

1 Laralei Schmohl Paras, State Bar No. 203319  
2 Kimberly Gates Johnson, State Bar No. 282369  
3 Seven Hills LLP  
4 4 Embarcadero Center, Suite 1400  
5 San Francisco, CA 94111  
6 Telephone: (415) 926-7247  
7 laralei@sevenhillslp.com  
8 kimberly@sevenhillslp.com

**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**09/17/2021**  
**Clerk of the Court**  
BY: EDWARD SANTOS  
Deputy Clerk

6 Attorneys for Plaintiff  
KEEP AMERICA SAFE AND BEAUTIFUL

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO  
11 UNLIMITED CIVIL JURISDICTION

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

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

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

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

25 ///

26 ///

27 ///

28 ///



1           8.       Plaintiff is informed, believes and thereon alleges, at all relevant times, Defendant  
2 AMAZON was and is a “person” “in the course of doing business” with ten (10) or more employees,  
3 within the meanings of Health and Safety Code §§ 25249.6 and 25249.11.

4           9.       AMAZON manufactures, imports, distributes, sells, and/or offers the PRODUCTS for  
5 sale or use in California, or implies by its conduct that it manufactures, imports, distributes, sells,  
6 and/or offers the PRODUCTS for sale or use in California.

7           10.      Defendants DOES 1-25 (“**MANUFACTURER DEFENDANTS**”) are each a person  
8 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and  
9 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and  
10 manufacture, or each impliedly does so by its conduct, one or more of the PRODUCTS offered for  
11 sale or use in California.

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

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

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

27 ///

28 ///



1 **REGULATORY BACKGROUND AND LAW**

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

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

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

15 21. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
16 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. Title 27,  
17 California Code of Regulations (“C.C.R.”), Section 25102(i). An exposure to a hazardous chemical  
18 is defined as one that “results from a person’s acquisition, purchase, storage, consumption or other  
19 reasonably foreseeable use of a product...”  
20 27 C.C.R. § 25600(h).

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

27 23. Under the statute, actual knowledge is defined as, “specific knowledge of the  
28 consumer product exposure received by the retail seller from any reliable source. If the source of this

1 knowledge is a notice served pursuant to Section 25249.7 (d)(1) of the Act, the retail seller shall not  
2 be deemed to have actual knowledge of any consumer product exposure that is alleged in the notice  
3 until five business days after the retail seller receives a notice that provides a description of the  
4 product with sufficient specificity for the retail seller to readily identify the product in accordance  
5 with Article 9, section 25903(b)(2)(D).” 27 C.C.R. § 25600.2(f).

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

9 25. On October 24, 2003, pursuant to Proposition 65’s implementing regulations,  
10 California identified and listed DEHP as a chemical known to the State cause birth defects and  
11 reproductive harm. DEHP became subject to the “clear and reasonable warning” requirements one  
12 year later on October 24, 2004. 27 C.C.R. § 27001(c); Health & Safety Code §§ 25249.8,  
13 25249.10(b).

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

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

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

### 23 STATEMENT OF FACTS

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

26 30. Plaintiff investigated and tested DEFENDANTS’ PRODUCTS at an accredited lab,  
27 and consulted with a person with relevant and appropriate knowledge and expertise, who, after  
28 reviewing the collected data and analyzing the risk of exposure to one or more Listed Phthalates,

1 determined the PRODUCTS subject consumers in California to exposure to one or more Listed  
2 Phthalates at levels requiring a warning under the statute, based on touching, handling or otherwise  
3 utilizing the PRODUCTS in accordance with their reasonably foreseeable and intended usages.

