1	ENTORNO LAW, LLP	FLECTRONICALLY FILER
2	Noam Glick (SBN 251582) Craig M. Nicholas (SBN 178444)	ELECTRONICALLY FILED
3	Jake W. Schulte (SBN 293777) Janani Natarajan (SBN 346770)	Superior Court of California, County of Alameda
4	225 Broadway, Suite 1900	03/14/2023 at 02:11:46 PM
5	San Diego, California 92101 Tel: (619) 629-0527	By: Xian-xii Bowie,
	Email: noam@entornolaw.com	Deputy Clerk
6	Email: craig@entornolaw.com	
7	Email: jake@entornolaw.com Email: janani@entornolaw.com	
8		
9	Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES,	INC.
10	SUPERIOR COURT OF	ΓHE STATE OF CALIFORNIA
11		
12	IN AND FOR THE	COUNTY OF ALAMEDA
13	ENVIRONMENTAL HEALTH ADVOCATES, INC.,	Case No.: 23CV029251
14	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF
15	V.	(Health & Safety Code § 25249.6 et seq.)
16	NEW TIGER INTERNATIONAL INC., a New York Corporation; AMAZON.COM, INC., a Delaware corporation; and DOES 1	
17	through 100, inclusive,	
18	Defendants.	
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
_~		

I. INTRODUCTION

- 1. This Complaint is a representative action brought by Environmental Health Advocates, 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 lead, a known carcinogen. Defendants expose consumers to lead by manufacturing, importing, selling, and/or distributing mushrooms including, but not limited to, Mushroom House Dried Porcini Premium Mushrooms ("Products"). Defendants know and intend that customers will ingest Products containing lead.
- 2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. . . ." (Health & Safety Code, § 25249.6.)
- 3. California identified and listed lead as a chemical known to cause cancer as early as October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February 27, 1987.
- 4. Defendants failed to sufficiently warn consumers and individuals in California about potential exposure to lead in connection with Defendants' manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.
- 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers in California before exposing them to lead in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff also seeks civil penalties against Defendants for its violations of Proposition 65 along with attorney's fees and costs. (Health & Safety Code, § 25249.7(b).)

II. PARTIES

6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a 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 NEW TIGER INTERNATIONAL INC. ("New Tiger") is a corporation organized and existing under the laws of New York. New Tiger 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. New Tiger manufactures, imports, sells, or distributes the Products in California and Alameda County.
- 8. Defendant AMAZON.COM, INC. ("Amazon") is a corporation organized and existing under the laws of Delaware. Amazon 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. Amazon 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.

III. <u>VENUE AND JURISDICTION</u>

- 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 has jurisdiction.
- 11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendants conducted and continue to conduct business in this County as it relates to Products.
- 12. New Tiger conducts business in this State through, among other sales channels, third party retailers (i.e. Amazon.com) which are accessible to consumers in this State and allow California consumers to purchase Products directly from New Tiger and/or third party retailers. New Tiger also ships Products to customers in California and derives revenue from its business activities here. New

Tiger's presence in this State is continuous and systematic, and New Tiger has purposefully availed itself of the privilege of conducting business in this state. As a result, Defendants have established sufficient minimum contacts to support the court's exercise of personal jurisdiction over Defendants in this action. 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.
- 15. Defendants manufactured, imported, sold, and/or distributed Products containing lead 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 through reasonably foreseeable use of the Products.
- 17. Products expose individuals to lead 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.
- 18. Defendants knew or should have known that the Products contained lead and exposed individuals to lead in the ways provided above. The Notice informed Defendants of the presence of lead in the Products. Likewise, media coverage concerning lead and related chemicals in consumer products provided constructive notice to Defendants.
 - 19. Defendants' actions in this regard were deliberate and not accidental.
- 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit.

appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	to		
commence and diligently prosecute a cause of action against Defendants. 22. Individuals exposed to lead contained in Products through direct ingestion result from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable had There is no other plain, speedy, or adequate remedy at law. 23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violat of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to the products through direct ingestion result from reasonably direct ingestion result from	to		
22. Individuals exposed to lead contained in Products through direct ingestion result from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable had There is no other plain, speedy, or adequate remedy at law. 23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violat of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to			
from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable have There is no other plain, speedy, or adequate remedy at law. 23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violat of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to the suffered and continue to suffer irreparable have a suffered and continue to s			
There is no other plain, speedy, or adequate remedy at law. 23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violat of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to the section of \$2,500 per day for each violation.	ng		
23. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violate of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to the section 252,500 per day for each violation.	n.		
of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is a appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	There is no other plain, speedy, or adequate remedy at law.		
appropriate pursuant to Health and Safety Code, section 25249.7(a). PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	n		
PRAYER FOR RELIEF Wherefore, Plaintiff prays for judgment against Defendants as follows: Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also		
Wherefore, Plaintiff prays for judgment against Defendants as follows: 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	appropriate pursuant to Health and Safety Code, section 25249.7(a).		
13 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges to	PRAYER FOR RELIEF		
	at		
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;			
3. Reasonable attorney's fees and costs of suit; and			
4. Such other and further relief as may be just and proper.			
Respectfully submitted:			
21 Dated: March 14, 2023 ENTORNO LAW, LLP			
22			
By: Noan Blut			
By: Noam Glick			
Craig M. Nicholas			
Jake W. Schulte			
Janani Natarajan			
Attorneys for Plaintiff Environmental Health Advocates, Inc.			