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Per local Rule, This case is assigned to
Judge Fannin, Jill C, for all purposes.

SUMMONS ISSUED

Attorneys for Plaintiff
Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

REVOLUTION BEAUTY, INC., a Delaware
corporation; TARGET CORPORATION, a
Minnesota corporation; AMAZON.COM, INC.,
a Delaware corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: C22-01606

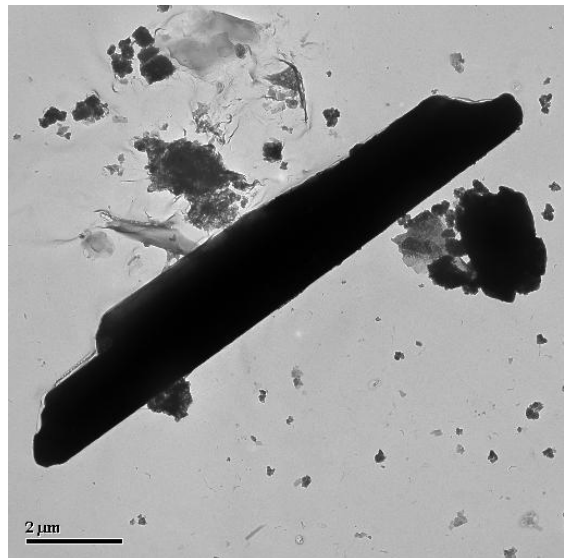
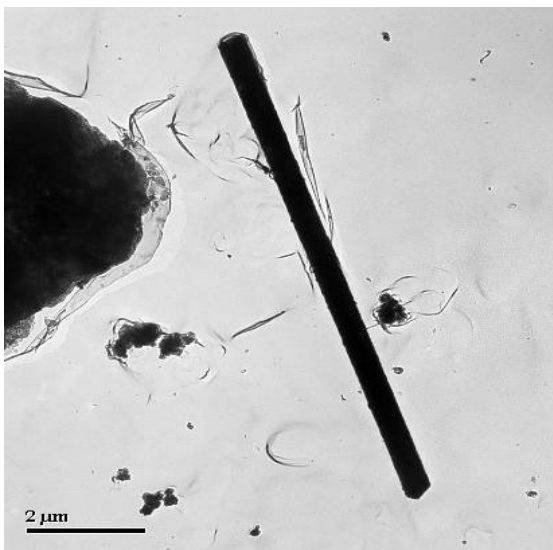
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.

INTRODUCTION

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3 1. This Complaint is a representative action brought by Environmental Health Advocates,
4 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
5 seeks to remedy Defendants’ failure to inform the People of exposure to Titanium Dioxide (airborne,
6 unbound particles of respirable size) (“TiO2”), a known carcinogen. Defendants expose consumers to
7 TiO2 by manufacturing, importing, selling, and/or distributing eyeshadow products including, but not
8 limited to, the Revolution Patricia Bright Shadow Palette (“Products”). Defendants know and intend
9 that customers will use Products containing TiO2. Below are pictures of TiO2 particles found in an
10 exemplar of Defendants’ Products:



20 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California
21 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
22 business shall knowingly and intentionally expose any individual to a chemical known to the state to
23 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
24 individual. . . .” (Health & Safety Code, § 25249.6.)

25 3. California identified and listed Titanium Dioxide (airborne, unbound particles of
26 respirable size) (“TiO2”) as a chemical known to cause cancer as early as September 2, 2011.

27 4. Defendants failed to sufficiently warn consumers and individuals in California about
28 potential exposure to TiO2 in connection with Defendants’ manufacture, import, sale, or distribution of

1 Products. This is a violation of Proposition 65.

2 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
3 in California before exposing them to TiO₂ in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
4 also seeks civil penalties against Defendants for their violations of Proposition 65 along with attorney’s
5 fees and costs. (Health & Safety Code, § 25249.7(b).)

6 **II.**

7 **PARTIES**

8 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
9 corporation in the State of California dedicated to protecting the health of California citizens through
10 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
11 interest pursuant to Health and Safety Code, section 25249.7.

12 7. Defendant REVOLUTION BEAUTY, INC. (“Revolution”) is a corporation organized
13 and existing under the laws of Delaware. Revolution is registered to do business in California, and does
14 business in the County of Contra Costa, within the meaning of Health and Safety Code, section
15 25249.11. Revolution manufactures, imports, sells, or distributes the Products in California and Contra
16 Costa County.

17 8. Defendant TARGET CORPORATION (“Target”) is a corporation organized and
18 existing under the laws of Minnesota. Target is registered to do business in California, and does business
19 in the County of Contra Costa, within the meaning of Health and Safety Code, section 25249.11. Target
20 manufactures, imports, sells, or distributes the Products in California and Contra Costa County.

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

25 10. Plaintiff does not know the true names and/or capacities, whether individual, partners,
26 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
27 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true
28 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and

1 thereon alleges that these defendants are responsible in whole or in part for the remedies and penalties
2 sought herein.

3 **III.**

4 **VENUE AND JURISDICTION**

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

9 12. Venue is proper in Contra Costa County Superior Court pursuant to Code of Civil
10 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
11 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

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

15 **IV.**

16 **CAUSES OF ACTION**

17 **FIRST CAUSE OF ACTION**

18 **(Violation of Proposition 65 – Against all Defendants)**

19 14. Plaintiff incorporates by reference each and every allegation contained above.

20 15. Proposition 65 mandates that citizens be informed about exposures to chemicals that
21 cause cancer, birth defects, and other reproductive harm.

22 16. Defendants manufactured, imported, sold, and/or distributed Products containing TiO₂
23 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such
24 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the
25 future.

26 17. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
27 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
28 to TiO₂ through reasonably foreseeable use of the Products.

1 18. Products expose individuals to TiO₂ through direct inhalation. This exposure is a natural
2 and foreseeable consequence of Defendants placing Products into the stream of commerce. As such,
3 Defendants intend that consumers will use Products, exposing them to TiO₂.

4 19. Defendants knew or should have known that the Products contained TiO₂ and exposed
5 individuals to TiO₂ in the way provided above. The Notice informed Defendants of the presence of
6 TiO₂ in the Products. Likewise, media coverage concerning TiO₂ and related chemicals in consumer
7 products provided constructive notice to Defendants.

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

9 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
10 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
11 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
12 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
13 California of the health hazards associated with exposures to TiO₂ contained in the Products.

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

16 23. Individuals exposed to TiO₂ contained in Products through inhalation resulting from
17 reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. There
18 is no other plain, speedy, or adequate remedy at law.

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

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1 **PRAYER FOR RELIEF**

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

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

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


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

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

10
11 Respectfully submitted:

12 Dated: August 4, 2022

ENTORNO LAW, LLP

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14 By: 
15 _____
16 Noam Glick
17 Craig M. Nicholas
18 Jake W. Schulte

19 Attorneys for Plaintiff
20 Environmental Health Advocates, Inc.