4 31. Based on the foregoing, Plaintiff’s attorneys executed certificates of merit, attesting  
5 there was a reasonable and meritorious case for this private action based on the allegations in each  
6 60-Day Notice of Violation (“60-Day Notice(s)”) and included the factual information supporting the  
7 certificates served on the Office of the California Attorney General (“OAG”), as required, with a  
8 copy of each 60-Day Notice. In the regular course of business, the OAG assigned a number to each  
9 60-Day Notice (“Notice No.”). Health & Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

10 32. Amazon uses a product identifier system assigning an “ASIN” or Amazon Standard  
11 Identification Number to each product on AMAZON. Each ASIN includes a unique combination of  
12 ten (10) letters and numbers that reference a specific product. ASINs allow AMAZON to track its  
13 inventory and act as a catalogue to search and browse its website. Thus, through ASINs, consumers  
14 and DEFENDANTS alike can easily locate and identify products available on AMAZON or at  
15 Amazon 4 Star brick and mortar retail outlets.

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

21 34. On September 11, 2020, plaintiff served 60-Day Notices, together with corresponding  
22 certificates of merit, on AMAZON, the California Attorney General’s Office, and the requisite public  
23 enforcement agencies, alleging consumers in the State were, and are, being exposed to DEHP through  
24 their reasonably foreseeable use of the PRODUCTS as intended without first receiving a “clear and  
25 reasonable warning,” as required by Proposition 65, as a result of DEFENDANTS’ sales of: (1) tools  
26 with vinyl/PVC components, Notice No. 2020-02330, including, but not limited to, the *Aidetek BNC*  
27 *to Mini Grabber Test Lead Set (Cord)*, Model # AP1020, ASIN B011GBI3XO, UPC 6 78358 85151 5;  
28 (2) smartphone armband cases, Notice No. 2020-02332, including the *DURAGADGET Smartphone*



1 *Sports Armband (Purple), SKU: 1282, GTIN 5 054019 557494, ASIN B00NWXGKEBO; (3) vinyl*  
2 *storage/packaging cases, Notice No. 2020-02333, including the Utopia Bedding Hypoallergenic*  
3 *Mattress Protector (Twin) Product Code: X000N2BVMH, GTIN 7 54207 38053 2, ASIN*  
4 *B00MRH9NCK; and (4) vinyl/PVC cords, Notice No. 2020-02337, including the iMBAPrice Black*  
5 *Coiled Telephone Handset Cable Cord (pack of 2), Product ID # LPN PM 18589 3510, ASIN*  
6 *B00O4IPV9O.*

7 35. On September 11, 2020, plaintiff served 60-Day Notice No. 2020-02331, together with  
8 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
9 alleging, consumers in California were, and are, being exposed to DEHP and DBP 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, as a result of DEFENDANTS’ sales of siphon hoses,  
12 including but not limited to, the *A ABIGAIL Gas Siphon Hose Pump Shaker Siphon for Gasoline Fuel*  
13 *Water Transfer Safe Multi-Purpose Self Priming Pump 6 Foot High Grade Hose 1/2” Valve,*  
14 *A7726F, X002B054TZ, ASIN B07XFM6KB3.*

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

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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

8           38.     On October 14, 2020, plaintiff served 60-Day Notices, together with corresponding  
9 certificates of merit, on AMAZON, the California Attorney General’s Office, and the requisite public  
10 enforcement agencies, alleging consumers in the State were, and are, being exposed to DEHP through  
11 their reasonably foreseeable use of the PRODUCTS as intended without first receiving a “clear and  
12 reasonable warning,” as required by Proposition 65, as a result of DEFENDANTS’ sales of: (1) tools  
13 with grips, Notice No. 2020-02687, including the *Bastex 12-Inch Oil Filter Wrench, ASIN*  
14 *#B073C1SXZP, Prod. Code #X001GJYHTF232*; and (2) vinyl/PVC door hangers, Notice No. 2020-  
15 02690, including, but not limited to, the *Quality Clever Do Not Disturb Sign (2 Pack) Executive*  
16 *Quality Door Hanger; Model # QCP00200; ASIN B00VY03GEW; UPC 6 37390 43786 6*.

