

George Rikos, Esq. (SBN 204864)
LAW OFFICES OF GEORGE RIKOS
555 West Beech Street, Suite 500
San Diego, California 92101
Telephone: (858) 342-9161
Facsimile: (858) 724-1453
Email: George@georgerikoslaw.com

Attorneys for Plaintiff
Blue Water Cosaint, LLC

FILED
Clerk of the Superior Court

NOV 21 2025

By: M. Acosta, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

BLUE WATER COSAINT, LLC, a limited
liability company,

Plaintiff,

v.

BUMBLE BEE FOODS, LLC, a Delaware
limited liability company; BUMBLE BEE
FOODS, a business organization, form
unknown; WALMART, INC., a Delaware
corporation and DOES 1 through 10,

Defendant.

Case No. 24CU003388C

[PROPOSED] CONSENT JUDGMENT

Judge: Robert C. Longstreth
Dept.: C-65 **MARK T. CUMBA**

Complaint Filed: July 29, 2024

1 **1. INTRODUCTION**

2 **1.1. The Parties.** This Consent Judgment is entered into by and between Blue Water
3 Cosaint acting on behalf of the public interest (hereinafter “BWC”) and defendant Bumble Bee Foods,
4 LLC (“Bumble Bee” or “Defendant”) with BWC and Defendant collectively referred to as the
5 “Parties” and each of them as a “Party.” BWC is an entity located in the State of California and seeks
6 to promote awareness of exposures to toxic chemicals and to improve human health by reducing or
7 eliminating hazardous substances contained in consumer products. BWC alleges that Defendant is a
8 person in the course of doing business for purposes of Proposition 65 (Cal. Health & Safety Code, §
9 25249.6 *et seq.*).

10 **1.2. Allegations and Representations.** BWC alleges that Defendant has exposed
11 California consumers to mercury from its alleged manufacturing, packaging, distribution, marketing,
12 and/or sale of Beach Cliff Fish Steaks (the “Product”) without first providing California consumers
13 and customers with a clear and reasonable health hazard exposure warning as required pursuant to
14 Proposition 65. Mercury is listed pursuant to Proposition 65 as a chemical known to the State of
15 California to cause reproductive and developmental toxicity.

16 **1.3. Notices of Violation / Action.** On July 28, 2023, BWC served Defendant, Walmart
17 Inc., and various public enforcement agencies with a document entitled “Notice of Violation of
18 California Health & Safety Code § 25249.6, et seq.” (the “Notice”). The Notice provided Defendant,
19 Walmart Inc., and such others, including public enforcers, with notice that alleged Defendant was in
20 violation of California Health & Safety Code § 25249.6 for failing to warn California consumers and
21 customers that consumption of the Product will expose them to mercury. No public enforcer has
22 diligently prosecuted the allegations set forth in the Notice. On July 29, 2024, BWC filed a complaint
23 that brought a single cause of action pertaining to the Notice. The Complaint and the Notice are
24 collectively referred to herein as the “Action.”

25 **1.4. Jurisdiction and Venue.** For purposes of this Consent Judgment only, the Parties
26 stipulate that this Court has jurisdiction over Defendant as to the allegations contained in the Action
27 filed in this matter, that venue is proper in the County of San Diego, and that this Court has jurisdiction
28 to approve, enter, and oversee the enforcement of this Consent Judgment as a full and final binding

1 resolution of all claims which were or could have been raised in the Action based on the facts alleged
2 therein and in the Notice.

3 **1.5. Denial of Allegations.** Defendant denies the material allegations contained in the
4 Action and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall
5 be construed as an admission by Defendant of any fact, finding, issue of law, or violation of law; nor
6 shall compliance with this Consent Judgment constitute or be construed as an admission by Defendant
7 of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by
8 Defendant. If this Consent Judgment is not entered by the Court, Defendant will present, argue, and
9 litigate each of the affirmative defenses pleaded in its Answer to the Complaint by way of a pleading
10 motion, motion for summary judgment, and/or trial. However, this section shall not diminish or
11 otherwise affect the obligations, responsibilities, and duties of Defendant under this Consent
12 Judgment.

