

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
03/22/2023

Chad Finke, Executive Officer / Clerk of the Court
By: X. Bowie Deputy

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Colorescience, Inc.; Bareminerals US Holdco Inc.; Shiseido Americas Corp.; Glo Skin Beauty; Iredale Cosmetics, Inc.; and DOES 1-10

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Piyush Yadav

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Alameda Superior
1225 Fallon Street, Oakland, CA 94612

CASE NUMBER:
(Número del Caso):
23CV029836

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Kevin Osborne, Erickson Kramer Osborne LLP 44 Tehama Street, San Francisco, CA 94105 Ph: 415-635-0631

DATE: 03/22/2023 Clerk, by X. Bowie, Deputy
(Fecha) 03/22/2023 Chad Finke, Executive Officer / Clerk of the Court (Secretario) X. Bowie (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Kevin Osborne, State Bar No. 261367
Erickson Kramer Osborne LLP
44 Tehama St., San Francisco, CA 94105
TELEPHONE NO.: (415) 635-0631 FAX NO.: (415) 599-8088
ATTORNEY FOR (Name): Piyush Yadav

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda
STREET ADDRESS: 1225 Fallon Street
MAILING ADDRESS: 1225 Fallon Street
CITY AND ZIP CODE: Oakland, CA 94612
BRANCH NAME: Rene C. Davidson Courthouse

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
03/22/2023
Chad Finke, Executive Officer / Clerk of the Court
By: X. Bowie Deputy

CASE NAME:
Piyush Yadav. Colorescience, Inc. et al.

CIVIL CASE COVER SHEET
[checked] Unlimited (Amount demanded exceeds \$25,000)
[] Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
[] Counter [] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 23CV029836
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

- 1. Check one box below for the case type that best describes this case:
Auto Tort: [] Auto (22), [] Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort: [] Asbestos (04), [] Product liability (24), [] Medical malpractice (45), [] Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort: [] Business tort/unfair business practice (07), [] Civil rights (08), [] Defamation (13), [] Fraud (16), [] Intellectual property (19), [] Professional negligence (25), [] Other non-PI/PD/WD tort (35)
Employment: [] Wrongful termination (36), [] Other employment (15)
Contract: [] Breach of contract/warranty (06), [] Rule 3.740 collections (09), [] Other collections (09), [] Insurance coverage (18), [] Other contract (37)
Real Property: [] Eminent domain/Inverse condemnation (14), [] Wrongful eviction (33), [] Other real property (26)
Unlawful Detainer: [] Commercial (31), [] Residential (32), [] Drugs (38)
Judicial Review: [] Asset forfeiture (05), [] Petition re: arbitration award (11), [] Writ of mandate (02), [] Other judicial review (39)
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403): [] Antitrust/Trade regulation (03), [] Construction defect (10), [] Mass tort (40), [] Securities litigation (28), [checked] Environmental/Toxic tort (30), [] Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment: [] Enforcement of judgment (20)
Miscellaneous Civil Complaint: [] RICO (27), [] Other complaint (not specified above) (42)
Miscellaneous Civil Petition: [] Partnership and corporate governance (21), [] Other petition (not specified above) (43)

- 2. This case [checked] is [] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. [] Large number of separately represented parties
b. [checked] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. [checked] Substantial amount of documentary evidence
d. [] Large number of witnesses
e. [] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. [] Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. [checked] monetary b. [checked] nonmonetary; declaratory or injunctive relief c. [] punitive
4. Number of causes of action (specify): One
5. This case [] is [checked] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: Kevin Osborne 03/22/2023

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
• File this cover sheet in addition to any cover sheet required by local court rule.
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
- Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (*non-harassment*)
 - Mechanics Lien
 - Other Commercial Complaint Case (*non-tort/non-complex*)
 - Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
 - Other Civil Petition

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F. ADDENDUM TO CIVIL CASE COVER SHEET

Short Title: Piyush Yadav v. Colorescience, Inc. et al.	Case Number: Unassigned
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CIVIL CASE COVER SHEET ADDENDUM

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

[] Hayward Hall of Justice (447)

[X] Oakland, Rene C. Davidson Alameda County Courthouse (446) [] Pleasanton, Gale-Schenone Hall of Justice (448)

Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	[] 34 Auto tort (G) Is this an uninsured motorist case? [] yes [] no
Other PI /PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	[] 75 Asbestos (D) [] 89 Product liability (<u>not</u> asbestos or toxic tort/environmental) (G) [] 97 Medical malpractice (G) [] 33 Other PI/PD/WD tort (G)
Non - PI /PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	[] 79 Bus tort / unfair bus. practice (G) [] 80 Civil rights (G) [] 84 Defamation (G) [] 24 Fraud (G) [] 87 Intellectual property (G) [] 59 Professional negligence - non-medical (G) [] 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	[] 38 Wrongful termination (G) [] 85 Other employment (G) [] 53 Labor comm award confirmation [] 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wrnty (06) Collections (09) Insurance coverage (18) Other contract (37)	[] 04 Breach contract / Wrnty (G) [] 81 Collections (G) [] 86 Ins. coverage - non-complex (G) [] 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	[] 18 Eminent domain / Inv Cdm (G) [] 17 Wrongful eviction (G) [] 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	[] 94 Unlawful Detainer - commercial [] 47 Unlawful Detainer - residential [] 21 Unlawful detainer - drugs Is the deft. in possession of the property? [] Yes [] No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	[] 41 Asset forfeiture [] 62 Pet. re: arbitration award [] 49 Writ of mandate Is this a CEQA action (Publ.Res.Code section 21000 et seq) [] Yes [] No [] 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	[] 77 Antitrust / Trade regulation [] 82 Construction defect [] 78 Claims involving mass tort [] 91 Securities litigation [X] 93 Toxic tort / Environmental [] 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	[] 19 Enforcement of judgment [] 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	[] 90 RICO (G) [] 88 Partnership / Corp. governance (G) [] 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	[] 06 Change of name [] 69 Other petition

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp FILED Superior Court of California County of Alameda 03/22/2023 Clad Fluke, Executive Officer / Clerk of the Court By: <u>X. Bowie</u> Deputy X. Bowie
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse Administration Building, 1221 Oak Street, Oakland, CA 94612	
PLAINTIFF: Piyush Yadav	
DEFENDANT: Colorescience, Inc. et al	
NOTICE OF CASE MANAGEMENT CONFERENCE	CASE NUMBER: 23CV029836

TO THE PLAINTIFF(S)/ATTORNEY(S) FOR PLAINTIFF(S) OF RECORD:

You are ordered to serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (Cal. Rules of Court, 3.110(b)).

Give notice of this conference to all other parties and file proof of service.

Your Case Management Conference has been scheduled on:

Date: 07/20/2023	Time: 8:30 AM	Dept.: 23
Location: Rene C. Davidson Courthouse Administration Building, 1221 Oak Street, Oakland, CA 94612		

TO DEFENDANT(S)/ATTORNEY(S) FOR DEFENDANT(S) OF RECORD:

The setting of the Case Management Conference does not exempt the defendant from filing a responsive pleading as required by law, you must respond as stated on the summons.

TO ALL PARTIES who have appeared before the date of the conference must:


Pursuant to California Rules of Court, 3.725, a completed Case Management Statement (Judicial Council form CM-110) must be filed and served at least 15 calendar days before the Case Management Conference. The Case Management Statement may be filed jointly by all parties/attorneys of record or individually by each party/attorney of record.

Meet and confer, in person or by telephone as required by Cal. Rules of Court, rule 3.724.

Post jury fees as required by Code of Civil Procedure section 631.

If you do not follow the orders above, the court may issue an order to show cause why you should not be sanctioned under Cal. Rules of Court, rule 2.30. Sanctions may include monetary sanctions, striking pleadings or dismissal of the action.

The judge may place a Tentative Case Management Order in your case's on-line register of actions before the conference. This order may establish a discovery schedule, set a trial date or refer the case to Alternate Dispute Resolution, such as mediation or arbitration. Check the court's eCourt Public Portal for each assigned department's procedures regarding tentative case management orders at <https://eportal.alameda.courts.ca.gov>.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 03/22/2023 Chad Finke, Executive Officer / Clerk of the Court
PLAINTIFF/PETITIONER: Piyush Yadav	By:  Deputy
DEFENDANT/RESPONDENT: Colorescience, Inc. et al	X. Bowie
CERTIFICATE OF MAILING	CASE NUMBER: 23CV029836

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Case Management Conference upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Kevin Michael Osborne
Erickson Kramer Osborne LLP
44 Tehama St.
San Francisco, CA 94105

Elizabeth Kramer
Erickson Kramer Osborne LLP
44 Tehama Street
San Francisco, CA 94105

Julie Erickson
Erickson Kramer Osborne LLLP
44 Tehama Street
San Francisco, CA 94105

Chad Finke, Executive Officer / Clerk of the Court

Dated: 03/23/2023

By:



X. Bowie, Deputy Clerk

CERTIFICATE OF MAILING

1 Julie Erickson, State Bar No. 293111 (julie@eko.law)
2 Elizabeth Kramer, State Bar No. 293129 (elizabeth@eko.law)
3 Kevin Osborne, State Bar No. 261367 (kevin@eko.law)
4 **Erickson Kramer Osborne LLP**
5 44 Tehama St
6 San Francisco, CA 94105
7 Phone: 415-635-0631
8 Fax: 415-599-8088

9 Yvette Golan (ygolan@tgfirm.com) *Pro Hac Vice pending*
10 **The Golan Law Firm PLLC**
11 529 14th Street NW, Suite 914
12 Washington, D.C. 20045
13 Phone: 866-298-4150
14 Fax: 928-4410-8250

15 Jason S. Rathod (jrathod@classlawdc.com) *Pro Hac Vice pending*
16 Mark D. Patronella (mpatronella@classlawdc.com) *Pro Hac Vice pending*
17 **Migliaccio & Rathod LLP**
18 412 H Street NE
19 Washington, D.C. 20002
20 Phone: 202-470-3520
21 Fax: 202-800-2730
22 *Attorneys for Plaintiff*

23 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
24 FOR THE COUNTY OF ALAMEDA
25 CIVIL UNLIMITED

26 PIYUSH YADAV,
27
28 Plaintiff

vs.

