		ELECTRONICALLY		
1	Kimberly Gates Johnson, State Bar No. 282369 Seven Hills LLP	FILED Superior Court of California,		
2	4 Embarcadero Center, Suite 1400 San Francisco, CA 94111	County of San Francisco 06/14/2021		
3	Telephone: (415) 926-7247 kimberly@sevenhillsllp.com	Clerk of the Court BY: ANGELICA SUNGA		
4	Attorneys for Plaintiff	Deputy Clerk		
5	KEEP ÅMERICA SAFE AND BEAUTIFUL			
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7	SUPERIOR COURT OF THE STATE OF CALIFORNIA			
8	COUNTY OF	SAN FRANCISCO		
9	UNLIMITED CI	VIL JURISDICTION CGC-21-592635		
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11	KEEP AMERICA SAFE AND BEAUTIFUL,	Case No.		
12	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF		
13	v.	Violation of Proposition 65, The Safe		
14	FORZA BOXING, LLC d.b.a. FORZA SPORTS; and DOES 1-30, inclusive,	Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code § 25249.5 <i>et</i>		
15	DEFENDANTS.	seq.)		
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	COMPLAINT FOR CIVIL PENA	LTIES AND INJUNCTIVE RELIEF		

Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a cause of action against DEFENDANTS FORZA BOXING, LLC d.b.a. FORZA SPORTS and DOES 1-30.

INTRODUCTION AND NATURE OF THE ACTION

1. This Complaint is a representative action brought by plaintiff Keep America Safe and Beautiful ("KASB") 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 di(2-ethylhexyl)phthalate ("DEHP"), a toxic chemical found in and on the vinyl boxing gloves and vinyl mini boxing glove accessories manufactured, imported, distributed, sold or offered for sale by Defendants in the State of California.

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

By this Complaint, plaintiff seeks to remedy Defendants' continuing failure to warn
 individuals not covered by California's Occupational Safety Health Act, Labor Code § 6300 *et seq.* ("consumers") they are being exposed to substances known to the State of California to cause cancer,
 birth defects and other reproductive harm through exposures to DEHP, when they purchase, use or
 handle Defendants' vinyl boxing gloves and vinyl mini boxing glove accessories.

4. Detectable levels of DEHP are found in and on the vinyl boxing gloves and vinyl mini
boxing glove accessories that Defendants manufacture, import, sell or distribute for sale to
individuals throughout California.

5. KASB contends and alleges Defendants manufacture, distribute, import, sell, and
offer for sale, in and into California vinyl boxing gloves and vinyl mini boxing glove accessories
("PRODUCTS") containing DEHP, without Proposition 65's requisite health hazard warning
regarding the harms associated with exposures to the chemical, including, but not limited to, the

Vinyl Boxing Training Glove FZ93005-RDBK-12OZ UPC #6 19169 29300 5; and Mini Boxing
Glove Keychain UPC 6 19159 36697 6 Item No. FZ66976BK ASIN B08LLCJDZ1. Defendants'
conduct subjects them to civil penalties for each violation, as well an enjoinment and preliminary
and permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).

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PARTIES

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

7. Plaintiff is informed, believes and thereon alleges, at all relevant times, Defendant
FORZA BOXING, LLC d.b.a. FORZA SPORTS ("FORZA"), was and is a "person" "in the course of
doing business" with ten (10) or more employees, within the meanings of Health and Safety Code
§§ 25249.6 and 25249.11.

8. FORZA manufactures, imports, distributes, sells, and/or offers the PRODUCTS for
sale or use in the State of California, or implies by its conduct that it manufactures, imports,
distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

9. Defendants DOES 1-10 ("Manufacturer Defendants") are each a person in the course
 of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.
 Manufacturer Defendants, and each of them, assemble, fabricate, and manufacture, or each implies by
 its conduct that it does such for one or more of the PRODUCTS offered for sale or use in California.

10. Defendants DOES 11-20 ("Distributor Defendants") are each a person in the course of
doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11. Distributor
Defendants, and each of them, distribute, transfer, and transport, or each impliedly does so by its
conduct, one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use in the
State of California.

