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

**05/19/2022**  
Clerk of the Court  
BY: JEFFREY FLORES  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 vs.

14 LIFEGUARD PRESS, INC., SAKS &  
15 COMPANY, LLC,

16 Defendants.

Case No.:

**CGC-22-599694**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

17 Plaintiff Ema Bell (“Plaintiff”), by and through her attorneys, alleges the following cause  
18 of action in the public interest of the citizens of the State of California.

19 **BACKGROUND OF THE CASE**

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

26 2. This complaint is a representative action brought by Plaintiff in the public interest  
27 of the citizens of the State of California against defendants Lifeguard Press, Inc. (“Lifeguard”) and  
28 Saks & Company, LLC (Saks) to enforce the People’s right to be informed of the health hazards

1 caused by exposure to Bisphenol A (BPA) from the use of Lilly Pulitzer Glitter iPhone Cases that  
2 are manufactured, distributed, offered for sale and/or sold by Lifeguard in California.

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

8 4. Proposition 65 requires all businesses with ten (10) or more employees that operate  
9 within California or sell products therein to comply with Proposition 65 regulations. Included in  
10 such regulations is the requirement that businesses must label any product containing a Proposition  
11 65-listed chemical with a “clear and reasonable” warning before “knowingly and intentionally”  
12 exposing any person to any such listed chemical.

13 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
14 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
15 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
16 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
17 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
18 25249.7.

19 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
20 without a requisite Proposition 65 exposure warning, Lilly Pulitzer Glitter iPhone Cases (the  
21 “Products”) that expose persons to BPA when used as intended and/or for its intended purpose.

22 7. Defendants’ failure to warn consumers and other individuals in California of the  
23 health hazards associated with exposure to BPA from use of the Products in conjunction with the  
24 sale and/or distribution of the Products is a violation of Proposition 65 and subjects Defendants to  
25 the enjoinder and civil penalties described herein.

26 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition  
27 65 in accordance with Health and Safety Code § 25249.7(b).



1 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
2 jurisdiction over this lawsuit.

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

9 **STATUTORY BACKGROUND**

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

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

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

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







1           36.     Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of  
2 this first amended complaint as though fully set forth herein.

3           37.     Defendants have, at all times mentioned herein, acted as a distributors and/or  
4 retailers of the Products.

5           38.     Use of the Products will expose users and consumers thereof to BPA, a hazardous  
6 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

7           39.     The Products do not comply with the Proposition 65 warning requirements.

8           40.     Plaintiff, based on her best information and belief, avers that at all relevant times  
9 herein, and at least since August 13, 2021, continuing until the present, that Defendants have  
10 continued to knowingly and intentionally expose California users and consumers of the Products  
11 to BPA without providing required warnings under Proposition 65.

12          41.     The exposures that are the subject of the Notice result from the purchase,  
13 acquisition, handling and recommended use of the Product. The primary route of exposure to the  
14 BPA is through dermal absorption directly through the skin when consumers use, touch, or handle  
15 the Products. Some amount of exposure through ingestion can occur by touching the Product with  
16 subsequent touching of the user's hand to mouth.

17          42.     Plaintiff, based on her best information and belief, avers that such exposures will  
18 continue every day until clear and reasonable warnings are provided to purchasers and users or  
19 until BPA is removed from the Products.

20          43.     Defendants have knowledge that the normal and reasonably foreseeable use of the  
21 Product exposes individuals to BPA, and Defendants intend those exposures to BPA will occur by  
22 its deliberate, non-accidental participation in the importation, distribution, sale and offering of the  
23 Products to consumers in California.

24          44.     Plaintiff has engaged in good faith efforts to resolve the herein claims prior to the  
25 filing of the first amended complaint.

26          45.     Pursuant to Health and Safety Code § 25249.7(b), because of the above-described  
27 acts, each Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

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