COLORESCIENCE, INC.;
BAREMINERALS US HOLDCO INC.;
SHISEIDO AMERICAS CORP.; GLO
SKIN BEAUTY; IREDALE
COSMETICS, INC.; and DOES 1-10
Defendants.

Case No.: **23CV029836**

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES AND DEMAND
FOR JURY TRIAL

(Cal. Health & Safety Code, section 25249.6 *et seq.*)

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
03/22/2023 at 08:23:53 PM
By: Xian-xii Bowie,
Deputy Clerk

1 Plaintiff Piyush Yadav (“Plaintiff”) brings this action against Defendants Colorescience,
2 Inc.; BareMinerals US Holdco Inc.; Shiseido Americas Corp.; Glo Skin Beauty; and Iredale
3 Cosmetics, Inc. (collectively, “Defendants”) to enjoin conduct in violation of California Health
4 & Safety Code, section 25249.6, for penalties recoverable under California Health & Safety
5 Code, section 25249.7(b), and for other recovery specified herein. Plaintiff alleges upon
6 information and belief, except as to the investigation of his counsel, and the facts that are a
7 matter of public record, as follows:

8 I. INTRODUCTION

9 1. Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986, as
10 codified in California Health & Safety Code, section 25249.5, *et seq.*, prohibits a business from
11 “knowingly and intentionally expos[ing] any individual to a chemical known to the state to cause
12 cancer or reproductive toxicity without first giving clear and reasonable warning to such
13 individual.”

14 2. The State of California determined that titanium dioxide (airborne, unbound particles of
15 respirable size) (hereafter, “Listed TiO₂”) constitutes a cancer risk and added the chemical to the
16 register of known carcinogens in 2011. Today, it remains listed as a cancer-causing material on
17 the “Proposition 65 List” maintained by the California Office of Environmental Health Hazard
18 Assessment.

19 3. On their websites and in retail stores, Defendants sell loose powder cosmetic products
20 containing as much as 25% of Listed TiO₂.

21 4. Even a single use of Defendants’ products exposes the user to a massive amount of this
22 recognized carcinogen. For example, a single application of Defendant Colorescience’s
23 Sunforgettable Total Protection Brush-On Shield SPF-50 exposes the user to 1,303 times the
24 amount that is considered safe. (*See* ¶¶ 42-45, *infra.*) In other words, she receives **3.5 years’**
25 **worth of exposure in a single application.**

26 5. By the time the user finishes a single unit of the product, she has received the equivalent
27 of **over eighty-nine years** of exposure. (*See* ¶¶ 44, *infra.*)

1 6. Each Defendant knowingly markets and sells their cosmetic products containing a
2 substantial amount Listed TiO₂ to individuals in California without providing any warning of
3 cancer risks.

4 7. This Complaint seeks to redress Defendants' ongoing failure to warn California
5 consumers that their products expose users to a known carcinogen.

6 **II. THE PARTIES**

7
8 8. Plaintiff Piyush Yadav is a resident of Alameda County, California.

9 9. Plaintiff brings this action in the public interest as defined under California Health and
10 Safety Code, section 25249.7(d).

11 10. Defendant Colorescience, Inc. is a cosmetic supply company and a "person in the course
12 of doing business" within the meaning of California Health & Safety Code, section 25249.11(b).
13 Colorescience is a Delaware corporation that maintains its principal place of business at 2141
14 Palomar Airport Road, Suite #20, in Carlsbad, California.

15 11. Defendant BareMinerals US Holdco Inc. is a cosmetic supply company and a "person in
16 the course of doing business" within the meaning of California Health & Safety Code, section
17 25249.11(b). BareMinerals is a corporation that maintains its principal place of business at 500
18 Fifth Ave., 26th Floor, in New York, New York.

19 12. Defendant Shiseido Americas Corp., doing business as bareminerals, is a cosmetic supply
20 company and a "person in the course of doing business" within the meaning of California Health
21 & Safety Code, section 25249.11(b). Defendant Shiseido maintains its principal place of
22 business at 390 Madison Avenue New York, New York 10017)

23 13. Defendant Shiseido and Defendant BareMinerals US Holdco Inc. are collectively referred
24 to here as "Defendant BareMinerals."

25 14. Defendant Glo Skin Beauty is a cosmetic supply company and a "person in the course of
26 doing business" within the meaning of California Health & Safety Code, section 25249.11(b).

1 Glo Skin Beauty maintains its principal place of business at 610 E. 55th Ave., Unit 100, in
2 Denver, Colorado.

3 15. Defendant Iredale Cosmetics, Inc. is a cosmetic supply company and a “person in the
4 course of doing business” within the meaning of California Health & Safety Code, section
5 25249.11(b). Iredale Cosmetics is a corporation that maintains its principal place of business at
6 50 Church St in Great Barrington, Massachusetts.

7 16. The true names and capacities of Defendants sued in the Complaint under the fictitious
8 names of Does 1 through 10, inclusive, are unknown to Plaintiff who therefore sues such
9 Defendants by such fictitious names.

10 **III. JURISDICTION AND VENUE**

11 17. This action is brought under California Health & Safety Code, section 25249.7(b) for
12 equitable non-monetary and monetary relief due to Defendants’ unfair, unlawful, and fraudulent
13 conduct.

14 18. Under Article VI, Section 10 of the California Constitution, the California superior court
15 has “original jurisdiction in all causes except those given by statute to other trial courts.” Since
16 this cause was not assigned by statute to any other trial courts, this Court has jurisdiction.

17 19. This Court has personal jurisdiction over Defendants because Defendants and their
18 affiliates do business in the state of California and the claims asserted herein arise from conduct
19 occurring in California.

20 20. Defendant Colorescience is based in California. Colorescience intentionally avails itself
21 to the California market through the sale of Products in California. The claims asserted herein
22 also arise from conduct occurring in California. Therefore, the Court has personal jurisdiction
23 over the Colorescience.

24 21. Defendant BareMinerals intentionally avails itself to the California market through the
25 sale of Products in California. The claims asserted herein also arise from conduct occurring in
26 California. Therefore, the Court has personal jurisdiction over BareMinerals.

1 22. Defendant Glo Skin Beauty intentionally avails itself to the California market through the
2 sale of Products in California. The claims asserted herein also arise from conduct occurring in
3 California. Therefore, the Court has personal jurisdiction over Glo Skin Beauty.

4 23. Defendant Iredale Comsetics is based in California. Iredale Cosmetics intentionally
5 avails itself to the California market through the sale of Products in California. The claims
6 asserted herein also arise from conduct occurring in California. Therefore, the Court has personal
7 jurisdiction over Iredale Cosmetics.

8 24. Venue is proper in this Court because Defendant Colorescience, Defendant BareMinerals,
9 Defendant Glo Skin Beauty, and Defendant Iredale Cosmetics each, individually, engage and
10 perform business activities in and throughout Alameda County. Plaintiff resides in Alameda
11 County and the offending products are sold in Alameda County.

12 **IV. FACTUAL ALLEGATIONS**

13 **COLORESCIENCE**

14 25. Defendant ColoreScience is a supplier of cosmetic materials. Colorescience has sold the
15 following products to individuals in California for years: its line of “Loose Mineral Foundation
16 Brush SPF 20” (6 products), its line of “Sunforgettable Brush-On Sunscreen SPF 30” (5
17 products), its line of “Sunforgettable Total Protection Brush-On Shield SPF 50” (4
18 products), and its line of “Sunforgettable Total Protection Brush-On Shield SPF 50 with
19 EnviroScreen” (4 products) (collectively, the “Colorescience Products”). (*See Exhibit 1, Exhibit*
20 *2.*)

21 26. The Colorescience Products are powder-based cosmetics intended for application directly
22 to the consumer’s face.

23 27. Colorescience intentionally adds a significant amount of Listed TiO₂ to each of the
24 Colorescience Products, exposing consumers to Listed TiO₂ when the products are used as
25 reasonably expected.