11. Defendants DOES 21-30 ("Retailer Defendants") are each a person in the course of 2 doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11. Retailer 3 Defendants, and each of them, by and through their conduct, offer the PRODUCTS for sale to individuals in the State of California. 4

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

13. 11 At all times mentioned herein, FORZA, Manufacturer Defendants, Distributor 12 Defendants, Retailer Defendants and Doe Defendants shall, hereinafter, where appropriate, be 13 referred to collectively as the "DEFENDANTS."

JURISDICTION AND VENUE

14. This Court has jurisdiction over this action, pursuant to Cal. Health & Safety Code 15 16 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior 17 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10, 18 which grants the Superior Court "original jurisdiction in all causes except those given by statute to 19 other trial courts." The statute under which this action is brought does not specify any other basis of 20 subject matter jurisdiction.

21 15. The California Superior Court has jurisdiction over DEFENDANTS, based on 22 plaintiff's information and good faith belief DEFENDANTS are each a person, firm, corporation or 23 association that is a citizen of the State of California, does sufficient business in California, has 24 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail 25 themselves of the California market through their manufacture, importation, distribution, promotion, marketing or sale of PRODUCTS within the State. DEFENDANTS' purposeful availment renders 26 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair 27 28 play and substantial justice.

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16. 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, because one or more instances of wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with respect to the PRODUCTS that are the subject of this action.

REGULATORY BACKGROUND AND LAW

8 17. In 1986, the people of the State of California approved an initiative addressing the
9 harms caused by hazardous chemicals and declared their right "[t]o be informed about exposures the
10 chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Pamp., Proposed
11 General Law, Gen, Elec. (Nov. 4, 1986) at p.3.

12 18. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and
13 codified at Health & Safety Code §§ 25249.6 *et seq.*, Proposition 65 states, in relevant part, "[n]o
14 person in the course of doing business shall knowingly and intentionally expose any individual to a
15 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable
16 warning to such individual..."

17 19. Under the Act, a "person the course of doing business" is defined as a business with
18 ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from
19 exposing individuals to hazardous chemicals without first giving a "clear and reasonable" warning.
20 Health & Safety Code § 25249.6

21 20. An exposure to a hazardous chemical is defined as one that "results from a person's
22 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product..." 27
23 C.C.R. § 25600(h).

24 21. Under Proposition 65, persons violating the statute may be enjoined in any court of
25 competent jurisdiction and may be subject to civil penalties of up to \$2,500 per day, per violation.
26 Health & Safety Code § 25249.7.

27 22. On October 24, 2003, pursuant to Proposition 65's implementing regulations,
28 California identified and listed DEHP as a chemical known to the State cause cancer, birth defects,

and reproductive harm. DEHP became subject to the "clear and reasonable warning" requirements one year later, on October 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

STATEMENT OF FACTS

Plaintiff purchased DEFENDANTS' PRODUCTS in California without a warning.

6 24. Plaintiff investigated and tested DEFENDANTS' PRODUCTS at an accredited lab,
7 and consulted with a person with relevant and appropriate knowledge and expertise, who, after
8 reviewing the collected data and analyzing the risk of exposure to DEHP, determined the
9 PRODUCTS subject consumers in California to exposure to the listed chemical at levels requiring a
10 warning under the statute, based on touching, handling or otherwise utilizing PRODUCTS in
11 accordance with their reasonably foreseeable and intended usages.

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25. DEFENDANTS are each a person in the course of doing business.

Based on the foregoing, Plaintiff's attorney executed a certificate of merit, attesting
there was a reasonable and meritorious case for this private action and included the factual
information supporting the certificate when it served the notice on the California Attorney General's
Office, as required. Health &Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

17 27. Thereafter, on December 2, 2020, plaintiff served a 60-Day Notice of Violation
18 ("Notice"), together with the certificate of merit, on FORZA, the California Attorney General's
19 Office, and the requisite public enforcement agencies, alleging, as a result of DEFENDANTS' sales
20 of the PRODUCTS, consumers in the State of California were, and are, being exposed to DEHP
21 through their reasonably foreseeable use of the PRODUCTS as intended without first receiving a
22 "clear and reasonable warning," as required by Proposition 65.

