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Attorneys for Plaintiff
MONARCH, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MONARCH, LLC,

Plaintiff,

vs.

PAPARAZZI, LLC dba PAPARAZZI
ACCESSORIES and DOES 1 through
100, Inclusive,

Defendants.

) Unlimited Jurisdiction

)

) CASE NO. **24STCV23164**

)

) **COMPLAINT FOR CIVIL PENALTY
AND INJUNCTIVE RELIEF**

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) (Health & Safety Code § 25249.5 et seq.)

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1 Plaintiff, MONARCH, LLC, hereby alleges:
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3 **I. PRELIMINARY STATEMENT**

4 1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure
5 to cadmium, a chemical known to the State of California to cause developmental and reproductive
6 toxicity.

7 2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety
8 Code § 25249.6 (“Proposition 65”) businesses must provide persons with a “clear and reasonable
9 warning” before exposing individuals to chemicals known to the state to cause cancer, birth defects or
10 other reproductive harm.

11 **II. PARTIES**

12 3. Plaintiff, Mothers Oversight Network for Actionable Contaminant Harm, LLC
13 (FKA MONARCH Action) (“MONARCH”), is a limited liability company formed pursuant to the
14 laws of the State of California, made up of a California citizen, represented by and through its counsel of
15 record, the Greenbaum Law Firm. PLAINTIFF sues herein as MONARCH, LLC, whose name is
16 incorporated in its name under the articles of incorporation, as stated above.

17 4. Health and Safety Code § 25249.7(d) provides that actions to enforce Proposition 65
18 may be brought by “any person in the public interest.”

19 5. Defendant Paparazzi, LLC d/b/a Paparazzi Accessories is a business entity with ten or
20 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,
21 distribution, or sale of ring products manufactured by or for Defendant, imported by or for Defendant,
22 or distributed or sold by or for Defendant, including but not limited to, Treasury Fund White Ring
23 (P4RE-WTXX-280XX) that contains Cadmium, for sale within the State of California, without first
24 giving clear and reasonable warning.

25 6. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,
26 Plaintiff suspects they are business entities with at least ten or more employees that at all times relevant
27 to this complaint, authorized the manufacture, distribution, or sale of ring products manufactured by or
28 for Defendant, imported by or for Defendant, or distributed or sold by or for Defendant, including but

1 not limited to, Treasury Fund White Ring (P4RE – WTX - 280XX), that contains Cadmium, for sale
2 within the State of California, without first giving clear and reasonable warning.

3 7. Defendants named in paragraphs 5 through 6 have at all times relevant to this complaint,
4 authorized the manufacture, distribution, or sale of ring products manufactured by or for Defendant,
5 imported by or for Defendant, or distributed or sold by or for Defendant, including, but not limited to,
6 Treasury Fund White Ring (P4RE – WTX - 280XX), that contains Cadmium, for sale within the State
7 of California, without first giving clear and reasonable warning.

8 **III. ALTER EGO ALLEGATIONS**

9 8. At all relevant times, as alleged more fully herein, each Defendant acted as an agent,
10 servant, employee, co-conspirator, alter-ego, and/or joint venturer of the other Defendants, and in doing
11 the things alleged herein acted within the course and scope of such agency, employment, alter-ego
12 and/or in furtherance of the joint venture.

13 9. Each of the Defendant’s acts alleged herein was done with the permission and consent
14 of each of the other Defendants.

15 **IV. JURISDICTION AND VENUE**

16 10. This Court has jurisdiction pursuant to California Constitution Article VI, section 10,
17 because this case is a cause not given by statute to other trial courts.

18 11. This Court has jurisdiction over Defendants, because they are business entities that do
19 sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail
20 themselves of the California market, through the sale, marketing, and use of its products in California,
21 to render the exercise of jurisdiction over it by the California courts consistent with traditional notions
22 of fair play and substantial justice.

23 12. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles
24 County because Defendant’s products are sold and consumed in this county.

