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KEEP AMERICA SAFE AND BEAUTIFUL

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
06/14/2021
Clerk of the Court
BY: ANGELICA SUNGA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED CIVIL JURISDICTION

CGC-21-592635

KEEP AMERICA SAFE AND BEAUTIFUL,

Plaintiff,

v.

FORZA BOXING, LLC d.b.a. FORZA
SPORTS; and DOES 1-30, inclusive,

DEFENDANTS.

Case No.

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

Violation of Proposition 65, The Safe
Drinking Water and Toxic Enforcement Act of
1986 (Health & Safety Code § 25249.5 *et*
seq.)

UNLIMITED CIVIL

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a
2 cause of action against DEFENDANTS FORZA BOXING, LLC d.b.a. FORZA SPORTS and DOES
3 1-30.

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. This Complaint is a representative action brought by plaintiff Keep America Safe and
6 Beautiful (“KASB”) in the public interest of the citizens of the State of California to enforce the
7 People’s right to be informed of the health hazards caused by exposures to di(2-ethylhexyl)phthalate
8 (“DEHP”), a toxic chemical found in and on the vinyl boxing gloves and vinyl mini boxing glove
9 accessories manufactured, imported, distributed, sold or offered for sale by Defendants in the State of
10 California.

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

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

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

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

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

5 **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).

13 7. Plaintiff is informed, believes and thereon alleges, at all relevant times, Defendant
14 FORZA BOXING, LLC d.b.a. FORZA SPORTS (“FORZA”), was and is a “person” “in the course of
15 doing business” with ten (10) or more employees, within the meanings of Health and Safety Code
16 §§ 25249.6 and 25249.11.

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

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

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

1 and reproductive harm. DEHP became subject to the “clear and reasonable warning” requirements
2 one year later, on October 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code
3 §§ 25249.8, 25249.10(b).

4 **STATEMENT OF FACTS**

5 23. 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.

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

13 26. Based on the foregoing, Plaintiff’s attorney executed a certificate of merit, attesting
14 there was a reasonable and meritorious case for this private action and included the factual
15 information supporting the certificate when it served the notice on the California Attorney General’s
16 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.

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

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3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit, incurred herein; and

5. That the Court grant any further relief as it deems just and equitable.

Dated: June 14, 2021

Respectfully submitted,
SEVEN HILLS LLP



By: _____
Kimberly Gates Johnson
Attorneys for Plaintiff
Keep America Safe and Beautiful