

1 Daniel N. Greenbaum, Esq. (SBN 268104)
Thomas G. Adams, Esq., Of Counsel (SBN 270808)
2 **GREENBAUM LAW FIRM**
3 7120 Hayvenhurst Ave., Suite 320
Van Nuys CA 91406
4 Telephone: (818) 809-2199
Facsimile: (424) 243-7689
5 Email: dgreenbaum@greenbaumlawfirm.com

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/14/2024 9:59 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

6 Attorneys for Plaintiff,
7 MOTHERS OVERSIGHT NETWORK FOR ACTIONABLE
CONTAMINANT HARM [MONARCH], LLC
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES – CENTRAL**
11

12 MOTHERS OVERSIGHT NETWORK FOR) Unlimited Jurisdiction
12 ACTIONABLE CONTAMINANT HARM)
13 [MONARCH], LLC,) CASE NO. 24STCV29988
)
14 Plaintiff,) COMPLAINT FOR CIVIL PENALTY
) AND INJUNCTIVE RELIEF
15 vs.)
) (Health & Safety Code § 25249.6 et seq.)
16 PAPARAZZI, LLC dba PAPARAZZI)
17 ACCESSORIES and DOES 1 through)
18 100, Inclusive,)
Defendants.)
)

1 Plaintiff, MOTHERS OVERSIGHT NETWORK FOR ACTIONABLE CONTAMINANT
2 HARM [MONARCH], LLC, hereby alleges:

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 harm.

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

11 3. Plaintiff alleges a violation of Proposition 65 in products sold by Defendants without
12 first giving clear and reasonable warning.

13 **II. PARTIES**

14 4. Plaintiff, Mothers Oversight Network for Actionable Contaminant Harm
15 [MONARCH], LLC (“MONARCH”), is a limited liability company formed pursuant to the laws of the
16 State of California, made up of a California citizen, represented by and through its counsel of record,
17 the Greenbaum Law Firm. Plaintiff may be referred to in this matter as MONARCH, Mothers
18 Oversight Network for Actionable Contaminant Harm [MONARCH], MONARCH, LLC, Mothers
19 Oversight Network for Actionable Contaminant Harm [MONARCH], LLC, or Plaintiff.

20 5. Health & Safety Code § 25249.7(d) provides that actions to enforce Proposition 65 may
21 be brought by “any person in the public interest.”

22 6. Defendant Paparazzi, LLC dba Paparazzi Accessories (“Paparazzi”) is a business entity
23 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the
24 manufacture, distribution, or sale of starlet shimmer earring products manufactured by or for
25 Defendant, imported by or for Defendant, or distributed or sold by or for Defendant, including, but not
26 limited to:

27 a. Starlet Shimmer Gem Spider Earrings in Black and Gold that contain Cadmium,
28 for sale within the State of California, without first giving clear and reasonable warning;

1 b. Starlet Shimmer Gem Spider Earrings in Orange and Silver that contain
2 Cadmium, for sale within the State of California, without first giving clear and reasonable
3 warning.

4 c. Starlet Shimmer Gem Spider Earrings in Purple and Silver that contain
5 Cadmium, for sale within the State of California, without first giving clear and reasonable
6 warning.

7 7. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,
8 Plaintiff suspects they are business entities with at least ten or more employees that at all times relevant
9 to this complaint, authorized the manufacture, distribution, or sale of starlet shimmer earring products
10 manufactured by or for Defendant, imported by or for Defendant, or distributed or sold by or for
11 Defendant, including, but not limited to:

12 a. Starlet Shimmer Gem Spider Earrings in Black and Gold that contain Cadmium,
13 for sale within the State of California, without first giving clear and reasonable warning;

14 b. Starlet Shimmer Gem Spider Earrings in Orange and Silver that contain
15 Cadmium, for sale within the State of California, without first giving clear and reasonable
16 warning.

17 c. Starlet Shimmer Gem Spider Earrings in Purple and Silver that contain
18 Cadmium, for sale within the State of California, without first giving clear and reasonable
19 warning.

20 8. Defendants named in paragraphs 6 through 7 have at all times relevant to this complaint,
21 authorized the manufacture, distribution, or sale of starlet shimmer earring products manufactured by
22 or for Defendant, imported by or for Defendant, or distributed or sold by or for Defendant, including,
23 but not limited to:

24 a. Starlet Shimmer Gem Spider Earrings in Black and Gold that contain Cadmium,
25 for sale within the State of California, without first giving clear and reasonable warning;

26 b. Starlet Shimmer Gem Spider Earrings in Orange and Silver that contain
27 Cadmium, for sale within the State of California, without first giving clear and reasonable
28 warning.

