

To: Alameda County Superior Court Civil Fax Page 3 of 8 2020-09-01 18:12:00 (GMT)

16193930154 From: Samantha Dice

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

**NICHOLAS & TOMASEVIC, LLP**  
Craig M. Nicholas (SBN 178444)  
Jake W. Schulte (SBN 293777)  
225 Broadway, Suite 1900  
San Diego, California 92101  
Tel: (619) 325-0492  
Fax: (619) 325-0496  
Email: cnicholas@nicholaslaw.org  
Email: jschulte@nicholaslaw.org

**GLICK LAW GROUP, PC**  
Noam Glick (SBN 251582)  
225 Broadway, Suite 2100  
San Diego, California 92101  
Tel: (619) 382-3400  
Fax: (619) 393-0154  
Email: noam@glicklawgroup.com

Attorneys for Plaintiff  
Environmental Health Advocates, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF ALAMEDA**

ENVIRONMENTAL HEALTH ADVOCATES,  
INC., a California organization,  
  
Plaintiff,  
  
v.  
  
PURE GLASS, INC., a California corporation,  
DOES 1 through 100, inclusive,  
  
Defendants.

Case No.:  
  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
  
(Health & Safety Code § 25249.6 et seq.)

**FILED BY FAX**  
ALAMEDA COUNTY  
September 01, 2020  
CLERK OF  
THE SUPERIOR COURT  
By Cheryl Clark, Deputy  
CASE NUMBER:  
**HG20072154**

**I.**  
**INTRODUCTION**

1  
2           1.       This Complaint is a representative action brought by Plaintiff Environmental Health  
3 Advocates, Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (the “People”).  
4 Plaintiff seeks to remedy Defendant Pure Glass, Inc.’s (“Defendant”) failure to inform the People of  
5 exposure to Marijuana (Cannabis) smoke, a known carcinogen and reproductive toxin. By  
6 manufacturing, importing, selling, and/or distributing Marijuana paraphernalia, including glass bongs  
7 (“Products”), Defendant exposes consumers to Marijuana smoke e through reasonably foreseeable use  
8 of the Products.

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

14           3.       California identified and listed Marijuana smoke as a chemical known to cause cancer  
15 as early as June 19, 2009, and as a chemical known to cause developmental/reproductive toxicity on  
16 January 3, 2020.

17           4.       Defendant failed to sufficiently warn consumers and individuals in California about  
18 potential exposure to Marijuana smoke in connection with Defendant’s manufacture, import, sale, or  
19 distribution of Products. This is a violation of Proposition 65.

20           5.       Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in  
21 California before exposing them to Marijuana smoke in Products. (Health & Safety Code, §  
22 25249.7(a).) Plaintiff also seeks civil penalties against Defendant for its violations of Proposition 65  
23 along with attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

24  
25  
26           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is an  
27 organization in the State of California dedicated to protecting the health of California citizens through  
28

1 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
2 interest pursuant to Health and Safety Code, section 25249.7.

3 7. Defendant PURE GLASS, INC. ("Pure Glass") is a corporation organized and existing  
4 under the laws of California. Pure Glass is registered to do business in California, and does business in  
5 the County of Alameda, within the meaning of Health and Safety Code, section 25249.11. Pure Glass  
6 manufactures, imports, sells, or distributes the Products in California and Alameda County.

7 8. Plaintiff does not know the true names and/or capacities, whether individual, partners,  
8 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues  
9 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true  
10 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and  
11 thereon alleges that these defendants are responsible in whole or in part for Plaintiff's alleged damages.

12 **III.**  
13 **VENUE AND JURISDICTION**

14 9. California Constitution Article VI, Section 10 grants the Superior Court original  
15 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code  
16 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court  
17 has jurisdiction.

18 10. Venue is proper in Alameda County Superior Court pursuant to Code of Civil  
19 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this  
20 County. Defendant conducted and continues to conduct business in this County as it relates to Products.

21 11. Defendant has sufficient minimum contacts in the State of California or otherwise  
22 purposefully avails itself of the California market. Exercising jurisdiction over Defendant would be  
23 consistent with traditional notions of fair play and substantial justice.

24 **IV.**  
25 **CAUSES OF ACTION**

26 **FIRST CAUSE OF ACTION**  
27 **(Violation of Proposition 65 against Defendant)**

28 13. Plaintiff incorporates by reference each and every allegation contained above.

1           14.       Proposition 65 mandates that citizens be informed about exposures to chemicals that  
2 cause cancer, birth defects, and other reproductive harm.

3           15.       Defendant manufactured, imported, sold, and/or distributed Products that expose  
4 consumers to Marijuana smoke through reasonably foreseeable use in violation of Health and Safety  
5 Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after  
6 receipt of the Notice (defined *infra*) and will continue to occur into the future.

7           16.       In manufacturing, importing, selling, and/or distributing Products, Defendant failed to  
8 provide a clear and reasonable warning to consumers and individuals in California who may be exposed  
9 to Marijuana smoke through reasonably foreseeable use of the Products.

10          17.       Products expose individuals to Marijuana smoke through inhalation. This exposure is a  
11 natural and foreseeable consequence of Defendant placing Products into the stream of commerce. As  
12 such, Defendant intends that consumers will inhale Products, exposing them to Marijuana smoke.

13          18.       Defendant knew or should have known that its Products expose consumers to Marijuana  
14 smoke through reasonably foreseeable use. Likewise, media coverage concerning Marijuana smoke and  
15 related chemicals in consumer products through reasonably foreseeable use provided constructive notice  
16 to Defendant.

17          19.       Defendant's action in this regard was deliberate and not accidental.

18          20.       More than sixty days prior to naming Defendant in this lawsuit, Plaintiff issued a 60-  
19 Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff  
20 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
21 The Notice alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in  
22 California of the health hazards associated with exposures to Marijuana smoke through reasonably  
23 foreseeable use of the Products.

24          21.       The appropriate public enforcement agencies provided with the Notice failed to  
25 commence and diligently prosecute a cause of action against Defendant.

26          22.       Individuals exposed to Marijuana smoke contained in Products through inhalation  
27 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer  
28 irreparable harm. There is no other plain, speedy, or adequate remedy at law.

