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8 Attorneys for Plaintiff
Environmental Health Advocates, Inc.
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF SANTA CRUZ**

12 ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

13 Plaintiff,

14 v.

15 KINGDOM ANIMALIA, LLC, a California
corporation; SEPHORA USA, INC., a
Michigan corporation; and DOES 1 through
16 100, inclusive,

17 Defendants.
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Case No.: 23CV00063

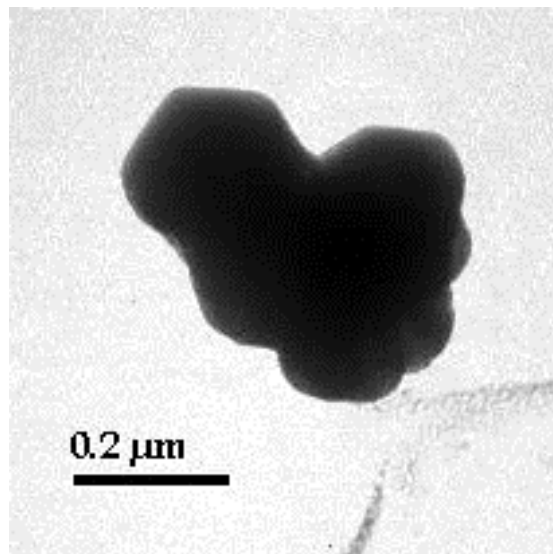
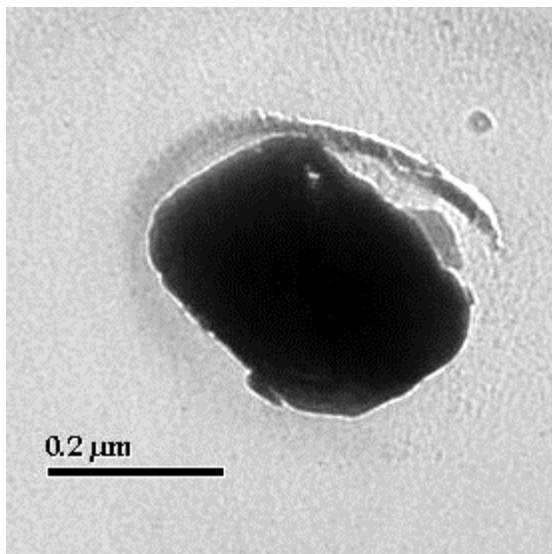
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(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 powdered facial cosmetics products
8 including but not limited to the Hourglass Ambient Lighting Blush Sublime (“Products”). Defendants
9 know and intend that customers will use Products containing TiO2. Below are pictures of TiO2 particles
10 found in an 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.

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

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

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

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

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

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

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

22 24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
23 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
24 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: January 10, 2023

ENTORNO LAW, LLP

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14 By: 
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