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**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**07/12/2021  
Clerk of the Court**

**BY: RONNIE OTERO  
Deputy Clerk**

6 Attorneys for Plaintiff  
7 KEEP AMERICA SAFE AND BEAUTIFUL

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10 UNLIMITED CIVIL JURISDICTION

11  
12 KEEP AMERICA SAFE AND BEAUTIFUL,

13 Plaintiff,

14 v.

15 AMAZON.COM, INC.; and DOES 1-75,  
16 inclusive,

17 Defendants.

Case No.

**CGC-21-593767**

**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 AMAZON.COM, INC. and DOES 1-75.

### 3 INTRODUCTION AND NATURE OF THE ACTION

4 1. This Complaint is a representative action brought by plaintiff Keep America Safe and  
5 Beautiful (“**KASB**”) in the public interest of the citizens of the State of California (“State” or  
6 “California”) to enforce the People’s right to be informed of the health hazards caused by exposures  
7 to di(2-ethylhexyl) phthalate (“**DEHP**”), di-n-butyl phthalate (“**DBP**”), and diisononyl phthalate  
8 (“**DINP**”), toxic chemicals found in and on the products manufactured, imported, distributed, sold or  
9 offered for sale by defendants in California, including tools with vinyl/PVC components, vinyl/PVC  
10 cords, siphon hoses, vinyl storage/packaging cases, smartphone armband cases, tools with vinyl grips,  
11 tongs with vinyl/PVC grips, vinyl/PVC door hangers, tick remover kits, wrist coaches with vinyl  
12 components, flexible vacuum tools, vinyl sphygmomanometer tubing, PVC bags, vinyl steering  
13 wheel covers, vinyl/PVC balls, vinyl/PVC mini boxing gloves, and vinyl/PVC greenhouses  
14 (collectively referred to, hereinafter, as the “**PRODUCTS**”).

15 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to warn  
16 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*  
17 (“**consumers**”) they are being exposed to substances known to the State to cause cancer, birth defects  
18 and other reproductive harm through exposures to DEHP, DBP, and/or DINP, chemicals present in  
19 and on the PRODUCTS manufactured, imported, distributed, shipped, marketed, sold or offered for  
20 sale throughout California by defendants and purchased by California consumers who handle or use  
21 the PRODUCTS.

22 3. Detectable levels of DEHP, DBP, and/or DINP are found in and on the PRODUCTS  
23 defendants manufacture, import, sell or distribute for sale to individuals throughout California.

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



1           10. Defendants DOES 1-25 (“**MANUFACTURER DEFENDANTS**”) are each a person  
2 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and  
3 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and  
4 manufacture, or each impliedly does so by its conduct, one or more of the PRODUCTS offered for  
5 sale or use in California.

6           11. Defendants DOES 26-50 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in  
7 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
8 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each  
9 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or  
10 retailers for sale or use in California

11           12. Defendants DOES 51-75 (“**RETAILER DEFENDANTS**”) are each a person in the  
12 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
13 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the PRODUCTS  
14 for sale to individuals in California.

15           13. At this time, the true names of Defendants DOES 1 through 75, inclusive, are  
16 unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names, pursuant  
17 to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, each  
18 of the fictitiously named Defendants is responsible in some manner for the acts and occurrences  
19 alleged herein and the damages caused thereby. When ascertained, their true names and capacities  
20 shall be reflected in an amended complaint.

21           14. At all times mentioned herein, AMAZON, MANUFACTURER DEFENDANTS,  
22 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, hereinafter, where  
23 appropriate, be referred to collectively as the “**DEFENDANTS.**”

#### **JURISDICTION AND VENUE**

25           15. This Court has jurisdiction over this action, pursuant to Cal. Health & Safety Code  
26 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior  
27 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,  
28 which grants the Superior Court “original jurisdiction in all causes except those given by statute to

1 other trial courts.” The statute under which this action is brought does not specify any other basis of  
2 subject matter jurisdiction.

