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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SANTA CLARA**

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11 SAFE PRODUCTS FOR CALIFORNIANS, ) No. 19CV350532  
LLC, )  
12 Plaintiff, ) **COMPLAINT FOR CIVIL PENALTIES**  
13 vs. ) **AND INJUNCTIVE RELIEF**  
14 RAWR NATURALS, INC.; AMAZON.COM, ) (Health & Safety Code § 25249.5, *et seq.*)  
INC.; DOES 1 THROUGH 150, )  
15 Defendants. )  
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19 Plaintiff, SAFE PRODUCTS FOR CALIFORNIANS, LLC (“Plaintiff”), alleges as  
20 follows:

21 **SUMMARY**

22 1. This is a representative action brought by Plaintiff in the public interest of the  
23 citizens of the State of California to enforce the public’s right to be informed of the health  
24 hazards caused by exposures to cadmium and lead and lead compounds, toxic chemicals found  
25 in and on the products manufactured, distributed, and/or sold by Defendants, RAWR  
26 NATURALS, INC.; AMAZON.COM, INC.; and DOES 1 THROUGH 150, inclusive  
27 (collectively “Defendants”), as set forth below.

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1           2.       By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failure to  
2 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code  
3 § 6300, *et seq.* (“OSHA”), who purchase, use, or handle Defendants’ products, about the risks  
4 of exposure to cadmium and lead and lead compounds present in and on the products  
5 manufactured, distributed, and sold throughout the State of California. Individuals not covered  
6 by OSHA who purchase, use, or handle Defendants’ products are referred to hereinafter as  
7 “Consumers.”

8           3.       Detectable levels of cadmium and lead and lead compounds are found in and/or  
9 on the lactation supplements that Defendants manufacture, distribute, and/or offer for sale to  
10 Consumers throughout the State of California.

11           4.       Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
12 Health & Safety Code § 25249.5, *et seq.* (“Proposition 65”), “[n]o person in the course of  
13 doing business shall knowingly and intentionally expose any individual to a chemical known to  
14 the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
15 warning to such individual ...” Health & Safety Code § 25249.6.

16           5.       Pursuant to Proposition 65, on October 1, 1987, California identified and listed  
17 cadmium as a chemical known to cause cancer. Cadmium became subject to the “clear and  
18 reasonable warning” requirements of Proposition 65 one year later on October 1, 1988. Cal.  
19 Code Regs. tit. 27, § 27001(c); Health & Safety Code § 25249.8.

20           6.       Pursuant to Proposition 65, on May 1, 1997, California identified and listed  
21 cadmium as a chemical known to cause reproductive toxicity. Cadmium became subject to the  
22 “clear and reasonable warning” requirements of Proposition 65 one year later on May 1, 1998.  
23 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code § 25249.8.

24           7.       Pursuant to Proposition 65, on October 1, 1992, California identified and listed  
25 lead and lead compounds as a chemical known to cause cancer. Lead and lead compounds  
26 became subject to the “clear and reasonable warning” requirements of Proposition 65 one year  
27 later on October 1, 1993. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code § 25249.8.

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1 jurisdiction in all cases except those given by statute to other trial courts.” The statute under  
2 which this action is brought does not specify any other basis of subject matter jurisdiction.

3 14. The California Superior Court has jurisdiction over Defendants based on  
4 Plaintiff’s information and good faith belief that Defendants are each a person, firm,  
5 corporation, or association that is a citizen of the State of California, has sufficient minimum  
6 contacts in the State of California, and/or purposefully avails itself of the California market.  
7 Defendants’ purposeful availment renders the exercise of personal jurisdiction by California  
8 courts consistent with traditional notions of fair play and substantial justice.

9 15. Venue is proper in the Superior Court for the County of Santa Clara, pursuant to  
10 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent  
11 jurisdiction, because Plaintiff seeks civil penalties against Defendants, because one or more  
12 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
13 Defendants conducted, and continue to conduct, business in Santa Clara County with respect to  
14 the Products.

15 **PARTIES**

16 16. Plaintiff is a limited liability California company with its principal place of  
17 business within the State of California, County of Santa Clara. Plaintiff seeks to reduce or  
18 eliminate the presence of hazardous substances in consumer products sold in California, and to  
19 ensure that California consumers are aware of the presence of such substances in consumer  
20 goods so that they can make an educated effort to limit their own exposure where deemed  
21 necessary. Plaintiff brings this action in the public interest pursuant to Health & Safety Code  
22 § 25249.7(d).

23 17. Defendants RAWR NATURALS, INC. and AMAZON.COM, INC. are persons  
24 in the course of doing business within the meaning of Health & Safety Code §§ 25249.6 and  
25 25249.11.

26 18. Defendants manufacture, import, distribute, sell, and/or offer the Products for  
27 sale or use in the State of California, or imply by their conduct that they manufacture, import,  
28 distribute, sell, and/or offer the Products for sale or use in the State of California.

1           19. Defendants DOES 1 THROUGH 50, inclusive (“Manufacturer Defendants”),  
2 are each a person in the course of doing business within the meaning of Health & Safety Code  
3 §§ 25249.6 and 25249.11.

4           20. Manufacturer Defendants, and each of them, research, test, design, assemble,  
5 fabricate, and manufacture, or each implies by its conduct that it researches, tests, designs,  
6 assembles, fabricates, and manufactures, one or more of the Products offered for sale or use in  
7 California.