13 **2. DEFINITIONS**

14 **2.1. Product.** The term "Product" means Beach Cliff Fish Steaks that are imported,
15 manufactured, packaged, distributed, marketed, shipped into California and sold and/or offered for
16 sale in California by Defendant.

17 **2.2. Effective Date.** The term "Effective Date" means thirty (30) days after this Consent
18 Judgment is entered as a Judgment of the Court.

19 **3. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**

20 **3.1. Reformulation of Products.** On the Effective Date, and continuing thereafter,
21 Products that Defendant directly manufactures, imports, distributes, or sells in California shall either
22 be: (a) Reformulated Products pursuant to Section 3.2; or (b) labeled with or accompanied by a clear
23 and reasonable exposure warning pursuant to Section 3.3. For purposes of this Consent Judgment, a
24 "Reformulated Product" is a Product that complies with Section 3.2. The warning requirement set
25 forth in Section 3.3 shall not apply to any Reformulated Product. In addition, the injunctive relief
26 requirements in Section 3 shall not apply to any Product that is already in the stream of commerce as
27 of the Effective Date ("Sell-Through Products"), which Sell-Through Projects are expressly subject to
28 and have the benefit of the releases provided in Section 5.

1 **3.2. Reformulation Standard.** A Reformulated Product means a Product for which
2 average daily exposure does not exceed 0.3 micrograms of mercury per day, using the following
3 formula: (1) the average concentration level of mercury in the Product in micrograms per gram
4 utilizing the geometric mean of mercury detection results of at least three (3) and up to ten (10) samples
5 of the Product, (2) multiplied by the serving size on the label of the Product, (3) multiplied by a
6 frequency of consumption of once every sixteen (16) days (i.e., 1/16). All mercury concentration
7 testing pursuant to this Consent Judgment shall be performed using a laboratory method that complies
8 with the performance and quality control factors appropriate for the method used, including limit of
9 quantification and accuracy, such as AOAC 2011.19, 993.14, and 2015.01 (modified), or any future
10 method or improvement that becomes the industry standard for mercury concentration testing (as
11 evidenced by advancements in technology or changes in regulatory or industry guidance).

12 **3.3. Clear and Reasonable Warning.** Commencing on the Effective Date, and continuing
13 thereafter, a clear and reasonable exposure warning as set forth in this Section must be provided for
14 all Products that Defendant directly manufactures, imports, distributes, or sells in California that are
15 not Reformulated Products. The warning shall consist of either the “Warning” or “Alternative
16 Warning” described below.

17 **3.3.1. Warning.** The “Warning” shall consist of any of the following Warnings.

18 **3.3.1.1. “WARNING:** Consuming this product can expose you to mercury, which is
19 known to the State of California to cause birth defects or other reproductive harm.
20 For more information go to www.P65Warnings.ca.gov/food.”

21 **3.3.1.2. “CALIFORNIA WARNING:** Consuming this product can expose you to
22 mercury, which is known to the State of California to cause birth defects or other
23 reproductive harm. For more information go to www.P65Warnings.ca.gov/food.”

24 **3.3.1.3. “CA WARNING:** Consuming this product can expose you to mercury, which
25 is known to the State of California to cause birth defects or other reproductive harm.
26 For more information go to www.P65Warnings.ca.gov/food.”

27 **3.3.2. Alternative Warning.** Defendant may, but is not required to, use the following
28 alternative short-form warnings, as applicable (“Alternative Warnings”).