3 16. The California Superior Court has jurisdiction over DEFENDANTS, based on  
4 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation or  
5 association that is a citizen of the State, does sufficient business in California, has sufficient minimum  
6 contacts in California, and/or otherwise purposefully and intentionally avail themselves of the  
7 California market through their manufacture, importation, distribution, shipment, promotion,  
8 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful availment renders  
9 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair  
10 play and substantial justice.

11 17. Venue is proper in the Superior Court for the County of San Francisco, pursuant to  
12 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent  
13 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more  
14 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
15 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with  
16 respect to the PRODUCTS that are the subject of this action.

17 **REGULATORY BACKGROUND AND LAW**

18 18. In 1986, the people of the State approved an initiative addressing the harms caused by  
19 hazardous chemicals and declared their right “[t]o be informed about exposures to chemicals that  
20 cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed General Law, Gen,  
21 Elec. (Nov. 4, 1986) at p.3.

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

27 20. Under the Act, a “person in the course of doing business” is defined as a business with  
28 ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from

1 exposing individuals to hazardous chemicals without first giving a “clear and reasonable” warning.  
2 Health & Safety Code § 25249.6.

3 21. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
4 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. Title 27,  
5 California Code of Regulations (“C.C.R.”), Section 25102(i). An exposure to a hazardous chemical  
6 is defined as one that “results from a person’s acquisition, purchase, storage, consumption or other  
7 reasonably foreseeable use of a product...”  
8 27 C.C.R. § 25600(h).

9 22. Under the Act, “[t]he retail seller is responsible for providing the warning required by  
10 Section 25249.6 of the Act for a consumer product exposure” when it has “actual knowledge of the  
11 potential consumer product exposure requiring the warning, and there is no manufacturer, producer,  
12 packager, importer, supplier, or distributor of the product who: (A) [i]s a “person in the course of  
13 doing business” under Section 25249.11(b) of the Act, and (B) [h]as designated an agent for service  
14 of process in California, or has a place of business in California.” 27 C.C.R. § 25600.2(e)(5).

15 23. Under the statute, actual knowledge is defined as, “specific knowledge of the  
16 consumer product exposure received by the retail seller from any reliable source. If the source of this  
17 knowledge is a notice served pursuant to Section 25249.7 (d)(1) of the Act, the retail seller shall not  
18 be deemed to have actual knowledge of any consumer product exposure that is alleged in the notice  
19 until five business days after the retail seller receives a notice that provides a description of the  
20 product with sufficient specificity for the retail seller to readily identify the product in accordance  
21 with Article 9, section 25903(b)(2)(D).” 27 C.C.R. § 25600.2(f).

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

25 25. On October 24, 2003, pursuant to Proposition 65’s implementing regulations,  
26 California identified and listed DEHP as a chemical known to the State cause cancer, birth defects,  
27 and reproductive harm. DEHP became subject to the “clear and reasonable warning” requirements  
28

1 one year later, on October 24, 2004. 27 C.C.R. § 27001(c); Health & Safety Code §§ 25249.8,  
2 25249.10(b).

3 26. On December 2, 2005, pursuant to Proposition 65, California identified and listed DBP  
4 as a chemical known to cause birth defects and reproductive harm. DBP became subject to the “clear  
5 and reasonable warning” requirements one year later, on December 2, 2006. 27 C.C.R. § 27001(c);  
6 Health & Safety Code §§ 25249.8, 25249.10(b).

7 27. On December 20, 2013, pursuant to Proposition 65, California identified and listed  
8 DINP as a chemical known to cause cancer. DINP became subject to the “clear and reasonable  
9 warning” requirements one year later, on December 20, 2014. 27 C.C.R. § 27001(c); Health &  
10 Safety Code §§ 25249.8, 25249.10(b).

11 28. DEHP, DBP, and DINP are collectively referred to hereinafter as “**Listed Phthalates.**”

#### 12 STATEMENT OF FACTS

13 29. Plaintiff purchased or caused to be purchased DEFENDANTS’ PRODUCTS on  
14 Amazon for sale in or into California without a warning.

