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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.,

Plaintiff,

v.

ULBP INC., a California corporation;
UPROOTED, INC., a California corporation;
UPROOTED LM LLC, a California limited
liability company; FLUIDS
MANUFACTURING INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

FILED BY FAX
ALAMEDA COUNTY
May 04, 2021
CLERK OF
THE SUPERIOR COURT
By Xian-xii Bowie, Deputy
CASE NUMBER:
RG21097909

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

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 Cannabis (Marijuana) smoke
5 and Δ^9 -Tetrahydrocannabinol (also known as Delta-9-Tetrahydrocannabinol or “THC”), known
6 carcinogens and developmental/reproductive toxins. Defendants expose consumers to Cannabis
7 (Marijuana) smoke and THC by manufacturing, importing, selling, and/or distributing marijuana-related
8 products, including Cannabis flower, edibles, vape pens, concentrates, and associated gear, on the
9 website <https://urbanleaf.com> without first providing a clear and reasonable Proposition 65 warning
10 (hereinafter, the “Products”). Defendants know and intend that customers will use Products that,
11 through reasonably foreseeable use, expose consumers in California to Cannabis (Marijuana) smoke
12 and THC.

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

18 3. California identified and listed THC as a chemical known to cause
19 developmental/reproductive toxicity on January 3, 2020. California identified and listed Cannabis
20 (Marijuana) smoke as a chemical known to cause cancer on June 19, 2009 and as a chemical known to
21 cause developmental/reproductive toxicity on January 3, 2020.

22 4. Defendants failed to sufficiently warn consumers and individuals in California about
23 potential exposure to Cannabis (Marijuana) smoke and THC in connection with Defendants’
24 manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

25 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
26 in California before exposing them Cannabis (Marijuana) smoke and THC in Products. (Health &
27 Safety Code, § 25249.7(a).) Plaintiff also seeks civil penalties against Defendants for their violations
28 of Proposition 65 along with attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

II. PARTIES

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

7 7. Defendant ULBP INC. ("ULBP") is a corporation organized and existing under the laws
8 of California. ULBP is registered to do business in California, and does business in the County of
9 Alameda, within the meaning of Health and Safety Code, section 25249.11. ULBP manufactures,
10 imports, sells, or distributes the Products in California and Alameda County.

11 8. Defendant UPROOTED, INC. ("UPROOTED") is a corporation organized and existing
12 under the laws of California. UPROOTED is registered to do business in California, and does business
13 in the County of Alameda, within the meaning of Health and Safety Code, section 25249.11.
14 UPROOTED manufactures, imports, sells, or distributes the Products in California and Alameda
15 County.

16 9. Defendant UPROOTED LM LLC ("UPROOTED LM") is a corporation organized and
17 existing under the laws of California. UPROOTED LM is registered to do business in California, and
18 does business in the County of Alameda, within the meaning of Health and Safety Code, section
19 25249.11. UPROOTED LM manufactures, imports, sells, or distributes the Products in California and
20 Alameda County.

21 10. Defendant FLUIDS MANUFACTURING INC. ("FLUIDS") is a corporation organized
22 and existing under the laws of California. FLUIDS is registered to do business in California, and does
23 business in the County of Alameda, within the meaning of Health and Safety Code, section 25249.11.
24 FLUIDS Manufacturing manufacturers, imports, sells, or distributes the Products in California and
25 Alameda County.

26 11. Plaintiff does not know the true names and/or capacities, whether individual, partners,
27 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
28 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true

1 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and
2 thereon alleges that these defendants are responsible in whole or in part for Plaintiff's damages.

3
4 **III.**
VENUE AND JURISDICTION

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

9 13. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
10 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
11 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

12 14. Defendants have sufficient minimum contacts in the State of California or otherwise
13 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would
14 be consistent with traditional notions of fair play and substantial justice.

15
16 **IV.**
CAUSES OF ACTION

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

19 15. Plaintiff incorporates by reference each and every allegation contained above.

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

22 17. Defendants manufactured, imported, sold, and/or distributed Products that, through
23 reasonably foreseeable use, exposed consumers to Cannabis (Marijuana) smoke and THC in violation
24 of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations
25 have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

26 18. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
27 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
28 to Cannabis (Marijuana) smoke and THC through reasonably foreseeable use of the Products.

1 19. Products expose individuals to Cannabis (Marijuana) smoke and THC through ingestion
2 and inhalation by consumers. This exposure is a natural and foreseeable consequence of Defendants
3 placing Products into the stream of commerce. As such, Defendants intend that consumers will ingest
4 or inhale Products, exposing them to Cannabis (Marijuana) smoke and THC.

5 20. Defendants knew or should have known that the Products exposed individuals to
6 Cannabis (Marijuana) smoke and THC in the ways provided above. The Notice informed Defendants
7 of the presence of Cannabis (Marijuana) smoke and THC from the Products. Likewise, media coverage
8 concerning Cannabis (Marijuana) smoke and THC and related chemicals in consumer products provided
9 constructive notice to Defendants.

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

11 22. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
12 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
13 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
14 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
15 California of the health hazards associated with exposures to Cannabis (Marijuana) smoke and THC
16 through reasonably foreseeable use of the Products.

17 23. The appropriate public enforcement agencies provided with the Notice failed to
18 commence and diligently prosecute a cause of action against Defendants.

19 24. Individuals exposed to Cannabis (Marijuana) smoke and THC contained in Products
20 through ingestion or inhalation resulting from reasonably foreseeable use of the Products have suffered
21 and continue to suffer irreparable harm. There is no other plain, speedy, or adequate remedy at law.

22 25. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
23 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
24 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that damages total a minimum of \$1,000,000.00;
- 2. A preliminary and permanent injunction against Defendants from manufacturing, importing, selling, and/or distributing Products in California without providing a clear and reasonable warning as required by Proposition 65 and related Regulations;
- 3. Reasonable attorney’s fees and costs of suit; and
- 4. Such other and further relief as may be just and proper.

Respectfully submitted:

Dated: April 29, 2021

NICHOLAS & TOMASEVIC, LLP



By: _____

Jake Schulte
Craig M. Nicholas

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Noam Glick

Attorneys for Plaintiff
Environmental Health Advocates, Inc.