26 28. Titanium dioxide makes up 23.9% of Colorescience’s Sunforgettable Total Protection
27 Brush-On Shield SPF 50; 22.5% of Colorescience’s Sunforgettable Total Protection Brush-On
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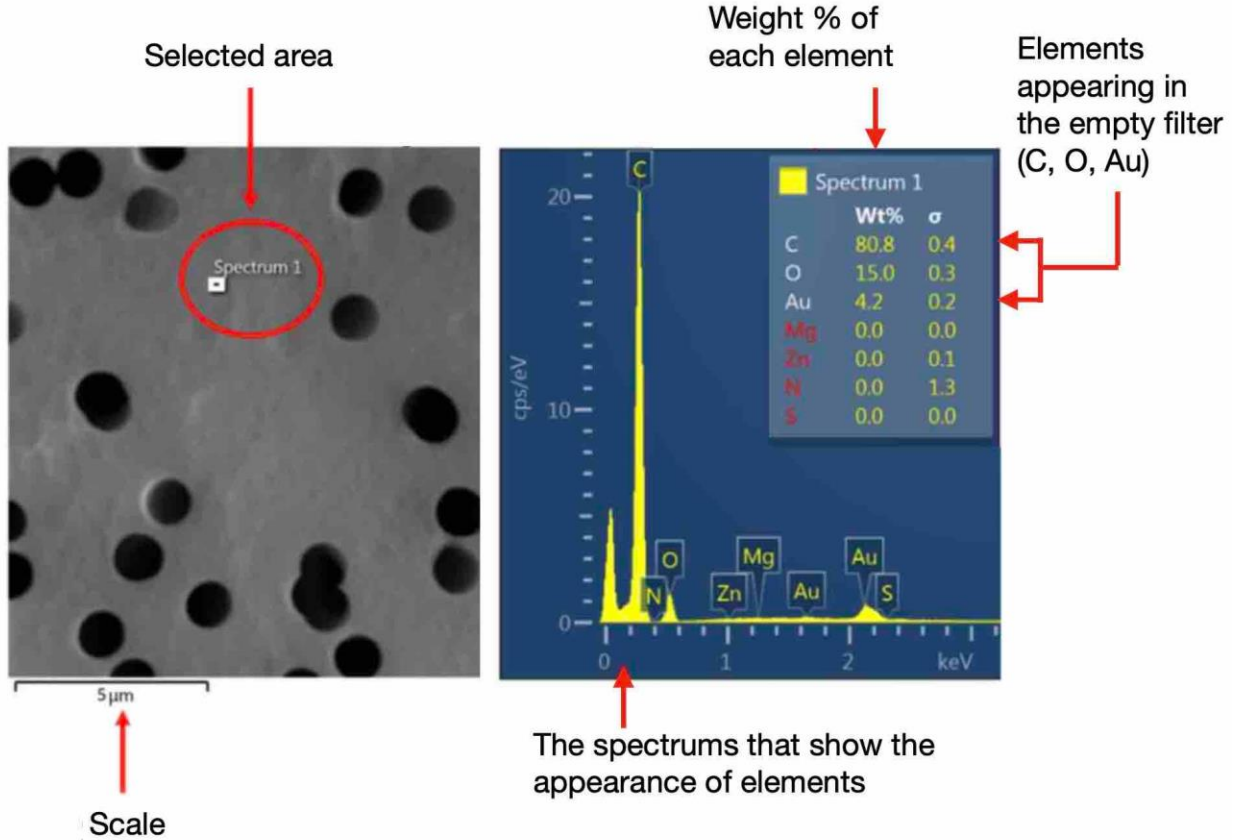
1 Shield SPF 50 with EnviroScreen; 21% of Colorescience’s Sunforgettable Brush-On Sunscreen
2 SPF 30; and 18.6% of Colorescience’s Loose Mineral Foundation Brush SPF 20. (See Exhibit 1,
3 Exhibit 2.)

4 29. Plaintiff’s testing has shown that the titanium dioxide particles in the Colorescience
5 Products constitute Listed TiO₂.

6 30. A sample of one of the Colorescience Products was analyzed using a specialized
7 microscope with an Energy Dispersive X-ray Spectroscopy system. This equipment provided
8 microscopic images of the Colorescience Product’s contents and identified the chemical
9 composition of the sample, or “Spectrum.”

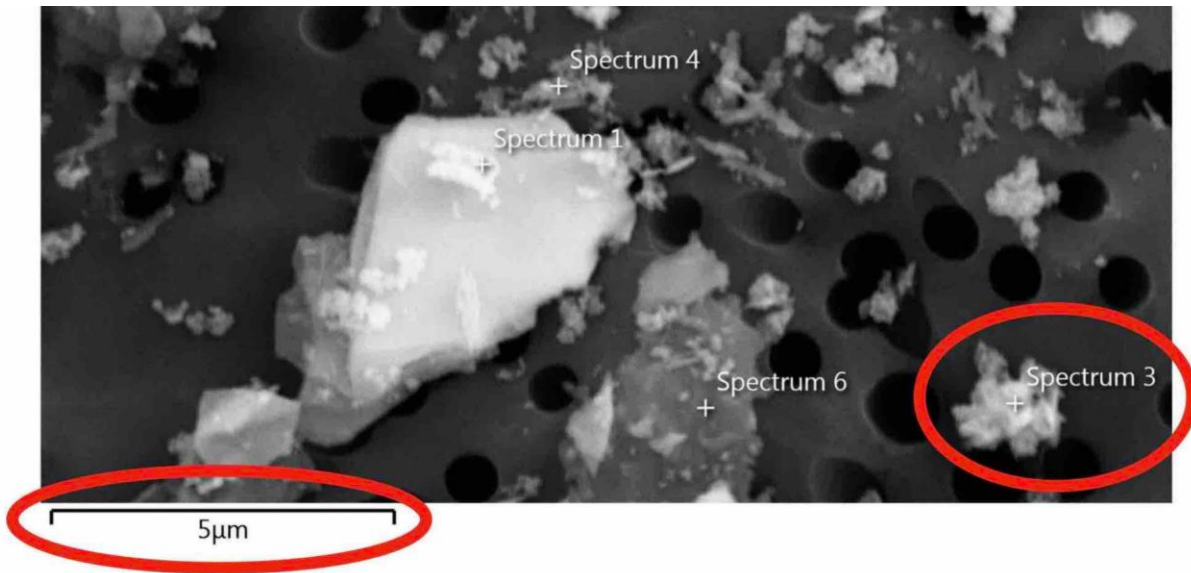
10 31. When analysis is done of the empty filter, a random spot (in the image below, “Spectrum
11 1”) was shown to be composed mostly of carbon, oxygen, and gold.

EDS Analysis of Blank Filter Coated with Gold

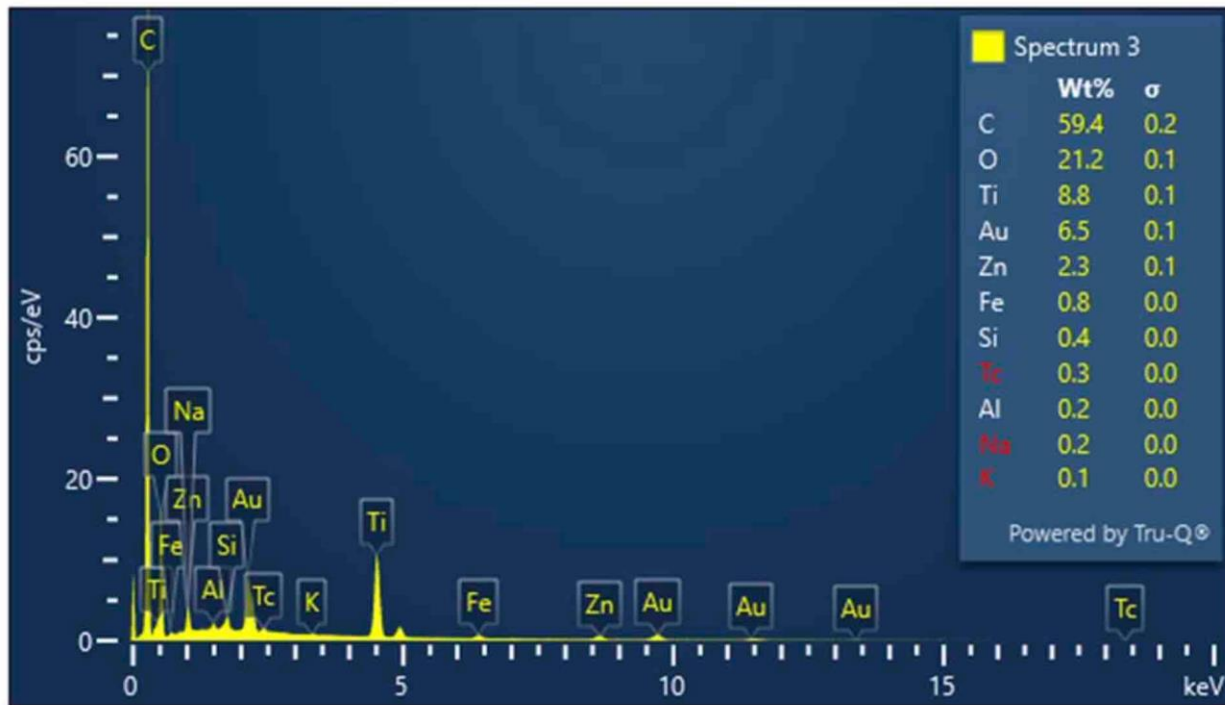


32. When the Colorescence Product was placed on the filter, the area identified as “Spectrum 3,” much smaller than 5 μm, was shown to be composed largely of the blank filter (carbon (C), oxygen (O), and gold (Au)), and a particle composed largely of titanium (Ti) and oxygen (O):

Selected Areas for Analysis



Chemical Composition of Spectrum 3



COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

1 33. The only ingredient containing titanium in the Colorescience Product, according to
2 Colorescience’s own ingredient list, is titanium dioxide.

