



60-Day Notice Trends: Heavy Metals in Seaweed Products

60-DAY NOTICES

By LUCAS WILLIAMS, September 8, 2020

The trend of notices alleging heavy metals in seaweed food products continues with full force. The Consumer Advocacy Group (CAG) has issued over 240 notices to date alleging that dried and roasted seaweed snack food products contain lead, arsenic, and cadmium. The notices are largely addressed to Asian markets and small distributors of Asian foods. The notices allege that the noticed entities' seaweed products were sold without clear and reasonable warnings.

CAG has reached very few settlements with the noticed entities regarding its allegations of heavy metals in seaweed. For instance, it has not reported any settlements in 2020 despite serving numerous notices. CAG's last was entered in August 2019. That settlement was between **CAG and the following defendants: Sprouts Farmers Market¹⁾**, Nishimoto Trading Co., Ltd, Nishimoto Co. Ltd., Nico-Nico Nori, Inc.

Gimme Health Foods, LLC. The settlement required defendants to reformulate their seaweed products to contain no more than 95 parts per billion (ppb) cadmium and 15 ppb arsenic. The settlement required a total monetary payment of \$268,000 including \$218,000 in attorney fees. **CAG's settlements alleging exposures to lead²⁾** require reformulation to 75 ppb.

Some of CAG's seaweed cases have not settled and are in discovery. In **CAG v. Cali Foods Market Inc. dba Cali Mart³⁾**, **CAG has filed a motion to compel Defendant Kim Seng Company, Inc.'s⁴⁾** further responses to CAG's discovery requests. The dispute appears to be whether Defendant Kim Seng is obligated to produce information regarding all of the seaweed products it sells or simply those products it sells in California. In the motion, CAG argues that: "Defendant failed to provide information for all Dried Seaweed and Dried Seaweed Slice that it sold, despite the scope of CAG's complaint and discovery extending more broadly as to the entire category and not only to products sold in California." The motion to compel is set for hearing in December.

Resources for this article

1. **CAG and the following defendants: Sprouts Farmers Market**
<https://prop65clearinghouse.com/cases/5881>

2. **CAG's settlements alleging exposures to lead**
<https://prop65clearinghouse.com/documents/64213>

3. **CAG v. Cali Foods Market Inc. dba Cali Mart**

<https://prop65clearinghouse.com/cases/6591>

4. CAG has filed a motion to compel Defendant Kim Seng Company, Inc.'s

<https://prop65clearinghouse.com/documents/64214>