SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

WALMART INC.; and DOES 1-250, inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

LAURENCE VINOCUR

FOR COURT USE ONLY	
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NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Francisco County Superior Court

CASE NUMBER: (Número del Caso):

CGC-21-590376

400 McAllister Street,

San Francisco, CA 94102

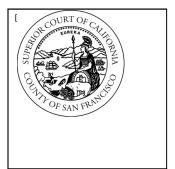
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Clifford A. Chanler (SBN: 135534) CHANLER, LLC, 72 Huckleberry Hill Road, New Canaan, CT 06840

DATE: 03/24/2021 Clerk, by JACKIE LAPREVOTTE, Deputy (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).



NOTICE 1 2	as an in	ndividual de	fendant.	ou are served			
3. 🗀	on beha	alf of (spec	fy):				
unde	er:	CCP 416.	10 (corporation 20 (defunct c 40 (association	•	ship)	CCP 416.60 (minor) CCP 416.70 (conservatee) CCP 416.90 (authorized perso	n)

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other (specify):
by personal delivery on (date):

1 2 3 4 5 6	Clifford A. Chanler, State Bar No. 135534 CHANLER, LLC 72 Huckleberry Hill Road New Canaan, CT 06840 Telephone: (203) 594-9246 Facsimile: (203) 594-9247 Email: Clifford@ChanlerLLC.com Attorneys for Plaintiff LAURENCE VINOCUR	FILED Superior Court of California, County of San Francisco 03/18/2021 Clerk of the Court BY: JACKIE LAPREVOTTE Deputy Clerk						
7 8	SUPERIOR COURT OF TH	IE STATE OF CALIFORNIA						
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN FRANCISCO							
10		TIL JURISDICTION CGC-21-590376						
11	ONLIMITED CIV	IL JUNISDICTION						
12	LAURENCE VINOCUR,	Case No.						
13	Plaintiff,							
14	V.	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF						
15	WALMART INC.; and DOES 1-250, inclusive,							
16	Defendants.	(Health & Safety Code §25249.5 et seq.)						
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	COMPLAINT FOR CIVIL PENA	LTIES AND INIUNCTIVE RELIEF						
	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF							

NATURE OF THE ACTION

- 1. This Complaint is a representative action brought by plaintiff Laurence Vinocur in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposures to lead, a toxic chemical found in fishing sinkers sold by defendants that are purchased by or shipped to citizens in California (the "Products").¹
- 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to warn consumers and businesses not covered by California's Occupational Safety Health Act, Labor Code §§6300 *et seq.* about the risks of exposure to lead present in certain fishing sinkers that are manufactured, distributed, and offered for sale or use throughout the State of California. Individuals, consumers and businesses not covered by California's Occupational Safety Health Act, Labor Code §§6300 *et seq.* who purchase, use or handle the Products are referred to hereinafter as "consumers."
- 3. Lead is found in fishing sinkers that defendants manufacture, import, distribute, retail or otherwise market or offer for sale to consumers and other citizens throughout California and have knowledge of their lead contents. Most, if not all, of the sales of the Products were and continue to be offered for purchase and/or transacted through walmart.com.
- 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health & Safety Code §§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..." Health & Safety Code §25249.6.
- 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed lead as a chemical known to cause birth defects and other reproductive harm. Lead became

¹ The definition of Products exclude those items sold by: Tasharina Corporation; Louisiana Outdoors LLC; Neoteric Solution, Inc.; MyPhone Accessories LLC; and Jingdong E-Commerce (Trade) Hong Kong Corporation Limited. Such entities have resolved the Proposition 65 liability related to Products which they sold through walmart.com, by agreeing to provide the requisite Proposition 65 warnings unless the Products were reformulated to eliminate the bioavailability of lead.

subject to the "clear and reasonable warning" requirements of the act one year later on February 27, 1988. 27 Cal. Code Regs. §27001(c); Health & Safety Code §25249.8 and §25249.10(b).

- 6. Defendants manufacture, import, distribute, and/or offer for sale or use the Products without the mandated health hazard warnings in California. Products include, but are not limited to, the one displayed on the walmart.com website as well as a photograph of one side of its label, as shown in Exhibit A. The Products at issue are limited to: (a) lead fishing sinkers as noted in footnote 2 below; and (b) notices of violation issued on August 8, 2020, bearing AG Notice nos. 2020-02028 and 2020-02029.²
- 7. Defendants' failure to warn consumers and other individuals in California of the health hazards associated with exposures to lead in conjunction with defendants' sales of the Products are violations of Proposition 65 which subject defendants, and each of them, to enjoinment of such conduct as well as civil penalties for each violation. Health & Safety Code \$25249.7(a) and (b)(1).
- 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary and permanent injunctive relief to compel defendants to provide purchasers and users of the Products with the required warning regarding specific health hazards associated with exposures to lead. Health & Safety Code §25249.7(a).
- 9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil penalties against defendants for their violations of Proposition 65.