1 c. Starlet Shimmer Gem Spider Earrings in Purple and Silver that contain
2 Cadmium, for sale within the State of California, without first giving clear and reasonable
3 warning.

4 III. ALTER EGO ALLEGATIONS

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

9 10. Each of the Defendant's acts alleged herein was done with the permission and consent
10 of each of the other Defendants.

11 IV. JURISDICTION AND VENUE

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

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

19 13. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles
20 County because Defendant's products are sold and consumed in this county.

21 V. STATUTORY BACKGROUND

22 14. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
23 passed as "Proposition 65" by a vote of the people in November of 1986.

24 15. The warning requirement of Proposition 65 is contained in Health & Safety Code §
25 25249.6, which provides:

26 No person in the course of doing business shall knowingly and intentionally
27 expose any individual to a chemical known to the state to cause cancer or
28

1 reproductive toxicity without first giving clear and reasonable warning to
2 such individual, except as provided in Section 25249.10.

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

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

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

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

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

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

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

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

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

24 25. Studies published in Environmental Health Perspectives suggest that Californians have
25 less biomonitoring chemicals in their urine than non-Californians, if said chemical is a Listed
26 Chemical under Proposition 65. [Trends in NHANES Biomonitoring Exposures in California and the](https://ehp.niehs.nih.gov/doi/10.1289/EHP13956)
27 [United States following Enactment of California’s Proposition 65](https://ehp.niehs.nih.gov/doi/10.1289/EHP13956)
28 (<https://ehp.niehs.nih.gov/doi/10.1289/EHP13956>)

26. Since its implementation, Proposition 65 has led to a decrease in biomonitoring chemicals for ALL Americans, not just Californians. (ibid)

VI. FACTS

27. 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))

28. Paparazzi owns, controls, facilitates, manages, and operates Paparazzi Accessories which sells starlet shimmer earrings through its “Consultants.”

29. The Starlet Shimmer Gem Spider Earrings (Black and Gold, Orange and Silver, Purple and Silver), which contain Cadmium, are hereinafter referred to as the PRODUCTS.

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

31. On November 17, 2023, Plaintiff purchased the PRODUCTS from Defendant's online Paparazzi "Consultant".

32. Neither the PRODUCTS' online listing, the PRODUCTS' packaging, nor the PRODUCTS themselves contained or presented a Proposition 65 warning label.

33. On May 2, 2024, Plaintiff's expert prepared a report summarizing the results of analysis on the PRODUCTS, including the amount of the Cadmium to which a typical user of the PRODUCTS would be exposed.

34. Based on the levels, Plaintiff's expert opined that use of the PRODUCTS would lead to exposure to Cadmium above the safe harbor levels set by the Office of Environment Health Hazard Assessment (OEHHA).

35. Based on that report and opinion, and lack of warning labels on the PRODUCTS, Plaintiff and its counsel prepared a Sixty Notice of Violation.

36. On May 9, 2024, pursuant to the statute and regulations referenced above, Plaintiff served a Notice of Violation on the Office of the Attorney General and Defendant, and all required public agencies.

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

38. At least sixty (60) days have elapsed since service of the Notice of Violation.

1 39. Based upon consultation with experts, Plaintiff alleges that individuals who purchase,
2 handle, or use the PRODUCTS 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 that
6 are placed in the mouth, such as food; and/or
- 7 c. absorption of Cadmium through the skin.

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

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

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

15 43. At all times material to this complaint, Defendant knew that the PRODUCTS were sold
16 throughout the State of California and Defendants profited from such sales.

17 44. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized
18 the sale of the PRODUCTS, thereby exposing consumers to Cadmium.

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

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

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

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

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

7 49. 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 50. 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
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays that the Court:

16 1. Pursuant to the First Cause of Action, grant civil penalties of \$2,500.00 per violation per day,
17 going back one year from the date of filing, which at the time of filing is at least \$2,500.00.

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

22 3. Award Plaintiff the costs of suit;

23 4. Pursuant to Code of Civil Procedure § 1021.5, award Plaintiff their reasonable attorney's fees
24 and costs of at least \$25,000.00 as of the filing of this Complaint, and an anticipated additional
25 \$15,000.00 of attorney's fees to obtain a default judgment, if a default is entered; and

26 5. Grant such other and further relief as the court deems just and proper.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

DATED: November 14, 2024

GREENBAUM LAW FIRM



By: DANIEL N. GREENBAUM
Attorneys for Plaintiff