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**CENTER FOR ENVIRONMENTAL HEALTH**

**ELECTRONICALLY  
FILED**  
*Superior Court of California,  
County of San Francisco*  
**10/21/2024**  
**Clerk of the Court**  
BY: AUSTIN LAM  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH,  
a non-profit corporation,  
  
Plaintiff,  
  
v.  
  
NORTHERNER SCANDINAVIA INC., and  
DOES 1 through 10, inclusive,  
  
Defendants.

Case No. CGC-24-619142

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6, *et seq.*  
  
(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on information and  
2 belief and investigation of counsel, except for information based on knowledge, hereby makes the  
3 following allegations:

#### 4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' failure to warn individuals in  
6 California that they are being exposed to Nicotine, a chemical known to the State of California to  
7 cause developmental harm. This Complaint addresses exposures that have occurred, and continue  
8 to occur, through the manufacture, distribution, sale and/or use of Defendants' oral smokeless  
9 nicotine products, such as nicotine pouches, gum, snus, snuff, lozenges, cotton mouth, and  
10 chewing tobacco (the "Products"). Individuals in California are exposed to Nicotine when they  
11 place the Products in their mouths and/or on their gums.

12 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et seq.*, it is  
13 unlawful for businesses to knowingly and intentionally expose individuals in California to  
14 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without  
15 first providing clear and reasonable warnings to exposed individuals. Defendants introduces the  
16 Products containing significant quantities of Nicotine into the California marketplace, thereby  
17 exposing those who use the Products to Nicotine.

18 3. Defendants provide no warnings whatsoever about the reproductive toxicity  
19 associated with Nicotine exposure. Defendants' conduct thus violates the warning provision of  
20 Proposition 65. Health & Safety Code §25249.6.

#### 21 **PARTIES**

22 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit  
23 corporation dedicated to protecting the public from environmental health hazards and toxic  
24 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of  
25 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and  
26 brings this enforcement action in the public interest pursuant to Health & Safety Code  
27 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has  
28 prosecuted a large number of Proposition 65 cases in the public interest. These cases have

1 resulted in significant public benefits, including the reformulation of millions of products to  
2 remove toxic chemicals and to make them safer. CEH also provides information to Californians  
3 about the health risks associated with exposure to hazardous substances, where manufacturers and  
4 other responsible parties fail to do so.

5 5. Defendants NORTHERNER SCANDINAVIA INC. is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. NORTHERNER  
7 SCANDINAVIA INC. markets, distributes, licenses, and/or sells Products containing Nicotine  
8 for sale or use in California.

9 6. DOES 1 through 10 are each a person in the course of doing business within the  
10 meaning of Health & Safety Code §25249.11. DOES 1 through 10 manufacture, distribute,  
11 and/or sell Products for sale or use in California. The true names of DOES 1 through 10 are  
12 either unknown to CEH at this time or the applicable time period before which CEH may file a  
13 Proposition 65 action has not run. When their identities are ascertained or the applicable time  
14 period before which CEH may file a Proposition 65 action has run, the Complaint shall be  
15 amended to reflect their true names.

16 7. The Defendants identified in paragraph 5 and DOES 1-10 are referred to herein as  
17 “Defendants.”

### 18 **JURISDICTION AND VENUE**

19 8. The Court has jurisdiction over this action pursuant to Health & Safety Code  
20 §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to  
21 California Constitution Article VI, Section 10, because this case is a cause not given by statute to  
22 other trial courts.

23 9. This Court has jurisdiction over Defendants because Defendants are business  
24 entities that do sufficient business, have sufficient minimum contacts in California, or otherwise  
25 intentionally avail themselves of the California market through the sale, marketing, or use of the  
26 Products in California or by having such other contacts with California so as to render the  
27 exercise of jurisdiction over them by the California courts consistent with traditional notions of  
28 fair play and substantial justice.

1 10. Venue is proper in San Francisco County Superior Court because one or more of  
2 the violations arise in the County of San Francisco.

3 **BACKGROUND FACTS**

4 11. The People of the State of California have declared by initiative under Proposition  
5 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
6 other reproductive harm.” Proposition 65, §1(b).

7 12. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals  
8 listed by the State of California as known to cause cancer, birth defects, or other reproductive  
9 harm above certain levels without a “clear and reasonable warning” unless the business  
10 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety  
11 Code §25249.6 states, in pertinent part:

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

15 13. On April 1, 1990, the State of California officially listed Nicotine as a  
16 developmental toxicant. 27 California Code of Regulations (“C.C.R.”) §27001(b). On April 1,  
17 1991, Nicotine became subject to the clear and reasonable warning requirement regarding  
18 developmental toxicity under Proposition 65. Health & Safety Code §25249.10(b).

