

**ELECTRONICALLY FILED**  
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County of Alameda  
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Deputy Clerk

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF ALAMEDA

13 AS YOU SOW, a 501(c)(3) non-profit  
14 corporation,

15 Plaintiff,

16 v.

17 AMAZON.COM, INC.,

18 Defendant.

Case No. 24CV062074

**COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES AND OTHER  
EQUITABLE RELIEF FOR VIOLATIONS  
OF PROPOSITION 65**

(Health & Saf. Code, § 25249.6 et seq.)

1 1. Plaintiff AS YOU SOW brings this action as a representative in the public interest to  
2 protect the citizens of the State of California from unknowingly exposing themselves to toxic mercury  
3 or mercury compounds added as active ingredients in skin lightening creams marketed, distributed,  
4 and sold to Californians through the website www.amazon.com. This is at least the third time  
5 Amazon.com has been sued for exposing its customers to mercury in skin lightening creams. By this  
6 Complaint, plaintiff AS YOU SOW seeks an order enjoining defendant AMAZON.COM, INC. to  
7 either (1) prevent third parties from selling skin lightening products that contain mercury or mercury  
8 compounds to California consumers on defendant's website www.amazon.com or (2) comply with  
9 Proposition 65's warning requirement by providing a clear and reasonable warning to California  
10 customers prior to their purchase of skin lightening products that contain mercury or mercury  
11 compounds on www.amazon.com. Plaintiff also seeks civil penalties as provided for under  
12 Proposition 65 and other appropriate relief.

13 **Venue And Jurisdiction**

14 2. This Court has jurisdiction over this action pursuant to Health and Safety Code section  
15 25249.7, which allows enforcement of Proposition 65 in any court of competent jurisdiction, and  
16 pursuant to California Constitution, article VI, section 10, because this case does not present a cause  
17 given by statute to other trial courts.

18 3. This court has jurisdiction over defendant because it has sufficient minimum contacts  
19 in the State of California, and/or otherwise purposefully avails itself of the California market.

20 4. Plaintiff has met the statutory requirements for notice to bring this citizen suit  
21 enforcement action under Health and Safety Code section 25249.7 and its implementing regulations.

22 5. Venue is proper in the Superior Court of California, Alameda County, pursuant to  
23 Code of Civil Procedure sections 393 and 395, because this court is a court of competent jurisdiction,  
24 because plaintiff seeks civil penalties against defendant, because one or more instances of wrongful  
25 conduct occurred and continue to occur in Alameda County, and/or because defendant conducted and  
26 continues to conduct business in this county with respect to the consumer products at issue in this  
27 case.

28

**Parties**

1  
2           6.       Plaintiff AS YOU SOW is a 501(c)(3) non-profit corporation dedicated to, among  
3 other causes, the protection of the environment, toxics reduction, the promotion and improvement of  
4 human health, and the improvement of worker and consumer rights. AS YOU SOW has, since 1992,  
5 been one of the leading enforcers of Proposition 65, bringing hundreds of manufacturers and whole  
6 industries into compliance as part of its work to promote corporate accountability, ensure safer  
7 consumer products, and create a sustainable marketplace that does not degrade the planet. AS YOU  
8 SOW brings this action as a private attorney general in the public interest pursuant to Health & Safety  
9 Code section 25249.7, subdivision (d).

10           7.       Defendant AMAZON.COM, INC. is a business entity with ten or more employees  
11 doing business within the scope of Proposition 65. (Health & Saf. Code, § 25249.11.)

**Statutory And Regulatory Background**

12  
13           8.       Overwhelmingly enacted by the voters of California in 1986 as “Proposition 65,” the  
14 Safe Drinking Water and Toxic Enforcement Act “is a remedial statute intended to protect the public.”  
15 (*People ex rel. Lungren v. Superior Court* (1996) 14 Cal. 4th 294, 314.)

16           9.       Proposition 65 declared the People’s right to be “informed about exposures to  
17 chemicals that cause cancer, birth defects, or other reproductive harm.” (Health & Saf. Code Div. 20,  
18 Ch. 6.6 Note, § 1, subd. (b).)

19           10.      Under Proposition 65:

20           No person in the course of doing business shall knowingly and intentionally expose  
21           any individual to a chemical known to the state to cause cancer or reproductive  
22           toxicity without first giving clear and reasonable warning to such individual, except  
23           as provided in section 25249.10.

(Health & Saf. Code, § 25249.6.)

24           11.      A “person in the course of doing business” does not include any person employing  
25 fewer than 10 employees in his or her business; any city, county, or district or any department or  
26 agency thereof or the state or any department or agency thereof or the federal government or any  
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1 department or agency thereof; or any entity in its operation of a public water system as defined in  
2 Section 116275. (Health & Saf. Code, § 25249.11, subd. (b).)

3 12. An exposure to a listed chemical contained in a consumer product “results from a  
4 person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a  
5 consumer good, or any exposure that results from receiving a consumer service.” (27 Cal. Code Regs.,  
6 § 25602 subd. (b).)

7 13. A “knowingly” exposure occurs where the party responsible for such exposure has:  
8 knowledge of the fact that a discharge of, release of, or exposure to a chemical listed  
9 pursuant to Section 25249.8(a) of the Act is occurring. No knowledge that the  
10 discharge, release or exposure is unlawful is required.  
(27 Cal. Code Regs., § 25102, subd. (n).)

11 14. Neither Proposition 65 nor the regulations use the phrase “constructive knowledge” or  
12 language commonly associated with the concept, such as “should know” or “reason to know.”  
13 Similarly, Proposition 65 nor the regulations applicable to this case use the phrase “actual knowledge”  
14 as well. *See Lee v. Amazon, Inc.*, 76 Cal.App.5th 200 (2002). Further, it has been found that there are  
15 circumstances in which constructive knowledge is sufficient to require provision of a warning. (*Id.*)

16 15. According to the Office of Environmental Health Hazard Assessment (OEHHA), a  
17 warning meets the “clear and reasonable” requirements of Proposition 65 only if it includes: (1) a  
18 symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black  
19 outline<sup>1</sup>; (2) the symbol shall be placed to the left of the text of the warning, in a size no smaller than  
20 the height of the word “WARNING”; (3) the word “WARNING:” in all capital letters and bold print;  
21 and (4) the words, “This product can expose you to chemicals including [name of one or more  
22 chemicals], which is [are] known to the State of California to cause [cancer, birth defects or other  
23 reproductive harm or cancer and birth defects or other reproductive harm].” (27 Cal. Code Regs., §  
24 25603, subd. (a).) Where a warning is being provided for an exposure to a single chemical the words  
25 “chemicals including” may be deleted from the warning content. (*Id.*)

26 \_\_\_\_\_  
27 <sup>1</sup> Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black  
and white.



