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ENDORSED
FILED
ALAMEDA COUNTY

MAY 30 2019

CLERK OF THE SUPERIOR COURT

Deputy
MARGARET J. DOWNIE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

10 EMA BELL,

11 Plaintiff,

12 vs.

13 URBAN OUTFITTERS, INC.,

14 Defendant.

Case No.: **RG 19020908**

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

15 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause
16 of action in the public interest of the citizens of the State of California.

17 **BACKGROUND OF THE CASE**

18 1. Plaintiff brings this representative action on behalf of all California citizens to
19 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified
20 at the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
21 "[n]o person in the course of doing business shall knowingly and intentionally expose any
22 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
23 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

24 2. This complaint is a representative action brought by Plaintiff in the public interest
25 of the citizens of the State of California to enforce the People's right to be informed of the health
26 hazards caused by exposure to Bisphenol A (BPA), a toxic chemical found in Urban Outfitters
27 sunglasses sold and/or distributed by defendant Urban Outfitters, Inc. ("Urban Outfitters" or
28 "Defendant") in California.

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1 3. BPA is a harmful chemical known to the State of California to cause reproductive
2 toxicity. On May 11, 2015, the State of California listed BPA as a chemical known to the State to
3 cause reproductive toxicity and it has come under the purview of Proposition 65 regulations
4 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
5 25249.10(b).

6 4. Proposition 65 requires all businesses with ten (10) or more employees that
7 operate within California or sell products therein to comply with Proposition 65 regulations.
8 Included in such regulations is the requirement that businesses must label any product containing
9 a Proposition 65-listed chemical with a “clear and reasonable” warning before “knowingly and
10 intentionally” exposing any person to it.

11 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
12 to be imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety
13 Code § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin
14 the actions of a defendant which “violate or threaten to violate” the statute. Health & Safety
15 Code § 25249.7.

16 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
17 without a requisite exposure warning, Urban Outfitters sunglasses (the “Products”) that expose
18 persons to BPA.

19 7. Defendant’s failure to warn consumers and other individuals in California of the
20 health hazards associated with exposure to BPA in conjunction with the sale and/or distribution
21 of the Products is a violation of Proposition 65 and subjects Defendant to the enjoinder and
22 civil penalties described herein.

23 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition
24 65 in accordance with Health and Safety Code § 25249.7(b).

25 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
26 Defendant to provide purchasers or users of the Products with required warnings related to the
27 dangers and health hazards associated with exposure to BPA pursuant to Health and Safety Code
28 § 25249.7(a).

1 **PARTIES**

2 10. Plaintiff is a citizen of the State of California acting in the interest of the general
3 public to promote awareness of exposures to toxic chemicals in products sold in California and
4 to improve human health by reducing hazardous substances contained in such items. She brings
5 this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

6 11. Defendant Urban Outfitters, through its business, effectively imports, distributes,
7 sells, and/or offers the Products for sale or use in the State of California, or it implies by its
8 conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of
9 California.

10 12. Plaintiff alleges that defendant Urban Outfitters is a “person” in the course of
11 doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

12 **VENUE AND JURISDICTION**

13 13. Venue is proper in the County of Alameda because one or more of the instances
14 of wrongful conduct occurred, and continue to occur in this county and/or because Defendant
15 conducted, and continues to conduct, business in the County of Alameda with respect to the
16 Products.

17 14. This Court has jurisdiction over this action pursuant to California Constitution
18 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
19 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the
20 enforcement of violations of Proposition 65 in any Court of competent jurisdiction; therefore,
21 this Court has jurisdiction over this lawsuit.

22 15. This Court has jurisdiction over Defendant because Defendant is either a citizen
23 of the State of California, has sufficient minimum contacts with the State of California, is
24 registered with the California Secretary of State as foreign corporations authorized to do business
25 in the State of California, and/or has otherwise purposefully availed itself of the California
26 market. Such purposeful availment has rendered the exercise of jurisdiction by California courts
27 consistent and permissible with traditional notions of fair play and substantial justice.

28 **SATISFACTION OF NOTICE REQUIREMENTS**

1 23. The Product does not comply with the Proposition 65 warning requirements.

2 24. Plaintiff, based on her best information and belief, avers that at all relevant times
3 herein, and at least since September 27, 2017, continuing until the present, that Defendant has
4 continued to knowingly and intentionally expose California users and consumers of the Product
5 to BPA without providing required warnings under Proposition 65.

6 25. The exposures that are the subject of the Notice result from the purchase,
7 acquisition, handling and recommended use of the Product. Consequently, the primary route of
8 exposure to these chemicals is through dermal exposure. Dermal exposure to BPA is possible
9 when the user handles the Product or wears the Product on their face. Contact and cleaning with
10 hard water and/or soaps at elevated pH will result in higher extraction rates of BPA and
11 accumulation of BPA at the surface of the Product. BPA has the potential to cause serious
12 damage to the eyes. An animal study shows that BPA is an eye irritant; effects persisted until the
13 end of the study in 1 of 3 rabbits. Finally, some amount of exposure to BPA through ingestion
14 can occur by handling the Product, with subsequent touching of the user's hand to mouth or
15 through incidental mouthing the temple tips of the Product.

16 26. Plaintiff, based on her best information and belief, avers that such exposures will
17 continue every day until clear and reasonable warnings are provided to Product purchasers and
18 users or until this known toxic chemical is removed from the Product.

19 27. Defendant has knowledge that the normal and reasonably foreseeable use of the
20 Product exposes individuals to BPA, and Defendant intends that exposures to BPA will occur by
21 its deliberate, non-accidental participation in the manufacture, importation, distribution, sale and
22 offering of the Products to consumers in California

23 28. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
24 Complaint.

25 29. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
26 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

27 30. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
28 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

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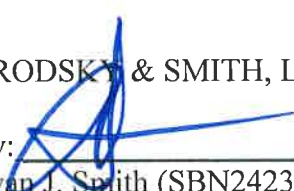
PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant and requests the following relief:

- A. That the court assess civil penalties against Defendant in the amount of \$2,500 per day for each violation in accordance with Health and Safety Code § 25249.7(b);
- B. That the court preliminarily and permanently enjoin Defendant mandating Proposition 65 compliant warnings on the Product;
- C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit.
- D. That the court grant any further relief as may be just and proper.

Dated: May 30, 2019

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