

1 Tanya E. Moore, SBN 206683
MOORE LAW FIRM, P.C.
2 332 North Second Street
San Jose, California 95112
3 Telephone (408) 298-2000
Facsimile (408) 298-6046
4 E-mail: service@moorelawfirm.com

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Case #18CV336033
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5 Attorneys for Plaintiff
Safe Products for Californians, LLC
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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

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11 SAFE PRODUCTS FOR CALIFORNIANS,)
LLC,)

No. 18CV336033

12 Plaintiff,

) **FIRST AMENDED COMPLAINT FOR
) CIVIL PENALTIES AND INJUNCTIVE
) RELIEF**

13 vs.

14 ROYAL LIFE MEDIA LLC; ROYAL LIFE)
15 ESSENTIALS LLC; AMAZON.COM, INC.;)
16 GRENERA NUTRIENTS, INC.; DOES 2)
THROUGH 150,)

(Health & Safety Code § 25249.5, *et seq.*)

17 Defendants.
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21 Plaintiff, SAFE PRODUCTS FOR CALIFORNIANS, LLC (“Plaintiff”), alleges as
22 follows:

23 **SUMMARY**

24 1. This is a representative action brought by Plaintiff in the public interest of the
25 citizens of the State of California to enforce the public’s right to be informed of the health
26 hazards caused by exposures to lead and lead compounds, toxic chemicals found in and on the
27 products manufactured, distributed, and/or sold by Defendants, ROYAL LIFE MEDIA LLC;
28 ROYAL LIFE ESSENTIALS LLC; AMAZON.COM, INC.; GRENERA NUTRIENTS, INC.,

1 previously named as DOE 1; and DOES 2 THROUGH 150, inclusive (collectively
2 “Defendants”), as set forth below.

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

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

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

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

21 6. Pursuant to Proposition 65, on February 27, 1987, California identified and
22 listed lead and lead compounds as a chemical known to cause reproductive toxicity. Lead and
23 lead compounds became subject to the “clear and reasonable warning” requirements of
24 Proposition 65 one year later on February 27, 1988. Cal. Code Regs. tit. 27, § 27001(c); Health
25 & Safety Code § 25249.8.

26 7. Defendants manufacture, distribute, import, sell, and offer for sale without
27 health warnings in the State of California, dietary supplements that contain excessive levels of
28 lead and lead compounds including, but not limited to, “Moringa Olifeira,” ASIN

1 #X000158ES05; “Moringa Powder,” UPC #859803002021, ASIN B015RYJI0G; “Moringa
2 Pineapple Smoothie Mix,” UPC #8907392002136, ASIN B0759NH7KX; “Organic Moringa
3 Choco Smoothie Mix,” UPC #8907392002044, ASIN B06XS1QNMB; “Triphala Powder,”
4 UPC #8907392002068, ASIN B0759SNF96; “Organic Moringa Almond Smoothie Mix,” UPC
5 #8907392002051, ASIN B06XSDQJ5T; “Moringa Mango Smoothie Mix,” UPC
6 #8907392002563, ASIN B0759NPNTX; “Moringa Capsules,” UPC #8907392002457, ASIN
7 B0759B2D3W; “Turmeric Latte Drink Mix,” UPC #8907392004161, ASIN B07J6STNY6;
8 and “Organic Turmeric Root Powder,” UPC #8907392001719, ASIN B06WVMLCQR. All
9 such products containing lead and lead compounds are referred to collectively hereinafter as
10 “Products.”

11 8. Defendants’ failure to warn Consumers in the State of California of the health
12 hazards associated with exposures to lead and lead compounds in conjunction with
13 Defendants’ sales of the Products are violations of Proposition 65, and subject Defendants, and
14 each of them, to enjoinder of such conduct as well as civil penalties for each violation. Health
15 & Safety Code § 25249.7(a) & (b)(1).

16 9. For Defendants’ violations of Proposition 65, Plaintiff seeks preliminary and
17 permanent injunctive relief to compel Defendants to provide Consumers of the Products with
18 the required warning regarding the health hazards associated with exposures to lead and lead
19 compounds. Health & Safety Code § 25249.7(a).

20 10. Pursuant to Health & Safety Code § 25249.7(b), Plaintiff also seeks civil
21 penalties against Defendants for their violations of Proposition 65.

