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ENVIRONMENTAL HEALTH ADVOCATES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH ADVOCATES, INC.,

Plaintiff,

v.

HISI GLASS, a California corporation,
VITRICO CORPORATION, a California
corporation, and 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

December 16, 2020

CLERK OF
THE SUPERIOR COURT
By Milagros Cortez, Deputy

CASE NUMBER:

HG20083207

I.
INTRODUCTION

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2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendants’ failure to inform the People of exposure to marijuana (cannabis) smoke, a
5 known carcinogen. Defendants expose consumers to marijuana smoke by manufacturing, importing,
6 selling, and/or distributing HiSi 50 X 5mm Tube—15 in. Beaker (“Products”). Defendants know and
7 intend that customers will use Products exposing consumers to marijuana smoke.

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

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

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

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

II.
PARTIES

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25 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
26 corporation in the State of California dedicated to protecting the health of California citizens through
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
28 interest pursuant to Health and Safety Code, section 25249.7.

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IV.
CAUSES OF ACTION

FIRST CAUSE OF ACTION
(Violation of Proposition 65 – Against all Defendants)

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

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

15. Defendants manufactured, imported, sold, and/or distributed Products exposing consumers to marijuana smoke in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

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

17. Products expose individuals to marijuana smoke through dermal absorption, ingestion, and inhalation by consumers. This exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As such, Defendants intend that consumers will use Products, exposing them to Acrylamide.

18. Defendants knew or should have known that the Products exposed individuals to marijuana smoke in the ways provided above. The Notice informed Defendants of the exposure of marijuana smoke in the Products. Likewise, media coverage concerning marijuana smoke and related chemicals in consumer products provided constructive notice to Defendants.

19. Defendants' actions in this regard were deliberate and not accidental.

20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to marijuana smoke related to the Products.

