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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**02/21/2025**  
Clerk of the Court  
BY: SAHAR ENAYATI  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 PRECILA BALABBO,

12 Plaintiff,

13 vs.

14 ULTA BEAUTY, INC., ULTA BEAUTY  
COSMETICS, LLC

15 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

**CGC-25-622618**

**(Violation of Health & Safety Code § 25249.5 et  
seq.)**

16 Plaintiff Precila Balabbo (“Plaintiff”), by and through her attorneys, alleges the following  
17 cause of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

19 1. Plaintiff brings this representative action on behalf of all California citizens to  
20 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
21 the Health and Safety Code § 25249.5 et seq (“Proposition 65”), which reads, in relevant part,  
22 “[n]o person in the course of doing business shall knowingly and intentionally expose any  
23 individual to a chemical known to the state to cause cancer without first giving clear and reasonable  
24 warning to such individual ...”. Health & Safety Code § 25249.6.

25 2. This complaint is a representative action brought by Plaintiff in the public interest  
26 of the citizens of the State of California to enforce the People’s right to be informed of the health  
27 hazards caused by exposure to diethanolamine (DEA), a toxic chemical found in products sold  
28 and/or distributed by defendants Ulta Beauty, Inc. and/or Ulta Beauty Cosmetics, LLC  
(collectively, “Ulta” or “Defendants” and each a “Defendant”) in California.

1           3.       DEA is a harmful chemical known to the State of California to cause cancer. On  
2 June 22, 2012, the State of California listed DEA as a chemical known to the State to cause cancer  
3 and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs.  
4 Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

5           4.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
6 within California or sell products therein to comply with Proposition 65 regulations. Included in  
7 such regulations is the requirement that businesses must label any product containing a Proposition  
8 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
9 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
10 chemical.

11          5.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
12 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
13 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
14 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
15 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
16 25249.7.

17          6.       Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
18 without a requisite exposure warning, L.A. Girl Jetsetter mascaras manufactured, distributed,  
19 and/or sold by Beauty 21 Cosmetics, Inc. (the “Products”) that expose persons to DEA when used  
20 for their intended purpose.

21          7.       Defendants’ failure to warn consumers and other individuals in California of the  
22 health hazards associated with exposure to DEA in conjunction with the sale and/or distribution  
23 of the Products is a violation of Proposition 65 and subjects Defendants to the enjoinder and civil  
24 penalties described herein.

25          8.       Plaintiff seeks civil penalties against Defendants for their violations of Proposition  
26 65 in accordance with Health and Safety Code § 25249.7(b).

27          9.       Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
28 Defendants to provide purchasers or users of the Products with required warnings related to the

1 dangers and health hazards associated with exposure to DEA pursuant to Health and Safety Code  
2 § 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

4 **PARTIES**

5 11. Plaintiff is a citizen of the State of California acting in the interest of the general  
6 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
7 improve human health by reducing hazardous substances contained in such items. She brings this  
8 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

9 12. Defendant Ulta Beauty, Inc., through its business, effectively imports, distributes,  
10 sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct  
11 that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.  
12 Plaintiff alleges that defendant Ulta Beauty, Inc. is a "person" in the course of doing business  
13 within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14 13. Defendant Ulta Beauty Cosmetics, LLC, through its business, effectively imports,  
15 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
16 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
17 State of California. Plaintiff alleges that defendant Ulta Beauty Cosmetics, LLC is a "person" in  
18 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
19 25249.11.

20 **VENUE AND JURISDICTION**

21 14. Venue is proper in the County of San Francisco because one or more of the  
22 instances of wrongful conduct occurred, and continue to occur in this county and/or because  
23 Defendants conducted, and continue to conduct, business in the County of San Francisco with  
24 respect to the Products.

25 15. This Court has jurisdiction over this action pursuant to California Constitution  
26 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
27 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
28

1 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
2 jurisdiction over this lawsuit.

