		ELECTRONICALLY FILED Superior Court of California,
1	ENTORNO LAW, LLP Noam Glick (SBN 251582)	County of Alameda
2	Jake W. Schulte (SBN 293777) Craig M. Nicholas (SBN 178444)	10/17/2022 at 03:54:53 PM
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7	Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES,	INC.
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
9	IN AND FOR THE COUNTY OF ALAMEDA	
10	ENVIRONMENTAL HEALTH ADVOCATES,	Case No.: 220V019857
11	INC., a California organization	COMPLAINT FOR CIVIL PENALTIES
12	Plaintiff, v.	AND INJUNCTIVE RELIEF
13	CVB, INC. dba "LINENSPA", a Utah	(Health & Safety Code § 25249.6 et seq.)
14	corporation; WALMART, INC., a Delaware corporation; and DOES 1 through 100,	
15	inclusive,	
16	Defendants.	
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I. **INTRODUCTION**

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 seeks to remedy Defendants' failure to inform the People of exposure to Formaldehyde (gas) 5 ("Formaldehyde"), a known carcinogen. Defendants expose consumers to Formaldehyde by 6 manufacturing, importing, selling, and/or distributing pillowcases including, but not limited to, 7 Linenspa 600 Thread Count Cotton Blend Pillowcases Queen ("Products"). Defendants know and intend 8 that customers will use Products containing Formaldehyde.

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 Formaldehyde as a chemical known to cause cancer as 15 early as January 1, 1988.

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

П. PARTIES

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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7. Defendant CVB, INC. dba "LINENSPA", ("CVB") is a corporation organized and
 existing under the laws of Utah. CVB 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. CVB
 manufactures, imports, sells, or distributes the Products in California and Alameda County.

8. Defendant WALMART INC. ("Walmart") is a corporation organized and existing under
the laws of Delaware. Walmart 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. Walmart manufacturers,
imports, sells, or distributes the Products in California and Alameda County.

9 9. Plaintiff does not know the true names and/or capacities, whether individual, partners, 10 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues 11 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true 12 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and 13 thereon alleges that these defendants are responsible in whole or in part for the remedies and penalties 14 sought herein.

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

III. <u>VENUE AND JUR</u>ISDICTION

20 has jurisdiction.

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

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

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1 IV. 2 **CAUSES OF ACTION** 3 FIRST CAUSE OF ACTION (Violation of Proposition 65 – Against all Defendants) 4 13. Plaintiff incorporates by reference each and every allegation contained above. 5 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that 6 cause cancer, birth defects, and other reproductive harm. 7 15. Defendants manufactured, imported, sold, and/or distributed Products containing 8 Formaldehyde in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and 9 believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to 10 occur into the future. 11 16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to 12 provide a clear and reasonable warning to consumers and individuals in California who may be exposed 13 to Formaldehyde through reasonably foreseeable use of the Products. 14 17. Products expose individuals to Formaldehyde through dermal absorption, ingestion, and 15 inhalation by consumers. This exposure is a natural and foreseeable consequence of Defendants placing 16 Products into the stream of commerce. As such, Defendants intend that consumers will dermally absorb, 17 ingest, or inhale Products, exposing them to Formaldehyde. 18 18. Defendants knew or should have known that the Products contained Formaldehyde and 19 exposed individuals to Formaldehyde in the ways provided above. The Notice informed Defendants of 20 the presence of Formaldehyde in the Products. Likewise, media coverage concerning Formaldehyde and 21 related chemicals in consumer products provided constructive notice to Defendants. 22 19. Defendants' actions in this regard were deliberate and not accidental. 23 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 24 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff 25 provided the Notice to the various required public enforcement agencies along with a certificate of merit. 26 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in 27 California of the health hazards associated with exposures to Formaldehyde contained in the Products. 28 4

1	21. The appropriate public enforcement agencies provided with the Notice failed to	
2	commence and diligently prosecute a cause of action against Defendants.	
3	22. Individuals exposed to Formaldehyde contained in Products through dermal absorption,	
4	ingestion, and inhalation resulting from reasonably foreseeable use of the Products have suffered and	
5	continue to suffer irreparable harm. There is no other plain, speedy, or adequate remedy at law.	
6	23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation	
7	of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also	
8	appropriate pursuant to Health and Safety Code, section 25249.7(a).	
9	PRAYER FOR RELIEF	
10	Wherefore, Plaintiff prays for judgment against Defendants as follows:	
11	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that	
12	damages total a minimum of \$1,000,000;	
13	2. A preliminary and permanent injunction against Defendants from manufacturing,	
14	importing, selling, and/or distributing Products in California without providing a clear and reasonable	
15	warning as required by Proposition 65 and related Regulations;	
16	3. Reasonable attorney's fees and costs of suit; and	
17	4. Such other and further relief as may be just and proper.	
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19	Respectfully submitted:	
20	Dated: October 17, 2022GLICK LAW GROUP, PC	
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22	Roam Stick	
23	By: Noam Glick	
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25	NICHOLAS & TOMASEVIC, LLP	
26	Craig M. Nicholas Jake W. Schulte	
27	Attorneys for Plaintiff	
28	Environmental Health Advocates, Inc.	