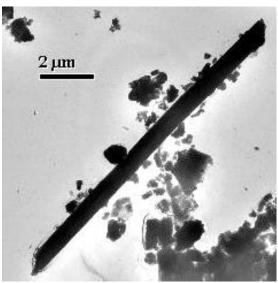
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6	Email: jake@entornolaw.com Email: craig@entornolaw.com	BY: JEFFREY FLORES Deputy Clerk
7	Email: janani@entornolaw.com	CGC-23-604457
8	Attorneys for Plaintiff ENVIRONMENTAL HEALTH ADVOCATES,	INC.
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
10	IN AND FOR THE COU	UNTY OF SAN FRANCISCO
11	ENVIRONMENTAL HEALTH ADVOCATES,	Case No.:
12	INC.,	COMPLAINT FOR CIVIL PENALTIES
13	Plaintiff, v.	AND INJUNCTIVE RELIEF
14	LAWLESS BEAUTY INC., a Delaware	(Health & Safety Code § 25249.6 et seq.)
15	corporation; SEPHORA USA, INC., a Michigan corporation; and DOES 1 through	
	100, inclusive,	
16	Defendants.	
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I.

## **INTRODUCTION**

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 powdered face makeup products including but not limited to the Lawless Mini The Baby One Eyeshadow Palette ("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:

100 nm



- 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.

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- 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).)

## II.

## **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 LAWLESS BEAUTY INC. ("LBI") is a corporation organized and existing under the laws of Delaware. LBI 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. LBI manufactures, imports, sells, or distributes the Products in California and San Francisco County.
- 8. Defendant SEPHORA USA, INC. ("SUI") is a corporation organized and existing under the laws of Michigan. SUI 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. SUI 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.

1	10. At all times mentioned, Defendants were the agents, alter egos, servants, joint venturers	
2	joint employers, or employees for each other. Defendants acted with the consent of the other Co	
3	Defendants and acted within the course, purpose, and scope of their agency, service, or employment	
4	All conduct was ratified by Defendants, and each of them.	
5	III.	
6	<u>VENUE AND JURISDICTION</u>	
7	11. California Constitution Article VI, Section 10 grants the Superior Court origina	
8	jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code	
9	statute upon which this action is based does not give jurisdiction to any other court. As such, this Cour	
10	has jurisdiction.	
11	12. Venue is proper in San Francisco County Superior Court pursuant to Code of Civi	
12	Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this	
13	County. Defendants conducted and continue to conduct business in this County as it relates to Products	
14	13. Defendants have sufficient minimum contacts in the State of California or otherwise	
15	purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would	
16	be consistent with traditional notions of fair play and substantial justice.	
17	IV.	
18	<u>CAUSES OF ACTION</u>	
19	FIRST CAUSE OF ACTION	
20	(Violation of Proposition 65 – Against all Defendants)	
21	14. Plaintiff incorporates by reference each and every allegation contained above.	
22	15. Proposition 65 mandates that citizens be informed about exposures to chemicals that	
23	cause cancer, birth defects, and other reproductive harm.	
24	16. Defendants manufactured, imported, sold, and/or distributed Products containing TiO2	
25	in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes suc	
26	violations have continued after receipt of the Notice (defined infra) and will continue to occur into the	
27	future.	
28	///	

- 17. 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.
- 18. 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.
- 19. 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.
  - 20. Defendants' actions in this regard were deliberate and not accidental.
- 21. 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.
- 22. The appropriate public enforcement agencies provided with the Notice failed to commence and diligently prosecute a cause of action against Defendants.
- 23. Individuals exposed to TiO2 contained in Products through inhalation resulting from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. There is no other plain, speedy, or adequate remedy at law.
- 24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also appropriate pursuant to Health and Safety Code, section 25249.7(a).
- [Rest of page intentionally left blank.]

## 1 PRAYER FOR RELIEF 2 Wherefore, Plaintiff prays for judgment against Defendants as follows: 3 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: February 3, 2023 ENTORNO LAW, LLP 13 14 By: Noam Glick 15 Craig M. Nicholas 16 Jake W. Schulte 17 Janani Natarajan 18 Attorneys for Plaintiff Environmental Health Advocates, Inc. 19 20 21 22 23 24 25 26 27 28