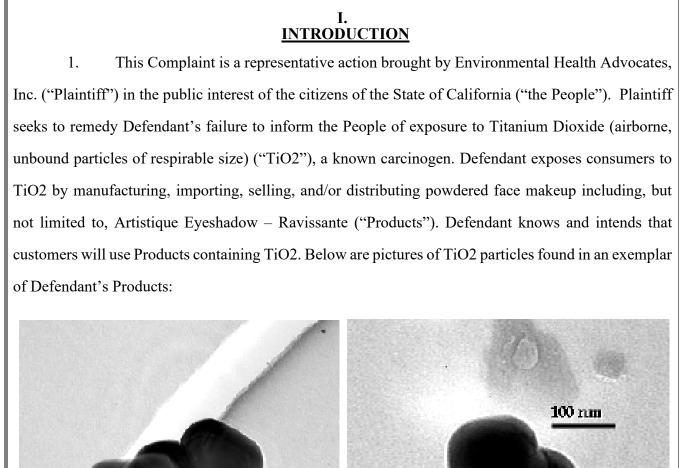
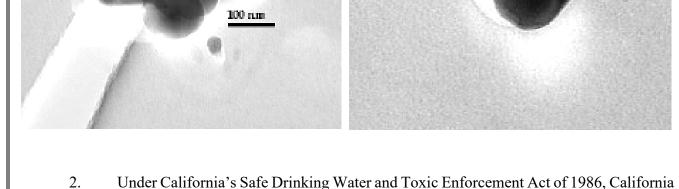
| <ul> <li>Noam Glick (SBN 251582)<br/>Craig M. Nicholas (SBN 178444)<br/>Janani Natarajan (SBN 346770)<br/>Janani Natarajan (SBN 346770)<br/>225 Broadway, Suit 1900</li> <li>225 Broadway, Suit 1900</li> <li>San Diego, California 92101</li> <li>Tet: (619) 629-0527</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>By Magno Eotree,<br/>Deputy Olerk</li> <li>Tet: (619) 629-0527</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jaami@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>INAND FOR THE COUNTY OF ALAMEDA</li> <li>Evolution of the state of CALIFORNIA</li> <li>INC.,</li> <li>ComPLAINT FOR CIVIL PENALTIES</li> <li>ND INJUNCTIVE RELIEF</li> <li>(Health &amp; Safety Code § 25249.6 et seq.)</li> <li>Intervention of the state of CALIFORNIA</li> <li>Email: jake@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Intervention</li> <li>Email: jake@ent</li></ul> | 1  | ENTORNO LAW, LLP                          | ELECTRONICALLY FILED                         |  |  |  |
|--|----|---|--|--|--|--|
| 3       Jake W. Schulte (SBN 293777)<br>Janani Natarajan (SBN 346770)<br>225 Broadway, Suite 1900<br>San Diego, California 92101<br>tel: (619) 629-0527<br>Email: noam@entornolaw.com       11/282/2023 at 04:14.42 PM<br>By: Mlagnos Cone,<br>Deputy Clerk         6       Email: noam@entornolaw.com       Email: jake@entornolaw.com         7       Email: jake@entornolaw.com       Email: jake@entornolaw.com         8       Attorneys for Plaintiff         9       ENVIRONMENTAL HEALTH ADVOCATES,<br>INC.,       Case No.: 23C: ↓ 054 282         10       SUPERIOR COURT OF THE STATE OF CALIFORNIA         11       IN AND FOR THE COUNTY OF ALAMEDA         12       ENVIRONMENTAL HEALTH ADVOCATES,<br>INC.,       Case No.: 23C: ↓ 054 282         13       V.       Plaintiff,<br>V.       Case No.: 23C: ↓ 054 282         14       V.       Defendants.       CompLaint For Civil PENALTIES<br>AND INJUNCTIVE RELIEF         16       Imited Hability company; and DOES 1 through<br>100, inclusive,       Defendants.       Imited Hability company; and DOES 1 through<br>100, inclusive,         21   | 2  |   | · · · · ·                                    |  |  |  |
| 4       225 Broadway, Suite 1900<br>San Diego, California 92101       By Magnes Conte,<br>Deputy Clerk         5       Tet: (619) 629-0527       Email: noam@entornolaw.com         6       Email: raig@entornolaw.com       Email: jale@entornolaw.com         7       Email: jale@entornolaw.com       Email: jale@entornolaw.com         8       Attorneys for Plaintiff         9       Attorneys for Plaintiff         10       SUPERIOR COURT OF THE STATE OF CALIFORNIA         11       IN AND FOR THE COUNTY OF ALAMEDA         12       ENVIRONMENTAL HEALTH ADVOCATES,<br>INC.,         13       V         14       v.         15       SURRATT COSMETICS, LLC, a Delaware<br>limited liability company; and DOES 1 through<br>100, inclusive,       Case No.: 23C:VD54282         16       Defendants.         19  | 3  | Jake W. Schulte (SBN 293777)              |  |  |  |  |
| <ul> <li>Tet: (f) 629-0527</li> <li>Email: noam@entornolaw.com</li> <li>Email: iai@entornolaw.com</li> <li>Email: jai@entornolaw.com</li> <li>Email: jai@entornolaw.com</li> <li>Email: jai@entornolaw.com</li> <li>Attorneys for Plaintiff</li> <li>Environmental Health Advocates, Inc.</li> <li>SUPERIOR COURT OF THE STATE OF CALIFORNIA</li> <li>IN AND FOR THE COUNTY OF ALAMEDA</li> <li>ENVIRONMENTAL HEALTH ADVOCATES, NC.,</li> <li>Plaintiff,</li> <li>V.</li> <li>SURRATT COSMETICS, LLC, a Delaware</li> <li>limited liability company; and DOES 1 through</li> <li>100, inclusive,</li> <li>Defendants.</li> <li>Defendants.</li> <li>Imited liability company: and DOES 1 through</li> <li>Imited liability company: and DOES 1 through</li> <li>Imited liability company and DOES 1 th</li></ul>                         | 4  | 225 Broadway, Suite 1900                  | By: Milagros Cortez,                         |  |  |  |
| <ul> <li>Email: noam@entornolaw.com</li> <li>Email: craig@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Email: jake@entornolaw.com</li> <li>Attorneys for Plaintiff</li> <li>Environmental Health Advocates, Inc.</li> <li>SUPERIOR COURT OF THE STATE OF CALIFORNIA</li> <li>ENVIRONMENTAL HEALTH ADVOCATES, Inc.</li> <li>ENVIRONMENTAL HEALTH ADVOCATES, Inc.</li> <li>SURRATT COSMETICS, LLC, a Delaware</li> <li>Imited liability company; and DOES 1 through</li> <li>Defendants.</li> <li>Defendants.</li> <li>Inc., Inc., Inc.,</li></ul>                          | 5  |   | рериту снегк                                 |  |  |  |