1           23. Defendant owns and operates the Amazon Marketplace, which is located at the website  
2 www.amazon.com.

3           24. The Amazon Marketplace is an online platform that facilitates the sale of products by  
4 third parties to end-users or online customers. In 2022, third party sales accounted for sixty percent—  
5 or over \$260 billion—of the total value of products sold on the Amazon Marketplace worldwide.

6           25. Valued at more than \$950 billion in market capital, defendant is one of the largest  
7 companies in the world with market presence on multiple continents, including Asia, Europe, and the  
8 Americas.

9           26. To sell a product through the Amazon Marketplace, third party sellers must set up an  
10 account on www.amazon.com, so they can create a product description page that lists the products  
11 they sale at www.amazon.com. A product description page is a unique page on the Amazon website  
12 which corresponds to a single product on which there is information about that product and from  
13 which a customer can elect to buy that product and begin the checkout process to buy that product.

14           27. Defendant actively recruits third parties to use the Amazon Marketplace to sell  
15 products to defendant's customers on defendant's website under defendant's banner.

16           28. In the course of operating the Amazon Marketplace, defendant provides some level of  
17 business service for each product sold through its website, including the skin lightening products at  
18 issue in this case.

19           29. In exchange for the following services, defendant earns fixed fees, a percentage of  
20 sales, per-unit activity fees, interest, or some combination thereof from each of the approximately 2.5  
21 million third party sellers utilizing the Amazon Marketplace:

- 22           a) Defendant attracts customers to the Amazon Web site;
- 23           b) Defendant assists third parties with the creation and management of product listings;
- 24           c) Defendant advertises and markets products at www.amazon.com that are sold by third  
25           parties alongside products that defendant is selling as a retailer;
- 26           d) Defendant processes customer payments for third party sales. Defendant—not the third  
27           party seller—appears as the seller on customers' credit card statements;
- 28

- e) Defendant provides warehousing and shipping fulfillment services for third parties;
- f) Through its A-to-Z Money-Back Guarantee, Defendant will reimburse buyers for payments if they are dissatisfied with a product purchased at [www.amazon.com](http://www.amazon.com);
- g) Defendant demands indemnification and fees for each purchase made on the site;
- h) Defendant manages its branded communication platform through which substantially all communication between Defendant's customers and third party sellers must occur.

30. Defendant earns fees for services, even if the products sold were illegal or counterfeit.

31. Defendant has the ability to freeze funds earned by third party sellers on [amazon.com](http://amazon.com) and does so frequently.

32. Defendant has the ability to pass on regulatory penalties to third party sellers on its website, through the terms of its standard form contract.

33. Defendant has a reputation for low prices, fast delivery, and variety—a reputation it shares with the third party sellers it recruits to its site. Defendant's reputation would not be possible without the millions of products made available to Defendant's customers through third-parties at [www.amazon.com](http://www.amazon.com). Indeed, individuals and businesses of all sizes can reach hundreds of millions of customers instantly when they sell their products at [www.amazon.com](http://www.amazon.com) through the Marketplace.

34. Every third party seller has the option to make its products available to customers in multiple countries at one time with a single mouse click. In so doing, Defendant creates value for third party sellers by enabling them to access the Amazon Marketplace, a multi-billion-dollar business asset.

35. Third party sellers would not have the ability to reach Defendant's millions of customers, including those in California, without access to the Amazon Marketplace, and Defendant would not have as many business opportunities or as high profit margins absent its partnership with third party sellers.

36. Defendant does not give customers, or private enforcers, access to the legal name, physical address, or contact information for third party sellers through the Amazon Marketplace.

**B. Exposure to mercury or mercury compounds is reasonably foreseeable.**

1  
2 37. On July 1, 1990, OEHHA identified and listed “mercury and mercury compounds” as  
3 chemicals known to the State of California to cause developmental toxicity, pursuant to Proposition  
4 65. Mercury and mercury compounds became subject to Proposition 65’s “clear and reasonable  
5 warning” requirement one year later on July 1, 1991. (Health & Saf. Code, §§ 25249.8, 25249.10,  
6 subd. (b); 27 Cal. Code Regs., § 27001, subd. (c).)

7 38. Mercury is broadly known to be an intentionally added ingredient in products claiming  
8 skin lightening qualities.

9 39. Mercury is an effective skin lightener because it penetrates deep into the skin where it  
10 interacts with cells known as melanocytes, which produce the pigment known as melanin, a chemical  
11 that darkens the skin. Mercury replaces a critical enzyme in melanocyte cells, which shuts off the  
12 production of melanin and causes the skin to lighten. Mercury is also a well-known, effective anti-  
13 bacterial for the treatment of acne.

14 40. Generally, mercury exists in three forms: elemental mercury, inorganic mercury  
15 compounds, and organic mercury. Mercury is toxic to humans in all forms. The most commonly used  
16 active ingredient in skin lightening creams is inorganic mercury because it can be absorbed into the  
17 cream readily and easily.

18 41. Californians acquire, purchase, store, consume, use, and/or dispose of skin lightening  
19 creams containing mercury from third party sellers who operate product pages at [www.amazon.com](http://www.amazon.com).

20 42. Reasonably foreseeable use of skin lightening creams containing mercury causes those  
21 Californians and their household members to be exposed to mercury and mercury compounds in three  
22 main routes: ingestion, inhalation, or dermal absorption.

23 43. Ingestion occurs post-application as a result of normal hand-to-mouth behavior, such as  
24 eating or preparing food.

25 44. Inhalation occurs when mercury vapor off-gasses from the creams.

26 45. Dermal absorption occurs with each reasonably foreseeable application of a skin  
27 lightening cream to the user’s skin. Skin lightening creams that contain mercury are designed and  
28 specifically marketed for direct contact with skin.



