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Superior Court of California,
County of Alameda

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5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

7 ENVIRONMENTAL HEALTH ADVOCATES,
8 INC.,

9 Plaintiff,

0 v.

1 GPT DE LABORATOIRES FRANCAIS-SORAS, a
2 French simplified joint stock company;
3 GROUPEMENT DES LABORATOIRES
4 FRANCAIS SORAS PTE. LTD., a Singapore
5 private limited company; and DOES 1 through 100,
6 inclusive,

7 Defendants.

Case No.: **24CV104035**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

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 diethanolamine (“DEA”), a
5 chemical known to the State of California to cause cancer. DEA is a common component of cosmetic
6 and grooming products, and often functions as an emulsifier or foaming agent. Defendants expose
7 consumers to DEA by manufacturing, importing, selling, and/or distributing a variety of skin cream
8 including, but not limited to Embryolisse Embryoderme (collectively, the “Products.”) Defendants
9 know and intend that customers will use Products containing DEA.

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

15 3. On or around June 22, 2012, the State of California added DEA to Proposition 65 as a
16 known carcinogen, thereby requiring a clear and reasonable warning about potential exposure to DEA
17 on any consumer good. Despite this, Defendants failed to sufficiently warn consumers and individuals
18 in California about potential exposure to DEA in connection with Defendants' manufacture, import, sale,
19 or distribution of Products. This is a violation of Proposition 65.

20 4. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
21 in California before exposing them to DEA in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
22 also seeks civil penalties against Defendants for violations of Proposition 65 along with attorney’s fees
23 and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

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25 5. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
26 corporation in the State of California dedicated to protecting the health of California citizens through
27 the elimination or reduction of toxic exposure from consumer products. Plaintiff has prosecuted a
28 number of Proposition 65 cases in the public interest. These cases have resulted in significant public

1 benefit—including the reformulation and repackaging of numerous consumer products—to make them
2 safer for California consumers, and to properly apprise California consumers of any health risks
3 associated with their usage. Plaintiff brings this action in the public interest pursuant to Health and
4 Safety Code, section 25249.7.

5 6. Defendant GPT DE LABORATOIRES FRANCAIS-SORAS (“GPT”) is a simplified
6 joint stock company organized and existing under the laws of France. GPT is registered to do business
7 in California, and does business in the County of Alameda, within the meaning of Health and Safety
8 Code, section 25249.11. GPT manufactures, imports, sells, or distributes the Products in California and
9 Alameda County.

10 7. Defendant GROUPEMENT DES LABORATOIRES FRANCAIS SORAS PTE. LTD.
11 (“GPT LTD”) is a private limited company organized and existing under the laws of Singapore. GPT
12 LTD is registered to do business in California, and does business in the County of Alameda, within the
13 meaning of Health and Safety Code, section 25249.11. GPT LTD manufactures, imports, sells, or
14 distributes the Products in California and Alameda County.

15 8. Plaintiff does not know the true names and/or capacities, whether individual, partners,
16 or corporate, of the Defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
17 said Defendants under fictitious names pursuant to Cal. Civ. Proc. § 474. Plaintiff will seek leave to
18 amend this Complaint when the true names and capacities of these Defendants have been ascertained.
19 Plaintiff is informed and believes and thereon alleges that these Defendants are responsible in whole or
20 in part for the remedies and penalties sought herein.

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

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1 **III.**
2 **VENUE AND JURISDICTION**

3 10. California Constitution Article VI, Section 10 grants the Superior Court original
4 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code
5 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court
6 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. Defendants conducted and continue to conduct business in this County as it relates to Products.

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

13 **IV.**
14 **BACKGROUND FACTS**

15 13. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California
16 Health and Safety Code, section 2529.6 et seq. ("Proposition 65"), "no person in the course of doing
17 business shall knowingly and intentionally expose any individual to a chemical known to the state of to
18 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
19 individual..." (Health & Safety Code, § 25249.6.)

20 14. Proposition 65 requires the State of California to maintain "a list of chemicals known to
21 the state to cause cancer or reproductive toxicity," which is to be "revised and republished in light of
22 additional knowledge" on at least an annual basis. (Health & Safety Code, § 25249.8(a).)

23 15. On June 22, 2012, the State of California formally identified and listed DEA as a
24 chemical known to cause cancer. DEA is a common component of cosmetic and grooming products,
25 and often functions as an emulsifier or foaming agent.

26 16. In 2012, the International Agency for Research on Cancer (IARC) also formally
27 identified DEA as a Group 2B possible human carcinogen. (See IARC Working Group on the Evaluation
28 of Carcinogenic Risks to Humans, Some Chemicals Present in Industrial and Consumer Products, Food
and Drinking-Water. Lyon (FR): International Agency for Research on Cancer; 2013, (IARC

1 Monographs on the Evaluation of Carcinogenic Risks to Humans, No. 101.)
2 DIETHANOLAMINE, available at: <https://www.ncbi.nlm.nih.gov/books/NBK373177/> [last visited
3 December 19, 2024].)

4 17. Animal studies have reported effects on various organ systems from long-term topical
5 administration of DEA. For example, a study conducted by the National Toxicology Program
6 (hereinafter, the “NTP study”) showed that dermal exposure to DEA amplified the development of
7 tumors in the liver and kidney tubules. (See National Toxicology Program, NTP Toxicology and
8 Carcinogenesis Studies of Diethanolamine (CAS No. 111-42-2) in F344/N Rats and B6C3F1 Mice
9 (Dermal Studies). Natl Toxicol Program Tech Rep Ser. 1999 Jul; 478:1-212. PMID: 12571685.,
10 available at: <https://pubmed.ncbi.nlm.nih.gov/12571685/> [last visited December 19, 2024].)

11 18. The Office of Environmental Health Hazard Assessment (“OEHHA”) has established
12 specific safe harbor levels for many of the chemicals listed under Proposition 65. For cancer-causing
13 chemicals in particular, a safe harbor level is called a “No Significant Risk Level,” or “NSRL.” An
14 NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed human
15 population of 100,000, assuming lifetime exposure at the level in question. (See OEHHA’s Proposition
16 65 Process for Developing Safe Harbor Numbers (February 2001), available at
17 <https://oehha.ca.gov/media/downloads/cmr/2001safeharborprocess.pdf> [last visited December 19,
18 2024].) The State of California has not yet established an NSRL for DEA. However, research suggests
19 that an NSRL of 5.6 micrograms/day of DEA is appropriate, where dermal absorption is the route of
20 exposure. (See Wang B, Amacher DE, Whittaker MH. Derivation of a No-Significant-Risk-Level
21 (NSRL) for diethanolamine (DEA). Regul Toxicol Pharmacol. 2014 Feb;68(1):76-84. doi:
22 10.1016/j.yrtph.2013.11.009. Epub 2013 Nov 23. PMID: 24275050. [last visited December 19, 2024].)
23 This NSRL is derived from the NTP study described above, using a benchmark dose modeling method
24 based on the incidence of hepatocellular carcinomas in female mice, in accordance with the guidelines
25 of the California Environmental Protection Agency.

26 19. In order to ensure that the injunctive relief sought herein confers a public benefit upon
27 California consumers, EHA adopts the NSRL of 5.6 micrograms/day for DEA derived from the NTP
28 study.

1 29. The appropriate public enforcement agencies provided with the Notice failed to
2 commence and diligently prosecute a cause of action against Defendants.

3 30. Individuals exposed to DEA contained in Products through dermal absorption resulting
4 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.
5 There is no other plain, speedy, or adequate remedy at law.

6 31. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
7 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
8 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: December 19, 2024

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13
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