

1 BENJAMIN D. WESTON (SBN 240641)
2 AGENCY D&L
3 1968 S. COAST HWY, #1200
4 LAGUNA BEACH, CA 92651
5 Tel: 650.250.5075
6 Fax: 650.206.9844
7 Email: ben@agencydl.com

8 Attorney for MARIA ELIZABETH ROMERO

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF ORANGE**
11 **UNLIMITED JURISDICTION**

12 MARIA ELIZABETH ROMERO,
13
14 Plaintiff,

15 vs.

16 LGC STANDARDS, INC., a Massachusetts
17 corporation, LGC NORTH AMERICA,
18 INC., a Delaware corporation, VHG LABS,
19 INCORPORATED, a New Hampshire
20 corporation, and DOES 1 to 10,
21 Defendants.

Case No.:30-2020-01137572-CU-BT-CJC
Judge Nathan Scott

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

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

DEMAND FOR JURY TRIAL

22
23
24 Plaintiff Maria Elizabeth Romero (“Plaintiff”), by and through her
25 attorneys, alleges the following cause of action in the public interest of the citizens of
26 the State of California.

27
28 //

1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 1. Plaintiff brings this action in the public interest to enforce relevant
3 portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at the
4 Health & Safety Code sections 25249.5 *et seq* (“Proposition 65”), which reads, in
5 relevant part, “[n]o person in the course of doing business shall knowingly and
6 intentionally expose any individual to a chemical known to the state to cause cancer or
7 reproductive toxicity without first giving clear and reasonable warning to such
8 individual ...” Health & Safety Code §25249.6.

9 2. This complaint seeks to secure the right of residents of the State of
10 California to receive clear and reasonable warnings of toxicity prior to being exposed to
11 Benzene, a chemical recognized by the State as causing cancer, developmental toxicity,
12 and reproductive toxicity. Pursuant to Health & Safety Code section 25249.8, the State
13 first recognized Benzene as carcinogenic on February 27, 1987, and listed the chemical
14 as causing reproductive harm (developmental toxicity and male reproductive toxicity)
15 on December 26, 1997. See 27 Cal. Code Regs. 27001(b).

16 3. Defendants LGC Standards, Inc., LGC North America, Inc., VHG Labs,
17 Incorporated, and Does 1 through 10 (hereinafter collectively referenced as
18 “Defendants”) manufacture, import, supply, distribute, and sell products containing
19 high-purity samples of Benzene to California companies and individuals, including via
20 the Web site at <https://us.lgcstandards.com>.

21 4. Defendants do not provide clear and reasonable warnings of toxicity
22 during the purchase process for Benzene products and do not provide clear and
23 reasonable warnings of toxicity associated with purchased Benzene products.

24 5. Defendants’ sales of Benzene products without clear and reasonable
25 warnings of toxicity cause California residents to be exposed to Benzene by dermal
26 contact, eye contact, inhalation, ingestion, and accidental injection.

27 6. The exposures described in Paragraph 5 are reasonably foreseeable and at
28 all relevant times, Defendants have acted with full knowledge of the exposures.

1 7. The sales without notice described herein have occurred since December
2 27, 2016 to the present date, and are continuing.

3 8. Plaintiff alleges that Defendants' actions and omissions as describe herein
4 violate the requirements of Health & Safety Code section 25249.6, and respectfully
5 requests injunctive relief, the imposition of financial penalties against Defendants, and
6 an award of her attorneys' fees incurred in prosecuting this matter.

7 9. On December 27, 2019, Plaintiff served a Notice of Violation on
8 Defendants LGC Standards, Inc., LGC North America, Inc., and VHG Labs,
9 Incorporated, setting forth the information required by law and attaching both a
10 summary of Proposition 65 and a Certificate of Merit signed by Plaintiff's counsel.
11 Copies of the Notice were also served on the Attorney General of the State, on every
12 District Attorney, and on the City Attorneys of every California city with a population
13 greater than 750,000. More than 60 days have passed since service of the Notice of
14 Violation. Neither the Attorney General nor any other public prosecutor has
15 commenced prosecution related to the referenced Notice of Violation.

16 10. Plaintiff will amend this Complaint to name Doe defendants after
17 discovering their true identities.

18
19 **JURISDICTION, VENUE AND JURY TRIAL**

20 11. Venue is proper in the County of Orange because one or more of the
21 instances of wrongful conduct described herein occurred, and continue to occur in this
22 county and/or because Defendant conducted, and continues to conduct, business in the
23 County of Orange.

24 12. This Court has jurisdiction over this action pursuant to California
25 Constitution Article VI, section 10, which grants the Superior Court original jurisdiction
26 in all causes except those given by statute to other trial courts. Health & Safety Code
27 section 25249.7 allows for the enforcement of violations of Proposition 65 in any Court
28 of competent jurisdiction; therefore, this Court has jurisdiction over this lawsuit.

1 15. This Court has jurisdiction over each Defendant because each Defendant
2 has sufficient minimum contacts with the State of California and has otherwise
3 purposefully availed itself of the California market through sales and marketing. Each
4 of the Defendants additionally does business with and through related entities located in
5 California, including LGC Biosearch Technologies. Such purposeful availment has
6 rendered the exercise of jurisdiction by California courts permissible and consistent
7 with traditional notions of fair play and substantial justice.

8 16. As provided in the Section 16 of Article I of the California Constitution
9 and California Code of Civil Procedure section 631(a), Plaintiff demands trial by jury.