25 **V. STATUTORY BACKGROUND**

26 13. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
27 passed as “Proposition 65” by a vote of the people in November of 1986.

1 14. The warning requirement of Proposition 65 is contained in Health & Safety Code §
2 25249.6, which provides:

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

7 15. An exposure to a chemical in a consumer product is one “which results from a person’s
8 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good,
9 or any exposure that results from receiving a consumer service.” (27 CCR 25602(b))

10 16. Proposition 65 establishes a procedure by which the State develops a list of chemicals
11 “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code § 25249.8.)

12 17. No warning need be given concerning a listed chemical until one year after the chemical
13 first appears on the list. (Health & Safety Code § 25249.10(b).)

14 18. Any person “violating or threatening to violate” the statute may be enjoined in any court
15 of competent jurisdiction. (Health & Safety Code § 25249.7.)

16 19. To “threaten to violate” is defined to mean “to create a condition in which there is a
17 substantial probability that a violation will occur.” (Health & Safety Code § 25249.11(e).)

18 20. In addition, violators are liable for civil penalties of up to \$2,500 per day for each
19 violation, recoverable in a civil action. (Health & Safety Code § 25249.7 (b).)

20 21. Actions to enforce the law “may be brought by the Attorney General in the name of the
21 People of the State of California [or] by any district attorney [or] by any City Attorney of a City having
22 a population in excess of 750,000 . . .” (Health & Safety Code § 25249.7(c).)

23 22. Private parties are given authority to enforce Proposition 65 “in the public interest,” but
24 only if the private party first provides written notice of a violation to the alleged violator, the Attorney
25 General, and every District Attorney in whose jurisdiction the alleged violation occurs.

26 23. If no public prosecutors commence enforcement within sixty days, then the private party
27 may sue. (Health & Safety Code § 25249.7(d).)

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VI. FACTS

24. Cadmium was placed on the Governor’s list of chemicals known to the State to cause developmental and reproductive toxicity on May 1, 1997. (27 CCR 27001(b))

25. Defendant Paparazzi, LLC d/b/a Paparazzi Accessories (“Paparazzi”) owns, controls, facilitates, manages, and operates Paparazzi Accessories which sells the Treasury Fund white ring (P4RE – WTX – 280XX) through its “Consultants.”

26. The Treasury Fund white ring (P4RE – WTX – 280XX), which contains Cadmium, is hereinafter referred to as “PRODUCT.”

27. Paparazzi is a multi-level marketing operation; it sells its products to “Consultants” who then independently market and sell the PRODUCT.

28. On or about September 12, 2023, Plaintiff purchased the PRODUCT from Defendant’s online Paparazzi “Consultant.”

29. Neither the PRODUCT’S online listing, the PRODUCT’S packaging, nor the PRODUCT itself contained or presented a Proposition 65 warning label.

30. On or about January 22, 2024, Plaintiff’s expert prepared a report summarizing the results of analysis of the PRODUCT, including the amount of Cadmium to which a typical user of the PRODUCT would be exposed.

31. Based on these levels, Plaintiff’s expert opined the PRODUCT would lead to consumer exposure to Cadmium above the Safe Harbor levels set by the Office of Environment Health Hazard Assessment (OEHHA).

32. Based on that report and opinion, and lack of statutorily required warning language on the PRODUCT, Plaintiff prepared a Sixty Notice of Violation.

33. Pursuant to the statute and regulations referenced above, on February 7, 2024, Plaintiff served a copy of the Notice of Violation on the California Office of the Attorney General, Defendant, and all requisite public agencies.

34. Plaintiff is unaware of any governmental prosecution against Defendant.

35. At least sixty (60) days have elapsed since MONARCH served the Notice of Violation.

1 36. Based upon consultation with experts, Plaintiff alleges that individuals who purchase,
2 handle, or use the PRODUCT are exposed to Cadmium chiefly through:

- 3 a. contact between the item and the skin;
- 4 b. transfer of Cadmium from the skin to the mouth, both by transfer of Cadmium
5 directly from the hand to mouth, and indirectly by transfer of cadmium from the skin to objects
6 that are placed in the mouth, such as food; and/or
- 7 c. absorption of Cadmium through the skin.

