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County of Santa Clara  
18CV335056  
Reviewed By: E. Fang

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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SANTA CLARA**  
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11 SAFE PRODUCTS FOR CALIFORNIANS, ) No. 18CV335056  
12 LLC, )  
13 Plaintiff, ) **COMPLAINT FOR CIVIL PENALTIES**  
14 vs. ) **AND INJUNCTIVE RELIEF**  
15 AMAZON.COM, INC.; DOES 1 THROUGH ) (Health & Safety Code § 25249.5, *et seq.*)  
16 150, inclusive; )  
17 Defendants. )  
18 )  
19 )

20  
21 Plaintiff, SAFE PRODUCTS FOR CALIFORNIANS, LLC (“Plaintiff”), alleges as  
22 follows:

23 **SUMMARY**

24 1. This is a representative action brought by Plaintiff in the public interest of the  
25 citizens of the State of California to enforce the public’s right to be informed of the health  
26 hazards caused by exposures to di(2-ethylhexyl) phthalate (“DEHP”), a toxic chemical found  
27 in and on the products manufactured, distributed, and/or sold by Defendants, AMAZON.COM,  
28 INC.; and DOES 1 THROUGH 150, inclusive (collectively “Defendants”), as set forth below.

1           2.       By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failure to  
2 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code  
3 § 6300, *et seq.* (“OSHA”), who purchase, use, or handle Defendants’ products, about the risks  
4 of exposure to DEHP present in and on the products manufactured, distributed, and sold  
5 throughout the State of California. Individuals not covered by OSHA who purchase, use, or  
6 handle Defendants’ products are referred to hereinafter as “Consumers.”

7           3.       Detectable levels of DEHP are found in and on the soft plastic fishing lures that  
8 Defendants manufacture, distribute, and/or offer for sale to Consumers throughout the State of  
9 California.

10          4.       Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
11 Health & Safety Code § 25249.5, *et seq.* (“Proposition 65”), “[n]o person in the course of  
12 doing business shall knowingly and intentionally expose any individual to a chemical known to  
13 the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
14 warning to such individual ...” Health & Safety Code § 25249.6.

15          5.       Pursuant to Proposition 65, on January 1, 1988, California identified and listed  
16 DEHP as a chemical known to cause cancer. DEHP became subject to the “clear and  
17 reasonable warning” requirements of Proposition 65 one year later on January 1, 1989. Cal.  
18 Code Regs. tit. 27, § 27001(c); Health & Safety Code § 25249.8.

19          6.       Pursuant to Proposition 65, on October 24, 2003, California identified and listed  
20 DEHP as a chemical known to cause reproductive toxicity. DEHP became subject to the “clear  
21 and reasonable warning” requirements of Proposition 65 one year later on October 24, 2004.  
22 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code § 25249.8.

23          7.       Defendants manufacture, distribute, import, sell, and offer for sale without  
24 health warnings in the State of California, soft plastic fishing lures that contain excessive levels  
25 of DEHP including, but not limited to, “Yoshikawa Bait Wiggle Worm Soft Plastic Fishing  
26 Lure Drop Shot Spring Bass Lures Perch 3" Watermelon” Item MIKV75 #001, ASIN  
27 #B01N106RPB. All such products containing DEHP are referred to collectively hereinafter as  
28 “Products.”



**PARTIES**

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2           14. Plaintiff is a limited liability California company with its principal place of  
3 business within the State of California, County of Santa Clara. Plaintiff seeks to reduce or  
4 eliminate the presence of hazardous substances in consumer products sold in California, and to  
5 ensure that California consumers are aware of the presence of such substances in consumer  
6 goods so that they can make an educated effort to limit their own exposure where deemed  
7 necessary. Plaintiff brings this action in the public interest pursuant to Health & Safety Code  
8 § 25249.7(d).

9           15. Defendant AMAZON.COM, INC. is a person in the course of doing business  
10 within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.