² The specific products covered by paragraph 6(a) of this complaint are limited to those items which reference the toxicant "lead" in: (i) the product's name; (ii) the product description or information referenced prominently near the online display for the item when sold through an e-commerce platform; (iii) the search "filter," if any, used to market the products online; (iv) the immediate product packaging or container; or (v) in any other conspicuous manner likely to be read by an online purchaser before payment without considerable effort to be undertaken by the consumer.

PARTIES

- 10. Plaintiff Laurence Vinocur is a citizen of the State of California who is dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposures from consumer and industrial products, and he brings this action in the public interest pursuant to Health & Safety Code §25249.7(d).
- 11. Defendant WALMART INC. (WALMART) is a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.
- 12. WALMART imports, distributes, sells, facilitates, and/or offers the Products for sale or use in the State of California, or implies by its conduct that it imports, distributes, facilitates for sale, sells, and/or offers the Products for sale or use in the State of California. WALMART has offered (and, in many instances, continues to offer) for sale Products supplied to it by entities that are not subject to enforcement under Proposition 65 because: (i) they have less than ten employees during all relevant periods; or (ii) do not have an agent for process of service in California. Further, in some instances, the Products are shipped to California consumers either directly (or indirectly through a WALMART fulfilment center or other storefront that has fewer than ten employees in the United States) by exporters located in foreign countries without offices in the United States, after purchase at walmart.com.
- 13. Defendants DOES 1-50 (MANUFACTURER DEFENDANTS) are each a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.
- 14. MANUFACTURER DEFENDANTS, and each of them, research, test, design, assemble, fabricate, and manufacture, or each implies by its conduct that it researches, tests, designs, assembles, fabricates, and manufactures one or more of the Products offered for sale or use in California. Many of the MANUFACTURER DEFENDANTS may fall outside the statutory purview of Proposition 65.
- 15. Defendants DOES 51-100 (EXPORTER DEFENDANTS) are each a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.

- 16. EXPORTER DEFENDANTS, and each of them, ship and/or prepare for shipping one or more of the Products to be exported to a United States-based business or individual for purposes of distributing or selling one or more of the Products to California businesses or consumers. Many of the EXPORTER DEFENDANTS may fall outside the statutory purview of Proposition 65.
- 17. Defendants DOES 101-150 (IMPORTER DEFENDANTS) are each a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.
- 18. IMPORTER DEFENDANTS, and each of them, import one or more of the Products to be distributed or sold to California businesses or consumers. Many of the IMPORTER DEFENDANTS may fall outside the statutory purview of Proposition 65.
- 19. Defendants DOES 151-200 (DISTRIBUTOR DEFENDANTS) are each a person in the course of doing business within the meaning of Health & Safety Code §\$25249.6 and 25249.11.
- 20. DISTRIBUTOR DEFENDANTS, and each of them, distribute, exchange, transfer, process, and transport one or more of the Products to individuals or businesses, for sale or use in the State of California, or each implies by its conduct that it distributes, exchanges, transfers, processes, and transports one or more of the Products to individuals or businesses, for sale or use in the State of California.
- 21. Defendants DOES 201-250 (RETAILER DEFENDANTS) are each a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.
- 22. RETAILER DEFENDANTS, and each of them, offer the Products for sale to individuals in the State of California.
- 23. At this time, the true names of defendants DOES 1 through 250, inclusive, are unknown to plaintiff, who, therefore, sues said defendants by their fictitious names pursuant to Code of Civil Procedure §474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences alleged herein. When ascertained, their true names shall be reflected in an amended complaint.

24. WALMART, MANUFACTURER DEFENDANTS, EXPORTER DEFENDANTS, IMPORTER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall hereinafter, where appropriate, be referred to collectively as the "DEFENDANTS."

VENUE AND JURISDICTION

- 25. Venue is proper in the Superior Court for the County of San Francisco pursuant to Code of Civil Procedure §§393, 395, and 395.5, because this Court is a court of competent jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, one or more instances of wrongful conduct occurred, and continue to occur, in this county, and/or DEFENDANTS conducted, and continue to conduct business in San Francisco.
- 26. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.
- 27. The California Superior Court has jurisdiction over DEFENDANTS based on plaintiff's information and good faith belief that DEFENDANTS are each a person, firm, corporation has a principal office or association that is a citizen of the State of California, has sufficient minimum contacts in the State of California, and/or otherwise purposefully avails itself of the California market. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction (specific, limited or both) by California courts consistent with traditional notions of fair play and substantial justice.

