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14 Environmental Health Advocates, Inc.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

17 ENVIRONMENTAL HEALTH ADVOCATES,
18 INC.,

19 Plaintiff,

20 v.

21 SINCERE ORIENT COMMERCIAL
22 CORPORATION DBA SAKURA NOODLE, a
23 California corporation; H MART, INC., a
24 Delaware corporation; and DOES 1 through
25 100, inclusive,

26 Defendants.

Case No.: **24CV070881**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

ELECTRONICALLY FILED

Superior Court of California,

County of Alameda

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By: Milagros Cortez,
Deputy Clerk

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 cadmium, a known carcinogen
5 and developmental/reproductive toxin. Defendants expose consumers to cadmium by manufacturing,
6 importing, selling, and/or distributing noodles including, but not limited to, Udon Mushroom Flavor
7 (“Products”). Defendants know and intend that customers will ingest Products containing cadmium.

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

13 3. California identified and listed cadmium as a chemical known to cause cancer as early
14 as October 1, 1987, and as a chemical known to cause developmental/reproductive toxicity as early as
15 May 1, 1997.

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

II.
PARTIES

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

28 ///

1 7. Defendant SINCERE ORIENT COMMERCIAL CORPORATION DBA SAKURA
2 NOODLE ("Sakura Noodle") is a corporation organized and existing under the laws of California.
3 Sakura Noodle is registered to do business in California, and does business in the County of Alameda,
4 within the meaning of Health and Safety Code, section 25249.11. Sakura Noodle manufactures, imports,
5 sells, or distributes the Products in California and Alameda County.

6 8. Defendant H MART, INC. ("H Mart") is a corporation organized and existing under the
7 laws of Delaware. H Mart is registered to do business in California, and does business in the County of
8 Alameda, within the meaning of Health and Safety Code, section 25249.11. H Mart manufactures,
9 imports, sells, or distributes the Products in California and Alameda County.

10 9. Plaintiff does not know the true names and/or capacities, whether individual, partners,
11 or corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
12 said Defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true
13 names and capacities of these Defendants have been ascertained. Plaintiff is informed and believes and
14 thereon alleges that these Defendants are responsible in whole or in part for the remedies and penalties
15 sought herein.

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

20 **III.**
21 **VENUE AND JURISDICTION**

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

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

1 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
2 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff
3 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
4 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
5 California of the health hazards associated with exposures to cadmium contained in the Products.

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

8 23. Individuals exposed to cadmium contained in Products through direct ingestion
9 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer
10 irreparable harm. There is no other plain, speedy, or adequate remedy at law.

11 24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
12 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
13 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: April 8, 2024

ENTORNO LAW, LLP

13
14 By: 
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