19 14. The Products are oral smokeless nicotine products, such as nicotine pouches, gum,  
20 snus, snuff, lozenges, cotton mouth, and chewing tobacco. Defendants’ Products contain  
21 sufficient quantities of Nicotine that individuals are exposed to Nicotine through the average use  
22 of the Products. The primary route of exposure for the violations is oral exposure and ingestion  
23 when consumers place the Products into their mouths. These exposures occur in homes,  
24 workplaces, and everywhere else throughout California where Defendants’ Products are used.

25 15. Defendants market, distribute, license, and/or sell Products in California. Each of  
26 these actions by Defendants operates to propel the Products toward individuals, bringing Products  
27 that contain Nicotine into contact with them.

28

1           16.     No clear and reasonable warning is provided with Defendants' Products regarding  
2 the developmental toxicity of Nicotine. The failure to provide warnings regarding the  
3 developmental toxicity of Nicotine in Defendants' Products is of particular concern in light of the  
4 extreme toxicity of Nicotine.

5           17.     Any person acting in the public interest has standing to enforce violations of  
6 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid  
7 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
8 within such time. Health & Safety Code §25249.7(d).

9           18.     More than sixty days prior to naming Defendants in this lawsuit, CEH provided a  
10 60-Day "Notice of Violation" of Proposition 65 to the California Attorney General, to the District  
11 Attorneys of every county in California, to the City Attorneys of every California city with a  
12 population greater than 750,000, and to each named Defendant. In compliance with Health &  
13 Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following  
14 information: (1) the name and address of each violator; (2) the statute violated; (3) the time period  
15 during which violations occurred; (4) specific descriptions of the violations, including (a) a  
16 description of the specific type of products sold and used in violation of Proposition 65; (b) the  
17 routes of exposure to Nicotine from Defendants' Products; and (5) the name of the specific  
18 Proposition 65-listed chemical that is the subject of the violations described in each Notice.

19           19.     CEH also sent a Certificate of Merit for each Notice to the California Attorney  
20 General, to the District Attorneys of every county in California, to the City Attorneys of every  
21 California city with a population greater than 750,000, and to the named Defendants. In  
22 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate  
23 certified that CEH's counsel: (1) has consulted with one or more persons with relevant and  
24 appropriate experience or expertise who reviewed facts, studies, or other data regarding the  
25 exposures to Nicotine alleged in each Notice; and (2) based on the information obtained through  
26 such consultations, believes that there is a reasonable and meritorious case for a citizen  
27 enforcement action based on the facts alleged in each Notice. In compliance with Health &  
28 Safety Code §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the Attorney General

1 included factual information – provided on a confidential basis – sufficient to establish the basis  
2 for the Certificate, including the identity of the person(s) consulted by CEH’s counsel and the  
3 facts, studies, or other data reviewed by such persons.

4 20. None of the public prosecutors with the authority to prosecute violations of  
5 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants  
6 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH’s  
7 Notices regarding Nicotine in the Products.

8 21. Defendants both know and intend for individuals will come into contact with the  
9 Products during normal use, thus exposing such individuals to Nicotine.

10 22. Defendants continue to expose consumers to Nicotine without prior clear and  
11 reasonable warnings regarding the developmental toxicity of Nicotine.

12 23. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to  
13 filing this Complaint.

14 24. Any person “violating or threatening to violate” Proposition 65 may be enjoined in  
15 any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to violate” is  
16 defined to mean “to create a condition in which there is a substantial probability that a violation  
17 will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not  
18 to exceed \$2,500 per day for each violation of Proposition 65.

19 **FIRST CAUSE OF ACTION**

20 **(Violations of Health & Safety Code §25249.6)**

21 25. CEH realleges and incorporates by reference as if specifically set forth herein  
22 Paragraphs 1 through 24, inclusive.

23 26. By placing the Products into the stream of commerce, each Defendant is a person  
24 in the course of doing business within the meaning of Health & Safety Code §25249.11.

25 27. Nicotine is a chemical listed by the State of California as a known developmental  
26 toxicant.  
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Dated: October 21, 2024

Respectfully submitted,

LEXINGTON LAW GROUP



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Mark Todzo  
Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH