

1 Laralei Paras, State Bar No. 203319
Seven Hills LLP
2 4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
3 Telephone: (415) 926-7247
laralei@sevenhillslp.com

4 Attorneys for Plaintiff
5 CENTER FOR ADVANCED PUBLIC AWARENESS

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

02/10/2023
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 CITY AND COUNTY OF SAN FRANCISCO

9 UNLIMITED CIVIL JURISDICTION

CGC-23-604624

10
11 CENTER FOR ADVANCED PUBLIC
AWARENESS,

12 Plaintiff,

13 v.

14 CEDAR BAY ENTERTAINMENT LLC;
15 TITANIC TENNESSEE, LLC; and DOES 1-30,
inclusive,

16 Defendants.
17

Case No.

**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.)

Action is an Unlimited Civil Case

1 Plaintiff Center for Advanced Public Awareness (“CAPA”), acting in the public interest,
2 alleges a cause of action against Defendants CEDAR BAY ENTERTAINMENT LLC (“CEDAR
3 BAY”), TITANIC TENNESSEE, LLC (“TITANIC TENNESSEE”), and DOES 1-30.

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. This Complaint is a representative action brought by CAPA in the public interest of
6 the citizens of the State of California to enforce the People’s right to be informed of the health
7 hazards caused by exposures to the heavy metal, Lead, a toxic chemical alleged herein to be found in
8 ceramic mugs with exterior decoration manufactured and sold by Defendants to consumers in the
9 State of California.

10 2. By this Complaint, plaintiff seeks to remedy Defendants’ continuing failure to warn
11 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*
12 (“**consumers**”) they are being exposed to substances known to the State of California to cause cancer,
13 birth defects and other reproductive harm through exposures to Lead present on ceramic mugs with
14 exterior decoration produced, manufactured, distributed, marketed, sold and otherwise offered for
15 sale or use throughout the State of California by Defendants and purchased by consumers and other
16 individuals who handle, touch, or otherwise utilize the products, resulting in exposures through
17 dermal absorption and ingestion.

18 3. Detectable levels of Lead are found on the ceramic mugs with exterior decoration
19 Defendants produce, manufacture, sell or distribute for sale to individuals throughout California.

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

25 5. CAPA contends and alleges Defendants produce, manufacture, distribute, sell, and
26 offer for sale, in or into California, ceramic mugs with exterior decoration containing Lead including,
27 but not limited to, *Embossed Black Mug, ZS-TITEM (1-100470)*, (the “**PRODUCTS**”), without the
28 compliant health hazard warning regarding the harms associated with exposures to the chemical

1 required under Proposition 65. Defendants' conduct subjects them to civil penalties for each
2 violation, enjoinder, and preliminary and permanent injunctive relief. Health & Safety Code §§
3 25249.7(a) and (b).

4 PARTIES

5 6. Plaintiff CAPA is a non-profit organization organized under the laws of California,
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 increasing public awareness of those chemicals through the promotion of
9 sound environmental practices and corporate responsibility. CAPA is a person, within the meaning
10 of Health & Safety Code § 25249.11(a), and brings this action in the public interest pursuant to
11 Health & Safety Code § 25249.7(d).

12 7. Plaintiff is informed, believes and thereon alleges, at all relevant times, Defendant
13 CEDAR BAY was and is a person in the course of doing business, with ten (10) or more employees,
14 within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.

15 8. CEDAR BAY produces, manufactures, distributes, sells, and/or offers the
16 PRODUCTS for sale or use in the State of California, or implies by its conduct it produces,
17 manufactures, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of
18 California.

19 9. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant
20 TITANIC TENNESSEE was and is a person in the course of doing business, with ten (10) or more
21 employees, within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.

22 10. TITANIC TENNESSEE produces, manufactures, distributes, sells, and/or offers the
23 PRODUCTS for sale or use in the State of California, or implies by its conduct it produces,
24 manufactures, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of
25 California.

26 11. Defendants DOES 1-10 ("**MANUFACTURER DEFENDANTS**") are each a person
27 in the course of doing business within the meaning of Health & Safety Code §§ 25249.6 and
28 25249.11. **MANUFACTURER DEFENDANTS**, and each of them, assemble, fabricate, and

1 manufacture, or imply by their conduct they do so, one or more of the PRODUCTS offered for sale or
2 use in California.

3 12. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in
4 the course of doing business within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.
5 **DISTRIBUTOR DEFENDANTS**, and each of them, distribute, transfer, and transport, or imply by
6 their conduct they do so, one or more of the PRODUCTS to individuals, businesses, or retailers for
7 sale or use in the State of California.

8 13. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the
9 course of doing business within the meaning of Health & Safety Code §§ 25249.6 and 25249.11.
10 **RETAILER DEFENDANTS**, and each of them, offer the PRODUCTS for sale to individuals in the
11 State of California.

12 14. At this time, the true names of Defendants DOES 1 through 30, inclusive, are
13 unknown to plaintiff, who, therefore, sues said DEFENDANTS by their fictitious names, pursuant to
14 Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, each of
15 the fictitiously named Defendants is responsible in some manner for the acts and occurrences alleged
16 herein and the damages caused thereby. When ascertained, their true names and capacities shall be
17 reflected in an amended complaint.

18 15. At all times mentioned herein, CEDAR BAY, TITANIC TENNESSEE,
19 **MANUFACTURER DEFENDANTS**, **DISTRIBUTOR DEFENDANTS**, and **RETAILER**
20 **DEFENDANTS** shall, hereinafter, where appropriate, be referred to collectively as the
21 “**DEFENDANTS.**”

22 **JURISDICTION AND VENUE**

23 16. This Court has jurisdiction over this action pursuant to Health & Safety Code
24 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior
25 Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10,
26 which grants the Superior Court “original jurisdiction in all causes except those given by statute to
27 other trial courts.” The statute under which this action is brought does not specify any other basis of
28 subject matter jurisdiction.

1 2. That the Court, pursuant to Health & Safety Code § 25249.7(a), issue preliminary and
2 permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain of
3 commerce in California without a “clear and reasonable warning”;

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

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

8 5. That the Court grant any further relief as the Court may deem just and equitable.

9 Dated: February 10, 2023

Respectfully submitted,

SEVEN HILLS LLP

11
12 By:  _____

Laralei S. Paras
Attorneys for Plaintiff
Center for Advanced Public Awareness