

1 Evan J. Smith, Esquire (SBN 242352)
2 Ryan P. Cardona, Esquire (SBN 302113)
3 BRODSKY & SMITH
4 9595 Wilshire Blvd., Ste. 900
5 Beverly Hills, CA 90212
6 Telephone: (877) 534-2590
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

03/29/2022
Clerk of the Court
BY: KAREN VALDES
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

9 EMA BELL,

10 Plaintiff,

11 vs.

12 MACY'S, INC.,

13 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

CGC-22-598914

14 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause
15 of action in the public interest of the citizens of the State of California.

16 **BACKGROUND OF THE CASE**

17 1. Plaintiff brings this representative action on behalf of all California citizens to
18 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
19 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
20 "[n]o person in the course of doing business shall knowingly and intentionally expose any
21 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
22 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People's right to be informed of the health
25 hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP) and/or bisphenol A (BPA), toxic
26 chemicals found in products sold and/or distributed by defendant Macy's, Inc. ("Macy's" or
27 "Defendant") in California.
28

1 3. DEHP is a harmful chemical known to the State of California to cause cancer and
2 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known
3 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since
4 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
5 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
6 reproductive toxicity.

7 4. BPA is a harmful chemical known to the State of California to cause female
8 reproductive toxicity. On May 11, 2015, the State of California listed BPA as a chemical known
9 to the State to cause reproductive toxicity and BPA has come under the purview of Proposition 65
10 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8
11 & 25249.10(b).

12 5. Proposition 65 requires all businesses with ten (10) or more employees that operate
13 within California or sell products therein to comply with Proposition 65 regulations. Included in
14 such regulations is the requirement that businesses must label any product containing a Proposition
15 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
16 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
17 chemical.

18 6. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
19 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
20 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
21 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
22 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
23 25249.7.

24 7. Plaintiff alleges that Defendant distributes, sells and/or offers for sale in California,
25 without a requisite exposure warning, (a) RICHMOND & FINCH clear cases for iPhones that
26 expose persons to BPA and (b) JUDY the Mover Max Emergency Preparedness Kits that expose
27 users to DEHP (collectively, the “Products”) when each is used for their intended purpose.

1 8. Defendant’s failure to warn consumers and other individuals in California of the
2 health hazards associated with exposure to BPA and/or DEHP in conjunction with the sale and/or
3 distribution of the Products is a violation of Proposition 65 and subjects Defendant to the
4 enjoinder and civil penalties described herein.

5 9. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65
6 in accordance with Health and Safety Code § 25249.7(b).

7 10. Plaintiff also seeks injunctive relief, preliminarily and permanently requiring
8 Defendant to provide purchasers or users of the Products with required warnings related to the
9 dangers and health hazards associated with exposure to BPA and/or DEHP, pursuant to Health and
10 Safety Code § 25249.7(a).

11 11. Plaintiff further seeks a reasonable award of attorney’s fees and costs.

12 **PARTIES**

13 12. Plaintiff is a citizen of the State of California acting in the interest of the general
14 public to promote awareness of exposures to toxic chemicals in products sold in California and to
15 improve human health by reducing hazardous substances contained in such items. She brings this
16 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

17 13. Defendant Macy’s, through its business, effectively imports, distributes, sells,
18 and/or offers the Products for sale or use in the State of California, or it implies by its conduct that
19 it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.

20 14. Plaintiff alleges that defendant Macy’s is a “person” in the course of doing business
21 within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

22 **VENUE AND JURISDICTION**

23 15. Venue is proper in the County of San Francisco because one or more of the
24 instances of wrongful conduct occurred and continue to occur in this county and/or because
25 Defendant conducted, and continues to conduct, business in the County of San Francisco with
26 respect to the Products.

27 16. This Court has jurisdiction over this action pursuant to California Constitution
28 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those

1 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
2 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
3 jurisdiction over this lawsuit.

4 17. This Court has jurisdiction over Defendant because Defendant is either a citizen of
5 the State of California, has sufficient minimum contacts with the State of California, is registered
6 with the California Secretary of State as a foreign corporation authorized to do business in the
7 State of California, and/or has otherwise purposefully availed itself of the California market. Such
8 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
9 permissible with traditional notions of fair play and substantial justice.

10 **STATUTORY BACKGROUND**

11 18. The people of the State of California declared in Proposition 65 their right “[t]o be
12 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
13 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

14 19. To effect this goal, Proposition 65 requires that individuals be provided with a
15 “clear and reasonable warning” before being exposed to substances listed by the State of California
16 as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent part:

17 No person in the course of doing business shall knowingly and intentionally expose any
18 individual to a chemical known to the state to cause cancer or reproductive toxicity without
19 first giving clear and reasonable warning to such individual...

20 20. An exposure to a chemical in a consumer product is one “which results from a
21 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
22 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
23 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
24 shall provide a warning to any person to whom the product is sold or transferred unless the product
25 is packaged or labeled with a clear and reasonable warning.”
26
27
28

1 21. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
2 more of the following methods individually or in combination:¹

3 a. A warning that appears on a product’s label or other labeling.

