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9 CONSUMER ADVOCACY GROUP, INC.

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County of Los Angeles
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Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

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 VALLEY PRODUCE MARKET, INC. DBA
17 VALLEY MARKETPLACE, a California
18 Corporation;

19 B&I OVERSEAS TRADING, INC., a
20 California Corporation;

21 ZIP INTERNATIONAL GROUP, LLC, a
22 New Jersey Limited Liability Company;

23 ZIP FOODS IMPORTERS, INC., a New
24 Jersey Corporation;

25 EAST COAST FOODS, INC., a California
26 Corporation;
27 and DOES 1-20,

28 Defendants.

CASE NO. **26STCV22228**

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
against defendants VALLEY PRODUCE MARKET, INC. DBA VALLEY MARKETPLACE;
B&I OVERSEAS TRADING, INC.; ZIP INTERNATIONAL GROUP, LLC; ZIP FOODS
IMPORTERS, INC.; EAST COAST FOODS, INC. 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 VALLEY PRODUCE MARKET, INC. DBA VALLEY MARKETPLACE (“VALLEY MARKETPLACE”) is a California Corporation qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant B&I OVERSEAS TRADING, INC. (“B&I”) is a California Corporation, qualified to do business and doing business in the State of California at all relevant times herein.
4. Defendant ZIP INTERNATIONAL GROUP, LLC (“ZIP INTERNATIONAL”) is a New Jersey Limited Liability Company doing business in the State of California at all relevant times herein.
5. Defendant ZIP FOODS IMPORTERS, INC. (“ZIP FOODS”) is a New Jersey Corporation doing business in the State of California at all relevant times herein.
6. Defendant EAST COAST FOODS, INC. (“EAST COAST”) is a California Corporation qualified to do business 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.

- 1 8. At all times mentioned herein, the term “Defendants” includes VALLEY
2 MARKETPLACE, B&I, ZIP INTERNATIONAL, ZIP FOODS, EAST COAST and
3 DOES 1-20.
- 4 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
5 times mentioned herein have conducted business within the State of California.
- 6 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
7 including DOES 1-20, was an agent, servant, or employee of each of the other
8 Defendants. In conducting the activities alleged in this Complaint, each of the
9 Defendants was acting within the course and scope of this agency, service, or
10 employment, and was acting with the consent, permission, and authorization of each of
11 the other Defendants. All actions of each of the Defendants alleged in this Complaint
12 were ratified and approved by every other Defendant or their officers or managing
13 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
14 alleged wrongful conduct of each of the other Defendants.
- 15 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
16 Defendants was a person doing business within the meaning of Health and Safety Code
17 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
18 employees at all relevant times.

19 **JURISDICTION**

- 20 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
21 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
22 those given by statute to other trial courts. This Court has jurisdiction over this action
23 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
24 violations of Proposition 65 in any Court of competent jurisdiction.
- 25 13. This Court has jurisdiction over Defendants named herein because Defendants either
26 reside or are located in this State or are foreign corporations authorized to do business in
27 California, are registered with the California Secretary of State, or who do sufficient
28

business in California, have sufficient minimum contacts with California, or otherwise intentionally avail themselves of the markets within California through their manufacture, distribution, promotion, marketing, or sale of their products within 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

1 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
2 reasonable” warnings before exposing a person, knowingly and intentionally, to a
3 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

4 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
5 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
6 25249.7. "Threaten to violate" means "to create a condition in which there is a
7 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
8 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
9 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

10 19. Plaintiff identified certain practices of manufacturers and distributors of Fried Sprats in
11 Tomato Sauce and Smelt Fried in Tomato Sauce of exposing, knowingly and
12 intentionally, persons in California to Lead and Lead Compounds of such products
13 without first providing clear and reasonable warnings of such to the exposed persons
14 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such
15 practice.

16 20. On October 1, 1992, the Governor of California added Lead and Lead Compounds
17 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
18 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
19 twenty (20) months after addition of Lead to the list of chemicals known to the State to
20 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
21 discharge prohibitions.

22 21. On February 27, 1987, the Governor of California added Lead to the list of chemicals
23 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
24 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
25 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
26 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
27
28

1 the State to cause developmental and reproductive toxicity, Lead became fully subject to
2 Proposition 65 warning requirements and discharge prohibitions.