22 **JURISDICTION AND VENUE**

23 11. The California Superior Court has jurisdiction over this action pursuant to
24 California Constitution Article VI, section 10, which grants the Superior Court “original
25 jurisdiction in all cases except those given by statute to other trial courts.” The statute under
26 which this action is brought does not specify any other basis of subject matter jurisdiction.

27 12. The California Superior Court has jurisdiction over Defendants based on
28 Plaintiff’s information and good faith belief that Defendants are each a person, firm,

1 corporation, or association that is a citizen of the State of California, has sufficient minimum
2 contacts in the State of California, and/or purposefully avails itself of the California market.
3 Defendants' purposeful availment renders the exercise of personal jurisdiction by California
4 courts consistent with traditional notions of fair play and substantial justice.

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

11 **PARTIES**

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

19 15. Defendants ROYAL LIFE MEDIA LLC, ROYAL LIFE ESSENTIALS LLC,
20 AMAZON.COM, INC., and GRENERA NUTRIENTS, INC. are persons in the course of
21 doing business within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.

22 16. Defendants manufacture, import, distribute, sell, and/or offer the Products for
23 sale or use in the State of California, or imply by their conduct that they manufacture, import,
24 distribute, sell, and/or offer the Products for sale or use in the State of California.

25 17. Defendants DOES 2 THROUGH 50, inclusive ("Manufacturer Defendants"),
26 are each a person in the course of doing business within the meaning of Health & Safety Code
27 §§ 25249.6 and 25249.11.

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1 25. Plaintiff is informed and believes, and on that basis alleges, that each of the
2 Defendants employs ten or more persons.

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

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

11 28. On June 21, 2018, Plaintiff served a sixty-day notice of violation, including the
12 attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
13 least one person with relevant and appropriate expertise who reviewed relevant data regarding
14 the alleged exposures to lead and lead compounds and that counsel believed there was
15 meritorious and reasonable cause for a public action, on Defendants ROYAL LIFE MEDIA
16 LLC, ROYAL LIFE ESSENTIALS LLC, AMAZON.COM, INC., the California Attorney
17 General’s Office, and the requisite public enforcement agencies, alleging that, as a result of
18 Defendants’ sales of the Products, Consumers in the State of California are being exposed to
19 lead and lead compounds resulting from their reasonably foreseeable use of the Products,
20 without the Consumers first receiving a “clear and reasonable warning” regarding the harms
21 associated with exposures to lead and lead compounds, as required by Proposition 65.

22 29. On June 21, 2018, Plaintiff served a supplemental sixty-day notice of violation,
23 including the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had
24 consulted with at least one person with relevant and appropriate expertise who reviewed
25 relevant data regarding the alleged exposures to lead and lead compounds and that counsel
26 believed there was meritorious and reasonable cause for a public action, on Defendants
27 ROYAL LIFE MEDIA LLC, ROYAL LIFE ESSENTIALS LLC, AMAZON.COM, INC.,
28 GRENERA NUTRIENTS, INC., the California Attorney General’s Office, and the requisite

1 public enforcement agencies, alleging that, as a result of Defendants' sales of the Products,
2 Consumers in the State of California are being exposed to lead and lead compounds resulting
3 from their reasonably foreseeable use of the Products, without the Consumers first receiving a
4 "clear and reasonable warning" regarding the harms associated with exposures to lead and lead
5 compounds, as required by Proposition 65.

6 30. Defendants manufacture, import, distribute, sell, and offer the Products for sale
7 or use in violation of Health & Safety Code § 25249.6, and Defendants' violations have
8 continued beyond their receipt of Plaintiff's sixty-day notice of violation. As such, Defendants'
9 violations are ongoing and continuous in nature and, unless enjoined, will continue in the
10 future.

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

15 32. The Products that Defendants manufacture, import, distribute, sell, and offer for
16 sale or use in California cause exposures to lead and lead compounds as a result of the
17 reasonably foreseeable use of the Products. Such exposures caused by Defendants and endured
18 by Consumers in California are not exempt from the "clear and reasonable" warning
19 requirements of Proposition 65, yet Defendants provide no clear and reasonable warning.

20 33. Defendants knew or should have known that the Products they manufacture,
21 import, distribute, sell, and offer for sale or use in California contain lead and lead compounds.

22 34. Lead and lead compounds are present in or on the Products in such a way as to
23 expose Consumers through ingestion and/or inhalation during reasonably foreseeable use.