1           46.     Exposure to a cream user’s household members is foreseeable because use of the  
2 product results in contamination of household air and surfaces, and household members come into  
3 direct contact with the skin of the primary user of the cream.

4           47.     Because Californians purchase skin lightening creams containing mercury through the  
5 Amazon Marketplace throughout California, exposures to mercury occur and continue to occur in  
6 residences where the products are used and in locations in which the products are disposed, including  
7 on property not owned or controlled by defendant.

8           48.     Each reasonably foreseeable use of skin lightening creams containing mercury—  
9 whether by ingestion, inhalation, or dermal absorption—results in continuing and ongoing exposure to  
10 mercury or mercury compounds because mercury has a half-life in the body of two months, and of  
11 decades in the brain.

12           49.     Since 1973, the Food and Drug Administration has warned against the use of mercury  
13 in cosmetics, due to ease of exposure and bioaccumulation:

14                   It is well known that mercury compounds are readily absorbed through the unbroken  
15 skin as well as through the lungs by inhalation and by intestinal absorption after  
16 ingestion. Mercury is absorbed from topical application and is accumulated in the  
17 body, giving rise to numerous adverse effects. ... Cosmetic preparations containing  
18 mercury compounds are often applied with regularity and frequency for prolonged  
19 periods. Such chronic use of mercury-containing skin-bleaching preparations has  
20 resulted in the accumulation of mercury in the body and the occurrence of severe  
21 reactions.

22 (21 C.F.R. § 700.13(b).)

23           50.     The California Department of Public Health recommends that when someone has a  
24 skin lightening cream they believe contains mercury, that person should immediately dispose of the  
25 cream at a household hazardous waste facility.

26           **C. Defendant knowingly and intentionally exposed and continues to expose Californians to  
27 skin lightening creams that contain mercury or mercury compounds.**

28           51.     Beginning at least in 2014 and continuing to present, Defendant has permitted third  
parties access to defendant’s online marketplace in order to sell skin lightening, whitening, and

1 “smoothing” creams containing mercury or mercury compounds (“PRODUCTS”), and specifically  
2 including those listed below in Table 1.

3 52. Defendant knows that the PRODUCTS were sold to consumers in California.

4 53. Customers who purchase skin lightening creams from Amazon.com are presumed to  
5 have used them. (*Lee v. Amazon.com, Inc.* (2022) 76 Cal.App.5th 200, 250.)

6 54. Each of the exemplars of the PRODUCTS listed in Table 1 is a multi-use product.

7 55. Defendant has never provided a Proposition 65 warning to any consumer who bought a  
8 PRODUCT, despite the fact that many consumers are still using, and being exposed to mercury  
9 through the use of the PRODUCTS, and defendant’s knowledge of that fact.

10  
11 **Table 1: Noticed Consumer Products**

12 PRODUCTS	Exemplars
13 Aneeza Skin Lightening 14 Cosmetics	Aneeza Gold Beauty Cream (ASIN <sup>2</sup> : B079FY4YZ7)
15 Be Be brand skin lightening 16 and whitening creams 17 (including anti-freckle and 18 blemish creams)	Be Be Special Cream Round-Yellow (Anti-Freckle, Blemish) (ASIN B075J67ZY9)  Be Be Special Cream White – Square (ASIN B0000IU076)  Be Be Special Cream Square – White (Anti Acne, Dark Spot) (ASIN B075J5HXRN)  Be Be Special Cream (ASIN B07VNJLGW1)
20 CCM brand skin lightening 21 and whitening creams 22 (including anti-freckle and 23 blemish creams)	CCM Perfect 365 Special White Cream (ASIN B00T41L3CU)  CCM Anti Freckle & Blemish – Night Cream (ASIN B00P0QXX3A)  CCM Special Cream – Night Cream (ASIN B0000J1KWO)  CCM Q10 Extra Whitening & Blemish Cream w/ Grape Seed 25 Extract & Vitamin B3 (ASIN B00S7M3TI8)

26  
27 <sup>2</sup> An ASIN is an internal stock management number assigned and fully within the control of Amazon.com. An ASIN may  
28 be, but is not necessarily, assigned to one unique product.

1		CCM Anti Acne Cream with Turmeric by CCM (ASIN B00S7MGVBK)
2		CCM Miss Beauty 7 Days White Cream (ASIN B00XBLW2DI)
3		CCM Skin Whitening Cream (ASIN B01KEDHYSS)
4		CCM Perfect 365 Cream (ASIN B07PHSCCDL)
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7	Chandni skin lightening and whitening creams	Chandni Whitening Cream (ASIN B074T57XDV; ASIN B07XH8Y6VL)
8		Chandni Whitening Beauty Pimple Removing Night Cream (ASIN B07L134MRN)
9		Indie Buy 100% Original Chandni Skin Whitening Beauty Cream (ASIN B07T7J6H4Q)
10		Chandni Whitening Cream Remove Acne, Wrinkles, Pimples, Dark Spot, Dark Circles (ASIN B07FCG2TP6)
11		Chandni Whitening Cream Remove Acne, Wrinkles, Pimples, Dark Spot, Dark Circles (ASIN B07Q31ZV4W)
12		Fu Zhi Bao Snow Lotus Pearl Cream Lightening Reduce Dark Spots Freckles Aging Best Product From Thailand (ASIN B00BDM0UMM)
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14		
15		
16		
17	Crema La Milagrosa	Crema La Milagrosa 2 Creams Regenerating, Cleansing Cream, Skin, Blemishes, Spots, Acne, Scars (ASIN B07BR9MH9G)
18		Crema La Milagrosa Original 100% Authentic (ASIN B07GDVMYKD)
19		
20		
21		
22	Dr. Yanhee Skin Lightening Cosmetics	Dr. Yanhee Whitening Cream, Purple for Sensitive Skin (ASIN B0BRK8F4Z2)
23		Dr. Yanhee Cream 5 in Set (UV SPF 50 Night Cream, Cream to reduce dark circles skin, concentrate serum in night, soap nourishes the skin (ASIN B00GYN0A4S)
24		
25		
26	Faiza Skin Lightening Cosmetics	Fair N Pink Faiza Beauty Cream (ASIN B081TBPC35)
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28	Face Fresh Beauty Skin Lightening Cosmetics	Face Fresh Whitening Beauty (ASIN B07FJWW4BM)

