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ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

02/10/2022
Clerk of the Court

BY: SANDRA SCHIRO
Deputy Clerk

6 Attorneys for Plaintiff
KEEP AMERICA SAFE AND BEAUTIFUL

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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 TRUE FABRICATIONS, INC.; and DOES 1-30,
16 inclusive,

17 Defendants.

Case No. CGC-21-595273

**FIRST AMENDED 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 TRUE FABRICATIONS, INC. and DOES 1-30.

3 INTRODUCTION AND NATURE OF THE ACTION

4 1. This First Amended Complaint is a representative action brought by plaintiff Keep
5 America Safe and Beautiful (“**KASB**”) in the public interest of the citizens of the State of California
6 to enforce the People’s right to be informed of the health hazards caused by exposures to
7 di(2-ethylhexyl) phthalate (“**DEHP**”) and diisononyl phthalate (“**DINP**”) toxic chemicals found in
8 and on the wine boxes with vinyl straps and faux leather totes manufactured, imported, distributed,
9 sold or offered for sale by Defendants in the State of California.

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

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

17 4. Detectable levels of DINP are found in and on the faux leather totes that Defendants
18 manufacture, import, sell or distribute for sale to individuals throughout California.

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

24 6. KASB contends and alleges Defendants manufacture, distribute, import, sell, and offer
25 for sale, in and into California wine boxes with vinyl straps and faux leather totes (collectively, the
26 “**PRODUCTS**”) containing DEHP and DINP, without Proposition 65’s requisite health hazard
27 warning regarding the harms associated with exposures to the chemicals, including, but not limited to,
28 *Twine Living Co 2 Bottle Antique Wooden Wine Box, Item: 0308, UPC# 8 76718 00308 0* and *Brown*

1 *Faux Leather Double-Bottle Wine Tote by Viski, Item: 5220, UPC# 8 42094 15220* 9. Defendants’
2 conduct subjects them to civil penalties for each violation, enjoinder as well as preliminary and
3 permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).

4 **PARTIES**

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

12 8. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant
13 TRUE FABRICATIONS, INC. (“**TRUE FABRICATIONS**”) was and is a “person” “in the course
14 of doing business” with ten (10) or more employees, within the meanings of Health and Safety Code
15 §§ 25249.6 and 25249.11.

16 9. TRUE FABRICATIONS manufactures, imports, distributes, sells, and/or offers the
17 PRODUCTS for sale or use in the State of California, or implies by its conduct that it manufactures,
18 imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

19 10. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person
20 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
21 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and
22 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS
23 offered for sale or use in California.

24 11. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in
25 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.
26 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each
27 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or
28 retailers for sale or use in the State of California

1 37. DEFENDANTS intend that exposures to DEHP and DINP from the reasonably
2 foreseeable use of the PRODUCTS will occur by their deliberate, non-accidental participation in the
3 California marketplace.

4 38. The exposures to DEHP and DINP, caused by DEFENDANTS and endured by
5 consumers and other individuals in California, are not exempt from the “clear and reasonable”
6 warning requirements of Proposition 65.

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

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

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

20 42. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-
21 described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500
22 per day for each violation.

23 43. As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)
24 also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

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PRAYER FOR RELIEF

Wherefore, KASB prays for relief and judgment against DEFENDANTS, and each of them, as follows:

1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or otherwise offering the PRODUCTS for sale or use in California without first providing a “clear and reasonable warning” to consumers addressing the harms associated with exposures to DEHP and DINP;

2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain of commerce in California that do not bear a clear and reasonable health hazard warning;

3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

4. That the Court award plaintiff its reasonable attorneys’ fees and costs of suit, incurred herein; and

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

Dated: February 3, 2022

Respectfully submitted,

SEVEN HILLS LLP

By: 

Laralei Paras
Attorneys for Plaintiff
Keep America Safe and Beautiful