3 34. Moreover, the examination found the titanium dioxide particle to have a diameter smaller
4 than 4,000 to 10,000 nanometers, the accepted benchmarks for respirable size. (*See* encircled
5 areas in image *supra*, Selected Areas for Analysis.)

6 35. Colorescience’s website confirms that the titanium dioxide used in its products is of
7 respirable size. (*See* Colorescience, Zinc Oxide & Titanium Dioxide Sunscreen, *attached as*
8 Exhibit 3. (“Invisible to the naked eye: It’s typically scaled down much smaller, between 10 and
9 100 nanometers, making it less noticeable on the skin.”).) (*See also id.* (explaining that while its
10 zinc oxide is scaled at 30-200 nanometers, “titanium dioxide is . . . scaled down into much
11 smaller nanoparticles than zinc oxide”)).

12 36. Existing, peer-reviewed, research demonstrates that such particles become airborne
13 during the application of powder-based cosmetics.¹

14 37. Colorescience’s instructions for product usage further ensure that its Listed TiO₂
15 becomes airborne. Colorescience’s website instructs users to “FLICK + APPLY.” “[F]lick the
16 bristles with your finger to see the powder is flowing.”

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26 ¹ *See, e.g.,* Oh, H.-J., Han, T.T., Mainelis, G. (2020), Potential for Inhalation Exposure to
27 Respirable TiO₂ from Eyebrow Powders, *Journal of Exposure Science and Environmental*
28 *Epidemiology*, <https://doi.org/10.1038/s41370-020-00278-1>.

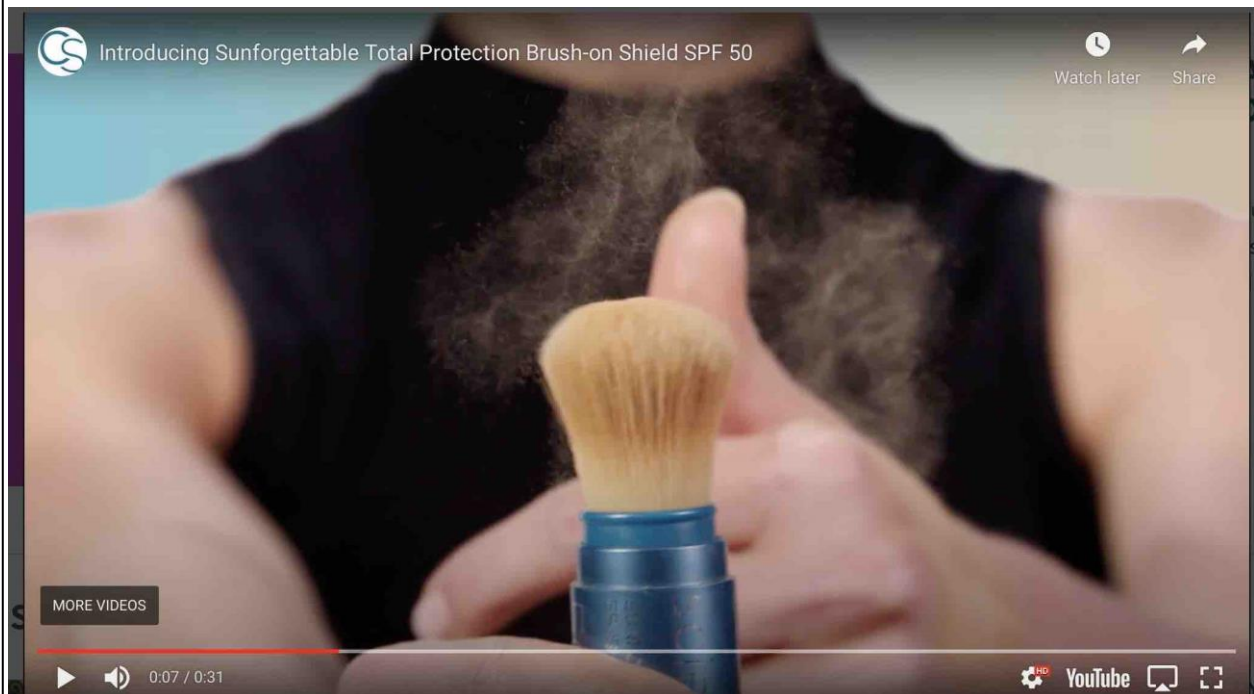


FLICK + APPLY

open brush again, pull down sleeve,
flick bristles to ensure powder is
flowing, and apply!

(See Colorescience, Sunforgettable Brush-On Sunscreen, *attached as Exhibit 4*; Colorescience, Sunforgettable Total Protection Brush-On Shield, *attached as Exhibit 5*; Colorescience, Loose Mineral Foundation Brush, *attached as Exhibit 6*.)

38. Colorescience also includes videos on its website, demonstrating how “flicking” the brush as instructed results in visually observable airborne particles.



1 (Colorescience Video, Introducing Sunforgettable Total Protection Brush-On Shield SPF 50,
2 <<https://www.colorescience.com/pages/learn-videos>> and <<https://youtu.be/02tq3552hjU>>.)



14 (Colorescience Video, How to Activate Colorescience Brush Activation,
15 <<https://www.colorescience.com/products/sunforgettable-total-protection-brush-on-shield-spf-50>> and https://youtu.be/OZFDT4lp_Pk.)

17 39. “Repeat tapping if needed, until you see a small puff of powder in the air when running
18 your finger through the bristles.” (Colorescience, Sunforgettable Total Protection Brush-On
19 Shield, *attached as Exhibit 7*.)

20 40. Colorescience’s instructions for product usage also increased the exposure of Listed TiO₂
21 to California consumers. For example, Colorescience instructed consumers to reapply the
22 product every two hours. (*See, e.g., Colorescience, Reapplying Sunscreen, attached as Exhibit*
23 *8*.)

24 41. Because the titanium dioxide included in the Colorescience Products are unbound, of a
25 respirable size, and becomes airborne during application, it constitutes Listed TiO₂.

26 42. Colorescience’s loose powders contain 18.6%-23.9% Listed TiO₂, leading to a daily
27 exposure far above what has been shown to cause cancer. Colorescience conducted a study to
28

1 measure the average amount of its Sunforgettable Total Protection Brush-On Shield SPF-50
2 consumers use with each application, concluding that the average amount used per application
3 was 0.24 grams, or 240 mg. (See Exhibits 9-11.) Because 23.9% of the product, Sunforgettable
4 Total Protection Brush-On Shield SPF-50, is Listed TiO₂, a single application will expose the
5 user to 57.36 mg of Listed TiO₂, far above the “No Significant Risk Level” (NSRL) of 0.044-0.3
6 mg/day.²

7 43. To make matters worse, Colorescience states that the average user reapplies the product
8 2.1 times each day. Exhibit 9.³ Thus, Colorescience’s Sunforgettable Total Protection Brush-On
9 Shield SPF-50 exposes users to 114.7 mg of Listed TiO₂ each day, far above the “No Significant
10 Risk Level” (NSRL) of 0.044-0.3 mg/day. In fact, using the product for **just one day** will expose
11 the person to the amount of Listed TiO₂ that they can safely receive **over seven years**. (0.044
12 mg/day x 365 days x 7 years = 112.42 mg.)

13 44. Indeed, a single unit of Colorescience’s Sunforgettable Total Protection Brush-On Shield
14 SPF-50 (6000 mg), exposes users to 1,434 mg of Listed TiO₂, the amount of Listed TiO₂ that
15 they can safely receive **over eighty-nine years** of daily “No Significant Risk Level” exposure.
16 ((1,434 mg / .044 mg/day) / 365 days.)

17 45. Colorescience’s other products similarly expose users to far above the NSRL of Listed
18 TiO₂ each day. Colorescience’s Sunforgettable Total Protection Brush-On Shield SPF-50 (with
19 EnviroScreen) (22.5% TiO₂) exposes users to 108 mg of Listed TiO₂ per day. Colorescience’s
20 Sunforgettable Brush-On Sunscreen SPF 30 (21% TiO₂) exposes users to 100.8 mg of Listed
21 TiO₂ per day. And Colorescience’s Loose Mineral Foundation Brush SPF 20 (18.6% TiO₂)
22 exposes users to 89.3 mg of Listed TiO₂ per day.