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	Face Fresh Beauty Cream (ASIN B07DYPQHH5)
Goree brand skin lightening and whitening creams	<p>Goree Day &amp; Night Whitening Cream (ASIN B074DVQ78J)</p> <p>Goree Day And Night Cream Dark Circles, SPOTS PIMPLES REMOVING 30g x 1 (ASIN B01JGW2Q8Q)</p> <p>Goree Spot Removing Beauty Cream (ASIN B07GXLH65L)</p> <p>Goree 12 Box*30G : 30G, 12Box Day And Night Cream (ASIN B071F5W69M)</p> <p>12 Box*30G : Day And Night Cream 30G (ASIN B07286YNF6)</p> <p>Goree Day &amp; Night Cream with Goree Cream Combo (ASIN B07FCGTW1)</p> <p>Goree Night Whitening Beauty Cream (ASIN B071F5W3QP)</p> <p>Goree Day &amp; Night Whitening Cream Oil Free (ASIN B07148GPQM)</p> <p>Day&amp;Night Whitening Beauty Cream 100% Oil Free No Side Effects (ASIN B071F5W3Q6; ASIN B0725M54SD; ASIN B01M273AF5; ASIN B01MA6DMB2; ASIN B0716V999H; ASIN B0719FRCN8; ASIN B071NY2GXC; ASIN B071VPTMY2; ASIN B071Z51R2S; ASIN B07231CZZB; ASIN B072BRWW74; ASIN B072LJWR95; ASIN B07D2LH77G; ASIN B07H1Y1WWS; ASIN B076NLG25N9)</p> <p>Goree Whitening Cream with Lycopene Avocado and Aloe Vera (ASIN B0725M55ZD)</p> <p>Goree Beauty Cream with Lycopene (ASIN B072BSF92B; ASIN B07BP2RZK6; ASIN B07BZQ8R8S; ASIN B07JLZVQJK; ASIN B07MSJML3B; ASIN B07MVKG287; ASIN B07P5JFH8X; ASIN B07RNH5R54; ASIN B07SF6Z4DF; ASIN B07KQG2V46; ASIN B07F89DCZW)</p> <p>ASIN B076NLG5N9</p>
Jiaoyan brand skin lightening and whitening creams	Jiaoyan Whitening Skin Care Set (ASIN B01MZDMSDJ)

<p>1 KIM brand skin lightening, 2 whitening, and smoothing 3 creams (including anti- 4 wrinkle, anti-acne, anti- 5 freckle and Latinal/Latina 6 creams)</p>	<p>Whitening Ginseng and Pearl Snow Lotus Latinal Smoother Face Cream [USA] (ASIN B00N526M70; ASIN B00CMIZC88; ASIN B07DWTMHQP)</p> <p>KIM Whitening Ginseng Pearl &amp; Snow Lotus Latinal Smoother Face Cream 20g (ASIN B00XW3XA36)</p> <p>KIM Whitening Pearl &amp; Snow Lotus Cream Natural Herbs Reduce wrinkles, freckles 20 g (ASIN B07HY89N3Z)</p> <p>Special Sets: 3 x KIM Whitening Ginseng Pearl &amp; Snow Lotus Latinal Smoother Face Cream 20g (ASIN B00LXPCA4A)</p> <p>Whitening Ginseng Pearl Snow Lotus Latinal Face Cream Anti Wrinkle Acne Freckle 20g (ASIN B00BQGURJG; ASIN B07LGBKDZR; ASIN B07LGC4JVD; ASIN B07HY5T9LT; ASIN B012B3X006; ASIN B07M6R22SW)</p> <p>Whitening Ginseng Pearl Snow Lotus Latinal Face Cream Anti Wrinkle Acne Freckle 20g X 3 (ASIN B00BQH00WY)</p> <p>Whitening Pearl + Aloe + Collagen + Snow Lotus Latinal Smoother Face Cream 20g [USA] (ASIN B00CMJVZ3S)</p> <p>1 x Kim Herbal Whitening Turmeric and Snowlotus Herbal Anti-Wrinkle Cream 20g (ASIN B07GTJ78JJ)</p> <p>KIM Ginseng and Pearl Face Cream: Whitening Ginseng and Pearl Cream (ASIN B01DL2O7H0; ASIN B012B3MAOM)</p> <p>12 Units x KIM Whitening Pearl Collagen Cream Face Smoother Anti-Freckle Wrinkle Pimple 20g (ASIN B012B1GAHW)</p>
<p>20 Natural Face</p>	<p>Natural Face Beauty Cream / Skin Lightening (ASI B0BRTLRLJBP)</p>
<p>22 Nunn Care Skin Lightening 23 Cosmetics</p>	<p>Nunn Care, 1 Ounce (ASIN B096TKM6GX)</p> <p>Authentic Crema Nunn Care Limpiadora Mexican Version (ASIN B07YR5S8K3)</p> <p>Crema Nunn Care (ASIN B07LC7V4MF; ASIN B07GL2JK6F; ASIN B07C1DXTPX)</p> <p>Nunn Care – Crema Limpiadora – Cleansing Cream, 1 Ounce (ASIN B096TQFMP)</p>

1		Facial Cream Crema Limpiadora ASIN B09C1Y5BXQ)
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3		
4	Parley brand whitening creams	Parley No Marks Anti-marks Extracts Whitening (Non English label) (ASIN: B018R7RBZ4)
5		
6	Piel Eternamente Joven	Crema Limpiadora Piel Eternamente Joven Lupita T.T. de Mazatlan Sinaloa (ASIN B09ZVHLT28)
7		
8		Crema Artesanal Piel Eternamente Joven Lupita TT 39 gramos (ASIN B0B8L1MFKM)
9	Polla brand skin lightening and whitening creams (including anti-melasma, acne, and dark spot creams)	Polla Gold Super White Perfect Whitening Cream, Skin Lightening 10g (ASIN B0794BZ5YC)
10		
11		X3 Polla Platinum Facial Night & Day Cream Collagen Whitening Melasma Acne Dark Spot (ASIN B0794FC6C3)
12		
13	Sandal Skin Lightening Cosmetics	Sandal Whitening Beauty (ASIN: B079R5XFT1)