| 7       Email: jake@entornolaw.com         8       Attorneys for Plaintiff         9       Attorneys for Plaintiff         10       SUPERIOR COURT OF THE STATE OF CALIFORNIA         11       IN AND FOR THE COUNTY OF ALAMEDA         12       ENVIRONMENTAL HEALTH ADVOCATES, INC.,         13       Case No.: 23CV 054282         14       v.         15       SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,         16       Defendants.         19  | 6  | Email: noam@entornolaw.com                |  |  |  |  |
| <ul> <li>Attorneys for Plaintiff<br/>Environmental Health Advocates, Inc.</li> <li>SUPERIOR COURT OF THE STATE OF CALIFORNIA</li> <li>IN AND FOR THE COUNTY OF ALAMEDA</li> <li>ENVIRONMENTAL HEALTH ADVOCATES,<br/>INC.,<br/>Plaintiff,</li> <li>V.</li> <li>SURRATT COSMETICS, LLC, a Delaware<br/>limited liability company; and DOES 1 through<br/>100, inclusive,</li> <li>Defendants.</li> <li>Defendants.</li> <li>Image: Strate of the strate of t</li></ul>     | 7  | Email: jake@entornolaw.com                |  |  |  |  |
| <ul> <li><sup>9</sup> Environmental Health Advocates, Inc.</li> <li>10 SUPERIOR COURT OF THE STATE OF CALIFORNIA</li> <li>11 IN AND FOR THE COUNTY OF ALAMEDA</li> <li>12 ENVIRONMENTAL HEALTH ADVOCATES, NC.,</li> <li>Plaintiff,</li> <li>V.</li> <li>SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,</li> <li>Defendants.</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>28</li> <li>29</li> <li>20</li> </ul>   | 8  | Email: janani@entornolaw.com              |  |  |  |  |
| 11       IN AND FOR THE COUNTY OF ALAMEDA         12       ENVIRONMENTAL HEALTH ADVOCATES, INC.,         13       Defendants.         14       v.         15       SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,         17       Defendants.         18       Defendants.         19       Defendants.         100       Defendants.         11       Defendants.         12       Defendants.         13       Defendants.         14       Defendants.         15       Defendants.         16       Defendants.         17       Defendants.         18       Defendants.         19       Defendants.         11       Defendants.         12       Defendants.         13       Defendants.         14       Defendants.         15       Defendants.         16       Defendants.         17       Defendants.         18       Defendants.         19       Defendants.         19       Defendants.         19       Defendants.         10       Defendants.  | 9  |   |  |  |  |  |
| 12       ENVIRONMENTAL HEALTH ADVOCATES, INC.,       Case No.: 23CV054282         13       Plaintiff, v.       Case No.: 23CV054282         14       v.       OMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF         15       SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,       Health & Safety Code § 25249.6 et seq.)         17       Defendants.       Health & Safety Code § 25249.6 et seq.)         18       Image: Superstructure of the seq of th   | 10 | SUPERIOR COURT OF THE STATE OF CALIFORNIA |  |  |  |  |
| <ul> <li>INC.,</li> <li>Plaintiff,</li> <li>V.</li> <li>SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,</li> <li>Defendants.</li> <li>Defendants.</li> <li>100</li> <li>1100</li> <li>1100</li></ul>                              | 11 | IN AND FOR THE COUNTY OF ALAMEDA          |  |  |  |  |
| 13       Plaintiff,         14       v.         15       SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,         17       Defendants.         18  | 12 |   | Case No.: 230V054282                         |  |  |  |
| 14       v.         15       SURRATT COSMETICS, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,       (Health & Safety Code § 25249.6 et seq.)         17       Defendants.         18   | 13 |   |  |  |  |  |
| 15     SURRATT COSMETICS, LLC, a Delaware<br>limited liability company; and DOES 1 through<br>100, inclusive,       17     Defendants.       18  | 14 |   |  |  |  |  |
| 16       100, inclusive,       100, inclusive,         17       Defendants.         18       100, inclusive,         19       100, inclusive,         20       100, inclusive,         21       100, inclusive,         22       100, inclusive,         23       100, inclusive,         24       100, inclusive,         25       100, inclusive,         26       100, inclusive,         27       100, inclusive,  | 15 |   | (fileantin & Ballety Code § 2524).0 et seq.) |  |  |  |
| 18       19       20       21       22       23       24       25       26       27  | 16 |   |  |  |  |  |
| 19         20         21         22         23         24         25         26         27   | 17 | Defendants.                               |  |  |  |  |
| 20         21         22         23         24         25         26         27  | 18 |   |  |  |  |  |
| 21         22         23         24         25         26         27   | 19 |   |  |  |  |  |
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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.)

