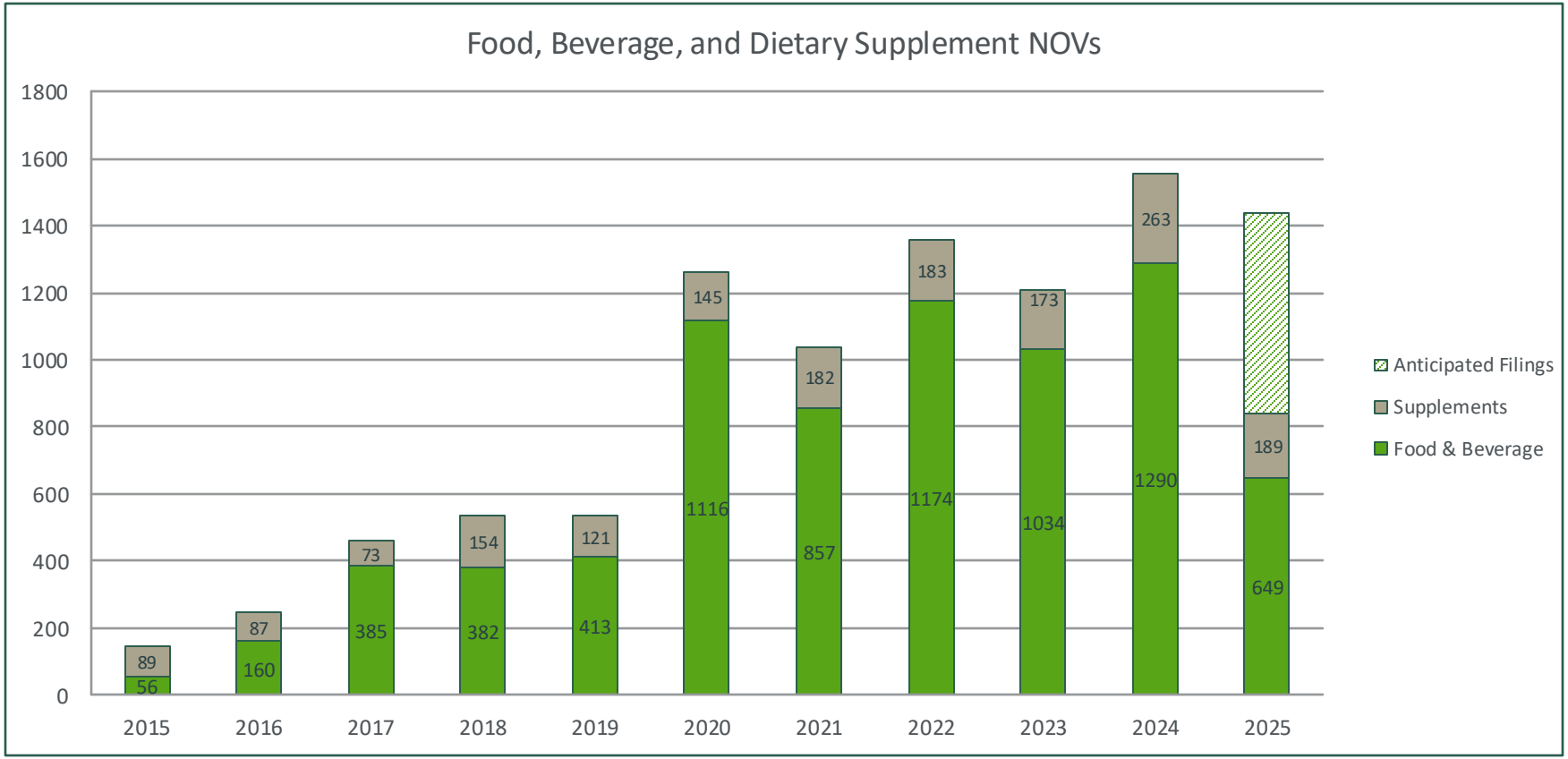
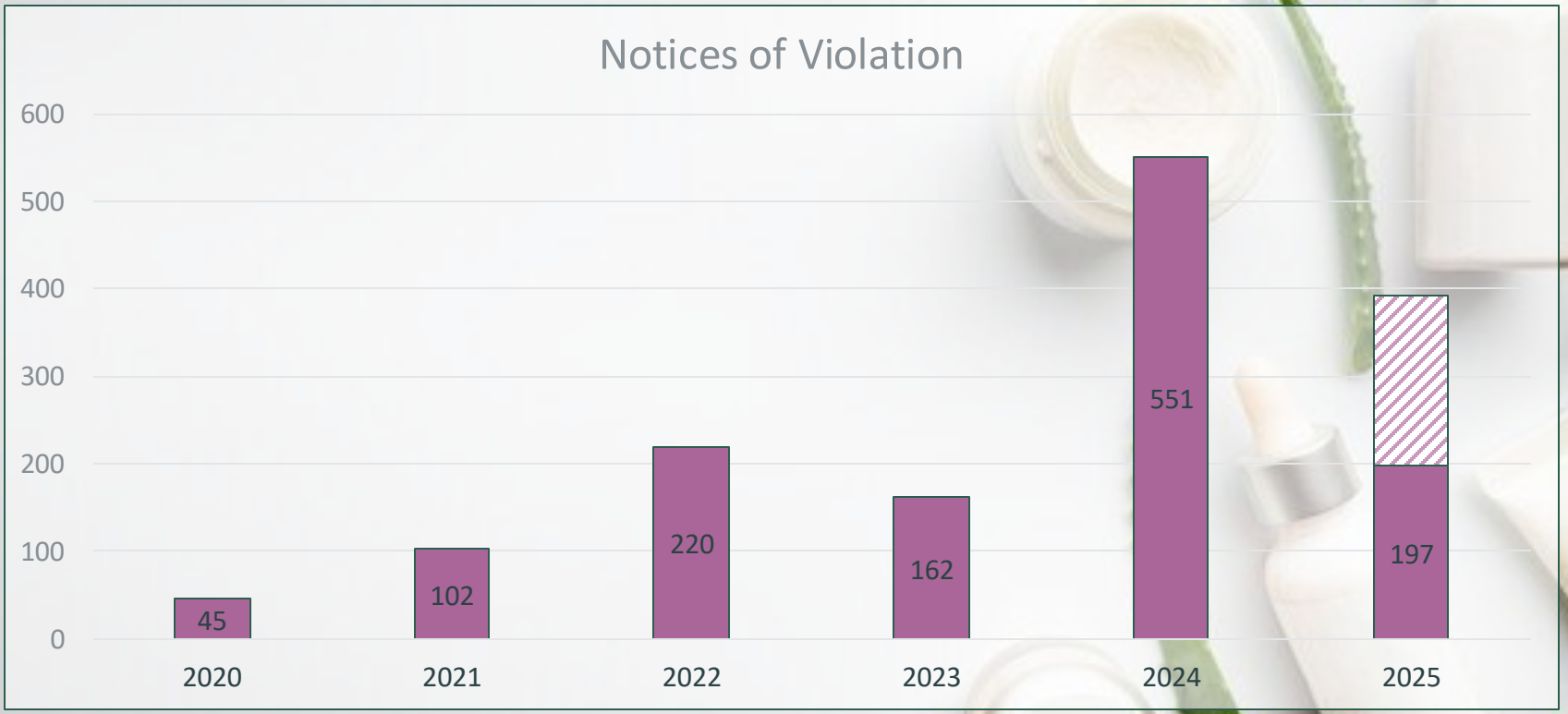
Prop 65 Clearinghouse
Industrywide Litigation Trends and Hot Topics