14 56. The PRODUCTS contain mercury or mercury compounds.<sup>3</sup>

15 57. Since 2014 and continuing to present, multiple health and safety agencies across the  
16 globe issued health alerts, announced investigations into, and advised consumers to beware of skin  
17 lightening products, including for the PRODUCTS, because they contain dangerously high levels of  
18 mercury or mercury compounds, including:

- 19 a) **Aneza Skin Lightening Cosmetics:** FDA Warning
- 20 b) **Be Be Skin Lightening Cosmetics:** Minnesota Department of Health; FDA Warning
- 21 c) **Be Be Special Skin Lightening Cosmetics:** Minnesota Department of Health; FDA Warning
- 22 d) **CCM Skin Lightening Cosmetics:** Minnesota Department of Health; FDA Warning
- 23 e) **Chandni Skin Lightening Cosmetics:** California Department of Health Warning; New York  
24 City Public Health Warning; FDA Warning
- 25 f) **Crema La Milagrosa:** California Department of Health Warning

26 <sup>3</sup> The exemplars listed in Table 1 are provided to assist in identification only and are not exhaustive of possible name  
27 variations and Amazon Standard Identification Numbers (ASINs) under which the PRODUCTS are or may be listed at  
28 [www.amazon.com](http://www.amazon.com).

- 1 g) **Face Fresh:** New York City Public Health Warning; FDA Warning
- 2 h) **Faiza Skin Lightening Cosmetics:** European Union Rapex Warning; New York City Public  
3 Health Warning
- 4 i) **Goree Skin Lightening Cosmetics:** California Department of Health Warning; New York  
5 City Public Health Warning
- 6 j) **KIM Skin Lightening Cosmetics:** FDA Warning
- 7 k) **Natural Face:** Minnesota Department of Health
- 8 l) **Nunn Care Skin Lightening Cosmetics:** California Department of Health Warning
- 9 m) **Polla:** Minnesota Department of Health

10 58. Defendant’s Worldwide Product Compliance and Safety Team regularly reviews and  
11 takes action in relation to health alerts, including listings on the European Commission’s Rapid Alert  
12 System.

13 59. According to public health experts, skin whitening cosmetic products likely contain  
14 mercury if (1) the product packaging is in a foreign language and does not contain an ingredient label;  
15 (2) the product is manufactured in Pakistan; (3) the product claims to whiten or bleach the skin. If  
16 these three factors are present, defendant should either prohibit the sale of the product, require a  
17 Proposition 65 warning regarding the mercury content of the product, or test the product to confirm  
18 the presence or absence of mercury in the product line. Defendant has been aware of these factors for  
19 nearly a decade, at least.

20 60. On August 25, 2014, Larry Lee filed a citizen suit enforcement action against  
21 AMAZON, alleging it had violated Proposition 65’s warning requirement by failing to provide a clear  
22 and reasonable warning to California consumers who purchased skin whitening creams that contain  
23 mercury or mercury compounds at [www.amazon.com](http://www.amazon.com). (*Larry Lee v. Amazon.com, Inc.* (Ala. Cty Sup.  
24 Ct. 2014) Case No. RG14-738130 [hereinafter the “Lee Litigation.”]<sup>4</sup>)

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25 <sup>4</sup> Mr. Lee amended his Complaint to narrow the Lee Litigation to skin lightening creams not at issue in this case. The Lee  
26 Litigation is pending, following plaintiff’s win on appeal and remand to the superior court.

1           61.     During the course of discovery phase of the Lee Litigation, Mr. Lee disclosed the  
2 analytical laboratory test results showing high levels of mercury or mercury compounds in skin  
3 lightening products, including tests for some of PRODUCTS.

4           62.     On November 15, 2018, the Mercury Policy Project, along with fifty-one national and  
5 international non-government organizations with missions related to the protection of the environment  
6 and public health, called on defendant's Chief Executive Officer Jeff Bezos to end Amazon's business  
7 practice of providing third parties access to [www.amazon.com](http://www.amazon.com) to sell dangerous skin lightening  
8 creams containing mercury to defendant's millions of unsuspecting customers around the world. In its  
9 letter, the Mercury Policy Project provided test results showing high mercury content of a number of  
10 the products listed in Table 1 and other skin lightening creams, photographs of product packaging,  
11 country of origin information, and representative web addresses for each product's listing page on  
12 [www.amazon.com](http://www.amazon.com) to demonstrate availability on [www.amazon.com](http://www.amazon.com).

13           63.     During the January 2019 trial in the Lee Litigation, Plaintiff presented evidence that  
14 the PRODUCTS contain mercury or mercury compounds and were still available for purchase at  
15 [www.amazon.com](http://www.amazon.com) after defendant knew the PRODUCTS contained mercury.

16           64.     On May 1, 2023, and June 2, 2023, Plaintiff sent sixty-day Notices of Violation  
17 ("NOTICES") to AMAZON listing the PRODUCTS.

18           65.     Since at least 2014, despite its knowledge that skin whitening creams may contain  
19 mercury or mercury compounds, defendant has permitted, and continues to permit, third party sellers  
20 access to the Amazon Marketplace to sell skin lightening creams that it knows contain toxic amounts  
21 of mercury to California consumers.

22           **D. Defendant has exposed Californians to mercury and mercury compounds without**  
23           **providing a clear and reasonable warning to consumers.**

24           66.     Even in the rare circumstance where defendant posts a Proposition 65 warning for  
25 mercury in skin lightening creams at issue in this case, that warning is not prominently displayed on  
26 the product description page and may not be displayed at all to a purchaser prior to completing the  
27 purchase.



1           67.     Even for certain products where defendant has posted a Proposition 65 warning,  
2 defendant’s customers can purchase the skin whitening products containing mercury without ever  
3 seeing the Proposition 65 warning because the warning is buried within the general content of the  
4 website.

5           68.     Defendant has never provided a non-English Proposition 65 warning for the  
6 PRODUCTS, regardless of whether product information is provided in a non-English language.

7           **E. Notices of Violation**

8           69.     True and correct copies of Plaintiff’s sixty-day NOTICES, dated May 1, 2023, and  
9 June 2, 2023, are attached as **Exhibit 1** to this Complaint.

10          70.     In the NOTICES, plaintiff warned AMAZON that, as a result of defendant’s sales of  
11 the PRODUCTS, purchasers and users in the State of California were being exposed to mercury  
12 resulting from consumer’s reasonably foreseeable use, without the individual purchasers and users  
13 first having been provided with a “clear and reasonable warning” regarding such toxic exposures, as  
14 required by Proposition 65.

