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NICHOLAS & TOMASEVIC, LLP
Craig M. Nicholas (SBN 178444)
Shaun Markley (SBN 291785)
Jake Schulte (SBN 293888)
225 Broadway, 19th Floor
San Diego, California 92101
Telephone: (619) 325-0492
Facsimile: (619) 325-0496
Email: cnicholas@nicholaslaw.org
Email: smarkley@nicholaslaw.org
Email: jschulte@nicholaslaw.org

GLICK LAW GROUP, P.C.
Noam Glick (SBN 251582)
225 Broadway, Suite 2100
San Diego, CA 92101
Telephone: (619) 382-3400
Facsimile: (619) 615-2193
Email: noam@glicklawgroup.com
Attorneys for Plaintiff Kim Embry

FILED BY FAX
ALAMEDA COUNTY
August 05, 2019
CLERK OF
THE SUPERIOR COURT
By Xian-xii Bowie, Deputy
CASE NUMBER:
RG19030012

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

KIM EMBRY, an individual,
Plaintiff,
v.
COQUETTE INTERNATIONAL, INC., and
DOES 1 through 100, inclusive
Defendants.

Case No.:
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Cal. Health & Safety Code § 25249.6 et seq.)

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I.
INTRODUCTION

1. This Complaint is a representative action brought by the Plaintiff in the public interest of the citizens of the State of California. Plaintiff seeks to enforce the People’s right to be informed of the presence of di(2-ethylhexyl) phthalate (“DEHP”), lead, and nickel (collectively “Listed Chemicals”) prior to exposure. Coquette International, Inc. (“Coquette” or “Defendant”) exposes consumers to the Listed Chemicals by manufacturing, importing, selling, and/or distributing Darque Women's Rubber Bra, Darque Black Skirt, Darque Black Dress, and Darque Black Bustier containing Listed Chemicals (collectively “Products”).

2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code Section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. . . .” (Cal. Health & Safety Code, § 25249.6.)

3. California identified and listed DEHP as a chemical known to cause birth defects or other reproductive harm, as well as cancer, as early as January 1, 1988.

4. California identified and listed lead as a chemical known to cause birth defects or other reproductive harm, as well as cancer, as early as February 27, 1987.

5. California identified and listed nickel as a chemical known to cause cancer as early as October 10, 1989.

6. Each of the Defendant’s Products manufactured, imported, sold, or distributed in California contains prohibited levels of at least one of the Listed Chemicals.

7. Defendant failed to sufficiently warn consumers and individuals in California about potential exposure to the Listed Chemicals in connection with Defendant’s manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

8. Plaintiff seeks injunctive relief compelling Defendant to cease exposing consumers in California to the Listed Chemicals through its Products and/or sufficiently warn consumers in California before exposing them to the Listed Chemicals in Products pursuant to Proposition 65

1 and related regulations. (Cal. Health & Safety Code, § 25249.7(a).) Plaintiff also seeks civil
2 penalties against Defendant for its violations of Proposition 65, attorney’s fees and costs. (Cal.
3 Health & Safety Code, § 25249.7.)

4
5 **II.**
6 **PARTIES**

7 9. Plaintiff is a citizen of the State of California dedicated to protecting the health of
8 California citizens through the elimination or reduction of toxic exposure from consumer
9 products. She brings this action in the public interest pursuant to California Health and Safety
10 Code section 25249.7.

11 10. Defendant Coquette International, Inc. (“Coquette”) is registered to do and does
12 business in California, County of Alameda, within the meaning of California Health and Safety
13 Code section 25249.11. Defendant manufactures, imports, sells, or distributes the Products in
14 California and Alameda County.

15 11. Plaintiff does not know the true names and/or capacities, whether individual,
16 partners, or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for
17 that reason sues said defendants under fictitious names. Plaintiff will seek leave to amend this
18 Complaint when the true names and capacities of these defendants have been ascertained.
19 Plaintiff is informed and believes and thereon alleges that these defendants are responsible in
20 whole or in part for Plaintiffs’ alleged damages.

21 **III.**
22 **VENUE AND JURISDICTION**

23 12. California Constitution Article VI, Section 10, grants the Superior Court original
24 jurisdiction in all cases except those given by statute to other trial courts. The Health & Safety
25 Code statute upon which this action is based does not give jurisdiction to any other court. As
26 such, this Court has jurisdiction.

27 13. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
28 Procedure sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
County. Defendant conducted and continues to conduct business in this County as it relates to the
Products.

1 sufficiently warn consumers in California of the health hazards associated with exposures to the
2 Listed Chemicals contained in the Products.

3 23. The appropriate public enforcement agencies provided with the Notice failed to
4 commence and diligently prosecute a cause of action against Defendant.

5 24. Individuals exposed to the Listed Chemicals contained in the Products resulting
6 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable
7 harm. There is no other plain, speedy, or adequate remedy at law.

8 25. Defendant is liable for a maximum civil penalty of \$2,500 per day for each
9 violation of Proposition 65 pursuant to California Health and Safety Code section 252497(b).
10 Injunctive relief is also appropriate pursuant to California Health and Safety Code section
11 25249.7(a).

12 **V.**
13 **PRAYER FOR RELIEF**

14 Wherefore, Plaintiff prays for judgment against Defendant as follows:

- 15 1. Civil penalties in the amount of \$2,500 per day for each violation;
- 16 2. A preliminary and permanent injunction against Defendant from manufacturing,
17 importing, selling, and/or distributing Products in California without providing a
18 clear and reasonable warning as required by Proposition 65 and related regulations;
- 19 3. Reasonable attorney's fees and costs of suit; and
- 20 4. Such other and further relief as may be just and proper.

21
22 Respectfully submitted:

23 Dated: August 5, 2019

GLICK LAW GROUP

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26 By: _____

Noam Glick

Attorney for Plaintiff
Kim Embry