4 b. Identification of the product at the retail outlet in a manner which provides
5 a warning. Identification may be through shelf labeling, signs, menus, or a combination
6 thereof.

7 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
8 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
9 with such conspicuousness, as compared with other words, statements, designs, or devices
10 in the label, labeling or display as to render it likely to be read and understood by an
11 ordinary individual under customary conditions of purchase or use.

12 d. A system of signs, public advertising identifying the system and toll-free
13 information services, or any other system that provides clear and reasonable warnings.

14 22. Proposition 65 provides that any “person who violates or threatens to violate” the
15 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
16 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
17 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
18 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
19 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

20 **FACTUAL BACKGROUND**

21 23. On January 1, 1988, the State of California listed DEHP as a chemical known to
22 the State to cause cancer and it has come under the purview of Proposition 65 regulations since
23 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
24

25
26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, et.seq.. as amended on August 30,
2016, and operative on August 30, 2018.

1 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
2 reproductive toxicity.

3 24. On May 11, 2015, the State of California listed BPA as a chemical known to the
4 State to cause female reproductive toxicity and BPA has come under the purview of Proposition
5 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§
6 25249.8 & 25249.10(b).

7 25. The exposures that are the subject of the Notice result from the purchase,
8 acquisition, handling, and recommended use of the Products.

9 26. The primary route of exposure to DEHP and BPA is through dermal absorption.
10 Dermal absorption can occur through direct skin contact when the Products are contacted with
11 bare hands or exposed skin. Additionally, some amount of exposure through ingestion will occur
12 by touching the Products with subsequent touching of the user's hand to mouth.

13 27. Defendant has marketed, distributed, offered to sell and/or sold the Products in
14 California since at least April 28, 2021. The Products continue to be distributed and sold in
15 California without the requisite warning information.

16 28. At all times relevant to this action, Defendant has knowingly and intentionally
17 exposed users of the Products to BPA and/or DEHP without first giving a clear and reasonable
18 exposure warning to such individuals.

19 29. As a proximate result of acts by Defendant, as a person in the course of doing
20 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
21 California, including in San Francisco County, have been exposed to Proposition 65 listed
22 chemicals without a clear and reasonable warning on the Products. The individuals subject to the
23 violative exposures include normal and foreseeable users and consumers that use the Products, as
24 well as all others exposed to the Products.

25 **SATISFACTION OF NOTICE REQUIREMENTS**

26 ***The Alleged Violations of Health and Safety Code § 25249.6 to Macy's***

1 30. Plaintiff purchased the Products from Macy's². At the time of the purchases,
2 Macy's did not provide a Proposition 65 exposure warning for BPA and/or DEHP in a manner
3 consistent with H&S Code § 25603.1 as described *supra*.

4 31. Each Product was sent to a testing laboratory³ to determine the phthalate content of
5 the Product and/or to determine the concentration of BPA present on the surface of the Product.

6 32. The results of these analyses⁴ determined the Products expose users to DEHP
7 and/or BPA (each, a "Chemical Test Report," collectively, the "Chemical Test Reports").

8 33. Plaintiff provided each Chemical Test Report and each Product to an analytical
9 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable
10 and foreseeable use of the Products, exposure to BPA and/or DEHP will occur at levels that require
11 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
12 the California Code of Regulations.

13 34. Plaintiff received from the analytical chemist an exposure assessment report⁵ for
14 each Product which concluded that persons in California who use the Products will be exposed to
15 levels of DEHP or BPA that require a Proposition 65 exposure warning.

16 35. On April 28, 2021 (JUDY Preparedness Kit) and November 4, 2021 (RICHMOND
17 iPhone case), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6
18 (collectively, the "Notices") to Defendant concerning the exposure of California citizens to DEHP
19 or BPA from use of the Products without proper warning, subject to a private action to Defendant
20

21 ² The RICHMOND & FINCH clear case for iPhone was purchased on August 6, 2021; the JUDY
22 the Mover Max Emergency Preparedness Kit was purchased on March 22, 2021.

23 ³ The RICHMOND & FINCH clear case for iPhone Chemical Test Report concluded the presence
24 of BPA at the surface of the Product via wipe testing; the JUDY the Mover Max Emergency
Preparedness Kit Chemical Test Report determined the Product exposes users to DEHP.

25 ⁴ The RICHMOND & FINCH clear case for iPhone Chemical Test Report was provided to Plaintiff
26 on October 27, 2021; the JUDY the Mover Max Emergency Preparedness Kit Chemical Test
Report was provided to Plaintiff on April 20, 2021.

27 ⁵ The RICHMOND & FINCH clear case for iPhone Exposure Assessment Report was provided to
28 Plaintiff on November 1, 2021; the JUDY the Mover Max Emergency Preparedness Kit Exposure
Assessment Report was provided to Plaintiff on April 24, 2021.