- 1 3.3.2.1. **“WARNING:** Risk of reproductive harm from exposure to mercury. See
2 www.P65Warnings.ca.gov/food.”
- 3 3.3.2.2. **“WARNING:** Can expose you to mercury, a reproductive toxicant. See
4 www.P65Warnings.ca.gov/food.”
- 5 3.3.2.3. **“CALIFORNIA WARNING:** Risk of reproductive harm from exposure to
6 mercury. See www.P65Warnings.ca.gov/food.”
- 7 3.3.2.4. **“CALIFORNIA WARNING:** Can expose you to mercury, a reproductive
8 toxicant. See www.P65Warnings.ca.gov/food.”
- 9 3.3.2.5. **“CA WARNING:** Risk of reproductive harm from exposure to mercury. See
10 www.P65Warnings.ca.gov/food.”
- 11 3.3.2.6. **“CA WARNING:** Can expose you to mercury, a reproductive toxicant. See
12 www.P65Warnings.ca.gov/food.”

13 Any Warning or Alternative Warning provided pursuant to Section 3.3 must print the signal
14 word(s) **“WARNING,” “CA WARNING,”** or **“CA WARNING”** in all capital letters and in bold
15 font, followed by a colon. The Warning or Alternative Warning shall be affixed to or printed on the
16 Product’s packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic
17 process, provided that the Warning or Alternative Warning is displayed with such conspicuousness,
18 as compared with other words, statements, or designs as to render it likely to be read and understood
19 by an ordinary individual under customary conditions of purchase or use. The Warning or Alternative
20 Warning may be contained in the same section of the packaging, labeling, or instruction booklet that
21 states other safety warnings, if any, concerning the use of the Product and shall be at least the same
22 size as those other safety warnings. Where the Warning or Alternative Warning is provided on the
23 food product label, it must be set off from other surrounding information, and Defendant shall enclose
24 the Warning or Alternative Warning in a black box and comply with the content requirements specified
25 in Section 25607.2. If “consumer information,” as that term is defined in Cal. Code Regs., tit. 27, §
26 25600.1, subd. (c) as it may be amended from time to time, is provided in a foreign language,
27 Defendant shall provide the Warning or Alternative Warning in the foreign language in accordance
28

1 with applicable warning regulations adopted by the State of California's Office of Environmental
2 Health Hazard Assessment ("OEHHA").

3 In addition to affixing the Warning or Alternative Warning to the Product's packaging or
4 labeling, the Warning or Alternative Warning shall be posted on websites where Defendant sells the
5 Product to consumers in California. The requirements of this Section shall be satisfied if the Warning
6 or Alternative Warning, or a clearly marked hyperlink using the signal word "**WARNING,**" "**CA**
7 **WARNING,**" or "**CA WARNING,**" appears on the product display page, or by otherwise
8 prominently displaying the warning to the purchaser prior to completing the purchase. To comply with
9 this Section, Defendant shall (a) post the Warning or Alternative Warning on its own website and, if
10 it has the ability to do so, on the e-commerce websites that Defendant has expressly authorized to sell
11 the Products in California; and (b) if it does not have the ability to post the Warning or Alternative
12 Warning on e-commerce websites that Defendant has expressly authorized to sell Products in
13 California, comply with Cal. Code Regs., tit. 27, § 25600.2, subd. (b). Owners and operators of e-
14 commerce websites who sell the Products in California and have been provided with written notice in
15 accordance with Cal. Code Regs., tit. 27, § 25600.2, subd. (b) are not released in Section 5 of this
16 Consent Judgment if they fail to meet the warning requirements of this Section. Defendant shall not
17 be responsible for posting the Warning or Alternative Warning on e-commerce websites that are not
18 expressly authorized by Defendant to sell Products or who are not expressly authorized by Defendant's
19 retail sellers to sell Products supplied by Defendant, and such unauthorized e-commerce websites are
20 not released pursuant to Section 5 of this Agreement.

21 **3.4. Compliance with Warning Regulations.** Defendant shall be deemed to be in
22 compliance with this Consent Judgment by either adhering to Section 3 of this Consent Judgment or
23 by complying with warning regulations adopted by the State of California's OEHHA applicable to the
24 Products and the exposures at issue. If OEHHA adopts new warning regulations applicable to the
25 Products and exposures at issue, Defendant may choose to provide these warnings at its discretion.

