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David W. Slayton,
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6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **IN AND FOR THE COUNTY OF LOS ANGELES**

9 VALENTINO MCCOY-GARCIA,
10 Plaintiff,

11 vs.

12 KIVA MANUFACTURING, INC., A
13 CALIFORNIA CORPORATION AND DOES 1
14 THROUGH 100, INCLUSIVE,
15 Defendants.

Case No.: **25STCV20952**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF
(Health & Safety Code § 25249.6 et seq.)**

JURY TRIAL DEMANDED

I.
INTRODUCTION

1
2
3 1. This action arises from Defendants' knowing and intentional violations of
4 California's Proposition 65, which requires businesses to provide clear and reasonable warnings
5 before exposing individuals to chemicals known to cause cancer or reproductive harm.

6 2. Defendants manufacture, sell, and distribute cannabis products (the "Products"),
7 including but not limited to cannabis-infused edibles, including gummies marketed under brands such
8 as Kiva Lost Farm. These products are generally reported by the manufacturers to contain 10mg of
9 THC per serving and 100mg of THC per package. The edibles include a variety of flavor profiles and
10 cannabinoid combinations, such as live resin and rosin extracts, with additional cannabinoids like
11 CBD and CBG.

12 3. California law mandates that warnings be prominently displayed and readily
13 accessible. Title 27, California Code of Regulations, Section 25601, states that a warning must be
14 "likely to be seen, read, and understood by an ordinary individual under customary conditions of
15 purchase or use."

16 4. Defendants have engaged in a deliberate scheme to conceal Proposition 65 warnings
17 by hiding the required warnings underneath peel-back labels, rendering them invisible at the time of
18 purchase or initial use.



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

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

8 **IV.**
9 **STATUTORY BACKGROUND**

10 **A. The Proposition 65 Warning Requirement**

11 13. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
12 passed as "Proposition 65" by a vote of the People in November of 1986.

13 14. The warning requirement of Proposition 65 is contained in Health and Safety Code
14 section 25249.6, which provides: "No person in the course of doing business shall knowingly and
15 intentionally expose any individual to a chemical known to the state to cause cancer or reproductive
16 toxicity without first giving clear and reasonable warning to such individual, except as provided in
17 Section 25249.10."

18 15. Proposition 65 establishes a procedure by which California, through its Governor or
19 a designee, develops and maintains a list of chemicals known to the State to cause cancer or
20 reproductive toxicity. (Health & Saf. Code, § 25249.8). A warning concerning a listed chemical must
21 be given beginning one year after the chemical first appears on the list. (Id., § 25249.10, subd. (b)).

22 16. Proposition 65 regulations provide that a warning is deemed to be "clear and
23 reasonable" if it complies with the requirements of California Code of Regulations, title 27, section
24 25601 et seq., including if the name of the chemical is included in the warning, and the warning is
25 prominently displayed on a label, labeling, or sign with such conspicuousness as compared with other
26 words, statements, designs, or devices on the label, labeling, or sign, as to render the warning likely
27 to be seen, read, and understood by an ordinary individual under customary conditions of purchase
28 or use. (Cal. Code Regs., tit. 27, § 25601).

1 **FAILURE TO WARN**

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

3 28. Plaintiff incorporates by reference each and every allegation contained above.

4 29. Proposition 65 mandates that citizens be informed about exposures to chemicals that
5 cause cancer, birth defects, and other reproductive harm.

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

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

13 32. The Products expose individuals to THC through ingestion. These exposures are
14 natural, foreseeable consequences of Defendants placing the Products into the stream of commerce.

15 33. Defendants knew or should have known that the Products contained THC, and that
16 they exposed individuals to THC as described above. The Notice informed Defendants of the
17 presence of THC in the Products resulting from the use of the Products. Defendants' action in this
18 regard were deliberate and not accidental.

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

25 35. The appropriate public enforcement agencies provided with the Notice failed to
26 commence and diligently prosecute a cause of action against Defendants. The Notice was served on
27 these agencies and Defendants via certified mail.
28

- Issue corrective advertising disclosing past noncompliance.
- Submit to court-monitored compliance audits for a period of two years.

42. Civil penalties of \$2,500 per violation per day under Health & Safety Code § 25249.7(b).

43. Restitution and disgorgement of profits gained through unlawful practices.

44. Plaintiff's reasonable attorney's fees and costs.

45. Such further relief as the Court deems just and proper.

Respectfully submitted:

Dated: July 16, 2025

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