15 30. Plaintiff investigated and tested DEFENDANTS’ PRODUCTS at an accredited lab,  
16 and consulted with a person with relevant and appropriate knowledge and expertise, who, after  
17 reviewing the collected data and analyzing the risk of exposure to one or more Listed Phthalates,  
18 determined the PRODUCTS subject consumers in California to exposure to one or more Listed  
19 Phthalates at levels requiring a warning under the statute, based on touching, handling or otherwise  
20 utilizing the PRODUCTS in accordance with their reasonably foreseeable and intended usages.

21 31. Based on the foregoing, Plaintiff’s attorneys executed certificates of merit, attesting  
22 there was a reasonable and meritorious case for this private action based on the allegations in each  
23 60-Day Notice of Violation (“60-Day Notice(s)”) and included the factual information supporting the  
24 certificates served on the Office of the California Attorney General (“OAG”), as required, with a  
25 copy of each 60-Day Notice. In the regular course of business, the OAG assigned a number to each  
26 60-Day Notice (“Notice No.”). Health & Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

27 32. Amazon uses a product identifier system assigning an “ASIN” or Amazon Standard  
28 Identification Number to each product on AMAZON. Each ASIN includes a unique combination of

1 ten (10) letters and numbers that reference a specific product. ASINs allow AMAZON to track its  
2 inventory and act as a catalogue to search and browse its website. Thus, through ASINs, consumers  
3 and DEFENDANTS alike can easily locate and identify products available on AMAZON or at  
4 Amazon 4 Star brick and mortar retail outlets.

5 33. Each Notice KASB served on AMAZON included the ASIN associated with the  
6 exemplar PRODUCT and/or additional specific PRODUCT identifying information, such as the  
7 Universal Product Code (“UPC”) for the PRODUCTS alleged to contain one or more Listed Chemicals  
8 sold without the requisite clear and reasonable warning to allow DEFENDANTS to easily and  
9 promptly locate the allegedly violative PRODUCTS upon receipt of the Notices.

10 34. On September 11, 2020, plaintiff served 60-Day Notices, together with corresponding  
11 certificates of merit, on AMAZON, the California Attorney General’s Office, and the requisite public  
12 enforcement agencies, alleging consumers in the State were, and are, being exposed to DEHP through  
13 their reasonably foreseeable use of the PRODUCTS as intended without first receiving a “clear and  
14 reasonable warning,” as required by Proposition 65, as a result of DEFENDANTS’ sales of: (1) tools  
15 with vinyl/PVC components, Notice No. 2020-02330, including, but not limited to, the *Aidetek BNC*  
16 *to Mini Grabber Test Lead Set (Cord), Model # AP1020, ASIN B011GBI3XO, UPC 6 78358 85151 5;*  
17 (2) smartphone armband cases, Notice No. 2020-02332, including the *DURAGADGET Smartphone*  
18 *Sports Armband (Purple), SKU: 1282, GTIN 5 054019 557494, ASIN B00NWXGKEBO;* (3) vinyl  
19 storage/packaging cases, Notice No. 2020-02333, including the *Utopia Bedding Hypoallergenic*  
20 *Mattress Protector (Twin) Product Code: X000N2BVMH, GTIN 7 54207 38053 2, ASIN*  
21 *B00MRH9NCK;* and (4) vinyl/PVC cords, Notice No. 2020-02337, including the *iMBAPrice Black*  
22 *Coiled Telephone Handset Cable Cord (pack of 2), Product ID # LPN PM 18589 3510, ASIN*  
23 *B00O4IPV9O.*

24 35. On September 11, 2020, plaintiff served 60-Day Notice No. 2020-02331, together with  
25 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
26 alleging, consumers in California were, and are, being exposed to DEHP and DBP through their  
27 reasonably foreseeable use of the products as intended without first receiving a “clear and reasonable  
28 warning,” as required by Proposition 65, as a result of DEFENDANTS’ sales of siphon hoses,



