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County of Alameda
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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **IN AND FOR THE COUNTY OF ALAMEDA**

14 ENVIRONMENTAL HEALTH ADVOCATES,
15 INC.,

16 Plaintiff,

17 v.

18 KOALA OPTICS, LLC, a New York limited
liability company, AMAZON.COM, INC., a
19 Delaware corporation, and DOES 1 through
20 100, inclusive,

21 Defendants.
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Case No.: **21CV003608**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

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2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendants’ failure to inform the People of exposure to Di(2-ethylhexyl) phthalate
5 (DEHP) “DEHP”, a known carcinogen. Defendants expose consumers to DEHP by manufacturing,
6 importing, selling, and/or distributing Koala Kleaner Eyeglass Lens Cleaner Travel (“Products”).
7 Defendants know and intend that customers will use Products containing DEHP.

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

13 3. California identified and listed DEHP as a chemical known to cause cancer as early as
14 January 1, 1988, and as a chemical known to cause developmental/reproductive toxicity on October 24,
15 2003.

16 4. Defendants failed to sufficiently warn consumers and individuals in California about
17 potential exposure to DEHP in connection with Defendants’ manufacture, import, sale, or distribution
18 of Products. This is a violation of Proposition 65.

19 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
20 in California before exposing them to DEHP in Products. (Health & Safety Code, § 25249.7(a).)
21 Plaintiff also seeks civil penalties against Defendants for their violations of Proposition 65 along with
22 attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

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25 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
26 corporation in the State of California dedicated to protecting the health of California citizens through
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
28 interest pursuant to Health and Safety Code, section 25249.7.

1 **IV.**
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**
4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

6 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that
7 cause cancer, birth defects, and other reproductive harm.

8 15. Defendants manufactured, imported, sold, and/or distributed Products containing DEHP
9 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such
10 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the
11 future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
14 to DEHP through reasonably foreseeable use of the Products.

15 17. Products expose individuals to DEHP through dermal absorption, ingestion, and
16 inhalation by consumers. This exposure is a natural and foreseeable consequence of Defendants placing
17 Products into the stream of commerce. As such, Defendants intend that consumers will dermally absorb,
18 ingest, or inhale Products, exposing them to DEHP.

19 18. Defendants knew or should have known that the Products contained DEHP and exposed
20 individuals to DEHP in the ways provided above. The Notice informed Defendants of the presence of
21 DEHP in the Products. Likewise, media coverage concerning DEHP and related chemicals in consumer
22 products provided constructive notice to Defendants.

23 19. Defendants' action in this regard were deliberate and not accidental.

24 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
25 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
26 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
27 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
28 California of the health hazards associated with exposures to DEHP contained in the Products.

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