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ENDORSED
FILED
Superior Court of California
County of San Francisco

SEP 13 2018

CLERK OF THE COURT
BY: BOWMAN LIU
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

JOHN MOORE,
Plaintiff,
v.
LB MARKETING, INC.; BEST BUY CO., INC.;
and DOES 1-150, inclusive,
Defendants.

Case No. **CGC-18-569699**
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Health & Safety Code § 25249.5 et seq.)

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff JOHN MOORE in
3 the public interest of the citizens of the State of California to enforce the People’s right to be
4 informed of the health hazards caused by exposures to di(2-ethylhexyl)phthalate (DEHP), a
5 toxic chemical found in vinyl headlamp cords and other portable lighting products with vinyl
6 components sold by defendants in California.

7 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to
8 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code
9 section 6300 et seq., who purchase, use or handle defendants’ products, about the risks of
10 exposure to DEHP present in and on vinyl headlamp cords and other portable lighting products
11 with vinyl components that are manufactured, distributed, and offered for sale or use throughout
12 the State of California. Individuals not covered by California’s Occupational Safety Health Act,
13 Labor Code section 6300 et seq., who purchase, use or handle defendants’ products, are referred
14 to hereinafter as “consumers.”

15 3. Detectable levels of DEHP are found in and on the vinyl headlamp cords and
16 other portable lighting products with vinyl components that defendants manufacture, distribute,
17 and offer for sale to consumers and other individuals throughout the State of California.

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

23 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed
24 DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP became
25 subject to the “clear and reasonable warning” requirements of the act one year later on October
26 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
27 25249.10(b).

1 12. LB MARKETING manufactures, imports, distributes, sells, and/or offers the
2 PRODUCTS for sale or use in the State of California, or implies by its conduct that it
3 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
4 State of California.

5 13. Defendant BEST BUY CO., INC. (BEST BUY) is a person in the course of doing
6 business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

7 14. BEST BUY manufactures, imports, distributes, sells, and/or offers the
8 PRODUCTS for sale or use in the State of California, or implies by its conduct that it
9 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
10 State of California.

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

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

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

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

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

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1 **FIRST CAUSE OF ACTION**

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

3 26. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
4 Paragraphs 1 through 25, inclusive.

5 27. 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 28. 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 29. On May 31, 2018, plaintiff served a 60-day Notice of Violation, the “Notice”,
14 together with the requisite certificate of merit, on LB MARKETING, BEST BUY, and certain
15 public enforcement agencies alleging that, as a result of DEFENDANTS’ sales of the
16 PRODUCTS containing DEHP, purchasers and users in the State of California were being
17 exposed to DEHP resulting from their reasonably foreseeable use of the PRODUCTS, without
18 the individual purchasers and users first having been provided with a “clear and reasonable
19 warning” regarding the harms associated with such exposures, as required by Proposition 65.

20 30. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS
21 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’
22 violations have continued beyond their receipt of plaintiff’s Notice. DEFENDANTS’ violations
23 are ongoing and continuous in nature, and, as such, will continue in the future.

24 31. After receiving plaintiff’s Notice, none of the appropriate public enforcement
25 agencies have commenced and diligently prosecuted a cause of action against DEFENDANTS
26 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s Notice.

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1 32. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell,
2 and/or offer for sale or use in California cause exposures to DEHP as a result of the reasonably
3 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANTS and endured by
4 consumers and other individuals in California are not exempt from the “clear and reasonable”
5 warning requirements of Proposition 65, yet DEFENDANTS provide no warning.

6 33. DEFENDANTS knew or should have known that the PRODUCTS they
7 manufactured, imported, distributed, sold, and/or offered for sale or use in California contained
8 DEHP.

9 34. DEHP is present in or on the PRODUCTS in such a way as to expose individuals
10 to DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

11 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
12 continues to cause, consumer product exposures to DEHP, as defined by title 27 of the
13 California Code of Regulations, section 25600.1(e).

14 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of
15 the PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.

16 37. DEFENDANTS intended that exposures to DEHP from the reasonably
17 foreseeable use of the PRODUCTS would occur by their deliberate, non-accidental participation
18 in the manufacture, importation, distribution, sale, and/or offering of the PRODUCTS for sale
19 or use to consumers and other individuals in California.

20 38. DEFENDANTS failed to provide a “clear and reasonable warning” to those
21 consumers and other individuals in California who were or who would become exposed to
22 DEHP through dermal contact and/or ingestion resulting from their use of the PRODUCTS.

23 39. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
24 directly by California voters, individuals exposed to DEHP through dermal contact and/or
25 ingestion as a result of their use of the PRODUCTS that DEFENDANTS sold without a “clear
26 and reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm
27 for which they have no plain, speedy, or adequate remedy at law.
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Exhibit A

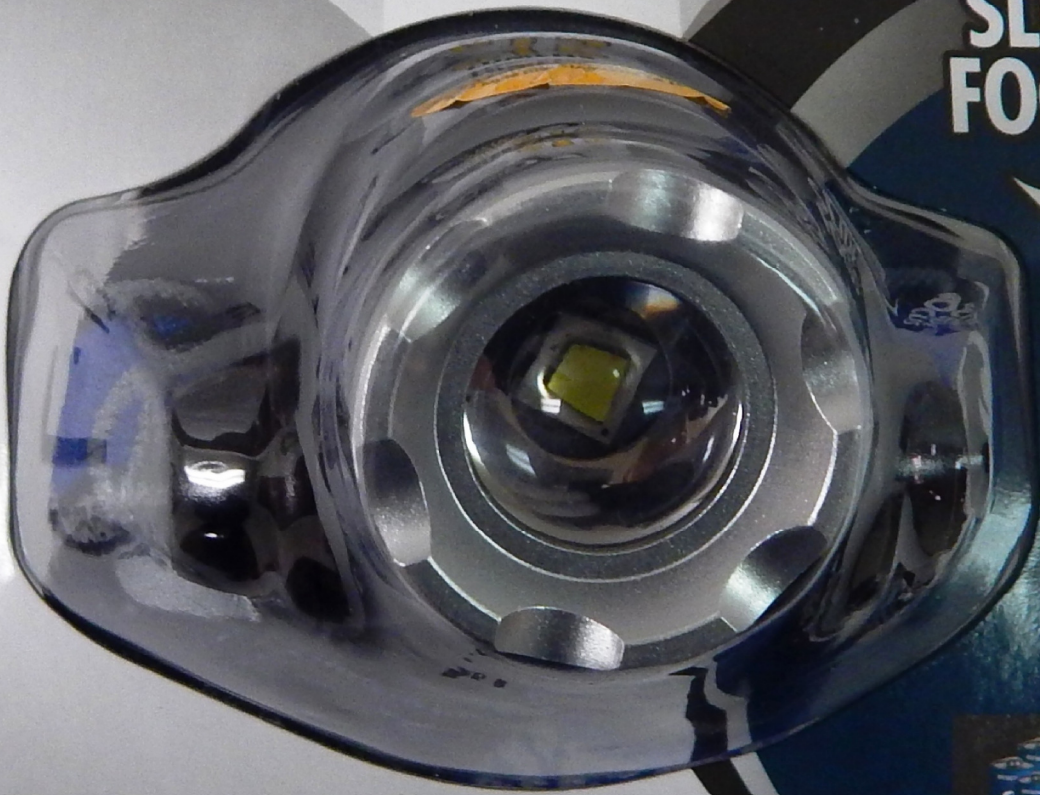


CREE LEDs

3 MODES
MODOS

615
LUMENS

SLIDE
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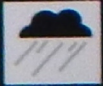
ELITE™

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