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9 Victoria Jamison

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 VICTORIA JAMISON, an individual

14 Plaintiff,

15 v.

16 SIMPLY HOME SOLUTIONS, Inc., a
17 Delaware corporation; AMAZON.COM, Inc.,
18 a Delaware corporation; and DOES 1 through
19 10

20 Defendants.

Case No. 37-2020-00037545-CU-MC-CTL

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

21 Plaintiff Victoria Jamison (“Plaintiff”) brings this action in the interests of the general public
22 and, on information and belief, hereby alleges:

23 **INTRODUCTION**

24 1. This action seeks to remedy the failure of defendants to warn individuals in
25 California that they are being exposed to the chemical Diethylhexylphalate (“DEHP”) by their
26 product, the **Coin Purse** (“Product”).

27 2. California’s Proposition 65 (Health & Safety Code § 25249.5, *et seq.*), is a right to
28 know statute. Under Proposition 65, it is unlawful for business to knowingly and intentionally
expose individuals in California to chemicals known to the State to cause cancer, birth defects, or
other reproductive harm without providing clear and reasonable warnings to individuals prior to

1 exposure.

2 3. Through dermal contact with the Products, Californians are exposed to DEHP at
3 levels requiring a “clear and reasonable warning” under Proposition 65. Yet Defendants failed to
4 provide any warning to consumers that they are being exposed to the carcinogenic chemical
5 DEHP. This includes a warning on their website or a proper warning on the product packaging.

6 4. Defendants’ past and, on information and belief, continued manufacturing,
7 distribution, and sale of the Product in California, without a clear and reasonable warning, causes
8 individuals to be involuntarily and unwittingly exposed to DEHP at levels that violate Proposition
9 65.

10 5. Plaintiff seeks injunctive relief enjoining Defendants from the continued
11 manufacturing, distribution, and/or sales of the Products in California without provision of clear
12 and reasonable warnings regarding the risks of cancer posed by exposure to DEHP through dermal
13 contact with the Products. Plaintiff seeks an injunctive order compelling Defendants to bring their
14 business practices into compliance with Proposition 65 by providing a clear and reasonable
15 warning to each individual who has been and who in the future may be exposed to DEHP from
16 dermal contact with the Products. Plaintiff also seeks an order compelling Defendants to identify
17 and locate each individual person who in the past has purchased the Product, and to provide to
18 each such purchaser a clear and reasonable warning that use of the Product will cause exposures to
19 DEHP.

20 **JURISDICTION AND VENUE**

21 6. This Court has jurisdiction over this action pursuant to Health and Safety Code §
22 25249.8, allowing enforcement of Proposition 65 in any court of competent jurisdiction, and
23 pursuant to California Constitution Article VII, Section 10, which grants the Superior Court
24 “original jurisdiction in all causes except those given by statute to other courts.” The causes of
25 actions alleged herein are not given by statute to other trial courts.

26 7. This Court has jurisdiction over Defendants because Defendants are a business
27 having sufficient minimum contacts with California, or otherwise intentionally availing
28 themselves of the California market through the distribution and sale of the Products in the State

1 of California to render the exercise of jurisdiction over this defendant by the California courts
2 consistent with traditional notions of fair play and substantial justice.

3 8. Venue in this action is proper in the San Diego Superior Court because Defendants
4 have violated or threaten to violate California law in the County of San Diego.

5 **PARTIES**

6 9. Plaintiff Victoria Jamison is a resident of San Diego County California and
7 working to protect human health and the environment. Plaintiff is a person with the meaning of
8 Health & Safety Code § 25118 and brings this enforcement action in the public interest pursuant to
9 Health & Safety Code § 25249.7(d).

10 10. Defendant Simply Home Solutions, Inc. is a corporation organized under the State
11 of Delaware and is a person doing business with the meaning of Health & Safety Code §
12 25249.11. Defendant Amazon.com, Inc. is a corporation organized under the State of Delaware
13 and is a person doing business with the meaning of Health & Safety Code § 25249.11.

14 11. Defendants have manufactured, packaged, distributed, marketed and/or offered the
15 Product for sale or use in California and the County of San Diego. Plaintiff is informed and
16 believes, and thereupon alleges, that Defendants continue to manufacture, package, distribute,
17 market and/or sell the Products in California and in San Diego County.

18 **STATUTORY BACKGROUND**

19 12. The People of the State of California have declared in Proposition 65 their right
20 “[t]o be informed about exposures to chemicals that cause cancer, birth defects or other
21 reproductive harm.” Section 1(b) of Initiative Measure, Proposition 65.

22 13. To effect this goal, Proposition 65 requires that individuals be provided with a
23 “clear and reasonable warning” before being exposed to substances listed by the State of
24 California as causing cancer or reproductive toxicity. Health & Safety Code § 25249.6 states, in
25 pertinent part:

26 No person in the course of doing business shall knowingly and intentionally
27 expose any individual to a chemical known to the state to cause cancer or
28 reproductive toxicity without first giving clear and reasonable warning to such
individual...

