		ELECTRONICALLY FILED				
1		Superior Court of California,				
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9	Attorneys for Plaintiff Environmental Health Advocates, Inc.					
10	SUPERIOR COURT OF THE STATE OF CALIFORNIA					
11	IN AND FOR THE COUNTY OF ALAMEDA					
12	ENVIRONMENTAL HEALTH ADVOCATES, INC.,	Case No.: 24CV092524				
13	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF				
14	v.					
15	HANSCOMB & MARRA INC., a California	(Health & Safety Code § 25249.6 et seq.)				
16	corporation; and DOES 1 through 100, inclusive,					
17	Defendants.					
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1	I. INTRODUCTION
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 Defendant's failure to inform the People of exposure to cadmium, a known
5	developmental/reproductive toxin. Defendant exposes consumers to cadmium by manufacturing,
6	importing, selling, and/or distributing flax seeds including, but not limited to, Flax Seed, Whole - 1 Lb
7	("Products"). Defendant knows and intends that customers will ingest Products containing cadmium.
8	2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California
9	Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing
10	business shall knowingly and intentionally expose any individual to a chemical known to the state to
11	cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
12	individual" (Health & Safety Code, § 25249.6.)
13	3. California identified and listed cadmium as a chemical known to cause developmental/
14	reproductive toxicity as early as May 1, 1997.
15	4. Defendant failed to sufficiently warn consumers and individuals in California about
16	potential exposure to cadmium in connection with Defendant's manufacture, import, sale, or distribution
17	of Products. This is a violation of Proposition 65.
18	5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
19	in California before exposing them to cadmium in Products. (Health & Safety Code, § 25249.7(a).)
20	Plaintiff also seeks civil penalties against Defendant for violations of Proposition 65 along with
21	attorney's fees and costs. (Health & Safety Code, § 25249.7(b).)
22	II. PARTIES
23	6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a
24	corporation in the State of California dedicated to protecting the health of California citizens through
25	the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
26	interest pursuant to Health and Safety Code, section 25249.7.
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7. Defendant HANSCOMB & MARRA INC. ("Hanscomb") is a corporation organized
and existing under the laws of California. Hanscomb is registered to do business in California, and does
business in the County of Alameda, within the meaning of Health and Safety Code, section 25249.11.
Hanscomb manufactures, imports, sells, or distributes the Products in California and Alameda County.

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

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

## III. <u>VENUE AND JURISDICTION</u>

10. California Constitution Article VI, Section 10 grants the Superior Court original jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code statute upon which this action is based does not give jurisdiction to any other court. As such, this Court has jurisdiction.

11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendant conducted and continues to conduct business in this County as it relates to Products.

12. Defendant has sufficient minimum contacts in the State of California or otherwise purposefully avails itself of the California market. Exercising jurisdiction over Defendant would be consistent with traditional notions of fair play and substantial justice.

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		IV.	
1		CAUSES OF ACTION	
2	FIRST CAUSE OF ACTION		
3		(Violation of Proposition 65 – Against all Defendants)	
4	13.	Plaintiff incorporates by reference each and every allegation contained above.	
5	14.	Proposition 65 mandates that citizens be informed about exposures to chemicals that	
6	cause cancer, b	irth defects, and other reproductive harm.	
7	15.	Defendant manufactured, imported, sold, and/or distributed Products containing	
8	cadmium in vi	olation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and	
9	believes such v	iolations have continued after receipt of the Notice (defined <i>infra</i> ) and will continue to	
10	occur into the f	uture.	
11	16.	In manufacturing, importing, selling, and/or distributing Products, Defendant failed to	
12	provide a clear	and reasonable warning to consumers and individuals in California who may be exposed	
13	to cadmium thr	ough reasonably foreseeable use of the Products.	
14	17.	Products expose individuals to cadmium through direct ingestion. This exposure is a	
15	natural and fore	eseeable consequence of Defendant placing Products into the stream of commerce. As	
16	such, Defendan	t intends that consumers will ingest Products, exposing them to cadmium.	
17	18.	Defendant knew or should have known that the Products contained cadmium and	
18	exposed individ	duals to cadmium in the ways provided above. The Notice informed Defendant of the	
19	presence of ca	dmium in the Products. Likewise, media coverage concerning cadmium and related	
20	chemicals in co	nsumer products provided constructive notice to Defendant.	
21	19.	Defendant's actions in this regard were deliberate and not accidental.	
22	20.	More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a	
23	60-Day Notice	of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff	
24	provided the No	otice to the various required public enforcement agencies along with a certificate of merit.	
25	The Notice alle	ged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in	
26	California of th	e health hazards associated with exposures to cadmium contained in the Products.	
27	21.	The appropriate public enforcement agencies provided with the Notice failed to	
28	commence and	diligently prosecute a cause of action against Defendant.	

1	22. Individuals exposed to cadmium contained in Products through direct inges	tion		
2	resulting from reasonably foreseeable use of the Products have suffered and continue to su	ffer		
3	irreparable harm. There is no other plain, speedy, or adequate remedy at law.			
4	23. Defendant is liable for a maximum civil penalty of \$2,500 per day for each violatic	n of		
5	Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is	also		
6	appropriate pursuant to Health and Safety Code, section 25249.7(a).			
7	PRAYER FOR RELIEF			
8	Wherefore, Plaintiff prays for judgment against Defendant as follows:			
9	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges	that		
10	damages total a minimum of \$1,000,000;			
11	2. A preliminary and permanent injunction against Defendant from manufactur	ing,		
12	importing, selling, and/or distributing Products in California without providing a clear and reasonable			
13	warning as required by Proposition 65 and related Regulations;			
14	3. Reasonable attorney's fees and costs of suit; and			
15	4. Such other and further relief as may be just and proper.			
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17	Respectfully submitted:			
18	Dated: September 20, 2024 ENTORNO LAW, LLP			
19	By: Noan Slich			
20	By: Noam Glick			
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22	Craig M. Nicholas Jake W. Schulte			
23	Janani Natarajan			
24	Attorneys for Plaintiff			
25	Environmental Health Advocates, Inc.			
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