3 16. This Court has jurisdiction over Defendants because each Defendant is either a  
4 citizen of the State of California, has sufficient minimum contacts with the State of California, is  
5 registered with the California Secretary of State as foreign corporations authorized to do business  
6 in the State of California, and/or has otherwise purposefully availed itself of the California market.  
7 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent  
8 and permissible with traditional notions of fair play and substantial justice.

9 **STATUTORY BACKGROUND**

10 17. The people of the State of California declared in Proposition 65 their right “[t]o be  
11 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
12 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

13 18. To effect this goal, Proposition 65 requires that individuals be provided with a  
14 “clear and reasonable warning” before being exposed to substances listed by the State of California  
15 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in  
16 pertinent part:

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

20 19. An exposure to a chemical in a consumer product is one “which results from a  
21 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
22 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
23 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
24 shall provide a warning to any person to whom the product is sold or transferred unless the product  
25 is packaged or labeled with a clear and reasonable warning.”  
26  
27  
28





1 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California  
2 Code of Regulations.

3 31. On February 21, 2024, Plaintiff received from the analytical chemist an exposure  
4 assessment report which concluded that persons in California who use the Products will be exposed  
5 to levels of DEA that require a Proposition 65 exposure warning.

6 32. On February 21, 2024, Plaintiff gave notice of alleged violation of Health and  
7 Safety Code § 25249.6 (the "Notice") to Defendants concerning the exposure of California citizens  
8 to DEA from use of the Products without proper warning, subject to a private action to Defendants  
9 and to the California Attorney General's office and the offices of the County District attorneys and  
10 City Attorneys for each city with a population greater than 750,000 persons wherein the herein  
11 violations allegedly occurred.

12 33. The Notice complied with all procedural requirements of Proposition 65 including  
13 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at  
14 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
15 DEA exposure, and that counsel believed there was meritorious and reasonable cause for a private  
16 action.

17 34. After receiving the Notice, and to Plaintiff's best information and belief, none of  
18 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
19 cause of action against Defendants under Proposition 65 to enforce the alleged violations which  
20 are the subject of the Notice.

21 35. Plaintiff is commencing this action more than sixty (60) days from the date of the  
22 Notice to Defendants, as required by law.

23 **FIRST CAUSE OF ACTION**

24 **(By Plaintiff against Defendants for the Violation of Proposition 65)**

25 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of  
26 this Complaint as though fully set forth herein.

27 37. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer  
28 of the Products.

1           38.     Use of the Products will expose users and consumers thereof to DEA, a hazardous  
2 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

3           39.     The Products do not comply with the Proposition 65 warning requirements.

4           40.     Plaintiff, based on her best information and belief, avers that at all relevant times  
5 herein, and at least since February 21, 2024, continuing until the present, that Defendants have  
6 continued to knowingly and intentionally expose California users and consumers of the Products  
7 to DEA without providing required warnings under Proposition 65.

8           41.     The exposures that are the subject of the Notice result from the purchase,  
9 acquisition, handling and recommended use of the Product. The primary route of exposure to DEA  
10 is through dermal exposure. Some amount of exposure through ingestion can occur by touching  
11 the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning  
12 is provided with the Products regarding the health hazards of exposure to DEA.

13          42.     Plaintiff, based on her best information and belief, avers that such exposures will  
14 continue every day until clear and reasonable warnings are provided to purchasers and users or  
15 until this known toxic chemical is removed from the Products.

16          43.     Defendants have knowledge that the normal and reasonably foreseeable use of the  
17 Products exposes individuals to DEA, and Defendants intend that exposures to DEA will occur by  
18 its deliberate, non-accidental participation in the importation, distribution, sale and offering of the  
19 Products to consumers in California

20          44.     Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
21 Complaint.

22          45.     Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
23 described acts, each Defendant is liable for a maximum civil penalty of \$2,500 per day per  
24 violation.

25          46.     Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
26 authorized to grant injunctive relief in favor of Plaintiff and against each Defendant.



1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against each Defendant and requests the  
3 following relief:

4 A. That the court assess civil penalties against each Defendant in the amount of \$2,500  
5 per day for each violation for up to 365 days (up to a maximum civil penalty amount per  
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendants mandating  
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the  
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: February 21, 2025

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