11           16. Defendants manufacture, import, distribute, sell, and/or offer the Products for  
12 sale or use in the State of California, or imply by their conduct that they manufacture, import,  
13 distribute, sell, and/or offer the Products for sale or use in the State of California.

14           17. Defendants DOES 1 THROUGH 50, inclusive (“Manufacturer Defendants”),  
15 are each a person in the course of doing business within the meaning of Health & Safety Code  
16 §§ 25249.6 and 25249.11.

17           18. Manufacturer Defendants, and each of them, research, test, design, assemble,  
18 fabricate, and manufacture, or each implies by its conduct that it researches, tests, designs,  
19 assembles, fabricates, and manufactures, one or more of the Products offered for sale or use in  
20 California.

21           19. Defendants DOES 51 THROUGH 100, inclusive (“Distributor Defendants”),  
22 are each a person in the course of doing business within the meaning of Health & Safety Code  
23 §§ 25249.6 and 25249.11.

24           20. Distributor Defendants, and each of them, distribute, exchange, transfer,  
25 process, and transport one or more of the Products to individuals, businesses, or retailers for  
26 sale or use in the State of California, or each implies by its conduct that it distributes,  
27 exchanges, transfers, processes, and transports one or more of the Products to individuals,  
28 businesses, or retailers for sale or use in the State of California.



1 the alleged exposures to DEHP and that counsel believed there was meritorious and reasonable  
2 cause for a public action, on Defendant AMAZON.COM, INC., the California Attorney  
3 General's Office, and the requisite public enforcement agencies, alleging that, as a result of  
4 Defendant's sales of the Products, Consumers in the State of California are being exposed to  
5 DEHP resulting from their reasonably foreseeable use of the Products, without the Consumers  
6 first receiving a "clear and reasonable warning" regarding the harms associated with exposures  
7 to DEHP, as required by Proposition 65.

8         29. Defendants manufacture, import, distribute, sell, and offer the Products for sale  
9 or use in violation of Health & Safety Code § 25249.6, and Defendants' violations have  
10 continued beyond their receipt of Plaintiff's sixty-day notice of violation. As such, Defendants'  
11 violations are ongoing and continuous in nature and, unless enjoined, will continue in the  
12 future.

13         30. After receiving Plaintiff's sixty-day notice of violation, and to Plaintiff's best  
14 information and belief, no public enforcement agency has commenced and diligently  
15 prosecuted a cause of action against Defendants under Proposition 65 to enforce the alleged  
16 violations that are the subject of Plaintiff's notice of violation.

17         31. The Products that Defendants manufacture, import, distribute, sell, and offer for  
18 sale or use in California cause exposures to DEHP as a result of the reasonably foreseeable use  
19 of the Products. Such exposures caused by Defendants and endured by Consumers in  
20 California are not exempt from the "clear and reasonable" warning requirements of Proposition  
21 65, yet Defendants provide no clear and reasonable warning.

22         32. Defendants knew or should have known that the Products they manufacture,  
23 import, distribute, sell, and offer for sale or use in California contain DEHP.

24         33. DEHP is present in or on the Products in such a way as to expose Consumers  
25 through dermal contact, inhalation, and/or ingestion during reasonably foreseeable use.

26         34. The normal and reasonably foreseeable use of the Products has caused, and  
27 continues to cause, consumer exposures to DEHP, as defined by title 27 of the California Code  
28 of Regulations, section 25602(b).



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3. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and permanently enjoin Defendants from manufacturing, distributing, or offering the Products for sale or use in California without first providing a “clear and reasonable warning” in accordance with title 27 of the California Code of Regulations, section 25601, *et seq.*, regarding the harms associated with DEHP;
4. Plaintiff’s reasonable attorney’s fees and costs of suit; and
5. For such other and further relief as the Court deems proper.

Dated: 9/17/18

MISSION LAW FIRM A.P.C.

Tanya E. Moore  
Tanya E. Moore  
Attorney for Plaintiff  
Safe Products for Californians, LLC