3 **SATISFACTION OF PRIOR NOTICE**

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

6 a. On or about March 23, 2026, Plaintiff gave notice of alleged violations of
7 Health and Safety Code Section 25249.6, concerning consumer products
8 exposures subject to a private action to VALLEY MARKETPLACE, B&I, ZIP
9 INTERNATIONAL, and to the California Attorney General, County District
10 Attorneys, and City Attorneys for each city containing a population of at least
11 750,000 people in whose jurisdictions the violations allegedly occurred,
12 concerning the Fried Sprats in Tomato Sauce.

13 b. On or about April 1, 2026, Plaintiff gave notice of alleged violations of Health
14 and Safety Code Section 25249.6, concerning consumer products exposures
15 subject to a private action to VALLEY MARKETPLACE, B&I, ZIP
16 INTERNATIONAL, ZIP FOODS, EAST COAST and to the California
17 Attorney General, County District Attorneys, and City Attorneys for each city
18 containing a population of at least 750,000 people in whose jurisdictions the
19 violations allegedly occurred, concerning the Smelt Fried in Tomato Sauce.

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

23 24. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
24 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
25 Plaintiff who executed the certificate had consulted with at least one person with relevant
26 and appropriate expertise who reviewed data regarding the exposures to Lead, the
27 subject Proposition 65-listed chemical of this action. Based on that information, the
28

1 attorney for Plaintiff who executed the Certificate of Merit believed there was a
2 reasonable and meritorious case for this private action. The attorney for Plaintiff
3 attached to the Certificate of Merit served on the Attorney General the confidential
4 factual information sufficient to establish the basis of the Certificate of Merit.

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

8 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
9 gave notice of the alleged violations to VALLEY MARKETPLACE, B&I, ZIP
10 INTERNATIONAL, ZIP FOODS, EAST COAST, and the public prosecutors referenced
11 in Paragraph 22.

12 27. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
13 any applicable district attorney or city attorney has commenced and is diligently
14 prosecuting an action against the Defendants.

15
16 **FIRST CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against VALLEY**
18 **MARKETPLACE, B&I, ZIP INTERNATIONAL, and DOES 1-10 for Violations**
19 **of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
20 **(*Health & Safety Code*, §§ 25249.5, *et seq.*))**

21 **Seafood Products I**

22 28. Plaintiff repeats and incorporates by reference paragraphs 1 through 27 of this complaint
23 as though fully set forth herein.

24 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Fried Sprats in Tomato Sauce ("Sprats"), identified as
26 "RIGA GOLD"; "FRIED SPRATS IN TOMATO SAUCE"; "Net Wt. 8.47 oz (240g)";
27 "Best Before: 06.06.26"; "Lot: 011-A004509"; "Imported by B&I Overseas Trading
28 Inc."; "UPC 4751001583813".

30. Sprats contains Lead.

1 31. Defendants knew or should have known that Lead has been identified by the State of
2 California as a chemical known to cause cancer, developmental and reproductive toxicity
3 and therefore was subject to Proposition 65 warning requirements. Defendants were also
4 informed of the presence of Lead in Sprats within Plaintiff's notice of alleged violations
5 further discussed above at Paragraphs 22a.

6 32. Plaintiff's allegations regarding Sprats concerns "[c]onsumer products exposure[s],"
7 which "is an exposure that results from a person's acquisition, purchase, storage,
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
9 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
10 Sprats are consumer products, and, as mentioned herein, exposures to Lead took place as
11 a result of such normal and foreseeable consumption and use.

12 33. Plaintiff is informed, believes, and thereon alleges that between March 23, 2023 and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Sprats, which Defendants manufactured, distributed, or sold as
15 mentioned above, to Lead, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Sprats in California. Defendants know and intend that California
18 consumers will use and consume Sprats, thereby exposing them to Lead. Further,
19 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sprats
20 under a brand or trademark that is owned or licensed by the Defendants or an entity
21 affiliated thereto; have covered, obscured or altered a warning label that has been affixed
22 to Sprats by the manufacturer, producer, packager, importer, supplier or distributor of
23 Sprats; have received a notice and warning materials for exposure from Sprats without
24 conspicuously posting or displaying the warning materials; and/or have actual
25 knowledge of potential exposure to Lead from Sprats. Defendants thereby violated
26 Proposition 65.

