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

**06/29/2022**  
Clerk of the Court  
BY: JEFFREY FLORES  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

9 EMA BELL,

10 Plaintiff,

11 vs.

12 ROSS STORES, INC.,

13 Defendant.

Case No.:

**CGC-22-600442**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

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), a toxic chemical found in  
26 Ningbo Zhongyi Ornaments Co., Ltd. crafting beads sold and/or distributed by defendant Ross  
27 Stores, Inc. (“Ross”) in California.  
28

1 dangers and health hazards associated with exposure to DEHP pursuant to Health and Safety Code  
2 § 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

4 **PARTIES**

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

9 12. Defendant Ross, through its business, effectively imports, distributes, sells, and/or  
10 offers the Products for sale or use in the State of California, or it implies by its conduct that it  
11 imports, distributes, sells, and/or offers the Products for sale or use in the State of California.  
12 Plaintiff alleges that defendant Ross is a "person" in the course of doing business within the  
13 meaning of Health & Safety Code sections 25249.6 and 25249.11.

14 **VENUE AND JURISDICTION**

15 13. Venue is proper in the County of San Francisco because one or more of the  
16 instances of wrongful conduct occurred and continue to occur in this county and/or because  
17 Defendant conducted, and continue to conduct, business in the County of San Francisco with  
18 respect to the Products.

19 14. This Court has jurisdiction over this action pursuant to California Constitution  
20 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
21 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
22 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
23 jurisdiction over this lawsuit.

24 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of  
25 the State of California, has sufficient minimum contacts with the State of California, is registered  
26 with the California Secretary of State as foreign corporations authorized to do business in the State  
27 of California, and/or has otherwise purposefully availed itself of the California market. Such  
28

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

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

8 20. Proposition 65 provides that any "person who violates or threatens to violate" the  
9 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
10 "threaten to violate" is defined to mean creating "a condition in which there is a substantial  
11 probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil  
12 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
13 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

14 **FACTUAL BACKGROUND**

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

20 22. The exposures that are the subject of the Notice result from the purchase,  
21 acquisition, handling and recommended use of the Product. The primary route of exposure to the  
22 is through dermal absorption directly through the skin when consumers use, touch, or handle the  
23 Products. Exposure through ingestion will occur by touching the Product with subsequent touching  
24 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
25 regarding the health hazards of exposure.

26 23. Defendant have manufactured, processed, marketed, distributed, offered to sell  
27 and/or sold the Products in California since at least August 19, 2021. The Products continue to be  
28 distributed and sold in California without the requisite warning information.

1 DEHP from use of the Products without proper warning, subject to a private action to Defendant  
2 and to the California Attorney General's office and the offices of the County District attorneys and  
3 City Attorneys for each city with a population greater than 750,000 persons wherein the herein  
4 violations allegedly occurred.

5 32. The Notice 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 exposure, and that counsel believed there was meritorious and reasonable cause for a private  
9 action.

10 33. After receiving the Notice, 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 Notice.

14 34. Plaintiff is commencing this action more than sixty (60) days from the date of the  
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 35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of  
19 this Complaint as though fully set forth herein.

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

22 37. Use of the Products will expose users and consumers thereof to DEHP, a hazardous  
23 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

24 38. The Products do not comply with the Proposition 65 warning requirements.

25 39. Plaintiff, based on her best information and belief, avers that at all relevant times  
26 herein, and at least since August 19, 2021, continuing until the present, that Defendant has  
27 continued to knowingly and intentionally expose California users and consumers of the Products  
28 to DEHP without providing required warnings under Proposition 65.

**PRAYER FOR RELIEF**


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

- A. That the court assess civil penalties against defendant in the amount of \$2,500 per day for each violation for up to 365 days in accordance with Health and Safety Code § 25249.7(b);
- B. That the court preliminarily and permanently enjoin Defendant mandating Proposition 65 compliant warnings on the Products;
- C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit, in the amount of \$50,000.00.
- D. That the court grant any further relief as may be just and proper.

Dated: June 29, 2022

BRODSKY & SMITH

By: \_\_\_\_\_

  
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