28. Thereafter, on January 29, 2021, plaintiff served a Supplemental 60-Day Notice of
Violation ("Supplemental Notice"), together with the certificate of merit, on FORZA, the California
Attorney General's Office, and the requisite public enforcement agencies, alleging, as a result of
DEFENDANTS' sales of the PRODUCTS, consumers in the State of California were, and are, being
exposed to DEHP through their reasonably foreseeable use of the PRODUCTS as intended without
first receiving a "clear and reasonable warning," as required by Proposition 65.

1	29. After receiving plaintiff's Notice and Supplemental Notice (collectively the		
2	"Notices"), no public enforcement agency has commenced and is diligently prosecuting a cause of		
3	action against DEFENDANTS under Proposition 65 to enforce the alleged violations that are the		
4	subject of the Notices.		
5	FIRST CAUSE OF ACTION		
6	(Violation of Proposition 65 - Against All DEFENDANTS)		
7	30. KASB realleges and incorporates by reference, as if fully stated herein, the allegations		
8	set forth in Paragraphs 1 through 28, inclusive.		
9	31. DEFENDANTS' PRODUCTS contain DEHP in levels requiring a clear and		
10	reasonable warning under Proposition 65.		
11	32. DEFENDANTS know or should have known the PRODUCTS they manufacture,		
12	import, distribute, sell, and offer for sale in California contain DEHP. As a result of Plaintiff's		
13	Notices, DEFENDANTS also have actual knowledge of the presence of DEHP in the PRODUCTS.		
14	33. The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for		
15	sale in or into the State of California cause exposures to DEHP, both direct and indirect dermal		
16	contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.		
17	34. The normal and reasonably foreseeable use of the PRODUCTS has caused, and		
18	continues to cause, exposures to DEHP.		
19	35. DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS		
20	exposes individuals to DEHP through direct and indirect dermal contact and ingestion.		
21	36. Through their deliberate, non-accidental participation in the California marketplace,		
22	DEFENDANTS intend the result of their actions.		
23	37. DEFENDANTS' intentional, non-accidental participation in the California		
24	marketplace resulted in consumer exposures to DEHP, arising from the reasonably foreseeable use of		
25	the PRODUCTS as intended.		
26	38. The exposures to DEHP, caused by DEFENDANTS and endured by consumers and		
27	other individuals in California, are not exempt from the "clear and reasonable" warning requirements		
28	of Proposition 65.		

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

39. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers and other individuals in California who have been, or who will be, exposed to DEHP through dermal contact and ingestion resulting from the use of the PRODUCTS as intended.

40. Contrary to the express policy and statutory prohibition of Proposition 65, consumers and other individuals, exposed to DEHP through dermal contact and 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.

9 41. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
10 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have
11 continued beyond their receipt of plaintiff's Notices. As such, DEFENDANTS' violations are
12 ongoing and continuous in nature and, unless enjoined, will continue in the future.

42. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the abovedescribed acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500
per day for each violation.

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

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PRAYER FOR RELIEF

Wherefore, KASB prays for relief and judgment against DEFENDANTS, and each of them,
as follows:

That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and
 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or
 otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and
 reasonable warning" to consumers addressing the harms associated with exposures to DEHP;

25 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary
and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain
of commerce in California that do not bear a clear and reasonable health hazard warning;

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1	3.	That the Court assess civil penalties against DEFENDANTS, and each of them, in the	
2	amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;		
3	4.	That the Court award plaintiff its reasonable attorneys' fees and costs of suit, incurred	
4	herein; and		
5	5.	That the Court grant any further relief as it deems just and equitable.	
6	Dated: June	14, 2021Respectfully submitted,	
7		SEVEN HILLS LLP	
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12		By:	
13		Kimberly Gates Johnson Attorneys for Plaintiff	
14		Keep America Safe and Beautiful	
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