- 1 34. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
2 Persons sustain exposures by eating and consuming Sprats.
- 3 35. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Sprats have been ongoing and continuous, as Defendants engaged
5 and continue to engage in conduct which violates Health and Safety Code Section
6 25249.6, including the manufacture, distribution, promotion, and sale of Sprats, so that a
7 separate and distinct violation of Proposition 65 occurred each and every time a person
8 was exposed to Lead by Sprats as mentioned herein.
- 9 36. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
10 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
11 violations alleged herein will continue to occur into the future.
- 12 37. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to Lead from Sprats, pursuant to Health and
14 Safety Code Section 25249.7(b).
- 15 38. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
16 filing this Complaint.

17 **SECOND CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against VALLEY**
19 **MARKETPLACE, B&I, ZIP INTERNATIONAL, ZIP FOODS, EAST COAST,**
20 **and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and**
21 **Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

22 **Seafood Products II**

- 23 39. Plaintiff repeats and incorporates by reference paragraphs 1 through 27 of this complaint
24 as though fully set forth herein.
- 25 40. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
26 distributor, promoter, or retailer of Smelt Fried in Tomato Sauce ("Smelt"), identified as
27 "FISH MEISTER"; "SMELT FRIED IN TOMATO SAUCE"; "Imported by: ZIP
28 FOODS IMPORTERS, INC."; "11.06.2024-11.06.2026"; "UPC 835856002492".

1 41. Smelt contains Lead.

2 42. Defendants knew or should have known that Lead has been identified by the State of
3 California as a chemical known to cause cancer, developmental and reproductive toxicity
4 therefore was subject to Proposition 65 warning requirements. Defendants were also
5 informed of the presence of Lead in Smelt within Plaintiff's notice of alleged violations
6 further discussed above at Paragraphs 22b.

7 43. Plaintiff's allegations regarding Smelt concerns "[c]onsumer products exposure[s],"
8 which "is an exposure that results from a person's acquisition, purchase, storage,
9 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
10 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).
11 Smelt are consumer products, and, as mentioned herein, exposures to Lead took place as
12 a result of such normal and foreseeable consumption and use.

13 44. Plaintiff is informed, believes, and thereon alleges that between April 1, 2023 and the
14 present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Smelt, which Defendants manufactured, distributed, or sold as
16 mentioned above, to Lead, without first providing any type of clear and reasonable
17 warning of such to the exposed persons before the time of exposure. Defendants have
18 distributed and sold Smelt in California. Defendants know and intend that California
19 consumers will use and consume Smelt, thereby exposing them to Lead. Further,
20 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Smelt
21 under a brand or trademark that is owned or licensed by the Defendants or an entity
22 affiliated thereto; have covered, obscured or altered a warning label that has been affixed
23 to Smelt by the manufacturer, producer, packager, importer, supplier or distributor of
24 Smelt; have received a notice and warning materials for exposure from Smelt without
25 conspicuously posting or displaying the warning materials; and/or have actual
26 knowledge of potential exposure to Lead from Smelt. Defendants thereby violated
27 Proposition 65.

1 45. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
2 Persons sustain exposures by eating and consuming Smelt.
3 46. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Smelt have been ongoing and continuous, as Defendants engaged
5 and continue to engage in conduct which violates Health and Safety Code Section
6 25249.6, including the manufacture, distribution, promotion, and sale of Smelt, so that a
7 separate and distinct violation of Proposition 65 occurred each and every time a person
8 was exposed to Lead by Smelt as mentioned herein.
9 47. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
10 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
11 violations alleged herein will continue to occur into the future.
12 48. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to Lead from Smelt, pursuant to Health and
14 Safety Code Section 25249.7(b).
15 49. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
16 filing this Complaint.

17
18 **PRAYER FOR RELIEF**

19 Plaintiff demands against each of the Defendants as follows:

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

25 Dated: July 14, 2026

YEROUSHALMI & YEROUSHALMI*
/s/ Reuben Yeroushalmi
Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.