23
24 ² According to a 2016 study, the NSRL for titanium dioxide is 0.044 mg/day to 0.3 mg/day
25 (44 µg/day - 300 µg/day). (Chad M. Thompson, et al., *Development of linear and threshold no*
26 *significant risk levels for inhalation exposure to titanium dioxide using systematic review and*
mode of action considerations, 80 REGULATORY TOXICOLOGY AND PHARMACOLOGY,
60-70 (October 2016), <<https://www.ncbi.nlm.nih.gov/pubmed/27233922>>.)

27 ³ Colorescience recommends reapplying its products every two hours. (See Exhibit 8).
28

1 46. Colorescience nevertheless sold, and continues to sell, the Colorescience Products in
2 California without warning consumers that they are being exposed to a carcinogen.
3 Colorescience’s failure to warn violates Proposition 65 and creates serious health risks for the
4 citizens of California.

5 **BAREMINERALS**

6 47. Defendant BareMinerals is a supplier of cosmetic materials. BareMinerals has sold the
7 following products to individuals in California for years: “Mineral Veil Finishing Powder SPF
8 25,” its line of “Loose Powder Concealer SPF 20” (5 products), its line of “Matte Foundation
9 Broad Spectrum SPF 15” (32 products), and its line of “Original Loose Powder Foundation SPF
10 15” (17 products) (collectively, the “BareMinerals Products”). (*See Product Labels attached at*
11 *Exhibit 12, Exhibit 13.*)

12 48. The BareMinerals Products are powder-based cosmetics intended for application directly
13 to the consumer’s face.

14 49. BareMinerals intentionally adds a significant amount of Listed TiO₂ to each of the
15 BareMinerals Products, exposing consumers to Listed TiO₂ when the products are used as
16 reasonably expected.

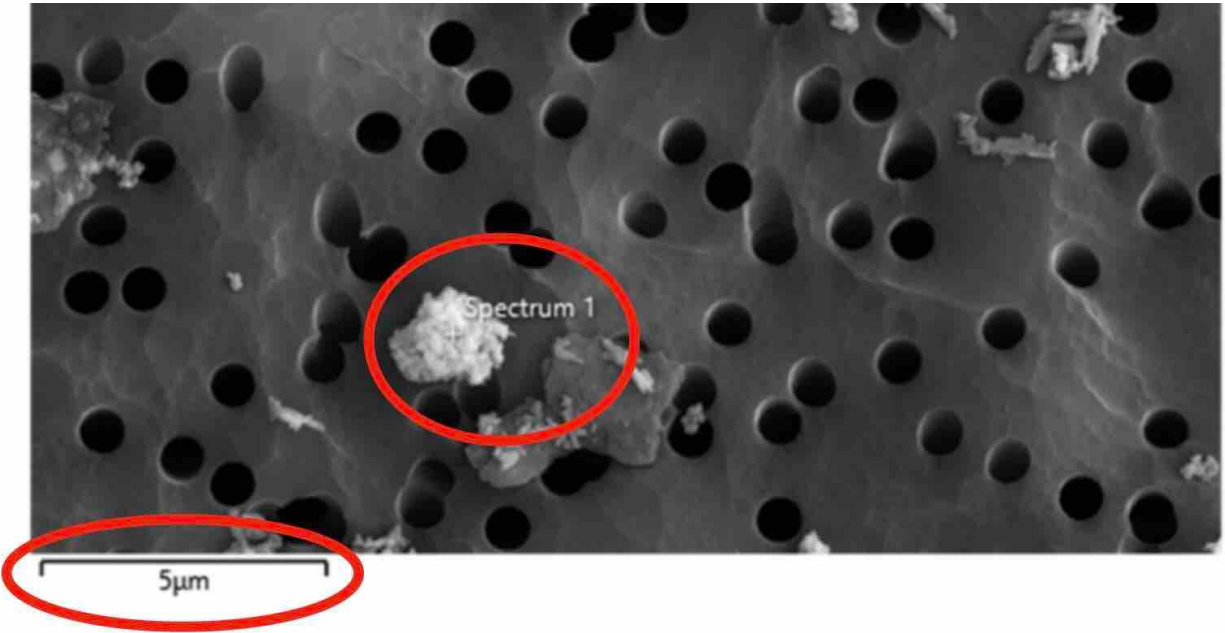
17 50. Titanium dioxide makes up 24.4% of BareMinerals’ line of Loose Powder Concealer SPF
18 20; 15% of BareMinerals’ line of Matte Foundation Broad Spectrum SPF 15; 22.7% of
19 BareMinerals’ Mineral Veil Finishing Powder SPF 25; and 18-25% of BareMinerals’ line of
20 Original Loose Powder Foundation SPF 15. (*See Exhibit 12, Exhibit 13.*)

21 51. Plaintiff’s testing has shown that the titanium dioxide particles in BareMinerals’ Products
22 constitute Listed TiO₂.

23 52. A sample of one of BareMinerals’ Products was analyzed using a specialized microscope
24 with an Energy Dispersive X-ray Spectroscopy system. (*See discussion supra.*)

25 53. When BareMinerals’ Product was placed on the filter, the area identified as “Spectrum 1”
26 was shown to be composed largely of the blank filter (carbon, oxygen, and gold), and a particle
27 composed largely of titanium and oxygen:
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2 Selected Areas for Analysis



14 Chemical Composition of Spectrum 1



1 54. The only ingredient containing titanium in the BareMinerals Product, according to
2 BareMinerals' own ingredient list, is titanium dioxide.

3 55. Moreover, the examination found the titanium dioxide particle to have a diameter smaller
4 than 4,000 to 10,000 nanometers, the accepted benchmarks for respirable size. (*See* encircled
5 areas in image *supra*, Selected Areas for Analysis.)

6 56. Existing, peer-reviewed, research demonstrates that such particles become airborne
7 during the application of powder-based cosmetics.⁴

8 57. BareMinerals' instructions for product usage further increase California consumers'
9 exposure to Listed TiO₂. BareMinerals' website instructs consumers to use these powders every
10 day, even when it is rainy or when staying indoors. (*See BareMinerals*, Do You Need to Wear
11 Sunscreen Indoors, <<https://www.bareminerals.com/blog/how-staying-inside-affects-skin.html>>
12 (last viewed March 21, 2023), *attached as* Exhibit 14.)

13 58. BareMinerals' instructions for product usage also demonstrate that its Listed TiO₂
14 becomes airborne during product usage. (*See BareMinerals*, Original Loose Powder Foundation
15 SPF 15, <[https://www.bareminerals.com/makeup/face/foundation/original-loose-mineral-
16 foundation-broad-spectrum-spf-15/USMasterSPF15Found.html](https://www.bareminerals.com/makeup/face/foundation/original-loose-mineral-foundation-broad-spectrum-spf-15/USMasterSPF15Found.html)> (last viewed August 16, 2022)
17 (instructing users to swirl the product in the cap and "TAP away any excess" and then "BUFF
18 onto your skin in circular motions"), *attached as* Exhibit 15.)

19 59. BareMinerals also includes videos on its website, demonstrating how using the "swirl,
20 tap, buff method" as instructed may result in visually observable airborne particles.
21 (What is Matte Foundation Broad Spectrum SPF 15 from BareMinerals,
22 <<https://www.youtube.com/watch?v=0k-B01yCdR0>> (last viewed August 16, 2022).)
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26 ⁴ *See, e.g.*, Oh, H.-J., Han, T.T., Mainelis, G. (2020), Potential for Inhalation Exposure to
27 Respirable TiO₂ from Eyebrow Powders, *Journal of Exposure Science and Environmental
28 Epidemiology*, <https://doi.org/10.1038/s41370-020-00278-1>.



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13 60. BareMinerals advertises its loose powders as helping consumers *prevent* cancer, and it
14 claims its loose powders are formulated to avoid dangerous ingredients. (See BareMinerals,
15 Original Loose Powder Foundation SPF 15,
16 <[https://www.bareminerals.com/makeup/face/foundation/original-loose-mineral-foundation-](https://www.bareminerals.com/makeup/face/foundation/original-loose-mineral-foundation-broad-spectrum-spf-15/USMasterSPF15Found.html)
17 [broad-spectrum-spf-15/USMasterSPF15Found.html](https://www.bareminerals.com/makeup/face/foundation/original-loose-mineral-foundation-broad-spectrum-spf-15/USMasterSPF15Found.html)> (last viewed March 21, 2023) (“At
18 BareMinerals, we have restricted over 2,500 ingredients, including the 1,400+ banned in the
19 E.U.”), attached as Exhibit 16.)

