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ELECTRONICALLY

**FILED**

Superior Court of California,  
County of San Francisco

**11/09/2022**  
**Clerk of the Court**  
BY: JEFFREY FLORES  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

**CGC-22-602834**

UNLIMITED CIVIL JURISDICTION

PAUL WOZNIAK,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No.

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff PAUL WOZNIAK in  
3 the public interest of the citizens of the State of California to enforce the People’s right to be  
4 informed of the health hazards caused by exposures to di(2-ethylhexyl)phthalate (DEHP), a toxic  
5 chemical found in and on padded armrest pads used for wheelchairs sold by defendant  
6 AMAZON.COM, INC. in California. Besides padded armrest, AMAZON.COM, INC., sells other  
7 wheelchair components as well as wheelchairs sold as complete products that use the same or  
8 substantially similar vinyl upholstery (products) containing phthalates regulated by the Safe  
9 Drinking Water and Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.6  
10 *et seq.* (Proposition 65).

11 2. By this Complaint, plaintiff seeks to remedy defendant’s continuing failure to warn  
12 individuals not covered by California’s Occupational Safety Health Act, Labor Code §6300 *et*  
13 *seq.*, about the risks of exposure to DEHP present in and on the products that are manufactured,  
14 distributed, and/or offered for sale or use throughout the State of California. Individuals not  
15 covered by California’s Occupational Safety Health Act, Labor Code §6300 *et seq.*, who purchase,  
16 use or handle defendant’s products, are referred to hereinafter as “consumers.”

17 3. Detectable levels of DEHP are found in and on products that defendant  
18 manufacture, distribute, and/or offer for sale to consumers and other individuals throughout the  
19 State of California.

20 4. Under Proposition 65, “[n]o person in the course of doing business shall knowingly  
21 and intentionally expose any individual to a chemical known to the state to cause cancer or  
22 reproductive toxicity without first giving clear and reasonable warning to such individual . . .”  
23 Health & Safety Code §25249.6.

24 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed  
25 DEHP as a chemical known to cause birth defects (and reproductive harm). DEHP became  
26 subject to the “clear and reasonable warning” requirements of the act one year later on October 24,  
27 2004. Cal. Code Regs. tit. 27, §27001(c); Health & Safety Code §§25249.8 and 25249.10(b).

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1           6. Pursuant to Proposition 65, on December 20, 2013, California identified and listed  
2 diisononyl phthalate (DINP) as a chemical known to cause cancer. DINP, which is not yet at issue  
3 in this case, became subject to the “clear and reasonable warning” requirements of the act one year  
4 later on December 20, 2014. Cal. Code Regs. tit. 27, §27001(c); Health & Safety Code §§25249.8  
5 and 25249.10(b).

6           7. Defendant manufacture, distribute, import, sells, and/or offer for sale without health  
7 hazard warnings in California, products including, but not limited to, the *Universal Desk Length*  
8 *Wheelchair Arm Pad*, UPC #847102015286, ASIN #B00NY2YYOY; AlveyTech 10” Desk Length  
9 Padded Vinyl Armrests for Wheelchairs (Pair), #E41-9802, ASIN #B07V2JX8JZ; and Healthline  
10 Padded Armrest for Wheelchairs Vinyl Pair, Universal Arm Pads Replacement 10” Desk Arm,  
11 Black ASIN #B008ARRRD8. All vinyl upholstered padded armrests containing DEHP that were  
12 (and in many instances continue to be) manufactured, distributed, sold, and/or offered for sale in  
13 the State of California are referred to collectively hereinafter as “PRODUCTS.”

14           8. Defendant’s failure to warn consumers and other individuals in the State of  
15 California of the health hazards associated with exposures to DEHP in conjunction with  
16 defendant’s sales of the PRODUCTS are violations of Proposition 65, and subject the defendant to  
17 enjoinder of such conduct as well as civil penalties for each violation. Health & Safety Code  
18 §25249.7(a) and (b)(1).<sup>1</sup> Violative sales of the PRODUCTS include, but are not limited to,  
19 transactions made by AMAZON.COM, INC., through its Fulfillment by Amazon program or  
20 when it acts as both the “shipper” and “seller.”

21           9. For defendant’s violations of Proposition 65, plaintiff seeks preliminary and  
22 permanent injunctive relief to compel defendant to provide consumers of the PRODUCTS with  
23 the required warning regarding the health hazards associated with exposures to DEHP and other  
24 equitable relief. Health & Safety Code §25249.7(a).

25 \_\_\_\_\_  
26 <sup>1</sup> Claims released in one or more settlement agreements reached between plaintiff and upstream suppliers of  
27 wheelchairs and wheelchairs components containing DEHP, which were sold directly by the settling entity on  
28 amazon.com, are excluded from the cause of action alleged herein. This exclusion, however, does not apply to the sale  
of PRODUCTS by third-parties (i.e., non-settling entities) on amazon.com. Further, this action also excludes claims  
relating to products sold and/or branded by Alco Sales & Service Co., which are covered by San Francisco Superior  
Court Case Number CGC-22-602014 filed on September 28, 2022.





