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County of Marin
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN – UNLIMITED CIVIL JURISDICTION

BLUE SKY FOREVER, Plaintiff, v. WESTERN BOTANICALS FL, LLC; and DOES 1-30, inclusive, Defendants.	Case No. CV0011470 **COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF** Violation of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code § 25249.5 *et seq*.) UNLIMITED CIVIL

Plaintiff BLUE SKY FOREVER ("**Plaintiff**"), acting in the public interest, alleges a cause of action against Defendants WESTERN BOTANICALS FL, LLC and DOES 1-30 ("**Defendant**") for their alleged violations of Health & Safety Code § 25249.6, et seq., as follows:

INTRODUCTION AND NATURE OF THE ACTION

1. Plaintiff brings this representative action in the public interest on behalf of the citizens of the State of California. By this action, Plaintiff seeks to enforce their right to be informed of the health hazards caused by exposures to lead (Pb) found in ashwagandha sourced, manufactured, processed, packaged, imported, distributed, sold or offered for sale by Defendant in the State of California.

2. By this Complaint, plaintiff seeks to remedy Defendant's failure to warn individuals not covered by California's Occupational Safety Health Act, Labor Code § 6300 *et seq.* ("**consumers**") before exposure to substances known to cause birth defects or other reproductive harm through

exposures to lead (Pb) when they use or ingest Defendant's ashwagandha.

3. Detectable levels of lead (Pb) are found in ashwagandha Defendant sources, manufactures, processes, packages, imports, sells or distributes for sale to consumers throughout California.

4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code § 25249.6 *et seq.* ("**Proposition 65**"), it is unlawful for a person in the course of doing business to knowingly and intentionally expose consumers in California to chemicals known to the State to cause birth defects or other reproductive harm, without first providing a "clear and reasonable" health hazard warning to such consumers prior to purchase or use.

5. Defendant sources, manufactures, processes, packages, distributes, imports, sells, and offers for sale, in and into California ashwagandha ("**PRODUCTS**") containing lead (Pb), without providing a warning regarding the presence of and the harms associated with exposures to lead (Pb) in Defendants' PRODUCTS. Such PRODUCTS include, without limitation, *Doctor Morse's PREMIUM ESSENTIALS Ashwagandha 2,100 mg 90 VEGGIECAPS (730MG EACH) UPC: 8 50042 54339 9.* Defendant's conduct is subject to civil penalties for each violation, enjoinment, preliminary and permanent injunctive relief. Health & Saf. Code § 25249.7(a) and (b)

PARTIES

6. Plaintiff is a non-profit corporation organized under the laws of California and acting in the public interest to reduce the presence of toxic chemicals found in consumer products and to enforce California citizens' right to be informed about the presence of toxic chemicals in the products they purchase and use and the harms associated with exposures to such chemicals. Plaintiff is a "person" within the meaning of Health & Safety Code § 25249.11(a). It brings this action in the public interest, pursuant to Health and Safety Code § 25249.7(d).

7. At all relevant times, Defendant WESTERN BOTANICALS FL, LLC ("**WBFL**") operated as a "person" "in the course of doing business" within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11.

8. WBFL sources, manufactures, processes, packages, imports, distributes, sells and offers the PRODUCTS for sale or use in California, or implies by its conduct that it sources, manufactures,

processes, packages, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in California.

9. Defendants DOES 1-10 ("**MANUFACTURER DEFENDANTS**") are each a person in the course of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11. MANUFACTURER DEFENDANTS, and each of them, source, process, package, assemble, fabricate, and manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS offered for sale or use in California.

10. Defendants DOES 11-20 ("**DISTRIBUTOR DEFENDANTS**") are each a person in the course of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11. DISTRIBUTOR DEFENDANTS, and each of them, import, distribute, transfer, and transport, or each impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use in the State of California.

11. Defendants DOES 21-30 ("**RETAILER DEFENDANTS**") are each a person in the course of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11. RETAILER DEFENDANTS, and each of them, by and through their conduct, ship, sell and offer the PRODUCTS for sale to consumers in the State of California.

12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names, pursuant to Code of Civil Procedure § 474. Each of the fictitiously named Defendants is responsible in some manner for the acts and occurrences alleged herein and the damages caused thereby. When ascertained, Plaintiff will identify these Doe Defendants by their true names in an amendment to this Complaint.

13. At all times mentioned herein, WBFL, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, hereinafter, where appropriate, be referred to collectively as the "**DEFENDANTS**."

JURISDICTION AND VENUE

14. This Court has jurisdiction over this action, pursuant to Health & Safety Code § 25249.7, allowing enforcement by any court of competent jurisdiction. The Superior Courts of the State of California have jurisdiction pursuant to California Constitution Article VI, section 10, which

grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

15. The Court has jurisdiction over DEFENDANTS, because DEFENDANTS, and each of them, is a person, firm, corporation or association that is a citizen of the State of California, does sufficient business in California, has sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail themselves of the California market through their manufacture, importation, distribution, promotion, marketing or sale of PRODUCTS within the California. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by this Court consistent with traditional notions of fair play and substantial justice.

16. Venue is proper in the Superior Court for the County of Marin, pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS conducted, and continue to conduct, business in the County of Marin with respect to the PRODUCTS that are the subject of this action.

REGULATORY BACKGROUND AND LAW

17. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and codified at Health & Safety Code § 25249.6 *et seq.,* Proposition 65 states, in relevant part, "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable warning to such individual…"

18. Under the Act, a "person in the course of doing business" is defined as a business with ten (10) or more employees. Health & Safety Code § 25249.11(b). The Act prohibits businesses from exposing consumers to hazardous chemicals without first giving a "clear and reasonable" warning. Health & Safety Code § 25249.6.