10
11 **PROPOSITION 65 SUMMARY**

12 17. The People of the State of California have declared their right “[t]o be
13 informed about exposures to chemicals that cause cancer, birth defects, or other
14 reproductive harm.” Proposition 65 1986 Ballot Initiative, §1(b). To effectuate this
15 goal, the State has promulgated Health & Safety Code section 25249.6, which states in
16 relevant part: “No person in the course of doing business shall knowingly and
17 intentionally expose any individual to a chemical known to the state to cause cancer or
18 reproductive toxicity without first giving clear and reasonable warning to such
19 individual” The statute applies to all companies employing 10 or more employees.
20 Health & Saf. Code §25249.11(b).

21 18. Benzene is a chemical known to the State of California to cause cancer
22 and reproductive harm.

23 19. Proposition 65 mandates the imposition of civil penalties on any person
24 who violates the warning requirements of section 25249.6, in an amount not to exceed
25 two thousand five hundred dollars (\$2,500) per day for each violation, in addition to any
26 other penalty established by law. Health & Saf. Code §25249.7(b)(1). A court of
27 competent jurisdiction may additionally enjoin any person who “violates or threatens to
28 violate” Proposition 65’s warning requirements. Health & Saf. Code §25249.7(a).

1 20. Plaintiff alleges that Defendants' actions described herein violate the
2 warnings requirements of Proposition 65.
3

4 **PARTIES**

5 21. Plaintiff is a citizen of the State of California acting in the interest of the
6 general public to promote awareness of exposures to toxic chemicals in products sold in
7 California and to improve human health by reducing the frequency of such exposures.

8 22. Defendant LGC Standards, Inc. is a corporation registered with the
9 Commonwealth of Massachusetts, Corporations Division ID Number 001065652.
10 Defendant LGC North America Inc. is a corporation registered with the State of
11 Delaware, Division of Corporations File Number 5070053. VHG Labs, Incorporated is
12 a corporation registered with the State of New Hampshire, Department of State
13 Business ID 118820.

14 23. Defendants are persons in the course of doing business within the
15 meaning of Health & Safety Code section 25249.11(b). Defendants manufacture,
16 market, import, distribute, supply and sell Benzene products for sale and use in the State
17 of California.

18 24. Despite diligent efforts, Plaintiff has not yet identified the parties named
19 as Doe defendants herein. Plaintiff alleges that each of the Doe defendants has violated
20 Proposition 65 and is a person doing business in California within the meaning of the
21 statute. Plaintiff will amend this Complaint when the true identity of each Doe
22 defendant has been discovered.

23 25. Each Defendant employs more than 10 people.
24

25 //
26
27
28

1 **FIRST CAUSE OF ACTION**

2 (Violation of Health & Safety Code §25249.6 against all Defendants)

3 26. Plaintiff hereby repeats and incorporates by reference paragraphs 1
4 through 25 of this Complaint as though fully set forth herein.

5 27. In the course of doing business and at all relevant times, each Defendant
6 has acted as manufacturer, importer, distributor, supplier, and retail seller of products
7 containing high-purity samples of Benzene (collectively referenced as the “Products”),
8 including products identified by the codes DRE-C10535000, DRE-GA09011063ME,
9 DRE-XA10535000ME, DRE-GA09011070ME, and DRE-YA04000100ME.

10 28. Benzene is a chemical listed by the State of California as causing cancer
11 and reproductive harm.

12 29. In the course of doing business and at all relevant times, each Defendant
13 marketed and sold the Products to colleges, universities, high schools, and academic
14 laboratories located in California.

15 30. Defendants’ sales of the Products to colleges, universities, high schools,
16 and academic laboratories located in California have resulted in the exposure of
17 students and members of the public to Benzene. Such exposures result from regular
18 uses of the Products in research and from spills, accidents, splashing, vaporization,
19 combustion, improper cleaning procedures, improper use of protective equipment,
20 defective or damaged equipment, and from proper and improper disposal of waste
21 materials after research use of the Products, *inter alia*.

22 31. The exposures described herein are reasonably foreseeable and
23 substantially certain to result from the use of the Products in research. At all relevant
24 times, Defendants have acted with actual knowledge of the occurrence of such
25 exposures.

1 32. At all relevant times, Defendants did not provide clear and reasonable
2 warnings of toxicity to individuals exposed to Benzene via use of the Products, prior to
3 their exposure to Benzene. Defendants provide no clear and reasonable warnings of
4 toxicity to purchasers or users of the Products or to members of the public during the
5 process of selling Products nor at any time prior to foreseeable exposures.

6 33. Plaintiff previously provided notice to Defendants of their violations of
7 Proposition 65 by service of a Notice of Violation dated July 26, 2019. Defendants
8 took no remedial actions in response to the Notice, but continued to market and sell
9 thousands of toxic products in California without warnings of toxicity. Furthermore,
10 Defendants have repeatedly willfully misrepresented sales and use of their chemical
11 products in correspondence with Plaintiff and with the Attorney General, as will be
12 proven at trial. Defendants are large and prominent suppliers of toxic chemicals, and
13 the imposition of substantial penalties herein will deter other companies from similarly
14 violating Proposition 65.

15 34. Plaintiff has engaged in good faith efforts to resolve the claim stated
16 herein prior to filing this Complaint.

17 18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff demands judgment against each Defendant and
20 respectfully requests the following relief:

- 21 1. That the Court impose penalties against each Defendant in the amount of
22 \$2,500 per day per Product from December 27, 2016 until the date of judgment,
23 pursuant to Health & Safety Code section 25249.7(b), or penalties according to proof;
- 24 2. That the Court preliminarily and permanently enjoin Defendants from
25 marketing and selling Products in California;
- 26 3. That the Court grant Plaintiff an award of reasonable attorney's fees and
27 costs of suit; and
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. That the court grant any further relief as may be just and proper.

Respectfully submitted on this 10th day of March, 2020.

AGENCY D&L



By: _____

BENJAMIN D. WESTON
Attorney for Plaintiff
MARIA ELIZABETH ROMERO