1 and to the California Attorney General's office and the offices of the County District attorneys and
2 City Attorneys for each city with a population greater than 750,000 persons wherein the herein
3 violations allegedly occurred. See attached at Exhibits "A" and "B" a true and correct copy of each
4 Notice.

5 36. The Notices complied with all procedural requirements of Proposition 65 including
6 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at
7 least one person with relevant and appropriate expertise who reviewed relevant data regarding
8 DEHP or BPA exposure, and that counsel believed there was meritorious and reasonable cause for
9 a private action.

10 37. After receiving the Notices, and to Plaintiff's best information and belief, none of
11 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
12 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
13 the subject of the Notices.

14 38. Plaintiff is commencing this action more than sixty (60) days from the date of each
15 Notice to Defendant, as required by law.

16 **FIRST CAUSE OF ACTION**

17 **(By Plaintiff against Defendant for the Violation of Proposition 65)**

18 39. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 38 of
19 this Complaint as though fully set forth herein.

20 40. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of
21 the Products.

22 41. Use of the Products will expose users and consumers thereof to DEHP or BPA,
23 hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to
24 human health.

25 42. The Products do not comply with the Proposition 65 warning requirements.

26 43. Plaintiff, based on her best information and belief, avers that at all relevant times
27 herein, and at least April 28, 2021, continuing until the present, that Defendant has continued to
28

1 knowingly and intentionally expose California users and consumers of the Products to DEHP or
2 BPA without providing required warnings under Proposition 65.

3 44. The exposures that are the subject of the Notices result from the purchase,
4 acquisition, handling and recommended use of the Products. The primary route of exposure to
5 these chemicals is through dermal absorption. Dermal absorption of DEHP and BPA can occur
6 through direct skin contact when the Products are contacted with bare hands or exposed skin.
7 Additionally, some amount of exposure through ingestion will occur by touching the Products with
8 subsequent touching of the user's hand to mouth, or direct contact with the user's mouth.

9 45. Plaintiff, based on her best information and belief, avers that such exposures will
10 continue every day until clear and reasonable warnings are provided to purchasers and users or
11 until this known toxic chemical is removed from the Products.

12 46. Defendant has knowledge that the normal and reasonably foreseeable use of the
13 Products exposes individuals to DEHP or BPA, and Defendant intends that exposures to DEHP or
14 BPA will occur by its deliberate, non-accidental participation in the importation, distribution, sale
15 and offering of the Products to consumers in California

16 47. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
17 Complaint.

18 48. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
19 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

20 49. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
21 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
3 relief:

4 A. That the court assess civil penalties against defendant in the amount of \$2,500 per
5 day for each violation for up to 365 days (up to a maximum civil penalty amount per
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant, mandating
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: March 29, 2022

BRODSKY & SMITH

13 By: 
14 Evan J. Smith (SBN242352)
15 Ryan P. Cardona (SBN302113)
16 9595 Wilshire Boulevard, Suite 900
17 Beverly Hills, CA 90212
18 Telephone: (877) 534-2590
19 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT A

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

April 28, 2021

President/CEO Judy Prep, Inc. c/o Corporate Service Bureau, Inc. 614 N. Dupont Hwy., Suite 210 Dover, DE 19901	President/CEO Macy's, Inc. c/o Corporate Creations Network, Inc. 3411 Silverside Road Tatnall Building, Suite 104 Wilmington, DE 19810
President/CEO Macy's, Inc. dba Bloomingdale's c/o Corporate Creations Network, Inc. 3411 Silverside Road Tatnall Building, Suite 104 Wilmington, DE 19810	President/CEO Federated Department Stores, Inc. c/o The Corporation Trust Company Corporation trust Center 1209 Orange Street Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Judy Prep, Inc.; Macy's, Inc.; Macy's, Inc. dba Bloomingdale's; Federated Department Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least March 22, 2021 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Judy First Aid bag	Judy First Aid bag B085Z16GW4

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Bell has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT B

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

November 4, 2021

President/CEO Racing Shield AB c/o Strax AB Master Samuelsgatan 10 11144 Stockholm SWEDEN	President/CEO Richmond & Finch/Racing Shield AB Master Samuelsgatan 10 11144 Stockholm SWEDEN
President/CEO Macy's, Inc. c/o Corporate Creations Network, Inc. 3411 Silverside Road Tatmall Building, Suite 104 Wilmington, DE 19810	Member/Manager Macys.com, LLC c/o Corporation Creations Network, Inc. 119 E. Court Street Cincinnati, OH 45202

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With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817
2. **Alleged Violator(s):** Racing Shield AB; Richmond & Finch/Racing Shield AB; Macy's, Inc.; Macys.com, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least August 6, 2021 and are continuing to this day.
4. **Listed Chemical:** Bisphenol A (BPA). BPA is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Richmond & Finch iPhone case	Richmond & Finch iPhone case UPC# 7350111351687

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

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Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary