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Per local Rule, This case is assigned to
Judge Maier, Clare, for all purposes.

SUMMONS ISSUED

Attorneys for Plaintiff
ENVIRONMENTAL HEALTH ADVOCATES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

TOM FORD INTERNATIONAL LLC, a
Delaware limited liability company;
NORDSTROM, INC., a Washington
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: C23-00574

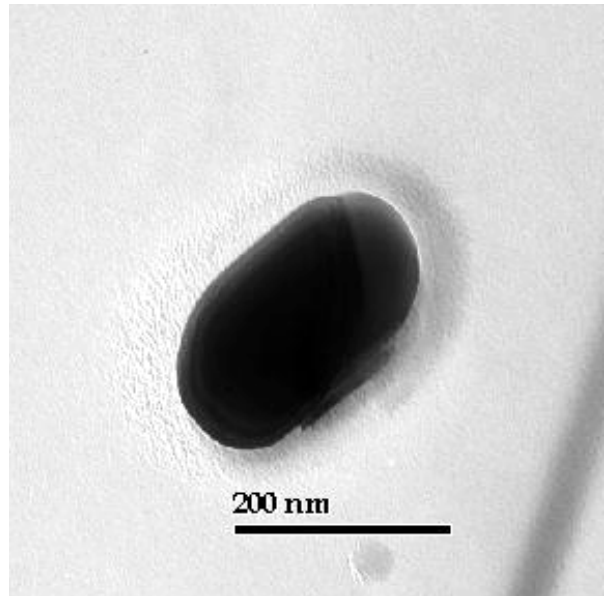
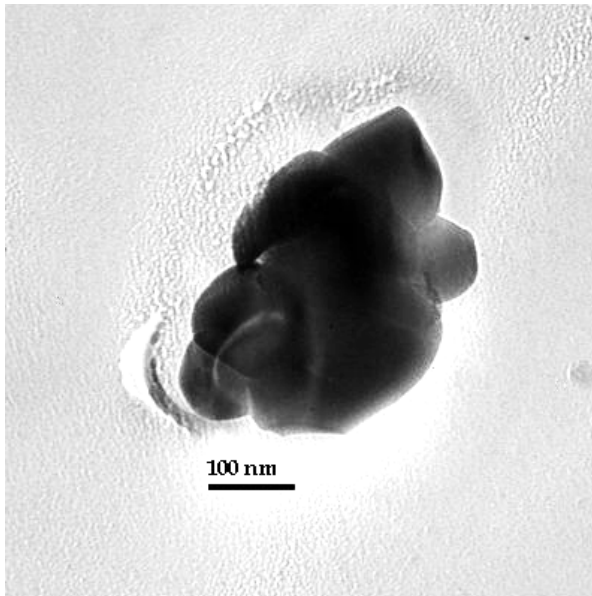
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

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 including but not limited to the Tom Ford Soleil Glow Bronzer – Gold Dust (“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:



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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1 sought herein.

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

6 **III.**

7 **VENUE AND JURISDICTION**

8 11. California Constitution Article VI, Section 10 grants the Superior Court original
9 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code
10 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court
11 has jurisdiction.

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

15 13. Defendants have sufficient minimum contacts in the State of California or otherwise
16 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would
17 be consistent with traditional notions of fair play and substantial justice.

18 **IV.**

19 **CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 **(Violation of Proposition 65 – Against all Defendants)**

22 14. Plaintiff incorporates by reference each and every allegation contained above.

23 15. Proposition 65 mandates that citizens be informed about exposures to chemicals that
24 cause cancer, birth defects, and other reproductive harm.

25 16. Defendants manufactured, imported, sold, and/or distributed Products containing TiO₂
26 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such
27 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the
28 future.

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: March 14, 2023

ENTORNO LAW, LLP

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14 By: 
15 _____
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16 Craig M. Nicholas
17 Jake W. Schulte
18 Janani Natarajan

19 Attorneys for Plaintiff
20 Environmental Health Advocates, Inc.
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