24 35. The normal and reasonably foreseeable use of the Products has caused, and
25 continues to cause, consumer exposures to lead and lead compounds, as defined by title 27 of
26 the California Code of Regulations, section 25602(b).

27 36. Defendants know that the normal and reasonably foreseeable use of the
28 Products exposes individuals to lead and lead compounds through ingestion and/or inhalation.

1 37. Defendants intend that exposures to lead and lead compounds through the
2 reasonably foreseeable use of the Products will occur by their deliberate, non-accidental
3 participation in the manufacture, importation, distribution, sale, and offering of the Products
4 for sale or use to Consumers in California.

5 38. Defendants failed to provide a “clear and reasonable warning” to those
6 Consumers in California who have been, or will be, exposed to lead and lead compounds
7 through ingestion and/or inhalation resulting from their use of the Products.

8 39. Contrary to the express policy and statutory prohibition of Proposition 65
9 enacted directly by California voters, consumers exposed to lead and lead compounds through
10 ingestion and/or inhalation as a result of their use of the Products that Defendants sold without
11 a “clear and reasonable” health hazard warning have suffered, and continue to suffer,
12 irreparable harm for which they have no plain, speedy, or adequate remedy at law.

13 40. Pursuant to Health & Safety Code § 25249.7(b), as a consequence of the above-
14 described acts, Defendants, and each of them, are liable for a maximum civil penalty of \$2,500
15 per day for each violation.

16 41. As a consequence of the above-described acts, Health & Safety Code
17 § 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
18 Defendants.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, for:

- 21 1. Civil penalties in the amount of \$2,500 per day for each violation, pursuant to
22 Health & Safety Code § 25249.7(b);
- 23 2. Preliminary and permanent injunctions mandating that Defendants recall all
24 Products currently in the chain of commerce in California without a “clear and
25 reasonable warning” as defined by California Code of Regulations title 27,
26 section 25601, *et seq.*;
- 27 3. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily
28 and permanently enjoin Defendants from manufacturing, distributing, or

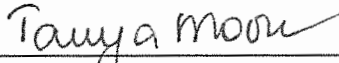
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offering the Products for sale or use in California without first providing a “clear and reasonable warning” in accordance with title 27 of the California Code of Regulations, section 25601, *et seq.*, regarding the harms associated with lead and lead 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: May 17, 2019

MOORE LAW FIRM, P.C.



Tanya E. Moore
Attorneys for Plaintiff
Safe Products for Californians, LLC

1 **PROOF OF SERVICE**

2 I am, and was at the time of service hereinafter mentioned, a citizen of the United
3 States and a resident of the County of Santa Clara. I am over the age of 18 years and not a
4 party to the within action; my business address is 332 North Second Street, San Jose,
5 California, 95112.

6 On June 5, 2019, I served the document entitled **PLAINTIFFS’S REQUEST TO**
7 **AMEND COMPLAINT AND FIRST AMENDED COMPLAINT FOR CIVIL**
8 **PENALTIES AND INJUNCTIVE RELIEF** for Santa Clara County Superior Court Case No.
9 18CV336033 on the party(s) below as follows:

10 Gregory F. Doll, Esq.
11 Brett H. Oberst, Esq.
12 DOLL AMIR & ELEY LLP
13 725 S. Figueroa Street, Suite 3275
Los Angeles, CA 90017

Attorneys for Defendant:
AMAZON.COM, INC.

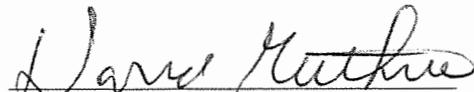
14 Following is the procedure in which service was effected:

15 **U.S. POSTAL SERVICE** – I placed a copy of said document in a sealed envelope
16 addressed to the party(s) at the address(es) listed above, with postage fully prepaid, for collection
17 and deposit in the United States mail at Moore Law Firm, P.C., 332 N. Second Street, San Jose,
18 CA 95112. I am familiar with the practice of Moore Law Firm, P.C., for the collection and
19 processing of correspondence for mailing with the United States Postal Service. In accordance
20 with the ordinary course of business, the above-mentioned document would have been picked up
21 from our offices by the U.S. Postal Service courier on the same day on which it was placed at
22 Moore Law Firm, P.C. for pickup.

23 I certify that I am employed in the office of a member of the bar of this Court at whose
24 direction the service was made.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

27 Dated: June 5, 2019

28 
David Guthrie