15          71.     The NOTICES included, *inter alia*, the following information: the name, address, and  
16 telephone number of the noticing individual; the name of the alleged violator; the statute violated; the  
17 approximate time-period during which violations occurred; and descriptions of the violations,  
18 including the chemical involved, the routes of toxic exposure, the type of products causing the  
19 violations (“skin lightening, whitening, and ‘smoothing’ creams containing mercury or mercury  
20 compounds”), and exemplars of the PRODUCTS (identified in Table 1 herein). Defendant and the  
21 California Attorney General were provided copies of the 60-day Notices by mail. Additionally,  
22 Defendant was provided with a copy of a document entitled “The Safe Drinking Water and Toxic  
23 Enforcement Act of 1986 (Proposition 65): A Summary,” which is also known as Appendix A to title  
24 27 of California Code of Regulations section 25093.

25          72.     Then NOTICES included a certificate of merit, executed by plaintiff’s attorney stating  
26 that the person executing the certificate had consulted with one or more persons with relevant and  
27 appropriate experience or expertise who has reviewed the facts, studies, or other data regarding  
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1 exposure to the listed chemical that is the subject of the NOTICES, and that, based on that  
2 information, the person executing the certificate believes there is a reasonable and meritorious case for  
3 this private action. Factual information sufficient to establish the bases of the certificate of merit was  
4 attached to the certificate of merit served on the California Attorney General for each of the  
5 NOTICES.

6 73. No public prosecutor has commenced and is diligently prosecuting an action against  
7 the violations at issue herein, although the notice period provided in Health and Safety Code section  
8 25249.7 has elapsed.

9 74. Amazon.com and plaintiff entered into a tolling agreement, effective July 11, 2023,  
10 which ended on January 29, 2024.

11 **First Cause Of Action**

12 **(Violation of Health & Saf. Code, § 25249.6)**

13 75. Plaintiff realleges and incorporates each and every allegation contained in the  
14 preceding paragraphs as though fully set forth herein.

15 76. Under Proposition 65:

16 No person in the course of doing business shall knowingly and intentionally expose  
17 any individual to a chemical known to the state to cause cancer or reproductive  
18 toxicity without first giving clear and reasonable warning to such individual, except  
as provided in section 25249.10.

19 (Health & Saf. Code, § 25249.6.)

20 77. Mercury and mercury compounds are present in the PRODUCTS in such a way as to  
21 expose individuals in California to mercury and mercury compounds.

22 78. The PRODUCTS were distributed, sold, or offered for sale in California and so require  
23 a “clear and reasonable warning” under Proposition 65.

24 79. Defendant has long had constructive and actual knowledge that the PRODUCTS  
25 contain mercury or mercury compounds.

26 80. Consumers are not provided with a clear and reasonable warning prior to purchase of  
27 the PRODUCTS.





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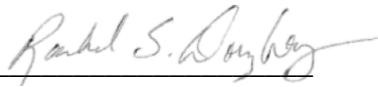
C. Award Plaintiff reasonable attorneys' fees and costs pursuant to Code of Civil Procedure, section 1021.5 and as otherwise appropriate; and

D. Grant such other and further relief as may be just and proper.

Respectfully Submitted,

Dated: January 31, 2024

GREENFIRE LAW, PC

By:   
Rachel Doughty  
Attorney for Plaintiff  
AS YOU SOW

# **Exhibit 1**



RACHEL S. DOUGHTY  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
Phone: (510) 900-9502, ext. 706  
Email: rdoughty@greenfirelaw.com  
www.greenfirelaw.com

May 1, 2023

*By Electronic Mail*

**Amazon.com, Inc.**  
ATTN: Jeff Bezos, CEO  
1200 12<sup>th</sup> Avenue S.  
Suite 1200  
Seattle, WA 98144  
prop-65-claim-notices@amazon.com

**Brett Oberst**  
Doll Amir & Eley LLP  
725 S. Figuereroa Street, Suite 3275  
Los Angeles, CA 90017  
boberst@dollamir.com

*Counsel for Amazon.com, Inc.*

**RE: 60-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) & Demand for Supply Chain Identification**

Dear Mr. Bezos:

This firm represents As You Sow (“Noticing Party”) in connection with this notice of violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code section 25249.5, et seq. (“Proposition 65”). As You Sow is a non-profit organization working to create a safe, just, and sustainable world in which protecting the environment and human rights is central to corporate decision making.

This letter constitutes notice to the addressee that they have violated and continue to violate provisions of Proposition 65 and its implementing regulations. Specifically, the Alleged Violator—Amazon.com, Inc. (“Violator”)—to which this letter is addressed has violated and continues to violate the warning requirement at section 25249.6 of the California Health & Safety Code, which provides, “No 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[.]”

Pursuant to California Health & Safety Code section 25249.7, subdivision (d), the Noticing Party, as defined in that section, intends to bring an enforcement action against the Violator sixty (60) days after effective service of this notice unless the public enforcement agencies listed in the attached Certificate of Service have commenced and are diligently prosecuting an action to rectify these violations. A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under Proposition 65, is enclosed with the copy of this notice served to the Violator. The specific details of the violations that are the subject of this Notice are provided below.

### Description of Violations

The Violator has contravened the warning requirement at section 25249.6 of the California Health and Safety Code, which provides, “[no] 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 a clear and reasonable warning to such individual.” Violators have manufactured, produced, packaged, imported, supplied, distributed, sold or otherwise provided the consumer products containing mercury listed below directly to consumers through the Violator’s website without providing the clear and reasonable warnings required by Proposition 65 and its implementing regulations, dating at least as far back as November 21, 2015, and continuing each day through the present.

- Time Period of Exposure: The violations have been occurring since at least April 18, 2019, and are continuing to this day.
- Provision of Proposition 65 Implicated: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code, section 25249.6, and its implementing regulations.
- Chemical Involved: The listed chemical involved in this notice of violation is mercury and mercury compounds. This chemical is recognized by the State of California as a developmental toxin. Exposure to mercury or mercury compounds occurs through ingestion, inhalation, and dermal absorption when skin-lightening creams, sold on Amazon.com’s website, are applied.
- Types of Products: The specific types of products causing the violations are skin-lightening, whitening, and “smoothing” creams containing mercury or mercury compounds, and specifically those listed below in Table 1.