8           21. Defendants DOES 51 THROUGH 100, inclusive (“Distributor Defendants”),  
9 are each a person in the course of doing business within the meaning of Health & Safety Code  
10 §§ 25249.6 and 25249.11.

11           22. Distributor Defendants, and each of them, distribute, exchange, transfer,  
12 process, and transport one or more of the Products to individuals, businesses, or retailers for  
13 sale or use in the State of California, or each implies by its conduct that it distributes,  
14 exchanges, transfers, processes, and transports one or more of the Products to individuals,  
15 businesses, or retailers for sale or use in the State of California.

16           23. Defendants DOES 101 THROUGH 150, inclusive (“Retailer Defendants”), are  
17 each a person in the course of doing business within the meaning of Health & Safety Code  
18 §§ 25249.6 and 25249.11.

19           24. Retailer Defendants, and each of them, offer the Products for sale to individuals  
20 in the State of California.

21           25. At this time, the true names of Defendants DOES 1 THROUGH 150, inclusive,  
22 are unknown to Plaintiff, who, therefore, sues said defendants by their fictitious names  
23 pursuant to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis  
24 alleges, that each of the fictitiously named defendants is responsible for the acts and  
25 occurrences alleged herein. When ascertained, their true names shall be reflected in an  
26 amended complaint.

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1 **FIRST CAUSE OF ACTION**

2 **Violation of Proposition 65**

3 26. Plaintiff re-pleads and incorporates by reference the allegations contained in  
4 each of the foregoing paragraphs, and incorporates them herein as if separately re-pled.

5 27. Plaintiff is informed and believes, and on that basis alleges, that each of the  
6 Defendants employs ten or more persons.

7 28. In enacting Proposition 65, in the preamble to the Safe Drinking Water and  
8 Toxic Enforcement Act of 1986, the People of California expressly declared their right “[t]o be  
9 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
10 harm.”

11 29. Proposition 65 states, “[no] person in the course of doing business shall  
12 knowingly and intentionally expose any individual to a chemical known to the state to cause  
13 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
14 individual ...” Health & Safety Code § 25249.6.

15 30. On or about January 10, 2019, Plaintiff served a sixty-day notice of violation,  
16 including the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had  
17 consulted with at least one person with relevant and appropriate expertise who reviewed  
18 relevant data regarding the alleged exposures to cadmium and lead and lead compounds and  
19 that counsel believed there was meritorious and reasonable cause for a public action, on  
20 Defendants RAWR NATURALS, INC.; AMAZON.COM, INC.; the California Attorney  
21 General’s Office, and the requisite public enforcement agencies, alleging that, as a result of  
22 Defendants’ sales of the Products, Consumers in the State of California are being exposed to  
23 cadmium and lead and lead compounds resulting from their reasonably foreseeable use of the  
24 Products, without the Consumers first receiving a “clear and reasonable warning” regarding the  
25 harms associated with exposures to cadmium and lead and lead compounds, as required by  
26 Proposition 65.

27 31. Defendants manufacture, import, distribute, sell, and offer the Products for sale  
28 or use in violation of Health & Safety Code § 25249.6, and Defendants’ violations have

1 continued beyond their receipt of Plaintiff's sixty-day notice of violation. As such, Defendants'  
2 violations are ongoing and continuous in nature and, unless enjoined, will continue in the  
3 future.

4 32. After receiving Plaintiff's sixty-day notice of violation, and to Plaintiff's best  
5 information and belief, no public enforcement agency has commenced and diligently  
6 prosecuted a cause of action against Defendants under Proposition 65 to enforce the alleged  
7 violations that are the subject of Plaintiff's notice of violation.

8 33. The Products that Defendants manufacture, import, distribute, sell, and offer for  
9 sale or use in California cause exposures to cadmium and lead and lead compounds as a result  
10 of the reasonably foreseeable use of the Products. Such exposures caused by Defendants and  
11 endured by Consumers in California are not exempt from the "clear and reasonable" warning  
12 requirements of Proposition 65, yet Defendants provide no clear and reasonable warning.

13 34. Defendants knew or should have known that the Products they manufacture,  
14 import, distribute, sell, and offer for sale or use in California contain cadmium and lead and  
15 lead compounds.

16 35. Cadmium and lead and lead compounds are present in or on the Products in  
17 such a way as to expose Consumers through ingestion and/or inhalation during reasonably  
18 foreseeable use.

19 36. The normal and reasonably foreseeable use of the Products has caused, and  
20 continues to cause, consumer exposures to cadmium and lead and lead compounds, as defined  
21 by title 27 of the California Code of Regulations, section 25602(b).

22 37. Defendants know that the normal and reasonably foreseeable use of the  
23 Products exposes individuals to cadmium and lead and lead compounds through ingestion  
24 and/or inhalation.

25 38. Defendants intend that exposures to cadmium and lead and lead compounds  
26 through the reasonably foreseeable use of the Products will occur by their deliberate, non-  
27 accidental participation in the manufacture, importation, distribution, sale, and offering of the  
28 Products for sale or use to Consumers in California.





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- cadmium and lead and lead compounds;
- 4. Plaintiff's reasonable attorney's fees and costs of suit; and
- 5. For such other and further relief as the Court deems proper.

Dated: June 24, 2019

MOORE LAW FIRM, P.C.

BY FAX

Tanya Moore

Tanya Moore (Jun 27, 2019)

Tanya E. Moore  
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Safe Products for Californians, LLC