

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

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7 ENVIRONMENTAL HEALTH ADVOCATES, INC.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF ALAMEDA**

10 ENVIRONMENTAL HEALTH ADVOCATES,  
11 INC.,

Plaintiff,

12 v.

13 LILY HEALTH, LLC, a New York limited  
14 liability company, and DOES 1 through 100,  
inclusive,

15 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

1  
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 Δ<sup>9</sup>-Tetrahydrocannabinol (also  
5 known as “Delta-9-Tetrahydrocannabinol or “THC”), a known carcinogen. Defendants expose  
6 consumers to THC by manufacturing, importing, selling, and/or distributing Lily CBD Daily Strength  
7 Full-Spectrum Oil (“Products”). Defendants know and intend that customers will ingest Products  
8 containing THC.

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 THC as a chemical known to cause  
15 developmental/reproductive toxicity on January 3, 2020.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to THC in connection with Defendants’ manufacture, import, sale, or distribution of  
18 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 THC in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff  
21 also seeks civil penalties against Defendants for its violations of Proposition 65 along with attorney’s  
22 fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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24  
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.



1           14.       Defendants manufactured, imported, sold, and/or distributed Products containing THC  
2 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such  
3 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the  
4 future.

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

8           16.       Products expose individuals to THC through direct ingestion. This exposure is a natural  
9 and foreseeable consequence of Defendants placing Products into the stream of commerce. As such,  
10 Defendants intend that consumers will ingest Products, exposing them to THC.

11          17.       Defendants knew or should have known that the Products contained THC and exposed  
12 individuals to THC in the ways provided above. The Notice informed Defendants of the presence of  
13 THC in the Products. Likewise, media coverage concerning THC and related chemicals in consumer  
14 products provided constructive notice to Defendants.

15          18.       Defendants' action in this regard were deliberate and not accidental.

16          19.       More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a  
17 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff  
18 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
19 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in  
20 California of the health hazards associated with exposures to THC contained in the Products.

21          20.       The appropriate public enforcement agencies provided with the Notice failed to  
22 commence and diligently prosecute a cause of action against Defendants.

23          21.       Individuals exposed to THC contained in Products through direct ingestion resulting  
24 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.  
25 There is no other plain, speedy, or adequate remedy at law.

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

1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff prays for judgment against Defendants as follows:

3 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that  
4 damages total a minimum of \$1,000,000;

5 2. A preliminary and permanent injunction against Defendants from manufacturing,  
6 importing, selling, and/or distributing Products in California without providing a clear and reasonable  
7 warning as required by Proposition 65 and related Regulations;

8 3. Reasonable attorney's fees and costs of suit; and

9 4. Such other and further relief as may be just and proper.

10 Respectfully submitted:

11 Dated: October 20, 2021

**ENTORNO LAW, LLP**

12 By: 

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16 Attorneys for Plaintiff

17 Environmental Health Advocates, Inc.