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15 Attorneys for Plaintiff
16 Environmental Health Advocates, Inc.

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

19 **CGC-25-631815**

20 ENVIRONMENTAL HEALTH ADVOCATES,
21 INC.,

22 Plaintiff,

23 v.

24 UPSTATE ELEVATOR SUPPLY COMPANY,
25 LLC, a Vermont limited liability company; and
26 DOES 1 through 100, inclusive,

27 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*

12/04/2025
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

I.
INTRODUCTION

1
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 Δ⁹ - Tetrahydrocannabinol (also
5 known as “Delta-9-THC” or “THC”), a known carcinogen and reproductive/developmental toxin.
6 Defendants expose consumers to THC by manufacturing, importing, selling, and/or distributing THC-
7 infused gummies including, but not limited to, Upstate Elevator Supply Co. THC + CBD Passion Fruit
8 Gummies (“Products”). Defendants know and intend that customers will ingest or inhale Products
9 containing THC.

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. California identified and listed THC as a chemical known to cause
16 developmental/reproductive harm on January 3, 2020.

17 4. Defendants failed to sufficiently warn consumers and individuals in California about
18 potential exposure to THC in connection with Defendants’ manufacture, import, sale, or distribution of
19 Products. This is a violation of Proposition 65.

20 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
21 in California before exposing them to THC 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 6. 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. It brings this action in the public
28 interest pursuant to Health and Safety Code, section 25249.7.

1 **IV.**
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

6 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that
7 cause cancer, birth defects, and other reproductive harm.

8 15. Defendants manufactured, imported, sold, and/or distributed Products containing THC
9 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such
10 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the
11 future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
14 to THC through reasonably foreseeable use of the Products.

15 17. Products expose individuals to THC through direct ingestion or inhalation. This
16 exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of
17 commerce. As such, Defendants intend that consumers will ingest or inhale Products, exposing them
18 to THC.

19 18. Defendants knew or should have known that the Products contained THC and exposed
20 individuals to THC in the ways provided above. The Notice informed Defendants of the presence of
21 THC in the Products. Likewise, media coverage concerning THC and related chemicals in consumer
22 products provided constructive notice to Defendants.

23 19. Defendants' actions in this regard were deliberate and not accidental.

24 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
25 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
26 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
27 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
28 California of the health hazards associated with exposures to THC contained in the Products.

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

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

6 23. 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

12 Respectfully submitted:

13 Dated: December 4, 2025

ENTORNO LAW, LLP

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