20 61. BareMinerals’ loose powders contain 15-25% Listed TiO₂, leading to a daily exposure
21 far above what has been shown to cause cancer. (See *supra*.) For example, one container of
22 BareMinerals’ Original Loose Powder Foundation SPF 15 has a net weight of 8g (8000 mg),
23 with a titanium dioxide concentration of 25%. Thus, each container includes 2,000 mg of
24 titanium dioxide. Each unit would have to contain an extraordinarily unlikely 45,455-day supply
25 (124.5 years) in order for the daily exposure quantities to be at or below the “No Significant Risk
26 Level” (NSRL) of 0.044 mg/day. (See also *supra* at ¶¶ 42-45, Exhibit 9 (study showing average
27 user applies 240 mg of sunscreen powder per use); Exhibit 10 (same); Exhibit 11 (same).)
28

1 62. Because the titanium dioxide included in the BareMinerals Products was unbound, of a
2 respirable size, and becomes airborne during application, it constitutes Listed TiO₂.

3 63. BareMinerals nevertheless sold, and continues to sell, the BareMinerals Products in
4 California without warning consumers that they are being exposed to a carcinogen.
5 BareMinerals' failure to warn violates Proposition 65 and creates serious health risks for the
6 citizens of California.

7 **GLO SKIN BEAUTY**

8 64. Glo Skin Beauty is a supplier of cosmetic materials. The following products have been
9 sold by Glo Skin Beauty to individuals in California for years: "Protecting Powder SPF 20" and
10 "Protecting Powder - Bronze" (the "Glo Skin Beauty Products"). The Glo Skin Beauty Products
11 each contain Listed TiO₂ and expose users to Listed TiO₂ when used as reasonably expected.
12 (*See* Exhibit 17; Exhibit 18.)

13 65. The Glo Skin Beauty Products are powder-based cosmetics intended for application
14 directly to the consumer's face.

15 66. Glo Skin Beauty intentionally adds a significant amount of Listed TiO₂ to each of the
16 Glo Skin Beauty Products, exposing consumers to Listed TiO₂ when the products are used as
17 reasonably expected.

18 67. Titanium dioxide makes up 24.6% of Glo Skin Beauty's Protecting Powder SPF 20 and
19 15% of its Protecting Powder - Bronze. (*See* Exhibit 17; Exhibit 18.)

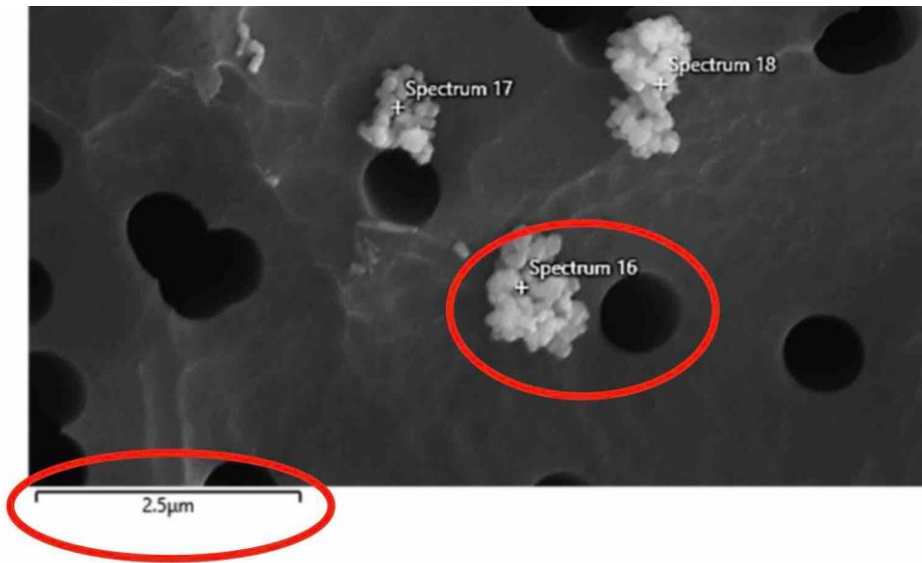
20 68. Plaintiff's testing has shown that the titanium dioxide particles in the Products constitute
21 Listed TiO₂.

22 69. A sample of one of the Glo Skin Beauty Products was analyzed using a specialized
23 microscope with an Energy Dispersive X-ray Spectroscopy system. (*See* discussion *supra*.)

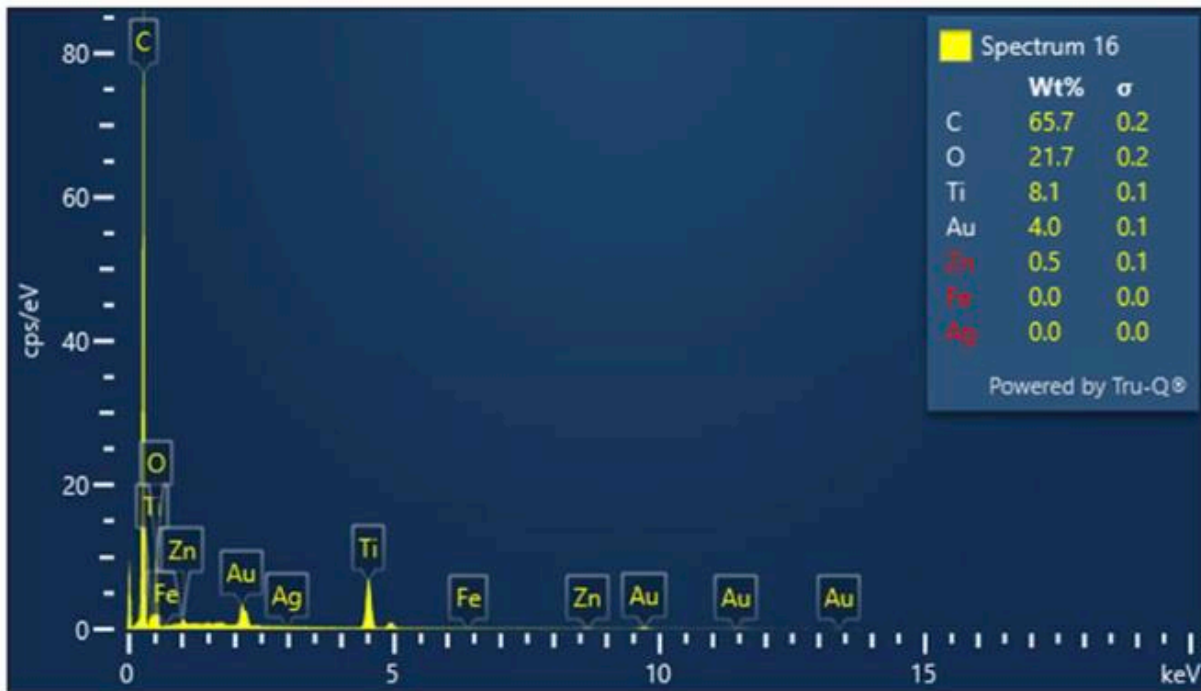
24 70. When Glo Skin Beauty's product was placed on the filter, the area identified as
25 "Spectrum 16" was shown to be composed largely of the blank filter (carbon, oxygen, and gold),
26 and a particle composed largely of titanium and oxygen:
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Selected Areas for Analysis



Chemical Composition of Spectrum 16



1 71. The only ingredient containing titanium in the Glo Skin Beauty Product, according to Glo
2 Skin Beauty’s own ingredient list, is titanium dioxide.

3 72. Moreover, the examination found the titanium dioxide particle to have a diameter smaller
4 than 4,000 to 10,000 nanometers, the accepted benchmarks for respirable size. (*See* encircled
5 areas in image *supra*, Selected Areas for Analysis.)

6 73. Glo Skin Beauty’s website confirms that the titanium dioxide used in its products is of
7 respirable size. (*See, e.g.*, Glo Skin Beauty, Protecting Powder SPF 20, Did You Know?,
8 <<https://www.gloskinbeauty.com/protecting-powder>> (“today’s titanium dioxide and zinc oxide
9 are micronized, meaning the particles are a smaller size.”) (last visited August 16, 2022),
10 *attached as* Exhibit 19; Glo Skin Beauty – Benefits of Mineral Makeup,
11 <<https://www.gloskinbeauty.com/blog/benefits-of-mineral-makeup-2>> (last viewed March 21,
12 2023) (“Minerals such as mica, titanium dioxide, zinc oxide and boron nitride are milled into
13 ultra fine particles to create mineral makeup.”), *attached as* Exhibit 20. *See also* Department of
14 Health and Human Services, Current Intelligence Bulletin, Occupational Exposure to Titanium
15 Dioxide, at 82, <<https://www.cdc.gov/niosh/docs/2011-160/pdfs/2011-160.pdf>> (explaining that
16 “‘Ultrafine’ is defined as the fraction of respirable particles with primary particle diameter <0.1
17 μm (<100 nm), which is a widely used definition.”), *attached as* Exhibit 21.)

18 74. Existing, peer-reviewed, research demonstrates that such particles become airborne
19 during the application of powder-based cosmetics.⁵

20 75. Glo Skin Beauty’s instructions for product usage further increases California consumers’
21 exposure to Listed TiO₂. (*See, e.g.*, Glo Skin Beauty, Protecting Powder SPF 20, How to Use,
22 <<https://www.gloskinbeauty.com/protecting-powder>> (“Apply a liberal amount to skin daily and
23 before environmental exposure with the built-in brush. Reapply every 2 hours to maintain
24 protection or as needed.”) (last visited March 21, 2023), *attached as* Exhibit 22).)

