

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@sevenhillslp.com  
8 rebecca@sevenhillslp.com

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**09/28/2021**  
Clerk of the Court  
BY: JACKIE LAPREVOTTE  
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 OBBOMED GROUP, LLC; AMAZON.COM,  
16 INC.; and DOES 1-30, inclusive,

17 Defendants.

Case No.

**CGC-21-595555**

**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, alle cause  
2 of action against Defendants OBBOMED GROUP, LLC, AMAZON.COM, INC., and DOES 1-30.

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 to enforce the  
6 People’s right to be informed of the health hazards caused by exposures to di(2-ethylhexyl) phthalate  
7 (“**DEHP**”), a toxic chemical found in and on vinyl/PVC toilet seats manufactured, imported,  
8 distributed, sold or offered for sale by Defendants in the State of California.

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

14 3. Detectable levels of DEHP are found in and on vinyl/PVC toilet seats that Defendants  
15 manufacture, import, sell or distribute for sale to individuals throughout California.

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

21 5. KASB contends and alleges Defendants manufacture, distribute, import, sell, and offer  
22 for sale, in and into California vinyl/PVC toilet seats (the “**PRODUCTS**”) containing DEHP without  
23 Proposition 65’s requisite health hazard warning regarding the harms associated with exposures to the  
24 chemical, including, but not limited to, the *Cushion Toilet Seat Raiser Model No. MU-3402 UPC 8*  
25 *13790 02304 9 ASIN B00WM65SCU*. Defendants’ conduct subjects them to civil penalties for each  
26 violation, enjoinder as well as preliminary and permanent injunctive relief. Health & Safety Code  
27 § 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 OBBOMED GROUP, LLC (“**OBBOMED**”) was and is a “person” “in the course of doing business”  
11 with ten (10) or more employees, within the meanings of Health and Safety Code §§ 25249.6 and  
12 25249.11.

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

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

20 10. AMAZON distributes, sells, and/or offers the PRODUCTS for sale or use in the State  
21 of California, or implies by its conduct that it distributes, sells, and/or offers the PRODUCTS for sale  
22 or use in the State of California.

23 11. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person  
24 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and  
25 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and  
26 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS  
27 offered for sale or use in California.  
28



1 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail  
2 themselves of the California market through their manufacture, importation, distribution, promotion,  
3 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful availment renders  
4 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair  
5 play and substantial justice.

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

12 **REGULATORY BACKGROUND AND LAW**

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

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

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

26 22. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
27 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR  
28 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s

1 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”  
2 27 C.C.R. § 25600(h).

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

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

### 11 STATEMENT OF FACTS

12 25. Plaintiff purchased DEFENDANTS’ PRODUCTS, without a warning, in California.

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

19 27. Based on the foregoing, Plaintiff’s attorney executed a certificate of merit, attesting  
20 there was a reasonable and meritorious case for this private action and included the factual  
21 information supporting the certificate when it served the notice on the California Attorney General’s  
22 Office, as required. Health & Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

23 28. Thereafter, on February 3, 2021, plaintiff served a 60-Day Notice of Violation  
24 (“**Notice**”), together with the certificate of merit, on OBBOMED, AMAZON, the California Attorney  
25 General’s Office, and the requisite public enforcement agencies, alleging, as a result of  
26 DEFENDANTS’ sales of vinyl/PVC toilet seats, consumers in the State of California were, and are,  
27 being exposed to DEHP through their reasonably foreseeable use of vinyl/PVC toilet seats as  
28 intended without first receiving a “clear and reasonable warning,” as required by Proposition 65.







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

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

Dated: September 24, 2021

Respectfully submitted,

SEVEN HILLS LLP

By: 

Laralei Paras  
Attorneys for Plaintiff  
*Keep America Safe and Beautiful*