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Superior Court of California,
County of Alameda

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By: Angela Linhares,
Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

13 ENVIRONMENTAL HEALTH ADVOCATES,
14 INC.,

15 Plaintiff,

16 v.

17 LA ROCHE – POSAY LLC, a New York
18 limited liability company; TARGET
19 CORPORATION., a Minnesota company; and
20 DOES 1 through 100, inclusive,

21 Defendants.

Case No.: **23CV029249**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

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2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 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 benzophenone, a known
5 carcinogen. Defendants expose consumers to benzophenone by manufacturing, importing, selling,
6 and/or distributing face moisturizer products including, but not limited to, La Roche Posay Double
7 Repair Face Moisturizer (UV) (“Products”). Defendants know and intend that customers will use
8 Products containing benzophenone.

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

14 3. California identified and listed benzophenone as a chemical known to cause cancer as
15 early as June 22, 2012.

16 4. Defendants failed to sufficiently warn consumers and individuals in California about
17 potential exposure to benzophenone in connection with Defendants’ manufacture, import, sale, or
18 distribution of 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 benzophenone in Products. (Health & Safety Code, §
21 25249.7(a).) Plaintiff also seeks civil penalties against Defendants for their violations of Proposition
22 65 along with attorneys’ fees and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

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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 LA ROCHE – POSAY LLC (“LRP”) is a limited liability company organized and existing under the laws of New York. LRP 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. LRP’s manufactures, imports, sells, or distributes the Products in California and Alameda County.

8. Defendant TARGET CORPORATION (“TC”) is a company organized and existing under the laws of Minnesota. TC 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. TC 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.

10. At all times mentioned, Defendants were the agents, alter egos, servants, joint venturers, joint employers, or employees for each other. Defendants acted with the consent of the other Co-Defendants and acted within the course, purpose, and scope of their agency, service, or employment. All conduct was ratified by Defendants, and each of them.

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.

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

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 benzophenone contained in the Products.

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

5 23. Individuals exposed to benzophenone contained in Products through dermal absorption
6 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer
7 irreparable harm. 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).

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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 \$1,000,000.00;

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.

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11 Respectfully submitted:

12 Dated: March 14, 2023

ENTORNO LAW, LLP

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14
15 By: 
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18 Jake W. Schulte
19 Janani Natarajan

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