25
26 ⁵ *See, e.g.*, Oh, H.-J., Han, T.T., Mainelis, G. (2020), Potential for Inhalation Exposure to
27 Respirable TiO₂ from Eyebrow Powders, *Journal of Exposure Science and Environmental
28 Epidemiology*, <https://doi.org/10.1038/s41370-020-00278-1>.

1 76. Because the titanium dioxide included in the Glo Skin Beauty Products was unbound, of
2 a respirable size, and becomes airborne during application, it constitutes Listed TiO₂.

3 77. Glo Skin Beauty advertises its loose powders as helping consumers *prevent* cancer, and it
4 claims its loose powders are formulated to avoid dangerous ingredients. (*See, e.g.*, Glo Skin
5 Beauty, Protecting Powder SPF 20, <<https://www.gloskinbeauty.com/protecting-powder>>
6 (claiming its products use “skin-loving minerals” and avoids ingredients “linked to health
7 concerns”) (last visited March 21, 2023), *attached as* Exhibit 23.)

8 78. Glo Skin Beauty’s Products contain between 15-24.6% Listed TiO₂, leading to a daily
9 exposure far above what has been shown to cause cancer. For example, one unit of Protecting
10 Powder SPF 20 has a net weight of 4 g (4000 mg), with a titanium dioxide concentration of
11 24.6%. Thus, each unit contains 984 mg of titanium dioxide. Each unit would have to contain an
12 extraordinarily unlikely 22,364-day supply (61.3 years) in order for the daily exposure quantities
13 to be at or below the “No Significant Risk Level” (NSRL) of 0.044 mg/day. (*See also supra at*
14 ¶¶ 42-45, Exhibit 9 (study showing average user applies 240 mg of sunscreen powder per use);
15 Exhibit 10 (same); Exhibit 11 (same).)

16 79. Glo Skin Beauty nevertheless sold, and continues to sell, the Glo Skin Beauty Products in
17 California without warning consumers that they are being exposed to a carcinogen. Glo Skin
18 Beauty’s failure to warn violates Proposition 65 and creates serious health risks for the citizens
19 of California..

20 **IREDALE COSMETICS**

21 80. Defendant Iredale Cosmetics is a supplier of cosmetic materials. The following products
22 have been sold by Iredale Cosmetics to individuals in California for years: its line of “Amazing
23 Base Loose Mineral Powder” (13 products), its line of “Powder-Me SPF 30 Dry Sunscreen” (4
24 products), and its line of “Powder-Me SPF Dry Sunscreen” (4 products) (collectively, the
25 “Iredale Cosmetics Products”). The Iredale Cosmetics Products each contain Listed TiO₂ and
26 expose users to Listed TiO₂ when used as reasonably expected. (*See* Exhibit 24; Exhibit 25.)
27
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1 81. The Iredale Cosmetics Products are powder-based cosmetics intended for application
2 directly to the consumer's face.

3 82. Iredale Cosmetics intentionally adds a significant amount of Listed TiO₂ to each of the
4 Iredale Cosmetics Products, exposing consumers to Listed TiO₂ when the products are used as
5 reasonably expected.

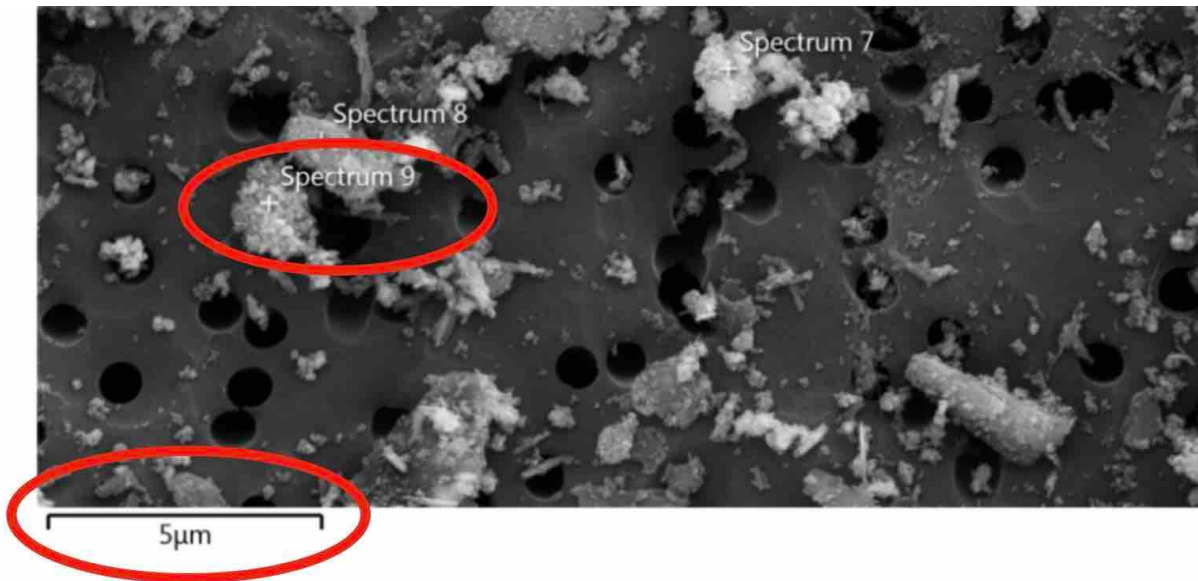
6 83. Titanium dioxide makes up 17% of Iredale Cosmetics' Powder-Me Dry Sunscreen, 17%
7 of Defendant's Powder-Me SPF 30 Dry Sunscreen, and 14% of its Amazing Base Loose Mineral
8 Powder. (*See* Exhibit 24; Exhibit 25.)

9 84. Plaintiff's testing has shown that the titanium dioxide particles in the Products constitute
10 Listed TiO₂.

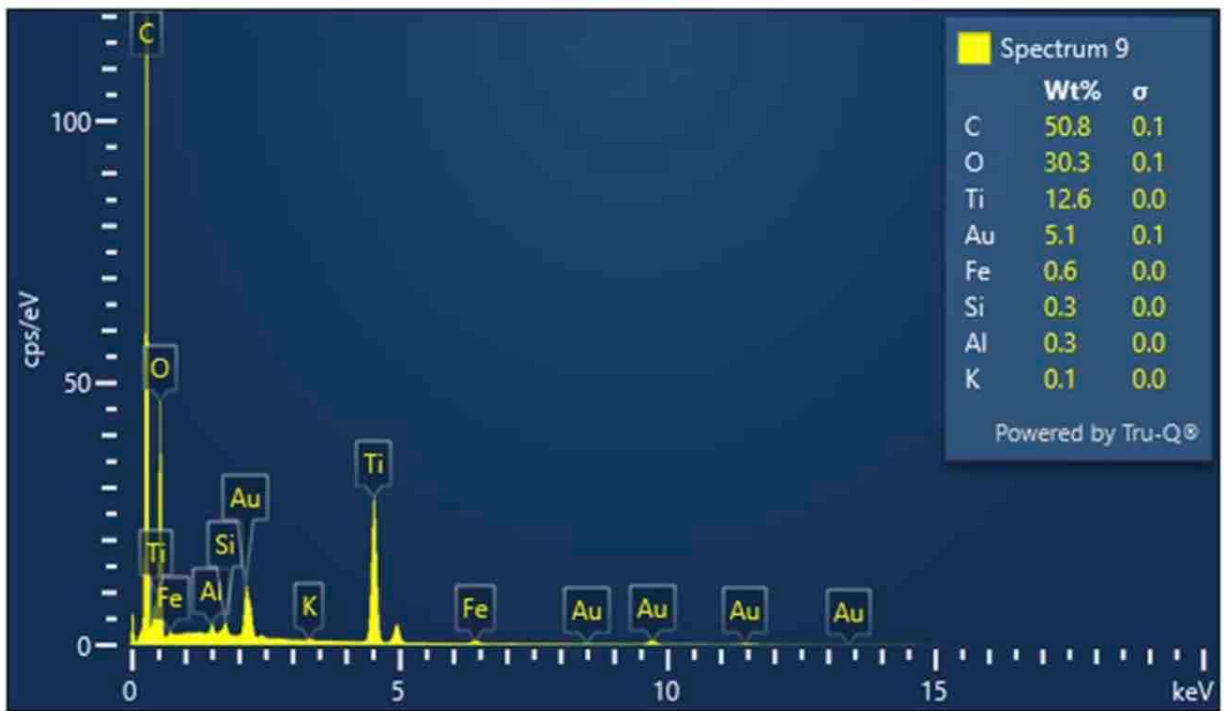
11 85. A sample of one of the Iredale Cosmetics Products was analyzed using a specialized
12 microscope with an Energy Dispersive X-ray Spectroscopy system. (*See* discussion, *supra*.)

