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ENVIRONMENTAL HEALTH ADVOCATES, INC.

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

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

10 ENVIRONMENTAL HEALTH ADVOCATES,  
INC.,

11 Plaintiff,

12 v.

13 ALANI NUTRITION, LLC, a Kentucky limited  
liability company; AMAZON.COM, INC., a  
14 Delaware corporation, and DOES 1 through  
100, inclusive,

15 Defendants.  
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Case No.: **22CV005604**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**01/18/2022 at 01:37:12 PM**

By: Anthony Zapotoczny, Deputy Clerk

**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 lead, a known carcinogen.  
5 Defendants expose consumers to lead by manufacturing, importing, selling, and/or distributing Alani  
6 Nu Super Greens Powder (“Products”). Defendants know and intend that customers will ingest Products  
7 containing lead.

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 lead as a chemical known to cause cancer as early as  
14 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February  
15 27, 1987.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to lead 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 lead 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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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 containing lead 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 lead through reasonably foreseeable use of the Products.

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

18. Defendants knew or should have known that the Products contained lead and exposed individuals to lead in the ways provided above. The Notice informed Defendants of the presence of lead in the Products. Likewise, media coverage concerning lead 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 lead contained in the Products.

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