26 **3.5. Right to Cure (And No Assignment or Transfer of Claims).** BWC shall have the
27 exclusive right to enforce the provisions of this Consent Judgment. BWC represents and warrants
28

1 neither it nor its agents or attorneys have assigned or otherwise transferred, or attempted to assign, or
2 transfer, any claim or claims against Defendant to a third-party.

3 To the extent BWC identifies any Product in the future which it believes is not in compliance
4 with this Consent Judgment, BWC agrees to advise Defendant of such alleged breach in the manner
5 set forth in Section 8, and provide Defendant with thirty (30) business days (calculated from the date
6 notice is provided electronically) to cure any alleged violation of this Consent Judgment pursuant to
7 the options in Sections 3.2 or 3.3, as applicable. Such Notice to Cure to Defendant must include
8 photographs of the Product's labeling and packaging, purchase receipt reflecting when and where the
9 Product was purchased in California, and results from an independent third-party laboratory
10 establishing that the Product is not a Reformulated Product. All documentation submitted in support
11 of the Notice to Cure must be unredacted.

12 BWC reserves the right to seek additional civil penalties, reimbursement of reasonable
13 attorney's fees and costs, and any other available remedies arising from or related to Notices to Cure
14 associated with Products covered by the Consent Judgment. However, BWC shall not be entitled to
15 seek or recover any civil penalties, and BWC and its counsel shall not be entitled to recovery or
16 reimbursement of attorney's fees and/or costs, or any other available remedies arising from or related
17 to Notices to Cure associated with Products covered by the Consent Judgment or the alleged breach
18 or violation of the Consent Judgment, provided Defendant timely remedies the alleged non-
19 compliance within thirty (30) business days of receiving the Notice to Cure, as discussed herein. If
20 Defendant cures the alleged non-compliance within thirty (30) business days of receiving the Notice
21 to Cure, Defendant shall not be deemed in breach or violation of this Consent Judgment in any
22 respect, and Defendant shall not be liable (whether for civil penalties or attorney's fees or costs) for
23 sales of such Products referenced in the Notice to Cure occurring prior to the expiration of the 30-
24 day cure period.

25 **4. MONETARY TERMS**

26 **4.1. Civil Penalty.** Defendant shall pay two-thousand-dollars (\$2,000.00) as a Civil Penalty
27 pursuant to Health and Safety Code section 25249.7, subd. (b), to be apportioned in accordance with
28 California Health & Safety Code § 25192, with 75% of these funds remitted to OEHHA and the

1 remaining 25% of the Civil Penalty remitted to BWC, as provided by California Health & Safety Code
2 § 25249.12, subd. (d). Within fourteen (14) days of the Effective Date, Defendant shall issue two
3 separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of one-thousand-five-
4 hundred-dollars (\$1,500.00); and to (b) "Blue Water Cosaint" in the amount of five-hundred-dollars
5 (\$500.00). Payment owed to BWC pursuant to this Section shall be delivered to the following payment
6 address:

7
8 George Rikos
9 Law Offices of George Rikos
10 555 West Beech, Suite 500
11 San Diego, CA 92101

12 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered
13 directly to OEHHA (Memo Line "Prop 65 Penalties") at one of the following addresses:

14 For United States Postal Service Delivery:

15 Mike Gyurics
16 Fiscal Operations Branch Chief
17 Office of Environmental Health Hazard Assessment
18 P.O. Box 4010
19 Sacramento, CA 95812-4010

20 For Non-United States Postal Service Delivery:

21 Mike Gyurics
22 Fiscal Operations Branch Chief
23 Office of Environmental Health Hazard Assessment
24 1001 I Street
25 Sacramento, CA 95814

26 A copy of the check payable to OEHHA shall be mailed to the Law Offices of George Rikos
27 at the address set forth above as proof of payment to OEHHA.