13 86. When Iredale Cosmetics' Product was placed on the filter, the area identified as
14 "Spectrum 9" was shown to be composed largely of the blank filter (carbon, oxygen, and gold),
15 and a particle composed largely of titanium and oxygen:

Selected Areas for Analysis



Chemical Composition of Spectrum 9



87. The only ingredient containing titanium in the Iredale Cosmetics Product, according to Iredale Cosmetics' own ingredient list, is titanium dioxide.

1 88. Moreover, the examination found the titanium dioxide particle to have a diameter smaller
2 than 4,000 to 10,000 nanometers, the accepted benchmarks for respirable size. (See encircled
3 areas in image *supra*, Selected Areas for Analysis.)

4 89. Iredale Cosmetics’ website confirms that the titanium dioxide used in its products is of
5 respirable size. (See Jane Iredale, Amazing Base Loose Mineral Powder SPF 20 at 3 (“Made
6 from micronized minerals”), <[https://janeiredale.com/products/amazing-base-loose-mineral-
7 powder](https://janeiredale.com/products/amazing-base-loose-mineral-powder)> (last viewed March 21, 2023), attached as Exhibit 26).)

8 90. Existing, peer-reviewed, research demonstrates that such particles become airborne
9 during the application of powder-based cosmetics.⁶

10 91. Iredale Cosmetics’ instructions for product usage further ensure that its Listed TiO₂
11 becomes airborne. Iredale Cosmetics’ website instructs users to “Turn base of brush to unlocked
12 position – it will click. Shake brush upside down to release product. Apply generously to body,
13 face and scalp for sun protection” (Jane Iredale, Powder-Me SPF 30 Dry Sunscreen,
14 <<https://janeiredale.com/products/powder-me-spf-30-dry-sunscreen>> (last viewed March 21,
15 2023), attached as Exhibit 27.)

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26 ⁶ See, e.g., Oh, H.-J., Han, T.T., Mainelis, G. (2020), Potential for Inhalation Exposure to
27 Respirable TiO₂ from Eyebrow Powders, Journal of Exposure Science and Environmental
28 Epidemiology, <https://doi.org/10.1038/s41370-020-00278-1>.



92. Iredale Cosmetics also includes videos on its website, demonstrating how using the “ultra-soft flow-through brush” as instructed results in visually observable airborne particles. Introducing Powder-Me SPF 30 Dry Sunscreen | Sun protection you will want to use, <<https://www.youtube.com/watch?v=cwAzfgkbZzo>>.



93. Iredale Cosmetics’ loose powders contain 14-17% respirable titanium dioxide, leading to a daily exposure far above what has been shown to cause cancer. (*See supra.*) For example, the Iredale Cosmetics’ Powder-Me SPF 30 Dry Sunscreen, with a net weight of 5 g (5000 mg), and a titanium dioxide concentration of 17%. Thus, each container includes 850 mg of titanium dioxide. Each unit would have to contain an extraordinarily unlikely 19,318-day supply (56 years) in order for the daily exposure quantities to be at or below the “No Significant Risk Level” (NSRL) of 0.044 mg/day. (*See also supra at ¶¶ 42-45, Exhibit 9 (study showing average user applies 240 mg of sunscreen powder per use); Exhibit 10 (same); Exhibit 11 (same).*)

1 94. Because the titanium dioxide included in the Iredale Cosmetics Products was unbound, of
2 a respirable size, and becomes airborne during application, it constitutes Listed TiO₂.

3 95. Iredale Cosmetics nevertheless sold, and continues to sell, the Iredale Cosmetics Products
4 in California without warning consumers that they are being exposed to a carcinogen. Iredale
5 Cosmetics' failure to warn violates Proposition 65 and creates serious health risks for the citizens
6 of California.

7 **V. CAUSE OF ACTION**

8 **Violation of Proposition 65**

9 96. Proposition 65, as codified in the California Health & Safety Code, section 25249.6,
10 states that “[n]o person in the course of doing business shall knowingly and intentionally expose
11 any individual to a chemical known to the state to cause cancer or reproductive toxicity without
12 first giving clear and reasonable warning to such individual.”

13 97. “‘Knowingly’ refers only to knowledge of the fact that a discharge of, release of, or
14 exposure to a chemical listed pursuant to section 25249.8(a) of the Act is occurring. No
15 knowledge that the discharge, release or exposure is unlawful is required.” (Cal. Code Regs., tit.
16 27, § 25102(i).)

17 98. On December 2, 2020, Plaintiff served the required sixty-day notice (“60-Day Notice”) of
18 violation upon the California Attorney General, to the District Attorneys of every county in
19 California, to the City Attorneys of every California city with a population greater than 750,000
20 and to each Defendant. (*See* 60-Day Notice, *attached as* Exhibit 1 (Colorescience), Exhibit 12
21 (BareMinerals), Exhibit 17 (Glo Skin Beauty), Exhibit 24 (Iredale Cosmetics).) In each 60-Day
22 Notice, the notice stated that each Defendant’s sale of the Products caused consumers in the State
23 of California to be exposed to Listed TiO₂ and that each Defendant failed to provide individuals
24 a “clear and reasonable warning” regarding the carcinogenic risks of the Products. Furthermore,
25 the 60-Day Notice was accompanied by the required certificate of merit in full compliance of
26 California Health & Safety Code, section 25249.7(d)(1).

1 99. On January 31, 2022, Plaintiff served a supplemental 60-Day Notice of violation upon
2 the California Attorney General, to the District Attorneys of every county in California, to the
3 City Attorneys of every California city with a population greater than 750,000 and to each
4 Defendant. (*See* 60-Day Supplemental Notice, *attached as* Exhibit 2 (Colorescience), Exhibit 13
5 (BareMinerals), Exhibit 18 (Glo Skin Beauty), Exhibit 25 (Iredale Cosmetics).) The 60-Day
6 Supplemental Notice stated that each Defendant’s sale of the Products caused consumers in the
7 State of California to be exposed to Listed TiO₂ and that each Defendant failed to provide
8 individuals a “clear and reasonable warning” regarding the carcinogenic risks of the Products.
9 Furthermore, the 60-Day Supplemental Notice was accompanied by the required certificate of
10 merit in full compliance of California Health & Safety Code, section 25249.7(d)(1).

11 100. Before sending the notice of alleged violations, Plaintiff investigated the Products, the
12 likelihood that the Products would cause users to suffer significant exposures to Listed TiO₂, and
13 the corporate structure of the Defendants.

14 101. Defendants have offered the Products for sale and usage in violation of California Health
15 & Safety Code, section 25249.6. Defendants’ violations of California Health & Safety Code,
16 section 25249.6 have continued following Defendants’ receipt of Plaintiff’s 60-Day Notice. Such
17 violations are therefore reasonably likely to continue absent injunctive relief from this Court.

18 102. Despite their receipt of the 60-Day Notice and 60-Day Supplemental Notice, the
19 aforementioned public enforcement agencies have not commenced a Proposition 65 cause of
20 action against Defendants.

21 103. The Products offered for sale and use in California by the Defendants contain Listed
22 TiO₂.

23 104. Defendants knew that the Products contain titanium dioxide. Defendants further knew, or
24 should have known, that the titanium dioxide particles in their powder-based products
25 constituted Listed TiO₂.

26 105. Despite this, Defendants did not provide a “clear and reasonable warning” to the
27 consumers of these Products. (*See* Exhibits 1-2, 12-13, 17-18, 24-25.)

1 106. The Defendants' failure to warn users that the Products expose them to a listed
2 carcinogen has subjected residents of California to irreparable and ongoing harm. As a
3 consequence of Defendants' violation of Proposition 65, California Health and Safety Code,
4 section 25249.7(a) authorizes the Court to grant injunctive relief.

5 107. California Health & Safety Code, section 25249.7(b) imposes upon the Defendants a civil
6 penalty of up to \$2,500 per day for each violation of Proposition 65.

7 108. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to the
8 filing of this Complaint. Plaintiff is commencing this action more than sixty (60) days from the
9 date that Plaintiff gave notice of the alleged violations to Defendant, and the public prosecutors
10 referenced *supra*.

1 **PRAYER FOR RELIEF**

2 Plaintiff prays for relief and judgment against each Defendant as follows:

- 3 A. For an order, pursuant to California Health & Safety Code, section 25249.7(a), enjoining
4 each Defendant, their affiliates, successors, transferees, assignees, and the officers, directors,
5 partners, agents, and employees thereof, and all other persons acting or claiming to act on its
6 behalf or in concert with it, from manufacturing, distributing, or offering the Products for sale or
7 use in California without providing warnings of cancer risks;
- 8 B. For civil penalties against each Defendant, pursuant to California Health & Safety Code,
9 section 25249.7(b), in the amount of \$2,500 per day for each violation alleged above;
- 10 C. For an award of attorneys' fees, costs, and expenses as authorized by applicable law; and
- 11 D. For such other and further relief as this Court may deem just and proper.

12 **VI. DEMAND FOR JURY TRIAL**

13 Plaintiff demands a trial by jury on all issues so triable.

14
15 Dated this 22 day of March, 2023. Erickson Kramer Osborne, LLP

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17 _____
18 Kevin Osborne
19 Julie Erickson
20 Elizabeth Kramer
21 Attorneys for Plaintiff Piyush Yadav