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1 2 3 4 5 6 7	ENTORNO LAW, LLP Noam Glick (SBN 251582) Craig M. Nicholas (SBN 178444) Jake W. Schulte (SBN 293777) Janani Natarajan (SBN 346770) Gianna E. Tirrell (SBN 358788) 225 Broadway, Suite 1900 San Diego, California 92101 Tel: (619) 629-0527 Email: noam@entornolaw.com Email: craig@entornolaw.com	Superior Court of California, County of Alameda 01/14/2025 at 01:18:18 PM By: Chan Huang, Deputy Clerk				
8 9	Email: janani@entornolaw.com Email: gianna@entornolaw.com					
10	Attorneys for Plaintiff Environmental Health Advocates, Inc.					
11	SUPERIOR COURT OF THE STATE OF CALIFORNIA					
12	IN AND FOR THE COUNTY OF ALAMEDA					
13	ENVIRONMENTAL HEALTH ADVOCATES,	Case No.: 25CV106799				
14 15	INC., Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF				
16 17	v. KINGDOM ANIMALIA, LLC, a California limited liability company; and DOES 1 through 100, inclusive,	(Health & Safety Code § 25249.6 et seq.)				
18	Defendants.					
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## 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 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 brow gels 8 including, but not limited to, Arch Brow Shaping Gel ("Products"). Defendants know and intend that 9 customers will use Products containing DEA.

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

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

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

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## II. <u>PARTIES</u>

2 5. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a 3 corporation in the State of California dedicated to protecting the health of California citizens through 4 the elimination or reduction of toxic exposure from consumer products. Plaintiff has prosecuted a 5 number of Proposition 65 cases in the public interest. These cases have resulted in significant public 6 benefit—including the reformulation and repackaging of numerous consumer products—to make them 7 safer for California consumers, and to properly apprise California consumers of any health risks 8 associated with their usage. Plaintiff brings this action in the public interest pursuant to Health and 9 Safety Code, section 25249.7.

Defendant KINGDOM ANIMALIA, LLC ("Kingdom Animalia") is a limited liability
 company organized and existing under the laws of California. Kingdom Animalia 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. Kingdom Animalia manufactures, imports, sells, or distributes the
 Products in California and Alameda County.

7. 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.

8. 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.

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III. <u>VENUE AND JURISDICTION</u>		
9. 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.		
10. 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. Defendants conducted and continue to conduct business in this County as it relates to Products.		
11. Defendants have sufficient minimum contacts in the State of California or otherwise		
purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would		
be consistent with traditional notions of fair play and substantial justice.		
IV.		
BACKGROUND FACTS		
12. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California		
Health and Safety Code, section 2529.6 et seq. ("Proposition 65"), "no person in the course of doing		
business shall knowingly and intentionally expose any individual to a chemical known to the state of t		
cause cancer or reproductive toxicity without first giving clear and reasonable warning to such		
individual" (Health & Safety Code, § 25249.6.)		
13. Proposition 65 requires the State of California to maintain "a list of chemicals known to		
the state to cause cancer or reproductive toxicity," which is to be "revised and republished in light of		
additional knowledge" on at least an annual basis. (Health & Safety Code, § 25249.8(a).)		
14. On June 22, 2012, the State of California formally identified and listed DEA as a		
chemical known to cause cancer. DEA is a common component of cosmetic and grooming products,		
and often functions as an emulsifier or foaming agent.		
15. In 2012, the International Agency for Research on Cancer (IARC) also formally		
identified DEA as a Group 2B possible human carcinogen. (See IARC Working Group on the Evaluation		
of Carcinogenic Risks to Humans, Some Chemicals Present in Industrial and Consumer Products, Foo		

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1 Risks 101.) Monographs the Evaluation of Carcinogenic No. on to Humans, 2 DIETHANOLAMINE, available at: https://www.ncbi.nlm.nih.gov/books/NBK373177/ [last visited 3 January 14, 2025].)

Animal studies have reported effects on various organ systems from long-term topical
administration of DEA. For example, a study conducted by the National Toxicology Program
(hereinafter, the "NTP study") showed that dermal exposure to DEA amplified the development of
tumors in the liver and kidney tubules. (*See* National Toxicology Program, NTP Toxicology and
Carcinogenesis Studies of Diethanolamine (CAS No. 111-42-2) in F344/N Rats and B6C3F1 Mice
(Dermal Studies). Natl Toxicol Program Tech Rep Ser. 1999 Jul; 478:1-212. PMID: 12571685.,
available at: <a href="https://pubmed.ncbi.nlm.nih.gov/12571685/">https://pubmed.ncbi.nlm.nih.gov/12571685/</a> [last visited January 14, 2025].)