17           39.     On October 21, 2020, plaintiff served 60-Day Notice No. 2020-02830, together with  
18 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
19 alleging, as a result of DEFENDANTS’ sales of tick remover kits, including but not limited to,  
20 *TickCheck.com Two-Piece Tick Remover Kit, UPC 8 60061 00204 3, ASIN B075DKL3Z6*, consumers  
21 in the State were, and are, being exposed to DEHP through their reasonably foreseeable use of the  
22 products as intended without first receiving a “clear and reasonable warning,” as required by  
23 Proposition 65.

24           40.     On November 18, 2020, plaintiff served 60-Day Notice No. 2020-03113, together with  
25 the certificate of merit, on AMAZON, the OAG, and the requisite public enforcement agencies,  
26 alleging, as a result of DEFENDANTS’ sales of vinyl floats, including but not limited to, the *Storm*  
27 *Surface Marker and Flag for Scuba Diving or Snorkeling, X000J17FM7, SKU: FL\_SFB-01, UPC 8*  
28 *13347 02282 2*, consumers in California were, and are, being exposed to DINP through their

1 reasonably foreseeable use of the products as intended without first receiving a “clear and reasonable  
2 warning,” as required by Proposition 65.

3 41. On November 18, 2020, plaintiff served three 60-Day Notices together with the  
4 certificates of merit, on AMAZON, the OAG, and the requisite public enforcement agencies, alleging  
5 consumers in California were, and are, being exposed to DEHP through their reasonably foreseeable  
6 use of the products as intended without first receiving a “clear and reasonable warning,” as required  
7 by Proposition 65, as a result of: (1) DEFENDANTS’ sales of vinyl cases, Notice No. 2020-03112,  
8 including but not limited to, the *Impressive Smile Oral Hygiene Set 4, X0020JX6WJ*; (2)  
9 DEFENDANTS’ sales of flexible vacuum tools, Notice No. 2020-03114, including but not limited to,  
10 *Universal 25” Flexible Crevice Tool with Detachable Brush Head, X001O6QQUN, ASIN*  
11 *B071YGBG5G*; (3) DEFENDANTS’ sales of vinyl sphygmomanometer tubing, Notice No. 2020-  
12 03115, including but not limited to, the *Gurin Products Santa Medical Deluxe Aneroid*  
13 *Sphygmomanometer, Model: SP-110, X000FVBQIR, UPC 8 58759 00541 4, ASIN B00ACBKNS6*;  
14 and (4) DEFENDANTS’ sales of wrist coaches with vinyl components, Notice No. 2020-03118,  
15 including but not limited to, the *Suddora Football Wrist Coach Playbook Armband for Quarterback,*  
16 *X000JPEYLN, ASIN B00A2ULYB2.*

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

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

1           44.     On January 29, 2021, plaintiff served 60-Day Notice No. 2021-00204, 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 sandbag weights, including but not limited to,  
4 *Meister Elite Portable Sand Kettlebell - 15lb, No. 1099KB15BK, ASIN B01N5ESB3U*, consumers in  
5 California were, and are, being exposed to DINP through their reasonably foreseeable use of the  
6 products as intended without first receiving a “clear and reasonable warning,” as required by  
7 Proposition 65.

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

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

23           47.     On February 3, 2021, plaintiff served 60-Day Notice No. 2021-00239, together with  
24 the certificate of merit, on AMAZON, the OAG and the requisite public enforcement agencies,  
25 alleging, as a result of DEFENDANTS’ sales of vinyl eyewear cases, including but not limited to,  
26 *JAVOedge (3 PACK) 2 Tone Style Soft Pouch Eyeglass Storage Case EYEW-00375- 3PACK*,  
27 *LPNRR944996727 ASIN B07QHVXN4H*, consumers in California were, and are, being exposed to  
28

1 DEHP through their reasonably foreseeable use of the products as intended without first receiving a  
2 “clear and reasonable warning,” as required by Proposition 65.

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

10 49. Five days after the receipt of each of the above referenced Notices, AMAZON  
11 continued to distribute, ship, sell and offer for sale to consumers in California each and every one of  
12 the PRODUCTS without the requisite warning.