1 including but not limited to, the *A ABIGAIL Gas Siphon Hose Pump Shaker Siphon for Gasoline Fuel*  
2 *Water Transfer Safe Multi-Purpose Self Priming Pump 6 Foot High Grade Hose 1/2" Valve,*  
3 *A7726F, X002B054TZ, ASIN B07XFM6KB3.*

4 36. Thereafter, on September 30, 2020, plaintiff served 60-Day Notice No. 2020-02577,  
5 together with the certificate of merit, on AMAZON, the OAG and the requisite public enforcement  
6 agencies, alleging, as a result of DEFENDANTS' sales of tools with vinyl grips, including but not  
7 limited to, *The Army Painter Miniature and Model Files - 3-Piece Diamond File Set of Round File,*  
8 *Flat File and Triangular Metal... Plastic Miniatures, Product No. X002J49KBB, ASIN*  
9 *B001AE7RRO*, consumers in the California were, and are, being exposed to DEHP through their  
10 reasonably foreseeable use of the products as intended without first receiving a "clear and reasonable  
11 warning," as required by Proposition 65.

12 37. On October 7, 2020, plaintiff served 60-Day Notice No. 2020-02635 together with the  
13 requisite certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
14 alleging consumers in the State are being exposed to DEHP, as a result of DEFENDANTS' sales of  
15 tongs with vinyl/PVC grips, including but not limited to *Shark Outdoors Premium Stainless Steel*  
16 *Grill Tongs for Pitmasters & Serious Grillers, Red SS Grill Tongs, B07MQBWR3N*, through their  
17 reasonably foreseeable use of the products as intended without first receiving clear and reasonable  
18 warnings, as required by Proposition 65.

19 38. On October 14, 2020, plaintiff served 60-Day Notice No. 2020-02690, together with  
20 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
21 alleging, as a result of DEFENDANTS' sales of vinyl/PVC door hangers, including but not limited  
22 to, the *Quality Clever Do Not Disturb Sign (2 Pack) Executive Quality Door Hanger; Model #*  
23 *QCP00200; ASIN B00VY03GEW; UPC 6 37390 43786 6*, consumers in the State were, and are, being  
24 exposed to DEHP through their reasonably foreseeable use of the products as intended without first  
25 receiving a "clear and reasonable warning," as required.

26 39. On October 21, 2020, plaintiff served 60-Day Notice No. 2020-02830, together with  
27 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
28 alleging, as a result of DEFENDANTS' sales of tick remover kits, including but not limited to,

1 *TickCheck.com Two-Piece Tick Remover Kit, UPC 8 60061 00204 3, ASIN B075DKL3Z6*, consumers  
2 in the State were, and are, being exposed to DEHP through their reasonably foreseeable use of the  
3 products as intended without first receiving a “clear and reasonable warning,” as required by  
4 Proposition 65.

5 40. On November 18, 2020, plaintiff served 60-Day Notice No. 2020-03118, together with  
6 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
7 alleging, as a result of DEFENDANTS’ sales of wrist coaches with vinyl components, including but  
8 not limited to, the *Suddora Football Wrist Coach Playbook Armband for Quarterback, X000JPEYLN*,  
9 *ASIN B00A2ULYB2*, consumers in California were, and are, being exposed to DEHP through their  
10 reasonably foreseeable use of the products as intended without first receiving a “clear and reasonable  
11 warning,” as required by Proposition 65.

12 41. On November 18, 2020, plaintiff served two 60-Day Notices together with the  
13 certificates of merit, on AMAZON, the OAG, and the requisite public enforcement agencies, alleging  
14 consumers in California were, and are, being exposed to DEHP through their reasonably foreseeable  
15 use of the products as intended without first receiving a “clear and reasonable warning,” as required  
16 by Proposition 65, as a result of: (1) DEFENDANTS’ sales of flexible vacuum tools, Notice No.  
17 2020-03114, including but not limited to, *Universal 25” Flexible Crevice Tool with Detachable*  
18 *Brush Head, X001O6QQUN, ASIN B071YGBG5G*; and (2) DEFENDANTS’ sales of vinyl  
19 sphygmomanometer tubing, Notice No. 2020-03115, including but not limited to, the *Gurin Products*  
20 *Santa Medical Deluxe Aneroid Sphygmomanometer, Model: SP-110, X000FVBQ1R, UPC 8 58759*  
21 *00541 4, ASIN B00ACBKNS6*.

22 42. On December 9, 2020, plaintiff served 60-Day Notice No. 2020-03347, together with  
23 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
24 alleging, as a result of DEFENDANTS’ sales of tools with vinyl/PVC grips, including but not limited  
25 to, *Flat Half Round Nose Jaws Plier, ASIN B01IPL90Q*, consumers in California were, and are, being  
26 exposed to DEHP through their reasonably foreseeable use of the products as intended without first  
27 receiving a “clear and reasonable warning,” as required by Proposition 65.

28

1           43.     On January 20, 2021, plaintiff served 60-Day Notice No. 2021-00092, together with  
2 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
3 alleging, as a result of DEFENDANTS’ sales of PVC bags, including but not limited to, *Peak Gear*  
4 *Clear Bag, UPC 8 54497 00771 0, ASIN B07V3GPZT9*, consumers in California were, and are, being  
5 exposed to DEHP through their reasonably foreseeable use of the products as intended without first  
6 receiving a “clear and reasonable warning,” as required by Proposition 65.

7           44.     On January 29, 2021, plaintiff served 60-Day Notice No. 2021-00206, together with  
8 the certificate of merit, on AMAZON, the OAG, and the requisite *public* enforcement agencies,  
9 alleging, as a result of DEFENDANTS’ sales of vinyl steering wheel covers, including but not limited  
10 to, *AmazonBasics Leatherette Steering Wheel Cover, 15”, Black, ASIN B07X247V9K*, consumers in  
11 California were, and are, being exposed to DEHP through their reasonably foreseeable use of the  
12 products as intended without first receiving a “clear and reasonable warning,” as required by  
13 Proposition 65.

14           45.     On February 3, 2021, plaintiff served 60-Day Notice No. 2021-00235, together with  
15 the certificate of merit, on AMAZON, the OAG and the requisite public enforcement agencies,  
16 alleging, as a result of DEFENDANTS’ sales of vinyl/PVC balls, including but not limited to, *Pro*  
17 *Impact Poly Soft PVC Cricket Balls, X0009ISTWF*, ASIN B002YJEIKS, and vinyl/PVC mini boxing  
18 gloves, including but not limited to, *Pro Impact Mini Boxing Gloves, B07P83MDYH, 101667435*,  
19 ASIN B07J2TMHC4, consumers in California were, and are, being exposed to DEHP and DINP  
20 through their reasonably foreseeable use of the products as intended without first receiving a “clear  
21 and reasonable warning,” as required by Proposition 65.

22           46.     On March 12, 2021, plaintiff served 60-Day Notice No. 2021-00621, together with the  
23 certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies, alleging,  
24 as a result of DEFENDANTS’ sales of vinyl/PVC greenhouses, including but not limited to, *Mini*  
25 *Balcony Greenhouse, Model No: SH3270-12.5, UPC 7 00112 23677 8, ASIN B00JEN2A1Q*,  
26 consumers in California were, and are, being exposed to DEHP through their reasonably foreseeable  
27 use of the products as intended without first receiving a “clear and reasonable warning,” as required  
28 by Proposition 65.





1           1.       That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
2 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or  
3 otherwise offering the PRODUCTS for sale or use in California without first providing a “clear and  
4 reasonable warning” to consumers addressing the harms associated with exposures to one or more  
5 Listed Phthalates;

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

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


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

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

15 Dated: July 12, 2021

Respectfully submitted,

SEVEN HILLS LLP

17  
18 By:   
19 \_\_\_\_\_  
20 Kimberly Gates Johnson  
21 Attorneys for Plaintiff  
22 *Keep America Safe and Beautiful*  
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