**Table 1**

Product	Exemplars <sup>1</sup>
Nunn Care Skin Lightening Cosmetics	ASIN: B096TKM6GX, B07YR5S8K3, B07LC7V4MF, B07GL2JK6F, B07C1DXTPX, B096TQFMP, B09C1Y5BXQ
Faiza Skin Lightening Cosmetics	ASIN: B081TBPC35

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<sup>1</sup> The listed exemplars are provided to assist in identification only and are not exhaustive of possible name variations and Amazon Standard Identification Numbers (ASINs) under which the products are or may be listed on Amazon.com.



Aneeza Skin Lightening Cosmetics	ASIN: B079FY4YZ7
Be Be Skin Lightening Cosmetics	ASIN: B071F5W3Q6
Be Be Special Skin Lightening Cosmetics	ASIN: B075J67ZY9, B00O0IU076, B075J5HXRN, B07VNJLGW1
CCM Skin Lightening Cosmetics	ASIN: B00O0J1KWO, B00S7M3TI8, B00S7MGVBK, B00XBLW2DI, B01KEDHYSS, B07PHSCCDL
Chandni Skin Lightening Cosmetics	ASIN: B07L134MRN, B07T7J6H4Q, B07XH8Y6VL, B07FCG2TP6, B07Q31ZV4W
Dr. Yanhee Skin Lightening Cosmetics	ASIN: B0BRK8F4Z2, B00GYN0A4S
Face Fresh Beauty Skin Lightening Cosmetics	ASIN: B07FJWW4BM
Goree Skin Lightening Cosmetics	ASIN: B07148GPQM, B071F5W3Q6, B0725M54SD, B07GXLH65L, B01M273AF5, B01MA6DMB2, B0716V999H, B0719FRCN8, B071NY2GXC, B071VPTMY2, B071Z51R2S, B07231CZZB, B0725M55ZD, B072BRWW74, B072BSF92B, B072LJWR95, B076NLG25N9 B07BP2RZK6, B07BZQ8R8S, B07D2LH77G, B07H1Y1WWS, B07JLZVQJK, B07MSJML3B, B07MVKG287, B07P5JFH8X, B07RNH5R54, B07SF6Z4DF
KIM Skin Lightening Cosmetics	ASIN: B01DL2O7H0, B00CMIZC88, B07LGBKDZR, B07LGC4JVD, B07HY5T9LT, B00LXPCA4A, B012B3MAOM, B00BQH00WY, B012B1GAHW, B012B3X006, B07DWTMHQP, B07HY89N3Z, B07M6R22SW
Parley Skin Lightening Cosmetics (non-English Label)	ASIN: B018R7RBZ4
Glutnone Skin Lightening Cosmetics	ASIN: B07QYJ8DBY
Sandal Skin Lightening Cosmetics	ASIN: B079R5XFT1

- Description of Exposures:** This Notice addresses consumer product exposures to mercury and mercury compounds resulting from the acquisition, purchase, storage, consumption, or reasonably foreseeable use of creams used to lighten, whiten, or “smooth” skin. Mercury is an additive or active ingredient in such creams. Use of the items listed above, as well as other items of the same formula, results in human exposures to mercury. Mercury exposure occurs in three main routes: ingestion, inhalation, or dermal absorption. Ingestion may occur post-application due to insufficient hand washing prior to eating or preparing food. Inhalation may occur due to the significant amount of mercury vapor produced by use of these creams, which can affect all household members. Dermal absorption may occur as these products are designed and specifically marketed for direct contact with skin. These exposures occur in residences throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the developmental toxicity of using these products or specifically of mercury.

Pursuant to California Code of Regulations, title 11, section 3100, a Certificate of Merit is attached.<sup>2</sup>

### **Resolution of Claims Being Noticed**

Based on the allegations set forth in this Notice, the Noticing Party intends to file a citizen enforcement lawsuit against the Violator unless it agrees to remedy the violations set forth above. If the Violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please contact the Noticing Party through its counsel identified below.

### **Preservation of Relevant Evidence**

This Notice also serves as a demand that the Violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to mercury released from or during the storage, shipment, and use of skin lightening creams; purchases and sales information for such products; communications with any person relating to actual or potential exposures to mercury from the use of such products; representative exemplars of each unit of any of the brands listed above in Table 1 sold since July 2017; the content of internet displays for the products causing the violations; and all communications regarding the alleged violations.

### **Parties**

This Notice is provided on behalf of the following person and organization:

As You Sow  
2201 Broadway  
Oakland, CA 94612  
(510) 735-8158

The Noticing Parties can be contacted through counsel as identified below:

Rachel Doughty  
Greenfire Law, PC  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
(510) 900-9502  
rdoughty@greenfirelaw.com

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<sup>2</sup> A second copy of the entire notice and Certificate of Merit is served on the Attorney General, clearly marked “Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040” with all supporting documentation required by Section 3102 attached thereto.

### **Demand for Supply Chain Contacts**

Pursuant to California Code of Regulations title 27, article 6, section 25600.2, subdivision (g) you must promptly provide As You Sow (through its counsel) with the names and contact information for each of the manufacturers, producers, packagers, importers, suppliers, and distributors of each of the products listed above in Table 1.

Sincerely,



Rachel S. Doughty  
Greenfire Law, PC

cc: Attorney General (without Summary and with additional confidential information supporting Certificate of Merit)  
District Attorneys and City Attorneys listed in Certificate of Service (without Summary)

Attachments:

Certificate of Merit

Certificate of Service

*The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary* (“Summary”)

## Certificate of Merit

California Health & Safety Code Section 25249.7, Subdivision (d)

I, Rachel Doughty, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 1, 2023

Greenfire Law, PC

By:



---

Rachel Doughty



RACHEL S. DOUGHTY  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
Phone: (510) 900-9502, ext. 706  
Email: rdoughty@greenfirelaw.com  
www.greenfirelaw.com

June 2, 2023

*By Electronic Mail*

**Amazon.com, Inc.**  
ATTN: Jeff Bezos, CEO  
1200 12<sup>th</sup> Avenue S.  
Suite 1200  
Seattle, WA 98144  
prop-65-claim-notices@amazon.com

**Brett Oberst**  
Doll Amir & Eley LLP  
725 S. Figuereroa Street, Suite 3275  
Los Angeles, CA 90017  
boberst@dollamir.com

*Counsel for Amazon.com, Inc.*

**RE: 60-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) & Demand for Supply Chain Identification**

Dear Mr. Bezos:

This firm represents As You Sow (“Noticing Party”) in connection with this notice of violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code section 25249.5, et seq. (“Proposition 65”). As You Sow is a non-profit organization working to create a safe, just, and sustainable world in which protecting the environment and human rights is central to corporate decision making.

