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County of Alameda

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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.

SALUD NATURAL ENTREPRENEUR,
INC., an Illinois corporation, AMAZON.COM,
INC., a Delaware corporation, and DOES 1
through 100, inclusive,

Defendants.

Case No.: **22CV006595**

**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 lead and cadmium, two known
5 carcinogens. Defendants expose consumers to lead and cadmium by manufacturing, importing, selling,
6 and/or distributing Nopalina Formula 16 oz (“Products”). Defendants know and intend that customers
7 will ingest Products containing lead and cadmium.

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. California identified and listed cadmium as a chemical known to cause cancer as early as
16 October 1, 1987, and as a chemical known to cause developmental/reproductive toxicity on May 1,
17 1997.

18 4. Defendants failed to sufficiently warn consumers and individuals in California about
19 potential exposure to lead and cadmium in connection with Defendants’ manufacture, import, sale, or
20 distribution of Products. This is a violation of Proposition 65.

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

II.
PARTIES

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27 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
28 corporation in the State of California dedicated to protecting the health of California citizens through

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 SALUD NATURAL ENTREPRENEUR, INC. (“Salud Natural”) is a
4 corporation organized and existing under the laws of Illinois. Salud Natural is registered to do business
5 in California, and does business in the County of Alameda, within the meaning of Health and Safety
6 Code, section 25249.11. Salud Natural manufactures, imports, sells, or distributes the Products in
7 California and Alameda County.

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

12 9. Plaintiff does not know the true names and/or capacities, whether individual, partners,
13 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
14 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true
15 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and
16 thereon alleges that these defendants are responsible in whole or in part for the remedies and penalties
17 sought herein.

18 **III.**
19 **VENUE AND JURISDICTION**

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

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

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1 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
2 California of the health hazards associated with exposures to lead and cadmium contained in the
3 Products.

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

6 22. Individuals exposed to lead and cadmium contained in Products through direct ingestion
7 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer
8 irreparable harm. There is no other plain, speedy, or adequate remedy at law.

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

12 **PRAYER FOR RELIEF**

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

14 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that
15 damages total a minimum of \$1,000,000.00;

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

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

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

21 Respectfully submitted:

22 Dated: February 7, 2022

ENTORNO LAW, LLP

23
24 By: 
25 Noam Glick

26 Jake W. Schulte
27 Craig M. Nicholas

28 Attorneys for Plaintiff
Environmental Health Advocates, Inc.