1 requisite public enforcement agencies.

2 20. Each of the Notices described above were issued pursuant to, and in compliance
3 with, the requirements of Health & Safety Code § 25249.7(d) and the statute's implementing
4 regulations regarding the notice of the violations to be given to certain public enforcement
5 agencies and to the violators. Each of the Notices included, *inter alia*, the following information:
6 the name, address, and telephone number of the noticing individuals; the name of the alleged
7 violator; the statute violated; the approximate time period during which violations occurred; and
8 descriptions of the violations, including the chemical involved, the routes of toxic exposure, and
9 the specific product or type of product causing the violations, and was issued as follows:

- 10 a. The relevant Defendant was provided a copy of the Notice by U.S. Mail.
- 11 b. The relevant Defendant was provided a copy of the document entitled "The
12 Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
13 Summary," which is also known as Appendix A to Title 27 of Cal. Code Regs §
14 25903.
- 15 c. The California Attorney General was provided a copy of the Notice via online
16 submission.
- 17 d. The California Attorney General was provided with a Certificate of Merit by
18 the attorney for the noticing party, stating that there is a reasonable and
19 meritorious case for this action, and attaching factual information sufficient to
20 establish a basis for the certificate, including the identity of the persons
21 consulted with and relied on by the certified, and the facts, studies, or other data
22 reviewed by those persons, pursuant to Health & Safety Code § 25249.7(h)(2).
- 23 e. The district attorneys, city attorneys or prosecutors of each jurisdiction within
24 which the Products are offered for sale within California were provided with a
25 copy of the Notice pursuant to Health & Safety Code § 25249.7(d)(1).

26 21. At least 60-days have elapsed since Plaintiff sent each of the Notices to Defendants.
27 The appropriate public enforcement agencies have failed to commence and diligently prosecute a
28 cause of action under Health & Safety Code § 25249.5, *et seq.* against Defendants based on the

1 allegations herein.

2 22. On information and belief, the Products have been manufactured,
3 distributed, and/or sold by Defendants in California. On information and belief, the Product
4 continues to be distributed and sold in California without the requisite warning information.

5 23. At all times relevant to this action, Defendants have knowingly and intentionally
6 exposed the users of the Products to DEHP without first giving a clear and reasonable warning to
7 such individuals.

8 24. As a proximate result of acts of Defendants as persons in the course of doing
9 business within the meaning of Health & Safety Code § 25249.11, individuals throughout the
10 State of California, including the County of San Diego, have been exposed to DEHP without a
11 clear and reasonable warning. The individuals subject to the illegal exposures include normal and
12 foreseeable users of the Products, as well as all other persons exposed to the Products.

13
14 **FIRST CAUSE OF ACTION**
15 **(Violations of Health and Safety Code § 25249.5, *et seq.*)**

16 25. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 24,
17 inclusive, as if specifically set forth herein.

18 26. Defendants are a person doing business within the meaning of Health & Safety
19 Code § 25249.11.

20 27. DEHP is listed on the State of California as a chemical known to cause cancer.

21 28. Defendants have and continues to knowingly and intentionally expose individuals
22 who have dermal contact with the Products to the chemical DEHP without first providing a clear
23 and reasonable warning to such individuals pursuant to Health & Safety Code §§ 25249.6 and
24 25249.11(f).

25 29. Continuing commission by Defendants of the acts alleged above will irreparably
26 harm the citizens of the State of California, for which harm they have no plain, speedy, or
27 adequate remedy at law.

28 **PRAYER FOR RELIEF**

1 Wherefore, Plaintiff prays for the following relief:

2 1. A preliminary and permanent injunction, pursuant to Health & Safety Code §
3 25249.7(b), enjoining Defendants, their agents, employees, assigns and all persons acting in
4 concert or participating with Defendants, from distributing or selling the Products in California
5 without first providing a clear and reasonable warning that consumers of the Products are exposed
6 to DEHP;

7 2. An injunctive order, pursuant to Health & Safety Code § 25249.7(b), compelling
8 Defendants to identify and locate each individual who has purchased the Product and to provide a
9 warning to such persons that they have been exposed to a chemical known to cause cancer.

10 3. An assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b)
11 against Defendants in the amount of \$2,500 per day for violation of Proposition 65;

12 4. An award to Plaintiff of its reasonable attorney's fees and costs of suit pursuant to
13 California Code of Civil Procedure § 1021.5, as Plaintiff shall specify in further application to the
14 Court; and,

15 5. Such other and further relief as may be just and proper.

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17 DATED: October 16, 2020

LAW OFFICES OF GEORGE RIKOS

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George Rikos

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George Rikos
Attorney for Plaintiff
Victoria Jamison

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