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FIRST CAUSE OF ACTION

(Violation of Proposition 65 - Against All Defendants)

- 28. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 27, inclusive.
- 29. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986, the People of California expressly declared their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm."
- 30. Proposition 65 states, "[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..." Health & Safety Code §25249.6.
- 31. On August 8, 2020, plaintiff served 60-Day Notices of Violation (the August 8 Notices), together with the requisite certificates of merit, on WALMART, the California Attorney General's Office, and the requisite public enforcement agencies alleging that, as a result of DEFENDANTS' sales of lead-based fishing sinkers, consumers in the State of California are being exposed to lead resulting from their reasonably foreseeable use of such Products, without them first receiving a "clear and reasonable warning" regarding the reproductive and developmental harms associated with such exposures as required by Proposition 65. Each of the two August 8 Notices is limited to the specific Product identified in the corresponding sixty-day letter.
- 32. On October 30, 2020, plaintiff served a Supplemental 60-Day Notice of Violation, (the October 30 Notice), together with the requisite certificate of merit, on WALMART, the California Attorney General's Office, and the requisite public enforcement agencies alleging that, as a result of DEFENDANTS' sales of lead-based fishing sinkers, consumers in California are being exposed to the toxicant resulting from their reasonably foreseeable use of such Products, without consumers first receiving a "clear and reasonable warning" regarding the reproductive toxicity associated with exposures to the heavy metal, as required by Proposition 65. The October

30 Notice is limited to lead-based fishing sinkers that reference the toxicant "lead" in: (i) the product's name; (ii) the product description or information referenced prominently near the online display for the item if it is offered over the internet; (iii) the search "filter," if any, used to market the products online; (iv) the product packaging or container; or (v) in any other conspicuous manner likely to be read by the online purchaser before payment without considerable effort. The August 8 Notices and the October 30 Notice shall be referred collectively to as the "Notices."

- 33. DEFENDANTS manufacture, import, distribute, facilitate for sale, or offers the Products for sale or use in violation of Health & Safety Code §25249.6, and DEFENDANTS' violations have continued well beyond their receipt of plaintiff's Notices. As such, DEFENDANTS' violations are ongoing and continuous in nature and, unless enjoined will continue in the future.
- 34. After receiving plaintiff's Notices, no public enforcement agency has commenced and diligently prosecuted a cause of action against DEFENDANTS under Proposition 65 to enforce the alleged violations that are the subject of plaintiff's Notices.
- 35. The Products that DEFENDANTS manufacture, import, distribute or offer for sale in California cause exposures to lead as a result of the reasonably foreseeable use of the Products. Such exposures caused by DEFENDANTS and endured by consumers in California are not exempt from the "clear and reasonable" warning requirements of Proposition 65, yet DEFENDANTS do not provide compliant warnings for the reproductive toxicity of lead.
- 36. DEFENDANTS have actual knowledge that the Products they manufacture, import, distribute, sell, facilitate for sale or offer for sale in California contain lead.
- 37. Lead is present in or on the Products in such a way as to expose consumers through dermal contact and/or ingestion during reasonably foreseeable use.
- 38. The normal and reasonably foreseeable use of the Products has caused, and continues to cause, consumer product exposures to lead, as defined by 27 California Code of Regulations §25600.1(e).

- 39. DEFENDANTS know that the normal and reasonably foreseeable use of the Products exposes individuals to lead through dermal contact and/or ingestion.
- 40. DEFENDANTS intend that exposures to lead from the reasonably foreseeable use of the Products will occur by their deliberate, non-accidental participation in the manufacture, importation, distribution, sale, and offering of the Products for sale or use to consumers and others in California.
- 41. DEFENDANTS failed to provide a "clear and reasonable warning" to those citizens in California who have been, or who will be, exposed to lead through dermal contact and/or ingestion resulting from their use of the Products.
- 42. Contrary to the express policy and statutory prohibition of Proposition 65 enacted directly by California voters, consumers exposed to lead through dermal contact and/or ingestion as a result of their use of the Products that DEFENDANTS sold without a "clear and reasonable" health hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.
- 43. Pursuant to Health & Safety Code §25249.7(b), as a consequence of the above-described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500 per day for each violation.
- 44. As a consequence of the above-described acts, Health & Safety Code §25249.7(a) also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

- 1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each violation;
- 2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, importing, distributing, or offering the

EXHIBIT A