This letter constitutes notice to the addressee that they have violated and continue to violate provisions of Proposition 65 and its implementing regulations. Specifically, the Alleged Violator—Amazon.com, Inc. (“Violator”)—to which this letter is addressed has violated and continues to violate the warning requirement at section 25249.6 of the California Health & Safety Code, which provides, “No 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[.]”

Pursuant to California Health & Safety Code section 25249.7, subdivision (d), the Noticing Party, as defined in that section, intends to bring an enforcement action against the Violator sixty (60) days after effective service of this notice unless the public enforcement agencies listed in the attached Certificate of Service have commenced and are diligently prosecuting an action to rectify these violations. A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under Proposition 65, is enclosed with the copy of this notice served to the Violator. The specific details of the violations that are the subject of this Notice are provided below.

### Description of Violations

The Violator has contravened the warning requirement at section 25249.6 of the California Health and Safety Code, which provides, “[no] 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 a clear and reasonable warning to such individual.” Violators have manufactured, produced, packaged, imported, supplied, distributed, sold or otherwise provided the consumer products containing mercury listed below directly to consumers through the Violator’s website without providing the clear and reasonable warnings required by Proposition 65 and its implementing regulations, dating at least as far back as November 21, 2015, and continuing each day through the present.

- Time Period of Exposure: The violations have been occurring since at least April 18, 2019, and are continuing to this day.
- Provision of Proposition 65 Implicated: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code, section 25249.6, and its implementing regulations.
- Chemical Involved: The listed chemical involved in this notice of violation is mercury and mercury compounds. This chemical is recognized by the State of California as a developmental toxin. Exposure to mercury or mercury compounds occurs through ingestion, inhalation, and dermal absorption when skin-lightening creams, sold on Amazon.com’s website, are applied.
- Types of Products: The specific types of products causing the violations are skin-lightening, whitening, and “smoothing” creams containing mercury or mercury compounds, and specifically those listed below in Table 1.

**Table 1**

<b>Product</b>	<b>Exemplars<sup>1</sup></b>
Goree	ASIN: B076NLG5N9, B07KQG2V46, B07F89DCZW
Face Fresh	ASIN: B07DYPQHH5
Nunn Care	ASIN: B096TQFMP
Chandni	ASIN: B00BDM0UMM

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<sup>1</sup> The listed exemplars are provided to assist in identification only and are not exhaustive of possible name variations and Amazon Standard Identification Numbers (ASINs) under which the products are or may be listed on Amazon.com.

Polla	ASIN: B0794BZ5YC, B0794FC6C3
Crema La Milagrosa	ASIN: B07BR9MH9G, B07GDVMYKD
Piel Eternamente Joven	ASIN: B09ZVHLT28, B0B8L1MFKM
Natural Face	ASIN: B0BRTLRLJBP

- **Description of Exposures:** This Notice addresses consumer product exposures to mercury and mercury compounds resulting from the acquisition, purchase, storage, consumption, or reasonably foreseeable use of creams used to lighten, whiten, or “smooth” skin. Mercury is an additive or active ingredient in such creams. Use of the items listed above, as well as other items of the same formula, results in human exposures to mercury. Mercury exposure occurs in three main routes: ingestion, inhalation, or dermal absorption. Ingestion may occur post-application due to insufficient hand washing prior to eating or preparing food. Inhalation may occur due to the significant amount of mercury vapor produced by use of these creams, which can affect all household members. Dermal absorption may occur as these products are designed and specifically marketed for direct contact with skin. These exposures occur in residences throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the developmental toxicity of using these products or specifically of mercury.

Pursuant to California Code of Regulations, title 11, section 3100, a Certificate of Merit is attached.<sup>2</sup>

### **Resolution of Claims Being Noticed**

Based on the allegations set forth in this Notice, the Noticing Party intends to file a citizen enforcement lawsuit against the Violator unless it agrees to remedy the violations set forth above. If the Violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please contact the Noticing Party through its counsel identified below.

### **Preservation of Relevant Evidence**

This Notice also serves as a demand that the Violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to mercury released from or during the storage, shipment, and use of skin lightening creams; purchases and sales information for such products; communications with any person relating to actual or potential exposures to mercury from the use of such products; representative exemplars of each unit of any of the brands listed above in Table 1 sold since July 2017; the content of internet displays for the products causing the violations; and all communications regarding the alleged violations.

### **Parties**

This Notice is provided on behalf of the following person and organization:

---

<sup>2</sup> A second copy of the entire notice and Certificate of Merit is served on the Attorney General, clearly marked “Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040” with all supporting documentation required by Section 3102 attached thereto.

As You Sow  
2201 Broadway  
Oakland, CA 94612  
(510) 735-8158

The Noticing Parties can be contacted through counsel as identified below:

Rachel Doughty  
Greenfire Law, PC  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
(510) 900-9502  
rdoughty@greenfirelaw.com

### **Demand for Supply Chain Contacts**

Pursuant to California Code of Regulations title 27, article 6, section 25600.2, subdivision (g) you must promptly provide As You Sow (through its counsel) with the names and contact information for each of the manufacturers, producers, packagers, importers, suppliers, and distributors of each of the products listed above in Table 1.

Sincerely,



Rachel S. Doughty  
Greenfire Law, PC

cc: Attorney General (without Summary and with additional confidential information supporting Certificate of Merit)  
District Attorneys and City Attorneys listed in Certificate of Service (without Summary)

Attachments:

Certificate of Merit

Certificate of Service

*The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary* (“Summary”)



## Certificate of Merit

California Health & Safety Code Section 25249.7, Subdivision (d)

I, Rachel Doughty, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 2, 2023

Greenfire Law, PC

By:



---

Rachel Doughty