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Environmental Health Advocates, Inc.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF ALAMEDA**

11 ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

12 Plaintiff,

13 v.

14 GLO SKIN BEAUTY, a Colorado foreign
limited liability company; and DOES 1 through
15 100, inclusive,

16 Defendants.
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Superior Court of California,
County of Alameda

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Deputy Clerk

Case No.: **23CV026126**

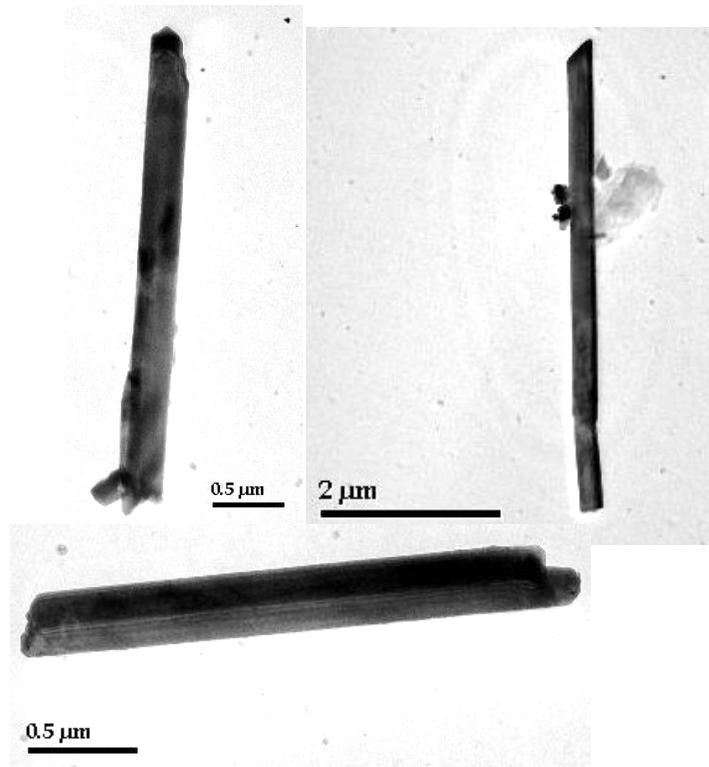
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(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 Titanium Dioxide (airborne,
6 unbound particles of respirable size) (“TiO2”), a known carcinogen. Defendant exposes consumers to
7 TiO2 by manufacturing, importing, selling, and/or distributing powdered face makeup [products
8 including but not limited to the Moonstruck Shadow Palette (“Products”). Defendant knows and intends
9 that customers will use Products containing TiO2. Below are pictures of TiO2 particles found in an
10 exemplar of Defendant’s Products:



23 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California
24 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
25 business shall knowingly and intentionally expose any individual to a chemical known to the state to
26 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
27 individual. . . .” (Health & Safety Code, § 25249.6.)
28

1 16. In manufacturing, importing, selling, and/or distributing Products, Defendant 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 17. Products expose individuals to TiO₂ through direct inhalation. This exposure is a natural
5 and foreseeable consequence of Defendant placing Products into the stream of commerce. As such,
6 Defendant intends that consumers will use Products, exposing them to TiO₂.

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

11 19. Defendant's actions in this regard were deliberate and not accidental.

12 20. 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 Defendant 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 21. The appropriate public enforcement agencies provided with the Notice failed to
18 commence and diligently prosecute a cause of action against Defendant.

19 22. 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 23. Defendant is liable for a maximum civil penalty of \$2,500 per day for each violation of
23 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 Defendant 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 Defendant 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 23, 2023

ENTORNO LAW, LLP

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14 By: 
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18 Janani Natarajan

19 Attorneys for Plaintiff
20 Environmental Health Advocates, Inc.
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