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County of Alameda

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ENVIRONMENTAL HEALTH ADVOCATES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

LEAFLY HOLDINGS, INC., a Washington
corporation, and DOES 1 through 100,
inclusive,

Defendants.

Case No.: **22CV017058**

**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 Defendant’s failure to inform the People of exposure to the toxic chemicals Cannabis
6 (Marijuana) Smoke (also known as “Marijuana smoke”) and Δ⁹-Tetrahydrocannabinol (also known as
7 “Delta-9-Tetrahydrocannabinol or “THC”), known carcinogens and developmental/reproductive toxins.
8 Defendant exposes consumers to Cannabis (Marijuana) smoke and THC by manufacturing, importing,
9 selling, and/or distributing marijuana and related products, including cannabis flower, edibles, vape
10 pens, concentrates, pre-rolls, hash, rosin, shatters, live resins, crystals, wax, kief, topicals, and other
11 cannabis-related accessories on the website <https://www.leafly.com/> (“Products”). Defendant knows
12 and intends that customers will use Products that are procured on its website which, through reasonably
13 foreseeable use, expose consumers in California to Cannabis (Marijuana) smoke and THC.

14 2. Defendant provides an online platform for consumers in California to procure Products
15 via delivery, direct to consumers’ homes or places of business. Consumers browse Defendant’s website,
16 select the Products they want to purchase, and the Products are then delivered directly to consumers’
17 chosen address. At time of delivery, consumers: (1) show the delivery driver a valid government-issued
18 ID to confirm the consumer is of legal age and is the individual who ordered the Products on Defendant’s
19 website; and (2) pay the delivery driver via cash or debit card, after which time the Products are handed
20 over from the delivery driver to the consumer.

21 3. Given the very nature of the Products, Defendant had actual and constructive notice that
22 Products, through reasonably foreseeable use, expose consumers to listed chemicals including Cannabis
23 (Marijuana) smoke and THC. Moreover, based on information and belief, the suppliers, importers, and
24 manufacturers of Products sold on Defendant’s website provided written notice of the need for an online
25 Proposition 65 warning and Defendant refused to provide such notice, even after receipt of Plaintiff’s
26 Notice of Violation of Proposition 65.

27 4. Defendant partners with local dispensaries throughout California who deliver the
28 Products ordered on Defendant’s website. Per Defendant’s website: “Leafly is the world’s most trusted
destination to discover cannabis products and **order them from legal, licensed retailers**. More than

1 100 million people visit Leafly each year to learn about cannabis and **order online with local**
2 **businesses.**¹ Defendant boasts that “ordering weed is now as easy as ordering pizza. Partner with us
3 [Leafly] to increase your [local California dispensary] current delivery platform’s outreach.”²
4 Defendant acts as the retail seller for each and every transaction where a California consumer procures
5 cannabis products from its website. Defendant is a “retail seller” as defined under Proposition 65. *See*
6 Cal. Code Regs. tit. 27, § 25600.1, subd. (l). Based on information and belief, Defendant receives
7 compensation from local dispensaries for permitting sales of Products on its website, without an online
8 warning, and delivered to consumers in California.

9 5. 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 6. California identified and listed THC as a chemical known to cause
15 developmental/reproductive toxicity on January 3, 2020. California identified and listed Cannabis
16 (Marijuana) smoke as a chemical known to cause cancer on June 19, 2009, and as a chemical known to
17 cause developmental/reproductive toxicity on January 3, 2020.

18 7. As explained above, Defendant failed to sufficiently warn consumers and individuals in
19 California about potential exposure to Cannabis (Marijuana) smoke and THC in connection with
20 Defendant’s manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

21 8. Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in
22 California before exposing them to Cannabis (Marijuana) smoke and THC in Products. (Health &
23 Safety Code, § 25249.7(a).) Plaintiff also seeks civil penalties against Defendant for its violations of
24 Proposition 65 along with attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

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27 ¹ *See* <https://www.leafly.com/news/about>. (Last visited, August 30, 2022).

28 ² *See* <https://success.leafly.com/orders?hsCtaTracking=46cf3e56-58cd-41bb-88bd-411f87ab2127%7C85016d86-921e-4d61-b805-a84eefce88b4>. (Last visited, August 30, 2022).

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II.
PARTIES

9. 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.

10. Defendant LEAFLY HOLDINGS, INC. (“Leafly”) is a corporation organized and existing under the laws of Washington State. Leafly 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. Leafly manufactures, imports, sells, or distributes the Products in California and Alameda County.

11. 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.
VENUE AND JURISDICTION

12. 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.

13. 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. Defendant conducted and continues to conduct business in this County as it relates to Products.

14. Defendant has sufficient minimum contacts in the State of California or otherwise purposefully avails itself of the California market. Exercising jurisdiction over Defendant would be consistent with traditional notions of fair play and substantial justice.

1 **IV.**
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**
4 **(Violation of Proposition 65 – Against Defendant)**

5 15. Plaintiff incorporates by reference each and every allegation contained above.

6 16. Proposition 65 mandates that citizens be informed about exposures to chemicals that
7 cause cancer, birth defects, and other reproductive harm.

8 17. Defendant manufactured, imported, sold, and/or distributed Products that, through
9 reasonably foreseeable use, exposed consumers to Cannabis (Marijuana) smoke and THC in violation
10 of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations
11 have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

12 18. In manufacturing, importing, selling, and/or distributing Products, Defendant failed to
13 provide a clear and reasonable online warning to consumers and individuals in California who may be
14 exposed to Cannabis (Marijuana) smoke and THC through reasonably foreseeable use of the Products.

15 19. Products expose individuals to Cannabis (Marijuana) smoke and THC through ingestion
16 and inhalation by consumers. This exposure is a natural and foreseeable consequence of Defendant
17 allowing Products to be placed into the stream of commerce. As such, Defendant intends that consumers
18 will ingest or inhale Products, exposing them to Cannabis (Marijuana) smoke and THC.

19 20. Defendant knew or should have known that the Products exposed individuals to
20 Cannabis (Marijuana) smoke and THC in the ways provided above. The Notice informed Defendant of
21 the presence of Cannabis (Marijuana) smoke and THC from the Products. Likewise, media coverage
22 concerning Cannabis (Marijuana) smoke and THC and related chemicals in consumer products provided
23 constructive notice to Defendant.

24 21. Given the very nature of the Product, Defendant had actual and constructive knowledge
25 that the Products expose individuals to Cannabis (Marijuana) smoke and THC in the ways provided
26 above. Moreover, based on information and belief, the suppliers, importers, and manufacturers of
27 Products sold on Defendant's website provided written notice of the need for an online warning, and
28 refused to provide such notice even after it received Plaintiff's Notice of Violation of Proposition 65.

29 22. Defendant's actions in this regard were deliberate and not accidental.

