

ENDORSED
FILED
Superior Court of California
County of San Francisco

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CENTER FOR ADVANCED PUBLIC AWARENESS

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF SAN FRANCISCO

9 UNLIMITED CIVIL JURISDICTION

11 CENTER FOR ADVANCED PUBLIC
12 AWARENESS,
Plaintiff,

13 v.

14 USA MINISO DEPOT INC.; MINISO DEPOT
15 CA INC.; and DOES 1-30, inclusive,
16 Defendants.

Case No. **CGC-19-574721**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

Violation of Proposition 65, The Safe
Drinking Water and Toxic Enforcement Act
of 1986 (Health & Safety Code § 25249.5 *et*
seq.)

Action is an Unlimited Civil Case

LET FAX
ONT LEGAL

1 Plaintiff CENTER FOR ADVANCED PUBLIC AWARENESS, acting in the public
2 interest, alleges a cause of action against Defendants USA MINISO DEPOT INC., MINISO
3 DEPOT CA INC. and DOES 1-30.

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. This Complaint is a representative action brought by Plaintiff CAPA in the public
6 interest of the citizens of the State of California to enforce the People’s right to be informed of the
7 health hazards caused by exposures to di(2-ethylhexyl)phthalate (DEHP), d-buty phthalate (“DBP”)
8 and Diisononyl phthalate (“DINP”), toxic chemicals found in and on the vinyl/PVC cords,
9 vinyl/PVC jewelry and shoes with vinyl/PVC components manufactured, imported, distributed,
10 sold or offered for sale by defendants in the State of California.

11 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to warn
12 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*
13 (“consumers”) that they are being exposed to substances known to the State of California to cause
14 cancer, birth defects and other reproductive harm through exposures to DEHP, DINP, and DBP
15 present in and on the vinyl/PVC cords, vinyl/PVC jewelry and shoes with vinyl/PVC components,
16 when consumer use or handle defendants’ products that are manufactured, imported, distributed,
17 sold and offered for sale or use throughout the State of California.

18 3. Detectable levels of DEHP, DINP and DBP are found in and on the vinyl/PVC
19 cords, vinyl/PVC jewelry, and shoes with vinyl/PVC components that defendants manufacture,
20 import, distribute, sell and offer for sale to consumers throughout the State of California.

21 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified
22 at Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”), it is unlawful for a person in the
23 course of doing business to knowingly and intentionally expose consumers in California to
24 chemicals known to the State to cause cancer, birth defects or other reproductive harm, without first
25 providing a “clear and reasonable” health hazard warning to consumers prior to purchase or use.

26 5. CAPA contends and alleges that Defendants manufacture, distribute, import, sell,
27 and offer for sale products containing DEHP, DINP and DBP, including: (a) vinyl/PVC cords, such
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1 as the *Miniso Cellphone Selfie Light Cord, Item # 050018081, UPC #4 510045 180811*; (b) shoes
2 with vinyl/PVC components, such as the *Miniso Comfortable Flip Flops, Item #070045173, UPC*
3 *#4 578347 451738*; and (c) vinyl/PVC jewelry, such as the *Miniso Swim Ring, Item #070042991,*
4 *UPC #4 516357 429914* (collectively, hereinafter, the “PRODUCTS”), without the requisite health
5 hazard warning regarding the harms associated with exposures to the chemicals, in violation of
6 Proposition 65. Defendants’ conduct subjects them to civil penalties for each violation,
7 enjoinder, and preliminary and permanent injunctive relief. Health & Safety Code §§ 25249.7(a),
8 (b).

9 PARTIES

10 6. Plaintiff CAPA is a non-profit organization organized under the laws of California
11 and acting in the interest of the general public, dedicated to protecting the health of California
12 citizens by increasing public awareness of hazardous chemicals and to protecting the environment
13 through the elimination or reduction of toxic chemicals utilized in manufacturing consumer
14 products and the promotion of sound environmental practices and corporate responsibility. CAPA
15 is a person, within the meaning of Health & Safety Code § 25249.11(a), and CAPA brings this
16 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

17 7. Defendant USA MINISO DEPOT INC. is a corporation supplying consumer
18 products and doing business within the State of California at all relevant times herein.

19 8. Defendant MINISO DEPOT CA INC. is a privately-held incorporated company
20 located in California, supplying consumer products and doing business within the State, at all
21 relevant times herein.

22 9. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
23 Defendants USA MINISO DEPOT INC. AND MINISO DEPOT CA INC. (collectively,
24 hereinafter, “MINISO”) were and are “persons in the course of doing business”, with ten (10) or
25 more employees. Health and Safety Code §§ 25249.6 and 25249.11.

26 10. MINISO manufactures, imports, distributes, sells, and offers the PRODUCTS for
27 sale or use in the State of California, or implies by its conduct that it manufactures, imports,
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1 distributes, sells, and offers the PRODUCTS for sale or use in the State of California.

2 11. Defendants DOES 1-10 (“MANUFACTURER DEFENDANTS”) are each a person
3 in the course of doing business, within the meaning of Health and Safety Code §§ 25249.6 and
4 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and
5 manufacture, or imply their conduct that they are responsible for one or more of the PRODUCTS
6 offered for sale or use in California.

7 12. Defendants DOES 11-20 (“DISTRIBUTOR DEFENDANTS”) are each a person in
8 the course of doing business. Health and Safety Code §§ 25249.6, 25249.11. DISTRIBUTOR
9 DEFENDANTS, and each of them, distribute, transfer, and transport, or each impliedly does so by
10 its conduct, one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use in
11 California

12 13. Defendants DOES 21-30 (“RETAILER DEFENDANTS”) are each a person in the
13 course of doing business. Health and Safety Code §§ 25249.6 and 25249.11. RETAILER
14 DEFENDANTS, and each of them, offer the PRODUCTS for sale to individuals in California.