73.California identified and listed Titanium Dioxide (airborne, unbound particles of<br/>respirable size) ("TiO2") as a chemical known to cause cancer as early as September 2, 2011.

4. Defendant failed to sufficiently warn consumers and individuals in California about
 potential exposure to TiO2 in connection with Defendant's manufacture, import, sale, or distribution of
 Products. This is a violation of Proposition 65.

5. Plaintiff seeks injunctive relief compelling Defendant 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 Defendant for violations of Proposition 65 along with attorney's fees
and costs. (Health & Safety Code, § 25249.7(b).)

II. PARTIES

9 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a
10 corporation in the State of California dedicated to protecting the health of California citizens through
11 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
12 interest pursuant to Health and Safety Code, section 25249.7.

7. Defendant Surratt Cosmetics, LLC ("Surratt, LLC") is a limited liability company
organized and existing under the laws of Delaware. Surratt, LLC 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. Surratt, LLC manufactures, imports, sells, or distributes the Products in California
and Alameda County.

8. 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.

9. 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 CoDefendants and acted within the course, purpose, and scope of their agency, service, or employment.
All conduct was ratified by Defendants, and each of them.

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## III. <u>VENUE AND JURISDICTION</u>

10. 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.

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

10 12. Defendant has sufficient minimum contacts in the State of California or otherwise
 purposefully avail themselves of the California market. Exercising jurisdiction over Defendant would
 be consistent with traditional notions of fair play and substantial justice.

## IV. CAUSES OF ACTION

## FIRST CAUSE OF ACTION

## (Violation of Proposition 65 – Against all Defendants)

Plaintiff incorporates by reference each and every allegation contained above.

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

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

16. In manufacturing, importing, selling, and/or distributing Products, Defendant 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.

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1 17. Products expose individuals to TiO2 through direct inhalation. This exposure is a natural
 and foreseeable consequence of Defendant placing Products into the stream of commerce. As such,
 3 Defendant intends that consumers will use Products, exposing them to TiO2.

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

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

9 20. 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 Defendant violated Proposition 65 by failing to sufficiently warn consumers in
California of the health hazards associated with exposures to TiO2 contained in the Products.

14 21. The appropriate public enforcement agencies provided with the Notice failed to15 commence and diligently prosecute a cause of action against Defendant.

16 22. Individuals exposed to TiO2 contained in Products through direct inhalation resulting
17 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.
18 There is no other plain, speedy, or adequate remedy at law.

19 23. Defendant is liable for a maximum civil penalty of \$2,500 per day for each violation of
20 Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
21 appropriate pursuant to Health and Safety Code, section 25249.7(a).

22 [Rest of page intentionally left blank.]

| 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 m   | ninimum of \$1,000,000; |        |   |  |
| 5  | 2. A  | preliminary and perman  | ent in | unction 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 sub  | mitted:                 |        |   |  |
| 12 | Dated: Novembe  | er 28, 2023             |        | ENTORNO LAW, LLP  |  |
| 13 |   |                         |        | Noon Slich  |  |
| 14 |   |                         | By:    | Noam Glick  |  |
| 15 |   |                         |        | Craig M. Nicholas   |  |
| 16 |   |                         |        | Jake W. Schulte   |  |
| 17 |   |                         |        | Janani Natarajan  |  |
| 18 |   |                         |        | Attorneys for Plaintiff<br>Environmental Health Advocates, Inc. |  |
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