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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

ENVIRONMENTAL HEALTH ADVOCATES, INC.,

Plaintiff,

v.

SOLINA USA INC., a Delaware corporation; and DOES 1 through 100, inclusive,

Defendant.

Case No.:

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1. This Complaint is a representative action brought by Environmental Health Advocates, Inc. ("Plaintiff") in the public interest of the citizens of the State of California ("the People"). Plaintiff seeks to remedy Defendants' failure to inform the People of exposure to aflatoxins, a known carcinogen. Defendant expose consumers to aflatoxins by manufacturing, importing, selling, and/or distributing almond paste including, but not limited to, Solo Almond Paste ("Products"). Defendant know and intend that customers will ingest Products containing aflatoxins.

2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[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.)

3. California identified and listed aflatoxins as chemicals known to cause cancer on January 1, 1988.

4. Defendant failed to sufficiently warn consumers and individuals in California about potential exposure to aflatoxins in connection with Defendants' manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

5. Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in California before exposing them to aflatoxins in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff also seeks civil penalties against Defendant for violations of Proposition 65 along with attorney's fees and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a corporation in the State of California dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposure from consumer products. It brings this action in the public interest pursuant to Health and Safety Code, section 25249.7.

7. Defendant SOLINA USA INC. ("Solina") is a corporation organized and existing under the laws of Delaware. Solina is registered to do business in California, and does business in the County

of San Francisco, within the meaning of Health and Safety Code, section 25249.11. Solina manufactures, imports, sells, or distributes the Products in California and San Francisco County.

8. Plaintiff does not know the true names and/or capacities, whether individual, partners, or corporate, of the Defendant sued herein as DOES 1 through 100, inclusive, and for that reason sues said Defendant under fictitious names pursuant to Cal. Civ. Proc. § 474. Plaintiff will seek leave to amend this Complaint when the true names and capacities of these Defendant have been ascertained. Plaintiff is informed and believes and thereon alleges that these Defendant are responsible in whole or in part for the remedies and penalties sought herein.

9. At all times mentioned, Defendant were the agents, alter egos, servants, joint venturers, joint employers, or employees for each other. Defendant acted with the consent of the other Co-Defendant and acted within the course, purpose, and scope of their agency, service, or employment. All conduct was ratified by Defendant, and each of them.

III.
VENUE AND JURISDICTION

10. California Constitution Article VI, Section 10 grants the Superior Court original jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code statute upon which this action is based does not give jurisdiction to any other court. As such, this Court has jurisdiction.

11. Venue is proper in San Francisco County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendant conducted and continue to conduct business in this County as it relates to Products.

12. Defendant have sufficient minimum contacts in the State of California or otherwise purposefully avail themselves of the California market. Exercising jurisdiction over Defendant would be consistent with traditional notions of fair play and substantial justice.

IV.
BACKGROUND FACTS

1. On January 1, 1988, the State of California formally identified and listed aflatoxins as a group of chemicals known to cause cancer. Aflatoxins are a strain of mycotoxins that are produced

by molds including *Aspergillus flavus* and *Aspergillus parasiticus*. Aflatoxins are found in a wide variety of foodstuffs, commonly including maize, peanuts, cottonseed, and tree nuts. (See Office of Environmental Health Hazard Assessment, aflatoxins, Chemical Listing Details, available at: https://oehha.ca.gov/chemicals/aflatoxins [last visited October 5, 2026].)

2. Animal studies have shown that aflatoxins produce liver tumors in mice, rats, fish, ducks, marmosets, tree shrews, and monkeys following administration by several routes, including orally. (See IARC Working Group on the Evaluation of Carcinogenic Risks to Humans, Overall Evaluations of Carcinogenicity: An Updating of IARC Monographs Volumes 1 to 42. Lyon (FR): International Agency for Research on Cancer; 1987, (IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, No. Supplement 7.) AFLATOXINS (Group 1), available at: https://www.ncbi.nlm.nih.gov/books/NBK533573/ [last visited October 5, 2026].)