1 certificate of merit, on AMAZON.COM, INC., the California Attorney General’s Office, and the  
2 requisite public enforcement agencies alleging that, as a result of DEFENDANT’S sales of the  
3 PRODUCTS, consumers in the State of California are being exposed to DINP and its risk to cause  
4 cancer resulting from their reasonably foreseeable use of the PRODUCTS, without the consumers  
5 first receiving a “clear and reasonable warning” regarding the harms associated with exposures to  
6 DINP, as required by Proposition 65. As of December 30, 2022, plaintiff expects to seek leave to  
7 file a first amended complaint to include allegations relating to DINP in the Products as set forth  
8 in the October 19 Notices, provided no public enforcer is diligently prosecuting such claims by  
9 then.

10 23. DEFENDANT manufacture, import, distribute, sell, and/or offer the PRODUCTS  
11 for sale or use in violation of Health & Safety Code §25249.6, and DEFENDANT’S violations  
12 have continued beyond their receipt of plaintiff’s Notices. As such, DEFENDANT’S violations  
13 are ongoing and continuous in nature and, unless enjoined will continue in the future.

14 24. After receiving plaintiff’s Notices, no public enforcement agency has commenced  
15 and diligently prosecuted a cause of action against DEFENDANT under Proposition 65 to enforce  
16 the alleged violations that are the subject of plaintiff’s Notices.

17 25. The PRODUCTS that DEFENDANT manufacture, import, distribute, sell, and/or  
18 offer for sale or use in California cause exposures to DEHP as a result of the reasonably  
19 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANT and endured by  
20 consumers and other individuals in California are not exempt from the “clear and reasonable”  
21 warning requirements of Proposition 65, yet DEFENDANT provide no warning.

22 26. DEFENDANT knew or should have known that the PRODUCTS it manufactures,  
23 imports, distributes, sells, and/or offers for sale in California contain DEHP.

24 27. DEHP is present in or on the PRODUCTS in such a way as to expose consumers  
25 through dermal contact and/or ingestion during reasonably foreseeable use.

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1           28.     The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
2 continues to cause, consumer product exposures to DEHP, as defined by title 27 of the California  
3 Code of Regulations, §25600.1(e).

4           29.     DEFENDANT know that the normal and reasonably foreseeable use of the  
5 PRODUCTS exposes individuals to DEHP through dermal contact and/or ingestion.

6           30.     DEFENDANT intended that exposures to DEHP from the reasonably foreseeable  
7 use of the PRODUCTS will occur by their deliberate, non-accidental participation in the  
8 manufacture, importation, distribution, sale, and/or offering of the PRODUCTS for sale or use to  
9 consumers in California.

10          31.     DEFENDANT failed to provide a “clear and reasonable warning” to those  
11 consumers in California who have been, or who will be, exposed to DEHP through dermal contact  
12 and/or ingestion resulting from their use of the PRODUCTS. The DEFENDANT’s knowing and  
13 intentional acts are particularly heightened when the PRODUCTS are directly ship and sold to  
14 California consumers by DEFENDANT.

15          32.     Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
16 directly by California voters, consumers exposed to DEHP through dermal contact and/or  
17 ingestion as a result of their use of the PRODUCTS that DEFENDANT sold without a “clear and  
18 reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm for  
19 which they have no plain, speedy, or adequate remedy at law.

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

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

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**PRAYER FOR RELIEF**

Wherefore, plaintiff prays for judgment against DEFENDANT as follows:

1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against DEFENDANT in the amount of \$2,500 per day for each violation;
2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin DEFENDANT from manufacturing, distributing, or offering the PRODUCTS for sale or use in California without first providing a “clear and reasonable warning” in accordance with title 27 of the California Code of Regulations, §25600 *et seq.*, regarding the harms associated with exposures to DEHP;
3. That the Court, pursuant to Health & Safety Code §25249.7(a), issue preliminary and permanent injunctions mandating that DEFENDANT recall all PRODUCTS currently in the chain of commerce in California without a “clear and reasonable warning” as defined by California Code of Regulations title 27, §25600 *et seq.*;
4. That the Court, pursuant to Health & Safety Code §25249.7(a), issue preliminary and permanent injunctions including that the defendant recall all Products currently in the chain of commerce in California without a “clear and reasonable warning” as defined by 27 California Code of Regulations §§25600 *et seq.* and disgorge defendant’s revenues from sales of the Products allowing purchasers to return products and receive full refunds.
5. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
6. That the Court grant such other and further relief as may be just and proper including product recall and full refunds, including shipping costs.

Dated: November 8, 2022

Respectfully submitted,

CHANLER, LLC



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

Clifford A. Chanler  
Attorneys for Plaintiff  
PAUL WOZNIAK