
8 them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
9 Defendants are selling Kale Snacks I under a brand or trademark that is owned or
10 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
11 Cadmium into Kale Snacks I or knowingly caused Cadmium to be created in Kale
12 Snacks I; have covered, obscured or altered a warning label that has been affixed to Kale
13 Snacks I by the manufacturer, producer, packager, importer, supplier or distributor of
14 Kale Snacks I; have received a notice and warning materials for exposure from Kale
15 Snacks I without conspicuously posting or displaying the warning materials; and/or have
16 actual knowledge of potential exposure to Cadmium from Kale Snacks I. Defendants
17 thereby violated Proposition 65.

18 33. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
19 Persons sustain exposures by eating and consuming Kale Snacks I.

20 34. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Kale Snacks I have been ongoing and continuous, as Defendants
22 engaged and continue to engage in conduct which violates Health and Safety Code
23 Section 25249.6, including the manufacture, distribution, promotion, and sale of Kale
24 Snacks I, so that a separate and distinct violation of Proposition 65 occurred each and
25 every time a person was exposed to Cadmium by Kale Snacks I as mentioned herein.
26
27
28

1 35. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
2 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
3 violations alleged herein will continue to occur into the future.

4 36. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Cadmium from Kale Snacks I, pursuant to
6 Health and Safety Code Section 25249.7(b).

7 37. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
8 filing this Complaint.

9
10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against SNACK RIGHT,**
12 **BRAD’S, SPROUTS, and DOES 11-20 for Violations of Proposition 65, The Safe**
13 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
14 **25249.5, *et seq.*))**

15 **Kale II**

16 38. Plaintiff repeats and incorporates by reference paragraphs 1 through 26 of this complaint
17 as though fully set forth herein.

18 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Kale Snacks (“Kale Snacks II”), including but not
20 limited to: "BRAD'S Plant based"; "CRUNCHY KALE"; “EXP: OCT-20-2025”; “LOT:
21 30224-4”; “DISTRIBUTED BY: BRAD'S RAW CHIPS, LLC”; "UPC 813104020719".

22 40. Kale Snacks II contains Cadmium.

23 41. Defendants knew or should have known that Cadmium has been identified by the State
24 of California as a chemical known to cause reproductive toxicity, and therefore was
25 subject to Proposition 65 warning requirements. Defendants were also informed of the
26 presence of Cadmium in Kale Snacks II within Plaintiff's notice of alleged violations
27 further discussed above at Paragraphs 21b.

28 42. Plaintiff’s allegations regarding Kale Snacks II concerns “[c]onsumer products
exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
3 25602(b). Kale Snacks II are consumer products, and, as mentioned herein, exposures to
4 Cadmium took place as a result of such normal and foreseeable consumption and use.

5 43. Plaintiff is informed, believes, and thereon alleges that between March 16, 2023 and the
6 present, each of the Defendants knowingly and intentionally exposed California
7 consumers and users of Kale Snacks II, which Defendants manufactured, distributed, or
8 sold as mentioned above, to Cadmium, without first providing any type of clear and
9 reasonable warning of such to the exposed persons before the time of exposure.
10 Defendants have distributed and sold Kale Snacks II in California. Defendants know and
11 intend that California consumers will use and consume Kale Snacks II, thereby exposing
12 them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
13 Defendants are selling Kale Snacks II under a brand or trademark that is owned or
14 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
15 Cadmium into Kale Snacks II or knowingly caused Cadmium to be created in Kale
16 Snacks II; have covered, obscured or altered a warning label that has been affixed to
17 Kale Snacks II by the manufacturer, producer, packager, importer, supplier or distributor
18 of Kale Snacks II; have received a notice and warning materials for exposure from Kale
19 Snacks II without conspicuously posting or displaying the warning materials; and/or
20 have actual knowledge of potential exposure to Cadmium from Kale Snacks II.

21 Defendants thereby violated Proposition 65.

22 44. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
23 Persons sustain exposures by eating and consuming Kale Snacks II.

24 45. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations of
25 Proposition 65 as to Kale Snacks II have been ongoing and continuous, as Defendants
26 engaged and continue to engage in conduct which violates Health and Safety Code
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of Kale
28

1 Snacks II, so that a separate and distinct violation of Proposition 65 occurred each and
2 every time a person was exposed to Cadmium by Kale Snacks II as mentioned herein.
3 46. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
4 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
5 violations alleged herein will continue to occur into the future.
6 47. Based on the allegations herein, Defendants are liable for civil penalties of up to
7 \$2,500.00 per day per individual exposure to Cadmium from Kale Snacks II, pursuant to
8 Health and Safety Code Section 25249.7(b).
9 48. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11
12 **PRAYER FOR RELIEF**

13 Plaintiff demands against each of the Defendants as follows:

- 14 1. A permanent injunction mandating Proposition 65-compliant warnings;
15 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
16 3. Costs of suit;
17 4. Reasonable attorney fees and costs; and
18 5. Any further relief that the court may deem just and equitable.

19
20 Dated: June 25, 2026

YEROUSHALMI & YEROUSHALMI*

21
22
23 /s/ Reuben Yeroushalmi
24 Reuben Yeroushalmi
25 Attorneys for Plaintiff,
26 CONSUMER ADVOCACY GROUP, INC.
27
28