15 14. At this time, the true names of defendants DOES 1 through 30, inclusive, are
16 unknown to plaintiff, who, therefore, sues said defendants by their fictitious names, pursuant to
17 Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, that
18 each of the fictitiously named defendant is responsible in some manner for the acts and occurrences
19 alleged herein and the damages caused thereby. When ascertained, their true names and capacities
20 shall be reflected in an amended complaint.

21 15. At all times mentioned herein, MINISO, MANUFACTURER DEFENDANTS,
22 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, hereinafter, where
23 appropriate, be referred to collectively as the “DEFENDANTS.”

24 **JURISDICTION AND VENUE**

25 16. This Court has jurisdiction over this action pursuant to Cal. Health & Safety Code §
26 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior
27 Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10,
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1 which grants the Superior Court “original jurisdiction in all causes except those given by statute to
2 other trial courts.” The statute under which this action is brought does not specify any other basis
3 of subject matter jurisdiction.

4 17. The California Superior Court has jurisdiction over DEFENDANTS based on
5 plaintiff’s information and good faith belief that DEFENDANTS are each a person, firm,
6 corporation or association that is a citizen of the State of California, does sufficient business in
7 California, have sufficient minimum contacts in California, and/or otherwise purposefully and
8 intentionally avail themselves of the California market through their manufacture, importation,
9 distribution, promotion, marketing or sale of PRODUCTS within the State. DEFENDANTS’
10 purposeful availment renders the exercise of personal jurisdiction by California courts consistent
11 with traditional notions of fair play and substantial justice.

12 18. Venue is proper in the Superior Court for the County of San Francisco pursuant to
13 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent
14 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more
15 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because
16 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with
17 respect to the PRODUCTS that are the subject of this action.

18 **REGULATORY BACKGROUND AND LAW**

19 19. In 1986, the people of the State of California approved an initiative addressing
20 concerns regarding the harms caused by hazardous chemicals and declaring their right “[t]o be
21 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
22 harm.” Ballot Pamp., Proposed General Law, Gen. Elec. (Nov. 4, 1986) at p.3.

23 20. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986
24 and codified at Health & Safety Code §§ 25249.6 *et seq.*, Proposition 65 states in relevant part that
25 “[n]o person in the course of doing business shall knowingly and intentionally expose any
26 individual to a chemical know to cause cancer or reproductive toxicity without first giving a clear
27 and reasonable warning to such individual...”
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1 DBP. DEFENDANTS were also informed of the presence of chemicals in the PRODUCTS
2 through Plaintiff's Notice.

3 35. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and
4 offer for sale or use in California cause exposures to DEHP, DINP and DBP.

5 36. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
6 continues to cause, consumer product exposures to DEHP, DINP and DBP through dermal contact
7 and/or ingestion.

8 37. DEFENDANTS know that the normal and reasonably foreseeable use of the
9 PRODUCTS exposes individuals to DEHP, DINP and DBP through dermal contact and/or
10 ingestion.

11 38. DEFENDANTS intend that exposures to DEHP, DINP and DBP from the
12 reasonably foreseeable use of the PRODUCTS will occur by their deliberate, non-accidental
13 participation in the California marketplace.

14 39. The consumer exposures to DEHP, DINP and DBP, caused by DEFENDANTS and
15 endured by consumers and other individuals in California are not exempt from the "clear and
16 reasonable" warning requirements of Proposition 65.

17 40. DEFENDANTS failed to provide a "clear and reasonable warning" to those
18 consumers in California who have been, or who will be, exposed to DEHP, DINP and DBP through
19 dermal contact and/or ingestion resulting from their purchase and use of the PRODUCTS.

20 41. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
21 directly by California voters, consumers exposed to DEHP, DINP and DBP through dermal contact
22 and/or ingestion as a result of their use of the PRODUCTS that DEFENDANTS sold without a
23 "clear and reasonable" health hazard warning, have suffered, and continue to suffer, irreparable
24 harm for which they have no plain, speedy, or adequate remedy at law.

25 42. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
26 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have
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1 continued beyond their receipt of plaintiff's Notice. As such, DEFENDANTS' violations are
2 ongoing and continuous in nature and, unless enjoined, will continue in the future.

3 43. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-
4 described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500
5 per day for each violation.

6 44. As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)
7 also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

8 **PRAYER FOR RELIEF**

9 Wherefore, CAPA prays for relief and judgment against DEFENDANTS, and each of them,
10 as follows:

11 1. That the Court preliminarily and permanently enjoin DEFENDANTS from
12 manufacturing, distributing, importing, selling or offering PRODUCTS for sale or use in California
13 without first providing a "clear and reasonable warning";

14 2. That the Court issue preliminary and permanent injunctions mandating
15 DEFENDANTS recall all PRODUCTS currently in the chain of commerce in California without a
16 "clear and reasonable warning";

17 3. That the Court assess civil penalties against DEFENDANTS in the amount of
18 \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

19 4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit; and

20 5. That the Court grant any further relief as the Court may deem just and equitable.

21 Respectfully submitted,

22 Dated: March 21, 2019

GATES JOHNSON LAW

23
24
25 By: _____

k. gates

26 Kimberly Gates Johnson
27 Attorneys for Plaintiff
28 Center for Advanced Public Awareness