

1 Laralei Paras, State Bar No. 203319  
2 Rebecca Jackson, State Bar No. 221583  
3 Seven Hills LLP  
4 4 Embarcadero Center, Suite 1400  
5 San Francisco, CA 94111  
6 Telephone: (415) 926-7247  
7 laralei@sevenhillsllp.com  
8 rebecca@sevenhillsllp.com

**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**10/19/2021  
Clerk of the Court**

**BY: LAURA SIMMONS  
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 THE HOUSE OF STAUNTON INC.; and  
16 THE HOUSE OF STAUNTON INC. DBA  
17 WHOLESALE CHESS,

18 Defendants.

Case No.

**CGC-21-596161**

**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 THE HOUSE OF STAUNTON INC. and THE HOUSE OF  
3 STAUNTON INC. DBA WHOLESALE CHESS.

#### 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 chess mats manufactured, imported, distributed, sold  
9 or offered for sale by Defendants in the State of California.

10 2. By this Complaint, plaintiff seeks to remedy Defendants’ continuing failure to warn  
11 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*  
12 (“**consumers**”) they are being exposed to substances known to the State of California to cause birth  
13 defects and other reproductive harm through exposures to DEHP, when they purchase, use or handle  
14 Defendants’ chess mats.

15 3. Detectable levels of DEHP are found in and on the chess mats that Defendants  
16 manufacture, import, sell or distribute for sale to individuals throughout California.

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

22 5. KASB contends and alleges Defendants manufacture, distribute, import, sell, and offer  
23 for sale, in and into California chess mats (“**PRODUCTS**”) containing DEHP, without Proposition  
24 65’s requisite health hazard warning regarding the harms associated with exposures to the chemical,  
25 including, but not limited to, *Archer Chess Set Combo-Green, Product No. 0551, UPC 8 53578*  
26 *00522 5, ASIN B009RSFQD2*. Defendants’ conduct subjects them to civil penalties for each  
27 violation, enjoinder as well as preliminary and permanent injunctive relief. Health & Safety Code  
28 § 25249.7(a) and (b).

1 PARTIES

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

9 7. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
10 THE HOUSE OF STAUNTON INC. was and is a “person” “in the course of doing business” with ten  
11 (10) or more employees, within the meanings of Health and Safety Code §§ 25249.6 and 25249.11.

12 8. THE HOUSE OF STAUNTON INC. manufactures, imports, distributes, sells, and/or  
13 offers the PRODUCTS for sale or use in the State of California, or implies by its conduct that it  
14 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of  
15 California.

16 9. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
17 THE HOUSE OF STAUNTON INC. DBA WHOLESALE CHESS was and is a “person” “in the  
18 course of doing business” with ten (10) or more employees, within the meanings of Health and Safety  
19 Code §§ 25249.6 and 25249.11.

20 10. THE HOUSE OF STAUNTON INC. DBA WHOLESALE CHESS imports,  
21 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California, or implies by  
22 its conduct that it imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State  
23 of California.

24 11. At all times mentioned herein, THE HOUSE OF STAUNTON INC. and THE HOUSE  
25 OF STAUNTON INC. DBA WHOLESALE CHESS shall, hereinafter, where appropriate, be referred  
26 to collectively as the “DEFENDANTS.”

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1 **JURISDICTION AND VENUE**

2 12. This Court has jurisdiction over this action, pursuant to Cal. Health & Safety Code  
3 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior  
4 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,  
5 which grants the Superior Court “original jurisdiction in all causes except those given by statute to  
6 other trial courts.” The statute under which this action is brought does not specify any other basis of  
7 subject matter jurisdiction.

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

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

22 **REGULATORY BACKGROUND AND LAW**

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

27 16. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
28 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o

1 person in the course of doing business shall knowingly and intentionally expose any individual to a  
2 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
3 warning to such individual...”

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

8 18. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
9 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR  
10 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s  
11 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”  
12 27 C.C.R. § 25600(h).

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

16 20. On October 24, 2003, pursuant to Proposition 65’s implementing regulations,  
17 California identified and listed DEHP as a chemical known to the State cause birth defects and  
18 reproductive harm. DEHP became subject to the “clear and reasonable warning” requirements one  
19 year later, on October 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code  
20 §§ 25249.8, 25249.10(b).

### 21 **STATEMENT OF FACTS**

22 21. Plaintiff purchased DEFENDANTS’ PRODUCTS, without a warning, in California.

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



1           30.     DEFENDANTS know or should have known the PRODUCTS they manufacture,  
2 import, distribute, sell, and offer for sale in California contain DEHP. As a result of plaintiff’s  
3 Notices, DEFENDANTS also have actual knowledge of the presence of DEHP in the PRODUCTS.

4           31.     The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for  
5 sale in or into the State of California cause exposures to DEHP, both direct and/or indirect dermal  
6 contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.

7           32.     The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
8 continues to cause, exposures to DEHP.

9           33.     DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS  
10 exposes individuals to DEHP through direct and indirect dermal contact and/or ingestion.

11          34.     DEFENDANTS intend that exposures to DEHP from the reasonably foreseeable use  
12 of the PRODUCTS will occur by their deliberate, non-accidental participation in the California  
13 marketplace.

14          35.     The exposures to DEHP, caused by DEFENDANTS and endured by consumers and  
15 other individuals in California, are not exempt from the “clear and reasonable” warning requirements  
16 of Proposition 65.

17          36.     DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers  
18 and other individuals in California who have been, or who will be, exposed to DEHP through direct  
19 and indirect dermal contact and/or ingestion resulting from the use of the PRODUCTS as intended.

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

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

