

BY FAX

(ENDORSED)  
**FILED**  
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Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY H. Jimenez DEPUTY

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SANTA CLARA  
10 UNLIMITED CIVIL JURISDICTION

12 PETER ENGLANDER,  
13 Plaintiff,  
14 v.  
15 GLAZE INC.; MIDWEST TRADING  
16 GROUP, INC.; GROCERY OUTLET INC.;  
17 and DOES 1-150, inclusive,  
18 Defendants.

Case No. 17 CV 3 1 99 30

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 *et seq.*)

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff PETER  
3 ENGLANDER in the public interest of the citizens of the State of California to enforce the  
4 People’s right to be informed about exposures to lead, a toxic chemical that is found in USB  
5 cords that are sold in California.

6 2. By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failure to  
7 warn California citizens about the risks of exposures to lead present in and on the USB cords  
8 that are manufactured, distributed, and offered for sale or use to consumers throughout the State  
9 of California.

10 3. Detectable levels of lead are commonly found in and on the USB cords that  
11 defendants import, manufacture, distribute, ship, sell and offer for sale to consumers throughout  
12 the State of California.

13 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
14 Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the course of  
15 doing business shall knowingly and intentionally expose any individual to a chemical known to  
16 the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
17 warning to such individual . . . .” Health & Safety Code § 25249.6.

18 5. On February 27, 1987, pursuant to Proposition 65, California identified and listed  
19 lead as a chemical known to cause birth defects or other reproductive harm. Lead became  
20 subject to the “clear and reasonable warning” requirements of the act one year later on February  
21 27, 1988. (Cal. Code Regs., Tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 &  
22 25249.10(b).)

23 6. Defendants manufacture, distribute, import, sell, and offer for sale without  
24 warning in California, USB cords containing lead, including, but not limited to, the *Soundlogic*  
25 *XT LED Bubble Speaker, MRS-12/6095, UPC #0 44902 06095 3*. All such USB cords  
26 containing lead are referred to collectively hereinafter as the “PRODUCTS”.  
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1 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
2 State of California.

3 15. Defendant Grocery Outlet, Inc. ("GROCERY OUTLET") is a person in the course  
4 of doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

5 16. GROCERY OUTLET manufactures, imports, distributes, sells, and/or offers the  
6 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it  
7 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
8 State of California.

9 17. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a  
10 person in the course of doing business within the meaning of Health and Safety Code sections  
11 25249.6 and 25249.11.

12 18. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
13 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,  
14 and manufacture one or more of the PRODUCTS offered for sale or use in the State of  
15 California.

16 19. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each a person  
17 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
18 and 25249.11.

19 20. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and  
20 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
21 in the State of California.

22 21. Defendants DOES 101-150 ("RETAILER DEFENDANTS") are each a person in  
23 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
24 and 25249.11.

25 22. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
26 State of California.

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1 **FIRST CAUSE OF ACTION**

2 **(Violation of Proposition 65 - Against All Defendants)**

3 28. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
4 Paragraphs 1 through 27, inclusive.

5 29. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
6 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be  
7 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
8 harm.”

9 30. Proposition 65 states, “[n]o person in the course of doing business shall  
10 knowingly and intentionally expose any individual to a chemical known to the state to cause  
11 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
12 individual . . . .” Health & Safety Code § 25249.6.

13 31. On May 31, 2017, Plaintiff’s sixty-day notice of violation, together with the  
14 requisite certificate of merit, was provided to DEFENDANTS, and the requisite public  
15 enforcement agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS  
16 containing lead, workers, consumers and other individuals in the State of California are being  
17 exposed to lead resulting from their reasonably foreseeable use of the PRODUCTS, without the  
18 individual purchasers and users first having received a “clear and reasonable warning”  
19 regarding such toxic exposures, as required by Proposition 65.

20 32. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
21 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
22 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of  
23 plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’ violations are ongoing and  
24 continuous in nature, and, unless enjoined, will continue to occur in the future.

25 33. After receiving plaintiff’s sixty-day notice of violation, the appropriate public  
26 enforcement agencies have failed to commence and diligently prosecute a cause of action  
27 against DEFENDANTS under Proposition 65.  
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1           34. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
2 or use in California by DEFENDANTS contain lead in such a way that the reasonably  
3 foreseeable uses of these products result in exposures that require a “clear and reasonable”  
4 warning under Proposition 65.

5           35. DEFENDANTS knew or should have known that the PRODUCTS they  
6 manufacture, import, distribute, sell, and offer for sale or use in California contain lead.

7           36. Lead is present in or on the PRODUCTS in such a way as to expose individuals  
8 through dermal contact and/or ingestion during reasonably foreseeable use.

9           37. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
10 continues to cause, consumer exposures to lead, as such exposures are defined by title 27 of the  
11 California Code of Regulations, section 25602(b).

12           38. DEFENDANTS have knowledge that the normal and reasonably foreseeable use  
13 of the PRODUCTS exposes individuals to lead through dermal contact and/or ingestion.

14           39. DEFENDANTS intend for such exposures to lead from the reasonably  
15 foreseeable use of the PRODUCTS to occur by their deliberate, non-accidental participation in  
16 the manufacture, distribution, sale, and offering of the PRODUCTS for sale or use to  
17 individuals in the State of California.

18           40. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
19 workers, consumers and other individuals in California who have been, or will be, exposed to  
20 lead.

21           41. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
22 directly by California voters, consumers, and other individuals exposed to lead through dermal  
23 contact and/or ingestion, resulting from the reasonably foreseeable use of the PRODUCTS sold  
24 by DEFENDANTS without a “clear and reasonable warning,” have suffered, and continue to  
25 suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

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