SUPERIOR COURT OF THE STATE OF CALIFORNIA 9 IN AND FOR THE COUNTY OF SAN FRANCISCO CGC-22-602653 10 Case No.:: 11 CMMENTAL HEALTH ADVOCATES, INC., 12 Plaintiff, v. 13 CMMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF 14 Vork corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1 through 100, inclusive, 16 Defendants. 17 Colspan="2">Colspan="2"Cols	1 2 3 4 5 6 7 8	ENTORNO LAW, LLP Noam Glick (SBN 251582) Jake W. Schulte (SBN 293777) Craig M. Nicholas (SBN 178444) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 629-0527 Email: noam@entornolaw.com Email: jake@entornolaw.com Email: craig@entornolaw.com	ELECTRONICALLY FILED Superior Court of California, County of San Francisco 10/28/2022 Clerk of the Court BY: JEFFREY FLORES Deputy Clerk	
In and FOR THE COUNTY OF SAN FRANCISCO CGC-22-602653 ENVIRONMENTAL HEALTH ADVOCATES, INC., a Case No.: Case No.: Complaintiff, Company, and DOES 1 Knowing instead liability company, and DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company, and DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company, and DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company, and DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company, and DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.) Knowing instead liability company ind DOES 1 Health & Safety Code § 25249.6 et seq.)		SUPERIOR COURT OF T	THE STATE OF CALIFORNIA	
11 ENVIRONMENTAL HEALTH ADVOCATES, INC., Case No.: 12 Plaintiff, 13 V. 14 Vork corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1 (Health & Safety Code § 25249.6 et seq.) 15 through 100, inclusive, Defendants. 17		IN AND FOR THE CO	UNTY OF SAN FRANCISCO CGC-22-602653	
12 Plaintiff, 13 V. 14 YORK corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1 15 through 100, inclusive, 16 Defendants. 17 18 19 20 21 22 23 24 25 26 27 28 29 20 21 22 23 24 25 26 27 28 29 21 22 23 24 25 26 27 28 29 29 21 22 23 24 25 26 27 28			Case No.:	
13 ENCHANTE ACCESSORIES INC., a New York corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1 (Health & Safety Code § 25249.6 et seq.) 16 Defendants. 17		Plaintiff,		
14 York corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1 15 through 100, inclusive, 16 Defendants. 17 18 19 20 21 22 23 24 25 26 27	13		(Health & Safety Code § 25249.6 et seq.)	
16 Defendants. 17 18 19 20 21 22 23 24 25 26 27		York corporation, T.J. MAXX OF CA, LLC, a Virginia limited liability company, and DOES 1		
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18 19 20 21 22 23 24 25 26 27		Defendants.		
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INTRODUCTION

I.

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 Titanium Dioxide (airborne, unbound particles of respirable size) ("TiO2"), a known carcinogen. Defendants expose consumers to TiO2 by manufacturing, importing, selling, and/or distributing bronzer and face powder products including, but not limited to, the Ellen Tracey Perfect Sculpt Face Contouring Kits and Livegreen Illuminating Bronzer ("Products"). Defendants know and intend that customers will use Products containing TiO2. Below are pictures of TiO2 particles found in an exemplar of Defendants' Products:

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 Titanium Dioxide (airborne, unbound particles of respirable size) ("TiO2") as a chemical known to cause cancer as early as September 2, 2011.

4. Defendants failed to sufficiently warn consumers and individuals in California about
 potential exposure to TiO2 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 TiO2 in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
also seeks civil penalties against Defendants for their violations of Proposition 65 along with attorney's
fees and costs. (Health & Safety Code, § 25249.7(b).)

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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 ENCHANTE ACCESSORIES INC. ("EAI") is a corporation organized and
existing under the laws of New York. EAI is registered to do business in California, and does business
in the County of San Francisco, within the meaning of Health and Safety Code, section 25249.11. EAI
manufactures, imports, sells, or distributes the Products in California and San Francisco County.

B. Defendant T.J. MAXX OF CA, LLC (T.J. Maxx) is a limited liability company
 organized and existing under the laws of Virginia. T.J. Maxx is registered to do business in California,
 and does business in the County of San Francisco, within the meaning of Health and Safety Code,
 section 25249.11. T.J. Maxx manufactures, imports, sells, or distributes the Products in California and
 San Francisco 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.

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III.

VENUE AND JURISDICTION

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.

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

10 12. Defendants have sufficient minimum contacts in the State of California or otherwise
 purposefully avail themselves of the California market. 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)

17 13. Plaintiff incorporates by reference each and every allegation contained above.
18 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that

19 cause cancer, birth defects, and other reproductive harm.

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

4 COMPLAINT 1 17. Products expose individuals to TiO2 through direct inhalation. This exposure is a natural
 and foreseeable consequence of Defendants placing Products into the stream of commerce. As such,
 Defendants intend that consumers will use Products, exposing them to TiO2.

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

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

9 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.
The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
California of the health hazards associated with exposures to TiO2 contained in the Products.

14 21. The appropriate public enforcement agencies provided with the Notice failed to15 commence and diligently prosecute a cause of action against Defendants.

16 22. 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 23. 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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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

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

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

1	3.	Reasonable attor	mey's fees and cost	s of suit; and
2	4.	Such other and f	urther relief as may	be just and proper.
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4	Respectfully	submitted:		
5	Dated: Octo	ber 28, 2022	ENTORNO	LAW, LLP
6				A SIL
7			By:	Noam Slut
8				Noam Glick Craig M. Nicholas
9				Jake W. Schulte
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11				Attorneys for Plaintiff
12				Environmental Health Advocates, Inc.
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