1 2 3 4 5 6 7	ENTORNO LAW, LLP Noam Glick (SBN 251582) Jake W. Schulte (SBN 293777) Craig M. Nicholas (SBN 178444) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 629-0527 Email: noam@entornolaw.com Email: jake@entornolaw.com Email: craig@entornolaw.com	ELECTRONICALLY FILED Superior Court of California, County of Alameda 02/07/2022 at 01:46:55 PM By: Anthony Zapotoczny, Deputy Clerk
8 9	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
10	IN AND FOR THE COUNTY OF ALAMEDA	
11	ENVIRONMENTAL HEALTH ADVOCATES, INC.,	Case No.: 22CV006595
12	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF
13	v. (1	(Health & Safety Code § 25249.6 et seq.)
14 15	SALUD NATURAL ENTREPRENEUR, INC., an Illinois corporation, AMAZON.COM, INC., a Delaware corporation, and DOES 1	
16	through 100, inclusive,	
17	Defendants.	
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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 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 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

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 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
 interest pursuant to Health and Safety Code, section 25249.7.

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

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

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

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.

9 15. Defendants manufactured, imported, sold, and/or distributed Products containing lead
 and cadmium 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 and cadmium through reasonably foreseeable use of the Products.

17. Products expose individuals to lead and cadmium 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 and cadmium.

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

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

26 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
 27 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
 28 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 and cadmium contained in the
 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).

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PRAYER FOR RELIEF

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;

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;

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

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

21 Respectfully submitted:

Dated: February 7, 2022

ENTORNO LAW, LLP

By:

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Noam Glick

Jake W. Schulte Craig M. Nicholas

Attorneys for Plaintiff Environmental Health Advocates, Inc.