8 37. Such individuals are thereby exposed to Cadmium present on or in the PRODUCT
9 during the intended and reasonably foreseeable use of the PRODUCT.

10 38. At all times material to this complaint, Defendant had knowledge the PRODUCT
11 contains Cadmium and that an individual's skin may contact Cadmium through the intended and
12 reasonably foreseeable use of the PRODUCT.

13 39. At all times material to this complaint, Defendant had knowledge that individuals within
14 the State of California handle the PRODUCT, which contains Cadmium.

15 40. At all times material to this complaint, Defendant knew the PRODUCT was sold
16 throughout the State of California.

17 41. At all times material to this complaint, Defendant profited from such sales.

18 42. Notwithstanding this knowledge, Defendant intentionally authorized and reauthorized
19 the sale of the PRODUCT, thereby exposing consumers to Cadmium.

20 43. At all times material to this complaint, Defendant knowingly and intentionally exposed
21 individuals within the State of California to Cadmium.

22 44. The exposure is knowing and intentional because it results from the Defendant's
23 deliberate act of authorizing the sale of products known to contain Cadmium, in a manner whereby
24 these products were, and would inevitably be, sold to consumers within the State of California, and
25 with the knowledge the intended use of this PRODUCT would result in exposures to Cadmium by
26 individuals within the State of California.

27 45. Defendants have failed to provide clear and reasonable warnings that the use of the
28 PRODUCT in question in California results in exposure to a chemical known to the State of California

1 to cause cancer, birth defects, and other reproductive harm, and no such warning was provided to those
2 individuals by any other person.

3 **VII. FIRST CAUSE OF ACTION**

4 **(Plaintiff Against All Defendants for Violation of Proposition 65)**

5 46. Plaintiff incorporates and re-alleges by reference all the foregoing paragraphs as if fully
6 set forth herein.

7 47. By committing the acts alleged above, Defendants have, in the course of doing business,
8 knowingly and intentionally exposed individuals in California to chemicals known to the State of
9 California to cause cancer or reproductive toxicity without first giving clear and reasonable warning to
10 such individuals, within the meaning of Health & Safety Code § 25249.6.

11 48. Said violations render Defendants liable to Plaintiffs for civil penalties not to exceed
12 \$2,500 per day for each violation, as well as other remedies.

13 49. Said violations justify an order enjoining Defendants from continuing to sell products
14 that expose persons to chemicals known to the State of California to cause cancer or reproductive harm,
15 without appropriate warnings as mandated by Health & Safety Code § 25249.6.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays that the Court:

19 1. Pursuant to the First Cause of Action, grant civil penalties of \$2,500.00 per violation per day,
20 going back one year from the date of filing; at the time of filing, Plaintiff is aware of at least two
21 violations, totaling \$5,000.00 in civil penalties;

22 2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders,
23 preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from exposing
24 persons within the State of California to Listed Chemicals caused by the use of their products without
25 providing clear and reasonable warnings, as Plaintiff shall specify in further application to the Court;

26 3. Award Plaintiff the costs of suit;
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1 4. Pursuant to Code of Civil Procedure § 1021.5, award Plaintiff their reasonable attorney's fees
2 and costs of at least \$37,709.27 as of the filing of this Complaint, and an anticipated additional
3 \$15,000.00 of attorney's fees at minimum to obtain a default judgment, if a default is entered; and

4 5. Grant such other and further relief as the court deems just and proper.
5

6 Respectfully submitted,

7 DATED: September 9, 2024

8 GREENBAUM LAW FIRM

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10 By: _____
11 DANIEL N. GREENBAUM
12 Attorneys for Plaintiff
13 MONARCH, LLC
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