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ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 05 2015

Sherri R. Carter, Executive Officer/Clerk
By Erica Carter, Deputy

Summons issued

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 SOUTH DISTRICT

12 ROBERT BROWNWELL,
13 Plaintiff,

14 v.

15 THE TRUE CONNOISSEUR'S CLUB, a
16 corporation; THE TRUE CONNOISSEUR'S
17 CLUB L.L.C., a limited liability company; and
18 DOES 1-10, inclusive,

19 Defendants.

Case No.:

NC060351

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

Health and Safety Code §25249.5, et seq.

1 Plaintiff alleges on information and belief as follows:

2 **NATURE OF THE ACTION**

3 1. This Complaint is a representative action brought by Plaintiff Robert
4 Brownwell ("Plaintiff"), on behalf of the citizens of the State of California, to enforce the
5 People's right to be warned of the carcinogenic danger of marijuana smoke as a result of
6 products sold and/or consumed in California. Marijuana smoke is a carcinogen inhaled by
7 consumers through the smoking of marijuana.

8 2. Under Proposition 65, enacted as the Safe Drinking Water and Toxic
9 Enforcement Act of 1986 and codified as Health and Safety ("H&S") Code section 25249.5
10 *et seq.*, businesses must provide California consumers with a "clear and reasonable
11 warning" prior to exposing consumers to a chemical known to the State to cause cancer.
12 Marijuana smoke is a chemical known to the State of California to cause cancer.

13 3. By this Complaint, Plaintiff seeks to remedy Defendants' continuing failure to
14 warn California consumers of their exposure to excessive levels of marijuana smoke
15 derived from marijuana products manufactured, distributed, sold, and/or offered for sale or
16 use by Defendants throughout the State of California, including all marijuana products not
17 intended to be consumed in edible form ("Products").

18 **PARTIES**

19 4. Plaintiff is a concerned California citizen and person within the meaning of
20 H&S Code section 25249.11(a). Plaintiff brings this action in the public interest pursuant to
21 H&S Code section 25249.7(d) and seeks to increase public awareness and safety
22 regarding products sold for consumption in California that expose California citizens to
23 unsafe levels of carcinogens.

24 5. Defendant The True Connoisseur's Club is a person in the course of doing
25 business within the meaning of H&S Code section 25249.11(b). Defendant The True
26 Connoisseur's Club has ten (10) or more employees and manufactures, distributes, sells,
27 and/or offers Products for sale or use in the State of California.

28

1 20. On December 10, 2014, a 60-Day Notice of the Proposition 65 violation,
2 together with the requisite certificate of merit, was sent to Defendant and certain public
3 enforcement agencies pursuant to H&S Code section 24249.7(d)(1), and attached hereto
4 as Exhibit A. The Notice stated that as a result of Defendants' sale of the Products
5 containing the Listed Chemical, users and purchasers of the Products in California were
6 exposed to the Listed Chemical through the reasonably foreseeable use of the Products,
7 and that Defendants are in violation of Proposition 65 for continued failure to provide a
8 "clear and reasonable warning" of such toxic exposure.

9 21. Defendants have violated H&S Code section 25249.6, for at least one year
10 prior to December 10, 2014, by knowingly and intentionally exposing individuals to the
11 Listed Chemical in the course of doing business without first providing a "clear and
12 reasonable warning" of the Listed Chemical's presence in the Products.

13 22. Defendants have engaged in the manufacture, importation, distribution, sale,
14 and/or offering for sale or use of the Products in California. Following Defendants receipt of
15 the 60-Day Notice of Violation, Defendants continue to engage in the manufacture,
16 distribution, sale, and/or offering the Products for sale or use in California. As such,
17 Defendants' violations are ongoing and continuous in nature, and will continue to occur in
18 the future.

19 23. Following receipt of the 60-Day Notice of Violation, the appropriate public
20 enforcement agencies have failed to commence and diligently prosecute an action against
21 Defendants for violation of Proposition 65.

22 24. California consumers have been exposed and continue to be exposed to the
23 Listed Chemical through the normal and reasonably foreseeable use of the Products, *i.e.*
24 consumption of marijuana smoke. (CCR Title 27 § 25602(b).)

25 25. Defendants knowingly intended and continue to intend such exposure of the
26 Listed Chemical from Defendants' deliberate and non-accidental participation in the
27 manufacture, distribution, sale, and/or offering of the Products for sale or use to individuals
28

1 in California with knowledge that the normal and reasonably foreseeable use of the
2 Products results in exposure of the Listed Chemical.

3 26. The Listed Chemical is present in the Products in an amount posing
4 significant risk, such that Defendants are not exempt from the “clear and reasonable
5 warning” requirement of H&S Code section 25249.6.

6 27. Defendants have failed and continue to fail to provide a “clear and
7 reasonable warning” to California consumers who are exposed to the Listed Chemical
8 through consumption of the Products.

9 28. California consumers are exposed to the Listed Chemical through
10 consumption of the Products sold by Defendants without a “clear and reasonable warning,”
11 and thereby have suffered and continue to suffer irreparable harm for which they have no
12 plain, speedy, or adequate remedy at law.

13 **PRAYER FOR RELIEF**

14 Wherefore, Plaintiff accordingly prays for judgment against Defendants as follows:

15 1. An assessment of civil penalties in the amount of \$2,500 per day for each
16 violation of Proposition 65 pursuant to H&S Code section 25249.7(b);

17 2. A preliminary and permanent injunction enjoining Defendants from
18 manufacturing, distributing, selling, and/or offering the Products for sale or use in California
19 without first providing a “clear and reasonable warning,” as defined by CCR Title 27
20 section 25601 *et seq.*, of the harm associated with exposure to the Listed Chemical,
21 pursuant to H&S Code section 25249.7(a);

22 3. A preliminary and permanent injunction mandating that Defendants recall all
23 Products currently in California's chain of commerce that provide no “clear and reasonable
24 warning,” as defined by CCR Title 27 section 25601 *et seq.*, pursuant to H&S Code section
25 25249.7(a);

26 4. An award of Plaintiff's reasonable attorneys' fees and costs of bringing suit in
27 an amount the Court determines to be reasonable, pursuant to the provisions of California
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1 Code of Civil Procedure section 1021.5, CCR Title 11 section 3201, and any other
2 applicable provisions of law; and,

3 5. For further relief as the Court may deem just and proper.
4

5 Dated: November 4, 2015

WADE MILLER LAW

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7 By:  _____

8 Wade A. Miller
9 Attorney for Plaintiff
10 Robert Brownwell
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