1 2 3 4 5 6 7	ENTORNO LAW, LLP Noam Glick (SBN 251582) Craig M. Nicholas (SBN 178444) Jake W. Schulte (SBN 293777) Janani Natarajan (SBN 346770) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 629-0527 Email: noam@entornolaw.com Email: craig@entornolaw.com Email: jake@entornolaw.com	<b>ELECTRONICALLY FILED</b> Superior Court of California, County of Alameda <b>01/10/2023 at 10:27:04 AM</b> By: Angela Linhares, Deputy Clerk
8 9 10	Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA	
<ol> <li>11</li> <li>12</li> <li>13</li> <li>14</li> </ol>	ENVIRONMENTAL HEALTH ADVOCATES, INC., Plaintiff, v. CUCINA & AMORE INC., a California	Case No.: 23CV025458 COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF (Health & Safety Code § 25249.6 et seq.)
15 16 17	corporation; AMAZON.COM, INC., a Delaware corporation; and DOES 1 through 100, inclusive, Defendants.	
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## I. **INTRODUCTION**

2 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 4 seeks to remedy Defendants' failure to inform the People of exposure to lead, a known carcinogen. 5 Defendants expose consumers to lead by manufacturing, importing, selling, and/or distributing 6 artichokes including, but not limited to, Cucina & Amore Whole Grilled Marinated Artichoke Hearts 7 ("Products"). Defendants know and intend that customers will ingest Products containing lead.

8 2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California 9 Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing 10 business shall knowingly and intentionally expose any individual to a chemical known to the state to 11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. . . ." (Health & Safety Code, § 25249.6.) 12

13 3. California identified and listed lead as a chemical known to cause cancer as early as 14 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February 15 27, 1987.

16 4. Defendants failed to sufficiently warn consumers and individuals in California about 17 potential exposure to lead in connection with Defendants' manufacture, import, sale, or distribution of 18 Products. This is a violation of Proposition 65.

19 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers 20 in California before exposing them to lead in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff 21 also seeks civil penalties against Defendants for its violations of Proposition 65 along with attorney's 22 fees and costs. (Health & Safety Code, § 25249.7(b).)

## II. PARTIES

25 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a 26 corporation in the State of California dedicated to protecting the health of California citizens through 27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public 28 interest pursuant to Health and Safety Code, section 25249.7.

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7. Defendant CUCINA & AMORE INC. ("Cucina Amore") is a corporation organized and
 existing under the laws of California. Cucina Amore 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.
 Cucina Amore 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.

16 10. At all times mentioned, Defendant was the agent, alter ego, servant, joint venturer, joint 17 employer, or employee for each other. Defendant acted with the consent of the other Co-Defendant and 18 acted within the course, purpose, and scope of their agency, service, or employment. All conduct was 19 ratified by Defendant, and each of them.

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## III. VENUE AND JURISDICTION

11. 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.

26 12. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
27 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
28 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

3 COMPLAINT

1 13. Defendants have sufficient minimum contacts in the State of California or otherwise 2 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would 3 be consistent with traditional notions of fair play and substantial justice. 4 IV. 5 **CAUSES OF ACTION** 6 FIRST CAUSE OF ACTION (Violation of Proposition 65 – Against all Defendants) 7 14. Plaintiff incorporates by reference each and every allegation contained above. 8 15. Proposition 65 mandates that citizens be informed about exposures to chemicals that 9 cause cancer, birth defects, and other reproductive harm. 10 16. Defendants manufactured, imported, sold, and/or distributed Products containing lead 11 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such 12 violations have continued after receipt of the Notice (defined infra) and will continue to occur into the 13 future. 14 17. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to 15 provide a clear and reasonable warning to consumers and individuals in California who may be exposed 16 to lead through reasonably foreseeable use of the Products. 17 18. Products expose individuals to lead through direct ingestion. This exposure is a natural 18 and foreseeable consequence of Defendants placing Products into the stream of commerce. As such, 19 Defendants intend that consumers will ingest Products, exposing them to lead. 20 19. Defendants knew or should have known that the Products contained lead and exposed 21 individuals to lead in the ways provided above. The Notice informed Defendants of the presence of lead 22 in the Products. Likewise, media coverage concerning lead and related chemicals in consumer products 23 provided constructive notice to Defendants. 24 20. Defendants' actions in this regard were deliberate and not accidental. 25 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 26 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff 27 provided the Notice to the various required public enforcement agencies along with a certificate of merit. 28 4

1	The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in		
2	California of the health hazards associated with exposures to lead contained in the Products.		
3	22. The approp	riate public enforcement agencies provided with the Notice failed to	
4	commence and diligently prosecute a cause of action against Defendants.		
5	23. Individuals	Individuals exposed to lead contained in Products through direct ingestion resulting	
6	from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.		
7	There is no other plain, speedy, or adequate remedy at law.		
8	24. Defendants	are liable for a maximum civil penalty of \$2,500 per day for each violation	
9	of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also		
10	appropriate pursuant to Health and Safety Code, section 25249.7(a).		
11	PRAYER FOR RELIEF		
12	Wherefore, Plaintiff prays for judgment against Defendants as follows:		
13	1. Civil penalti	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that	
14	damages total a minimum of \$1,000,000.00;		
15	2. A prelimina	ry and permanent injunction against Defendants from manufacturing,	
16	importing, selling, and/or distributing Products in California without providing a clear and reasonable		
17	warning as required by Proposition 65 and related Regulations;		
18	3. Reasonable	attorney's fees and costs of suit; and	
19	4. Such other and further relief as may be just and proper.		
20	Respectfully submitted:		
21	Dated: January 10, 2023	ENTORNO LAW, LLP	
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23		By: Noan Slich	
24		By: Noam Glick	
25		Craig M. Nicholas	
26		Jake W. Schulte Janani Natarajan	
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28		Attorneys for Plaintiff Environmental Health Advocates, Inc.	
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