3. Human cohort studies conducted in Shanghai and Taiwan, China have found statistically significant increased risk of hepatocellular carcinoma among individuals exposed to aflatoxins as evidenced by elevated levels of aflatoxin-specific biomarkers, an effect that persists independently of hepatitis B virus infection. (See Ross RK, Yuan JM, Yu MC, et al., Urinary aflatoxin biomarkers and risk of hepatocellular carcinoma. Lancet. 1992;339:943-946; Wang LY, Hatch M, Chen CJ, et al., Aflatoxin exposure and risk of hepatocellular carcinoma in Taiwan. Int J Cancer. 1996;67:620-625, as cited in IARC Working Group on the Evaluation of Carcinogenic Risks to Humans, Chemical Agents and Related Occupations. Lyon (FR): International Agency for Research on Cancer; 2012, (IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, No. 100F.) AFLATOXINS, available at: https://www.ncbi.nlm.nih.gov/books/NBK304413/ [last visited October 5, 2026].)

4. The Office of Environmental Health Hazard Assessment ("OEHHA") has established specific safe harbor levels for many of the chemicals listed under Proposition 65. For cancer-causing chemicals in particular, a safe harbor level is called a "No Significant Risk Level," or "NSRL." An NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed human population of 100,000, assuming lifetime exposure at the level in question. (See OEHHA's Proposition 65 Process for Developing Safe Harbor Numbers (February 2001), available at

https://oehha.ca.gov/media/downloads/crnr/2001safeharborprocess.pdf [last visited October 5, 2026].) The State of California has not yet established an NSRL for aflatoxins. However, research suggests that an NSRL of 0.0152 micrograms/day of aflatoxins is appropriate, where direct ingestion is the route of exposure. (See California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Expedited Cancer Potency Values and Proposed Regulatory Levels for Certain Proposition 65 Carcinogens (April 1992), available at: https://oehha.ca.gov/sites/default/files/media/downloads/proposition-65/report/expcancer.pdf [last visited October 5, 2026].) This NSRL is derived from the conventional cancer potency value listed in the document cited above.

5. As aflatoxins are pervasive contaminants within the food supply chain, rather than an additive that can simply be removed or reformulated out of a product, EHA does not seek to eliminate aflatoxin exposure entirely. Instead, in order to ensure that the injunctive relief sought herein confers a public benefit upon California consumers, EHA adopts the NSRL of 0.0152 micrograms/day for aflatoxins as a target level to be approached through injunctive relief measures — including improved storage practices, biocontrol methods, and other feasible interventions — designed to reduce the average concentration of aflatoxins in foodstuffs.

V.
CAUSES OF ACTION

FIRST CAUSE OF ACTION
(Violation of Proposition 65 – Against all Defendant)

13. Plaintiff incorporates by reference each and every allegation contained above.

14. Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm.

15. Defendant manufactured, imported, sold, and/or distributed Products containing aflatoxins in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

16. In manufacturing, importing, selling, and/or distributing Products, Defendant failed to provide a clear and reasonable warning to consumers and individuals in California who may be exposed

to aflatoxins through reasonably foreseeable use of the Products.

17. Products expose individuals to aflatoxins through direct ingestion. This exposure is a natural and foreseeable consequence of Defendant placing Products into the stream of commerce. As such, Defendant intend that consumers will ingest Products, exposing them to aflatoxins.

18. Defendant knew or should have known that the Products contained aflatoxins and exposed individuals to aflatoxins in the ways provided above. The Notice informed Defendant of the presence of aflatoxins in the Products. Likewise, media coverage concerning aflatoxins, and related chemicals in consumer products provided constructive notice to Defendant.

19. Defendants' actions in this regard were deliberate and not accidental.

20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit. The Notice alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to aflatoxins contained in the Products.

21. The appropriate public enforcement agencies provided with the Notice failed to commence and diligently prosecute a cause of action against Defendant.

22. Individuals exposed to aflatoxins contained in Products through direct ingestion resulting from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. There is no other plain, speedy, or adequate remedy at law.

23. Defendants are liable for a maximum civil penalty of $2,500 per day for each violation of Proposition 65 pursuant to Health and Safety Code, section 25249.7(b). Injunctive relief is also appropriate pursuant to Health and Safety Code, section 25249.7(a).

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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendant as follows:

1. Civil penalties in the amount of $2,500 per day for each violation. Plaintiff alleges that damages total a minimum of $1,000,000;

2. A preliminary and permanent injunction against Defendant from manufacturing, importing, selling, and/or distributing Products in California without providing a clear and reasonable warning as required by Proposition 65 and related Regulations;

3. Reasonable attorney's fees and costs of suit; and

4. Such other and further relief as may be just and proper.

Respectfully submitted:

Dated: October 5, 2026

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