13 50. After receiving plaintiff’s Notices, no public enforcement agency has commenced and  
14 is diligently prosecuting a cause of action against DEFENDANTS under Proposition 65 to enforce  
15 the alleged violations that are the subject of the Notices.

16 **FIRST CAUSE OF ACTION**

17 **(Violation of Proposition 65 - Against All DEFENDANTS)**

18 51. KASB realleges and incorporates by reference, as if fully stated herein, the allegations  
19 set forth in Paragraphs 1 through 50, inclusive.

20 52. DEFENDANTS’ PRODUCTS contain one or more Listed Phthalates at levels  
21 requiring a clear and reasonable warning under Proposition 65.

22 53. DEFENDANTS know or should have known the PRODUCTS they manufacture,  
23 import, distribute, sell, and offer for sale in California contain one or more Listed Phthalates.

24 54. Through Plaintiff’s Notices, DEFENDANTS were informed and have actual  
25 knowledge of the presence of one or more Listed Phthalates in the PRODUCTS.

26 55. The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for  
27 sale in or into the State cause exposures to one or more Listed Phthalates, through dermal contact and  
28 both direct and indirect ingestion, based on the reasonably foreseeable use of the PRODUCTS.

1           56.     The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
2 continues to cause, exposures to one or more Listed Phthalates.

3           57.     DEFENDANTS know, should have known, or have actual knowledge the normal and  
4 reasonably foreseeable uses of the PRODUCTS expose individuals to one or more Listed Phthalates  
5 through dermal contact and both direct and indirect ingestion.

6           58.     DEFENDANTS intend exposures to one or more Listed Phthalates from the  
7 reasonably foreseeable use of the PRODUCTS will occur, by their deliberate, non-accidental  
8 participation in the California marketplace.

9           59.     The exposures to one or more Listed Phthalates, caused by DEFENDANTS and  
10 endured by consumers and other individuals in California, are not exempt from the “clear and  
11 reasonable” warning requirements of Proposition 65.

12          60.     DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers  
13 and other individuals in California who have been, or who will be, exposed to one or more Listed  
14 Phthalates through dermal contact and both direct and indirect ingestion resulting from the use of the  
15 PRODUCTS as intended.

16          61.     DEFENDANTS failed to provide “clear and reasonable warnings” to consumers,  
17 despite having actual knowledge about the Listed Phthalates in the Products and potential for  
18 consumer harms.

19          62.     Contrary to the express policy and statutory prohibition of Proposition 65, consumers  
20 and other individuals, exposed to one or more Listed Phthalates through dermal contact and ingestion  
21 as a result of their use of the PRODUCTS DEFENDANTS sold without a “clear and reasonable”  
22 health hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no  
23 plain, speedy, or adequate remedy at law.

24          63.     DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for  
25 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS’ violations have  
26 continued beyond their receipt of plaintiff’s Notices. As such, DEFENDANTS’ violations are  
27 ongoing and continuous in nature and, unless enjoined, will continue in the future.

28 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I am over 18 years of age and not a party to this action. I am employed in the county where the mailing took place. Seven Hills LLP's business address is 4 Embarcadero Center, Suite 1400, San Francisco, CA 94111.

On September 17, 2021, I caused the following document(s) to be served, described as:

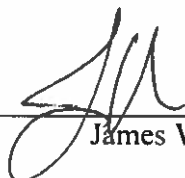
**FIRST AMENDED COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

on each interested party as follows:

Amazon.com, Inc.  
CSC - Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833-3505

XXXXX (BY MAIL) I placed envelopes with fully pre-paid postage thereon in the United States mail at San Francisco, California, a true and correct copy of the foregoing document(s), in sealed envelope(s) addressed to each interested party as set forth above.

Executed this 17<sup>th</sup> day of September 2021, at San Francisco, California, I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
\_\_\_\_\_  
James Wheeler