28 **4.2. Attorney's Fees.** Within fourteen (14) days of the Effective Date, Defendant shall
reimburse BWC's counsel \$36,000 for all attorney's fees and costs incurred in this matter including,
but not limited to, investigating, bringing this matter to the attention of Defendant, litigating and
negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code of
Civil Procedure § 1021.5. The check for fees and costs shall be made payable by check to payable to
"Law Offices of George Rikos" in the amount of for delivery to the address identified in Section 4.1.

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1 **5. RELEASE OF ALL CLAIMS**

2 **5.1.** This Consent Judgment is a full, final, and binding resolution between BWC acting on
3 his own behalf, and on behalf of the public interest, and Defendant, and its parents, shareholders,
4 members, directors, officers, managers, employees, representatives, agents, attorneys, divisions,
5 holding companies, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
6 predecessors, successors and assigns, including but not limited to FCF Co, Ltd. and Bumble Bee
7 Holding Company 1 (“Defendant Releasees”), and all downstream entities to whom they directly or
8 indirectly distribute, transfer, or sell Products, including but not limited to distributors, wholesalers,
9 customers, licensors, licensees, retailers, online marketplaces/e-commerce platforms, franchisees,
10 dealers, shareholders, cooperative members, customers, purchasers, users, including but not limited to
11 Walmart Inc., Wal-Mart Stores East, Inc., Wal-Mart Stores East, L.P., Walmart Apollo, LLC, Wal-
12 Mart.com USA, LLC, and each of their parents, shareholders, members, directors, officers, managers,
13 employees, representatives, agents, attorneys, divisions, holding companies, subdivisions,
14 subsidiaries, partners, sister companies, and affiliates, and their predecessors, successors and assigns
15 (“Downstream Releasees”), of all claims for violations of Proposition 65 that could be brought based
16 on exposures to the mercury from Products imported, manufactured, packaged, distributed, marketed,
17 sold, or offered for sale by Defendant up through and including the Effective Date, as set forth in the
18 Action. It is the intention of the Parties that this Consent Judgment shall have preclusive effect such
19 that no other actions by private enforcers, whether purporting to act in his, her, or their interests or the
20 public interest, shall be permitted to pursue and take any action with respect to any violation of
21 Proposition 65 based on exposure to mercury from use of the Products that was alleged in the Action,
22 or that could have been brought pursuant to the Action against Defendant and the Downstream
23 Releasees (“Proposition 65 Claims”). Defendant’s compliance with the terms of this Consent
24 Judgment constitutes compliance with Proposition 65 by Defendant regarding exposure to the mercury
25 from the Products.

26 **5.2.** In addition to the foregoing, BWC, on behalf of itself, its past and current agents,
27 representatives, attorneys, and successors and assignees, and not in its representative capacity, hereby
28 waives all rights to institute or participate in, directly or indirectly, any form of legal action and

1 releases Defendant, Defendant Releasees, and Downstream Releasees from any and all manner of
2 actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements,
3 promises, liabilities, damages, charges, losses, costs, expenses, and attorney's fees, of any nature
4 whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the future, with respect
5 to any alleged violations of Proposition 65 related to or arising from the Products imported,
6 manufactured, packaged, distributed, marketed, sold, or offered for sale by Defendant, Defendant
7 Releasees, or Downstream Releasees. With respect to the foregoing waivers and releases in this
8 paragraph, BWC hereby specifically waives all rights and benefits which it now has, or in the future
9 may have, conferred by virtue of the provisions of California Civil Code section 1542, which provides
10 as follows:

11 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
12 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
13 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
14 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
PARTY.

15 5.3. Defendant waives all claims against BWC, its attorneys and other representatives, for
16 all actions taken, or statements made (or those that could have been taken or made) by BWC and its
17 attorneys and other representatives, whether while investigating claims or otherwise seeking
18 enforcement of Proposition 65 against them in this matter, and with respect to Covered Products.

