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Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-25-626283

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

BIOLOGIQUE RECHERCHE, a French
corporation; JOSYVAL, a French corporation;
THE NEIMAN MARCUS GROUP LLC, a
Delaware limited liability company; and DOES
1 through 100, inclusive,

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*

06/18/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

I.
INTRODUCTION

1. This Complaint is a representative action brought by Environmental Health Advocates, Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff seeks to remedy Defendants’ failure to inform the People of exposure to diethanolamine (“DEA”), a known carcinogen and reproductive/developmental toxin. Defendants expose consumers to DEA by manufacturing, importing, selling, and/or distributing lotion including, but not limited to, Biologique Recherche Lotion P50 PIGM 400 Exfoliating and Brightening P50 Lotion (“Products”). Defendants know and intend that customers will use Products containing DEA.

2. 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. California identified and listed DEA as a chemical known to cause cancer as early as June 22, 2012.

4. 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.

5. 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).)

II.
PARTIES

6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a corporation in the State of California dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposure from consumer products. It brings this action in the public interest pursuant to Health and Safety Code, section 25249.7.

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7. Defendant BIOLOGIQUE RECHERCHE ("B.R.") is a corporation organized and existing under the laws of France. B.R. is registered to do business in California, and does business in the County of San Francisco, within the meaning of Health and Safety Code, section 25249.11. B.R. manufactures, imports, sells, or distributes the Products in California and San Francisco County.

8. Defendant JOSYVAL ("Josyval") is a corporation organized and existing under the laws of France. Josyval is registered to do business in California, and does business in the County of San Francisco, within the meaning of Health and Safety Code, section 25249.11. Josyval manufactures, imports, sells, or distributes the Products in California and San Francisco County.

9. Defendant THE NEIMAN MARCUS GROUP LLC ("Neiman Marcus") is a limited liability company organized and existing under the laws of Delaware. Neiman Marcus is registered to do business in California, and does business in the County of San Francisco, within the meaning of Health and Safety Code, section 25249.11. Neiman Marcus manufactures, imports, sells, or distributes the Products in California and San Francisco County.

10. 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.

11. 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. VENUE AND JURISDICTION

12. 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

1 has jurisdiction.

2 13. Venue is proper in San Francisco County Superior Court pursuant to Code of Civil
3 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
4 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

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

8 **IV.**
9 **CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**
11 **(Violation of Proposition 65 – Against all Defendants)**

12 15. Plaintiff incorporates by reference each and every allegation contained above.

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

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

19 18. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
20 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
21 to DEA through reasonably foreseeable use of the Products.

22 19. Products expose individuals to DEA through dermal absorption. This exposure is a
23 natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As
24 such, Defendants intend that consumers will use Products, exposing them to DEA.

25 20. Defendants knew or should have known that the Products contained DEA and exposed
26 individuals to DEA in the ways provided above. The Notice informed Defendants of the presence of
27 DEA in the Products. Likewise, media coverage concerning DEA and related chemicals in consumer
28 products provided constructive notice to Defendants.

1 21. Defendants’ actions in this regard were deliberate and not accidental.

2 22. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
3 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff
4 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
5 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
6 California of the health hazards associated with exposures to DEA contained in the Products.

7 23. The appropriate public enforcement agencies provided with the Notice failed to
8 commence and diligently prosecute a cause of action against Defendants.

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

12 25. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
13 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
14 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: June 18, 2025

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