11 17. 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/crnr/2001safeharborprocess.pdf [last visited January 14, 2025].) 18 The State of California has not yet established an NSRL for DEA. However, research suggests that an 19 NSRL of 5.6 micrograms/day of DEA is appropriate, where dermal absorption is the route of exposure. 20 (See Wang B, Amacher DE, Whittaker MH. Derivation of a No-Significant-Risk-Level (NSRL) for 21 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 January 14, 2025].) 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.

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

2       FIRST CAUSE OF ACTION         3       (Violation of Proposition 65 – Against all Defendants)         4       19. Plaintiff incorporates by reference each and every allegation contained above.         5       20. Proposition 65 mandates that citizens be informed about exposures to chemicals         6       cause cancer, birth defects, and other reproductive harm.         7       21. Defendants manufactured, imported, sold, and/or distributed Products containing II         8       in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes at         9       violations have continued after receipt of the Notices and will continue to occur into the future.         10       22. In manufacturing, importing, selling, and/or distributing Products, Defendants faile         11       provide a clear and reasonable warning to consumers and individuals in California who may be experied         12       to DEA through reasonably foreseeable use of the Products.         13       23. Products expose individuals to DEA through dermal absorption. This exposure         14       tatural and foreseeable consequence of Defendants placing Products into the stream of commerce         15       such, Defendant's Products exceed the NSRL of 5.6 micrograms/day, which was derived for         16       the NTP study.       25. Defendants knew or should have known that the Products contained DEA and expr         17       the NTP stu	1	V. <u>CAUSES OF ACTION</u>		
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<ul> <li>26. Defendants' actions in this regard were deliberate and not accidental.</li> <li>27. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issu</li> <li>60-Day Notice of Violation upon each Defendant as required by and in compliance with Proposition</li> <li>Plaintiff provided the Notice to the various required public enforcement agencies along with a certifier</li> <li>of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently were allocated with the data data data data data data data dat</li></ul>	20	DEA in the Products. Likewise, media coverage concerning DEA and related chemica	ls in consumer	
27. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issu 27. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issu 27. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issu 28. 60-Day Notice of Violation upon each Defendant as required by and in compliance with Proposition 29. Plaintiff provided the Notice to the various required public enforcement agencies along with a certific 20. of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently w	21	products provided constructive notice to Defendants.		
60-Day Notice of Violation upon each Defendant as required by and in compliance with Proposition Plaintiff provided the Notice to the various required public enforcement agencies along with a certific of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently v	22	26. Defendants' actions in this regard were deliberate and not accidental.		
<ul> <li>Plaintiff provided the Notice to the various required public enforcement agencies along with a certific of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently variable.</li> </ul>	23	27. More than sixty days prior to naming each defendant in this lawsuit, Pl	aintiff issued a	
of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently v	24	60-Day Notice of Violation upon each Defendant as required by and in compliance with	Proposition 65.	
	25	Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate		
27 consumers in California of the health hazards associated with exposures to DEA contained in	26	of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn		
	27	consumers in California of the health hazards associated with exposures to DEA contained in the		
28 Products.	28			

1	28.	The appropriate public enforceme	ent agencies provided with the Notice failed to	
2	commence and diligently prosecute a cause of action against Defendants.			
3	29.	Individuals exposed to DEA contain	ned in Products through dermal absorption resulting	
4	from reasonal	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	30.	30. 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).			
9	PRAYER FOR RELIEF			
10	Wherefore, Plaintiff prays for judgment against Defendants as follows:			
11	1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that			
12	damages total a minimum of \$1,000,000;			
13	2. A preliminary and permanent injunction against Defendants from manufacturing,			
14	importing, selling, and/or distributing Products in California without providing a clear and reasonable			
15	warning as required by Proposition 65 and related Regulations;			
16	3. Reasonable attorney's fees and costs of suit; and		s of suit; and	
17	4.	Such other and further relief as may	be just and proper.	
18				
19	Respectfully	submitted:		
20	Dated: Janua	ry 14, 2025	ENTORNO LAW, LLP	
21			Noon Slich	
22	By:		Noam Glick	
23			Craig M. Nicholas	
24			Jake W. Schulte Janani Natarajan	
25			Gianna Tirrell	
26			Attorneys for Plaintiff	
27			Environmental Health Advocates, Inc.	
28				