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8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 CONSUMER ADVOCACY GROUP, INC.,
13 in the public interest,

14 Plaintiff,

15 v.

16 ROYAL FOOD IMPORT CORPORATION,
17 a Massachusetts Corporation;
18 GROCERY OUTLET INC., a California
19 Corporation;
20 and DOES 1-10,

21 Defendants.

CASE NO. **26STCV31082**

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 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges one cause of action against
23 defendants ROYAL FOOD IMPORT CORPORATION; GROCERY OUTLET INC.; and
24 DOES 1-10 as follows:
25

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 ROYAL FOOD IMPORT CORPORATION (“ROYAL FOOD”) is a Massachusetts Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant GROCERY OUTLET INC. (“GROCERY OUTLET”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-10, 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.
5. At all times mentioned herein, the term “Defendants” includes ROYAL FOOD, GROCERY OUTLET, and DOES 1-10.
6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-10, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of

1 the other Defendants. All actions of each of the Defendants alleged in this Complaint
2 were ratified and approved by every other Defendant or their officers or managing
3 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
4 alleged wrongful conduct of each of the other Defendants.

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

9 **JURISDICTION**

- 10 9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
11 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
12 those given by statute to other trial courts. This Court has jurisdiction over this action
13 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
14 violations of Proposition 65 in any Court of competent jurisdiction.
- 15 10. This Court has jurisdiction over Defendants named herein because Defendants either
16 reside or are located in this State or are foreign corporations authorized to do business in
17 California, are registered with the California Secretary of State, or who do sufficient
18 business in California, have sufficient minimum contacts with California, or otherwise
19 intentionally avail themselves of the markets within California through their
20 manufacture, distribution, promotion, marketing, or sale of their products within
21 California to render the exercise of jurisdiction by the California courts permissible
22 under traditional notions of fair play and substantial justice.
- 23 11. Venue is proper in the County of Los Angeles because one or more of the instances of
24 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
25 because Defendants conducted, and continue to conduct, business in the County of Los
26 Angeles with respect to the consumer product that is the subject of this action.

BACKGROUND AND PRELIMINARY FACTS

12. 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.
13. 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.
14. 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).
15. Proposition 65 provides that any person “violating or threatening to violate” the statute may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7. “Threaten to violate” means “to create a condition in which there is a substantial probability that a violation will occur.” *Health & Safety Code* § 25249.11(e). Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation, recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

1 16. Plaintiff identified certain practices of manufacturers and distributors of Sardines in
2 Tomato Sauce of exposing, knowingly and intentionally, persons in California to Lead
3 and Lead Compounds, Cadmium and Cadmium Compounds of such products without
4 first providing clear and reasonable warnings of such to the exposed persons prior to the
5 time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

6 17. On October 1, 1992, the Governor of California added Lead and Lead Compounds
7 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
8 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
9 twenty (20) months after addition of Lead to the list of chemicals known to the State to
10 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
11 discharge prohibitions.

12 18. On February 27, 1987, the Governor of California added Lead to the list of chemicals
13 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
14 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
15 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
16 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
17 the State to cause developmental and reproductive toxicity, Lead became fully subject to
18 Proposition 65 warning requirements and discharge prohibitions.

19 19. On May 1, 1997, the Governor of California added Cadmium and Cadmium Compounds
20 to the list of chemicals known to the State to cause developmental and reproductive
21 toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the State to cause
22 developmental, and male reproductive toxicity. Pursuant to Health and Safety Code
23 Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list
24 of chemicals known to the State to cause developmental and reproductive toxicity,
25 Cadmium became fully subject to Proposition 65 warning requirements and discharge
26 prohibitions.

SATISFACTION OF PRIOR NOTICE

20. Plaintiff served the following notices for alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures:

- a. On or about March 23, 2026 Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to ROYAL FOOD, GROCERY OUTLET, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Sardines in Tomato Sauce.

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

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

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

1 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notice of the alleged violations to ROYAL FOOD, GROCERY OUTLET, and the
3 public prosecutors referenced in Paragraph 20.

4 25. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
5 any applicable district attorney or city attorney has commenced and is diligently
6 prosecuting an action against the Defendants.

7
8 **FIRST CAUSE OF ACTION**

9 **(By CONSUMER ADVOCACY GROUP, INC. and against ROYAL FOOD,
10 GROCERY OUTLET, and DOES 1-10 for Violations of Proposition 65, The Safe
11 Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§
12 25249.5, *et seq.*))**

13
14 **Seafood Products**

15 26. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
16 as though fully set forth herein.

17 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Sardines in Tomato Sauce (“Sardines”), including but
19 not limited to: “Tuthill’s”; “Sardines in Tomato Sauce”; “EXP: 11/02/2025”; “Sold by
20 ROYAL FOOD IMPORT CORP.”; “UPC 832460321520”.

21 28. Sardines contain Lead and Cadmium.

22 29. Defendants knew or should have known that the State of California has identified Lead
23 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,
24 and Cadmium as a chemical known to cause reproductive toxicity and developmental
25 toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants
26 were also informed of the presence of Lead and Cadmium in Sardines within Plaintiff’s
27 notice of alleged violations further discussed above at Paragraphs 20.

28 30. Plaintiff’s allegations regarding Sardines concerns “[c]onsumer products exposure[s],”
which “is an exposure that results from a person’s acquisition, purchase, storage,
consumption, or other reasonably foreseeable use of a consumer good, or any exposure

1 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).

2 Sardines are consumer products, and, as mentioned herein, exposures to Lead and
3 Cadmium took place as a result of such normal and foreseeable consumption and use.

4 31. Plaintiff is informed, believes, and thereon alleges that between March 23, 2023 and the
5 present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Sardines, which Defendants manufactured, distributed, or sold as
7 mentioned above, to Lead and Cadmium, without first providing any type of clear and
8 reasonable warning of such to the exposed persons before the time of exposure.
9 Defendants have distributed and sold Sardines in California. Defendants know and
10 intend that California consumers will use and consume Sardines, thereby exposing them
11 to Lead and Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
12 Defendants have covered, obscured or altered a warning label that has been affixed to
13 Sardines by the manufacturer, producer, packager, importer, supplier or distributor of
14 Sardines; have received a notice and warning materials for exposure from Sardines
15 without conspicuously posting or displaying the warning materials; and/or have actual
16 knowledge of potential exposure to Lead and Cadmium from Sardines. Defendants
17 thereby violated Proposition 65.

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

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

1 34. 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 35. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Lead and Cadmium from Sardines,
6 pursuant to Health and Safety Code Section 25249.7(b).

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

9
10 **PRAYER FOR RELIEF**

11 Plaintiff demands against each of the Defendants as follows:

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

17
18 Dated: September 30, 2026

YEROUSHALMI & YEROUSHALMI*

19
20
21 /s/ Reuben Yeroushalmi

Reuben Yeroushalmi

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.