19. Exposing consumers to hazardous chemicals means to cause individuals to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical. Cal. Code

Regs. ("**CCR**"), tit. 27, § 25102(i). An exposure to a hazardous chemical is defined as that which "results from a person's acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product…" 27 CCR § 25600(h).

20. Under Proposition 65, persons violating the statute may be enjoined in any court of competent jurisdiction and may be subject to civil penalties of up to $2,500 per day, per violation. Health & Saf. Code § 25249.7.

21. On February 27, 1987, pursuant to Proposition 65's implementing regulations, California listed lead (Pb) as a chemical known to the State to cause birth defects and reproductive harm or reproductive toxicity. Lead (Pb) became subject to the "clear and reasonable warning" requirements one year later, on February 27, 1988. 27 CCR § 27001(c); Health & Saf. Code §§ 25249.8, 25249.10(b).

22. On October 1, 1992, pursuant to Proposition 65's implementing regulations, California identified and listed lead (Pb) as a chemical known to the State cause cancer. Lead (Pb) became subject to the "clear and reasonable warning" requirements one year later, on October 1, 1993. 27 CCR § 27001(c); Health & Saf. Code §§ 25249.8, 25249.10(b).

STATEMENT OF FACTS

23. DEFENDANTS sell and offer their PRODUCTS for sale in California without a clear and reasonable warning in violation of Cal. Code Regs. Tit. 27, § 25600, *et seq*.

24. DEFENDANTS' PRODUCTS expose consumers in California to lead (Pb) at levels requiring a warning under Proposition 65 when they ingest or otherwise consume the PRODUCTS during reasonably foreseeable use.

25. On July 24, 2026, plaintiff served a 60-Day Notice of Violation ("**Notice**"), together with the certificate of merit, on WBFL, the Office of the Attorney General of California, and the requisite public enforcement agencies, alleging, as a result of DEFENDANTS' sales of the PRODUCTS, consumers in the State of California were, and are, being exposed to lead (Pb) through their reasonably foreseeable use of the PRODUCTS without first receiving a "clear and reasonable warning," as required by Proposition 65.

26. After receiving Plaintiff's Notice, no public enforcement agency has commenced and is diligently prosecuting a cause of action against DEFENDANTS under Proposition 65 to enforce the alleged violations that are the subject of the Notice.

FIRST CAUSE OF ACTION

(Violation of Proposition 65 - Against All DEFENDANTS)

27. Plaintiff realleges and incorporates by reference, as if fully stated herein, the allegations set forth in Paragraphs 1 through 28, inclusive.

28. DEFENDANTS' PRODUCTS contain lead (Pb) in levels requiring a clear and reasonable warning under Proposition 65.

29. DEFENDANTS know or should have known the PRODUCTS they source, manufacture, process, package, import, distribute, sell, and offer for sale in California contain lead (Pb). As a result of Plaintiff's Notice, DEFENDANTS now possess actual knowledge of the presence of lead (Pb) in the PRODUCTS.

30. DEFENDANTS' PRODUCTS expose consumers in California to lead (Pb) by ingestion during the reasonably foreseeable use of the PRODUCTS.

31. The normal and reasonably foreseeable use of the PRODUCTS has caused, and continues to cause, exposures to lead (Pb).

32. DEFENDANTS know or should know the reasonably foreseeable use of the PRODUCTS exposes consumers to lead (Pb) through ingestion.

33. DEFENDANTS intend to expose consumers in California exposures to lead (Pb) during their reasonably foreseeable use of the PRODUCTS. Such exposures to lead (Pb) occur through DEFENDANTS deliberate and non-accidental participation in the California market.

34. The exposures to lead (Pb), caused by DEFENDANTS and endured by consumers in California, are not exempt from the "clear and reasonable" warning requirements of Proposition 65.

35. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers in California exposed to lead (Pb) through ingestion during their reasonably foreseeable uses of the PRODUCTS. DEFENDANTS continue to fail to provide such warning.

36. Contrary to the express policy and statutory prohibition of Proposition 65, consumers

are exposed to lead (Pb) through ingestion during their use of PRODUCTS DEFENDANTS sold, sell and offer for sale without a "clear and reasonable" warning. Such consumers suffer irreparable harms for which they have no plain, speedy, or adequate remedy at law.

37. DEFENDANTS manufacture, process, package, import, distribute, sell and offer the PRODUCTS for sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have continued beyond their receipt of Plaintiff's Notice. As such, DEFENDANTS' violations are ongoing and continuous in nature and, unless enjoined, will continue in the future.

38. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of $2,500 per day for each violation.

39. As a consequence of DEFENDANTS' acts and omissions, Health and Safety Code § 25249.7(a) specifically authorizes the Court to grant the relief prayed for herein.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief and judgment against DEFENDANTS, and each of them, as follows:

1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, processing, packaging, distributing, importing, marketing or otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and reasonable" warning to consumers regarding the presence of, and the harms associated with, with exposures to lead (Pb);

2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain of commerce in California that do not bear a clear and reasonable health hazard warning;

3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the amount of $2,500 per day for each violation of Proposition 65, according to proof;

4. That the Court award Plaintiff its reasonable attorneys' fees and costs of suit; and

5. That the Court grant any further relief as it deems just and equitable.

Dated: October 2, 2026

Respectfully submitted,

By: _____

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