19 6. INTEGRATION

20 This Consent Judgment contains the sole and entire agreement of the Parties, and all prior
21 negotiations and understandings related hereto shall be deemed to have been merged within it. No
22 representations or terms of agreement other than those contained herein exist or have been made by
23 any Party with respect to the other Party or the subject matter hereof.

24 7. GOVERNING LAW

25 The terms of this Consent Judgment shall be governed by the laws of the State of California
26 and apply within the State of California. If Proposition 65 is repealed or is otherwise rendered
27 inapplicable by reason of law generally, or as to the Products, then Defendant may move to modify
28 this Consent Judgment to reflect such changes to the law, as set forth in Section 11.

1 **8. NOTICES**

2 Unless specified herein, all correspondence and notices required to be provided pursuant to
3 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class (registered
4 or certified mail) return receipt requested; or (ii) overnight courier on any Party by the other Party at
5 the following addresses:

6 For Defendant:

7 Greg Berlin
8 Alston & Bird
9 350 S. Grand Ave., 51st Floor
10 Los Angeles, CA 90071
11 greg.berlin@alston.com

For BWC:

George Rikos
Law Offices of George Rikos
555 West Beech, Suite 500
San Diego, CA 92101
george@georgerikoslaw.com

12 Copies of all correspondence and notices shall also be sent electronically via email. Any Party,
13 from time to time, may specify in writing to the other Party a change of address to which all notices
14 and other communications shall be sent.

15 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

16 This Consent Judgment may be executed in counterparts and by facsimile, each of which shall
17 be deemed an original, and all of which, when taken together, shall constitute one and the same
18 document.

19 **10. COURT APPROVAL**

20 **10.1.** BWC agrees to comply with the requirements set forth in California Health & Safety
21 Code § 25249.7, subd. (f) and to promptly bring a Motion for Approval of this Consent Judgment.
22 Defendant agrees it shall support approval of such Motion.

23 **10.2.** This Consent Judgment shall not be effective until it is approved and entered by the
24 Court and shall be null and void if, for any reason, it is not approved by the Court.

25 **10.3.** If the Court approves this Consent Judgment and is reversed or vacated by an appellate
26 court, the Parties shall meet and confer as to whether to modify the terms of this Consent Judgment.
27 If the Parties do not jointly agree on a course of action to take, the case shall proceed on its normal
28 course on the trial court's calendar.

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1 **11. MODIFICATION**

2 This Consent Judgment may be modified only by further stipulation of the Parties and the
3 approval of the Court or upon the granting of a motion brought to the Court by either Party.

4 **12. ATTORNEY'S FEES**

5 **12.1.** This Consent Judgment may only be enforced by the Parties. A Party who
6 unsuccessfully brings or contests an action arising out of this Consent Judgment shall be required to
7 pay the prevailing Party's reasonable attorney's fees and costs.

8 **12.2.** Nothing in this Section shall preclude a Party from seeking an award of sanctions
9 pursuant to applicable law.

10 **13. RETENTION OF JURISDICTION**

11 This Court shall retain jurisdiction of this matter to implement and modify the Consent
12 Judgment.

13 **14. AUTHORIZATION**

14 The undersigned are authorized to execute this Consent Judgment on behalf of their respective
15 Parties and have read, understood, and agree to all the terms and conditions of this document and
16 certify that he or she is fully authorized by the Party he or she represents to execute the Consent
17 Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided
18 herein each Party is to bear its own fees and costs.

19 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

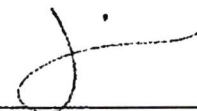
20
21 Dated: 11/21/2025



Hon. Mark T. Cumba

22
23 **AGREED TO:**

24 Dated: May 15, 2025



Jill Irvin, General Counsel
BUMBLE BEE FOODS, LLC

25
26 **AGREED TO:**

27 Dated: May 15, 2025



Charles Jamison, Authorized Representative
BLUE WATER COSAINT