September 8, 2025

Prop 65 – Filings by the Numbers



Prop 65 – Cosmetics & Personal Care



Food/ Acrylamide, Lead

- **Several chemicals at issue in foods and beverages**
- **Acrylamide**
  - **Hundreds of notices and suits from CEH and EHA.**
  - **CEH cases were related and jointly managed in Alameda. EHA cases tended to be separate.**
  - **Defense group efforts lead to settlements.**
  - **CalChamber First Amendment case brought an end to acrylamide enforcement.**
  - **CERT cases against coffee companies; coffee defense group ultimately prevailed after a decade of litigation.**
- **Lead**
  - **Primary issue: averaging window.**
  - **CalSafe lead cases – Judge Cunningham denied relation motion in LA Superior in 2023.**
    - **Most cases subsequently dismissed.**
  - **No other large scale defense group efforts to date.**

Food/Cadmium, Bisphenol A, PFOA

- **Cadmium**
  - Primary issues: averaging window and natural occurrence.
  - Cadmium is ubiquitous in certain foods such as spinach, sunflower seeds, and some grains.
  - EHA and other enforcers with dozens of notices and lawsuits.
  - No formal defense group activity to date.
- **BPA**
  - CEH notices and lawsuit related to coconut water.
    - Case filed in SF Superior in front of Judge Schulman. Small defense group has formed.
  - ERC and EHA notices against other foods.
- **PFOA/PFOS**
  - ERC notices and lawsuits against beverage and supplement companies.

Seafood / Clams Cases

- Hundreds (if not thousands) of notices for heavy metals in seafood
  - Shellfish, tuna, sardines, anchovies, squid, seaweed, etc.
- Heavy metals ubiquitous in seafood; some portion of the heavy metals are likely naturally occurring
- Recent AG settlement for cadmium in clams demonstrates nuance involved in the naturally occurring defense
  - One defendant able to settle without warnings if cadmium levels remain below 200 ppm. AG acknowledged that this defendant harvested clams from "pristine" waters and that the cadmium was thus, likely, naturally occurring.
  - Two other defendants that harvest clams from South Asia (where there is more pollution in the waters) agreed to provide warnings; no cadmium limit.
- See also *EHA v. JRD IMC, LLC* (Alameda)

Leather/Hexavalent Chromium

- Cases involved hexavalent chromium in leather *shoes* and *gloves*
- ~300 notices issued since April 2019
- Center for Environmental Health was primary plaintiff; Brodsky Smith firm has also issued a significant number of these notices
- Joint defense group was active and helped negotiate a near global resolution involving supplier notifications and certification requirements.
- Two main cases in Alameda Superior; several later filed cases for later-identified defendants who wish to participate/opt-in

Receipts and Stickers/Bisphenol S

- Case involves BPS in thermal paper – receipts and adhesive labels
- Over 500 entities received notices from two different plaintiffs, CEH and EHA
- Cases are pending in SF Superior Court and have been related. Judge Schulman indicated he will manage them together.
- A Joint Defense Group (JDG) has formed and includes many, but not even close to all named defendants/notice recipients.
- These cases are in the early stages.

Socks and Apparel/Bisphenol A

- Cases involve BPA in socks and athletic clothing made with polyester and spandex.
- Socks cases (there were two that were related before a single judge) involved one plaintiff, CEH and approximately 80 defendants. All parties have now settled.
- There was a JDG in the socks case that helped negotiate a near-global resolution.
- The apparel case involves a single plaintiff, CEH, and approximately 40 defendants.
- There is a JDG that includes about 75% of the defendants. Some non-JDG defendants have settled; CEH and the JDG are moving toward a phased trial.

Cosmetics/Titanium Dioxide

- ~ 90 cases filed by Environmental Health Advocates
- Filed separately, later consolidated
- Involves TIO2 in powdered cosmetics
- EHA reached settlements with various defendants (CJs and OOCSs), requiring use of binding agents and/or major reductions in respirable size unbound TIO2 particles
- There was a JDG, but settlements primarily reached with individual defendants
- Personal Care Products Council v. Bonta (granting MSJ on First Amendment violation, TBD whether AG appeals)

Personal Care Products/Diethanolamine ("DEA")

- 33 cases dating back to 2021, cases filed by: (1) Environmental Health Advocates (Entorno Law), and (2) Precila Balabbo, Gabriel Espinoza, Ema Bell, and Anthony Ferreiro (Brodsky Smith)
- EHA: multi-defendant cases organized by product category (e.g., moisturizing lotions, shave gels)
- Pending Petition to Coordinate before Hon. Julia Spain in Alameda County
- EHA: 7 cases settled via CJ, 51 via OOCS
  - Settlements typically require reformulation – removing triethanolamine ("TEA") as intentional ingredient and/or non-detect test results
- There is a JDG but settlements done on individual basis, not industry wide.