

1 Evan J. Smith, Esquire (SBN 242352)  
2 Ryan P. Cardona, Esquire (SBN 302113)  
3 BRODSKY SMITH  
4 9595 Wilshire Blvd., Ste. 900  
5 Beverly Hills, CA 90212  
6 Telephone: (877) 534-2590  
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

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

**08/02/2023**  
Clerk of the Court

BY: AUSTIN LAM  
Deputy Clerk

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
7  
8 COUNTY OF SAN FRANCISCO

9 PRECILA BALABBO,

10 Plaintiff,

11 vs.

12 TARGET CORPORATION,

13 Defendant.

Case No.:

**CGC-23-608083**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

14 Plaintiff Precila Balabbo (“Plaintiff”), by and through her attorneys, alleges the following  
15 cause 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 diethanolamine (DEA) and/or di(2-ethylhexyl) phthalate (DEHP),  
26 toxic chemicals found in products sold and/or distributed by defendant Target Corporation  
27 (“Target” or “Defendant”) in California.

1           3.       DEA<sup>1</sup> is a harmful chemical known to the State of California to cause cancer.  
2 DEHP<sup>2</sup> is a harmful chemical known to the State of California to cause cancer and birth defects or  
3 other reproductive harm.

4           4.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
5 within California or sell products therein to comply with Proposition 65 regulations. Included in  
6 such regulations is the requirement that businesses must label any product containing a Proposition  
7 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
8 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
9 chemical.

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

16          6.       Plaintiff alleges that Defendant distributes and/or offers for sale in California,  
17 without a requisite exposure warning, (a) *Lily Frilly*® mermaid sparkle clips for toddlers, UPC #  
18 850007602222 (DEHP) and (b) *Pure Aura*® silver foil masks, UPC # 850002134018 (DEA)  
19 (collectively, the “Products”) that expose persons to DEA and/or DEHP when used for their  
20 intended purpose.

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24 <sup>1</sup> On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause  
25 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code  
26 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

27 <sup>2</sup> On January 1, 1988, the State of California listed DEHP as a chemical known to the State to  
28 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24,  
2003, the State of California listed DEHP as a chemical known to cause birth defects or other  
reproductive harm.



1 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
2 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
3 jurisdiction over this lawsuit.

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

10 **STATUTORY BACKGROUND**

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

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

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

21 19. An exposure to a chemical in a consumer product is one “which results from a  
22 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
23 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
24 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
25 shall provide a warning to any person to whom the product is sold or transferred unless the product  
26 is packaged or labeled with a clear and reasonable warning.”  
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1           29.     The *Pure Aura*® product was sent to a testing laboratory for diethanolamine testing  
2 to determine the diethanolamine content of the product; and the *Lily Frilly*® product was sent to a  
3 testing laboratory for phthalate testing to determine the phthalate content of the product.

4           30.     For each Product that was sent to the laboratory, Plaintiff received a chemical test  
5 report (collectively, the “Chemical Test Reports”). The Chemical Test report findings determined  
6 the *Pure Aura*® product exposes users to DEA; and the *Lily Frilly*® product exposes uses to  
7 DEHP.

8           31.     Plaintiff provided each Chemical Test Report and each Product to an analytical  
9 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable  
10 and foreseeable use of the Products, exposure to DEA and/or DEHP will occur at levels that require  
11 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of  
12 the California Code of Regulations.

13           32.     On August 3, 2022, Plaintiff received from the analytical chemist an exposure  
14 assessment report for the *Lily Frilly*® product that concluded that persons in California who use  
15 the *Lily Frilly*® product will be exposed to levels of DEHP that require a Proposition 65 exposure  
16 warning; and on May 30, 2023, Plaintiff received from the analytical chemist an exposure  
17 assessment report for the *Pure Aura*® product that concluded that persons in California who use  
18 the *Pure Aura*® product will be exposed to levels of DEA that require a Proposition 65 exposure  
19 warning

20           33.     On August 3, 2022 (*Lily Frilly*® product), and May 30, 2023 (*Pure Aura*®  
21 product), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6  
22 (collectively, the “Notices”) to Defendant concerning the exposure of California citizens to DEA  
23 and/or DEHP contained in the Products without proper warning, subject to a private action to  
24 Defendant and to the California Attorney General’s office and the offices of the County District  
25 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein  
26 the herein violations allegedly occurred. See attached at Exhibits “A” – “B” a true and correct copy  
27 of the Notices.

28





1 Products. Exposure through ingestion will occur by touching the Product with subsequent touching  
2 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
3 regarding the health hazards of exposure.

4 43. Plaintiff, based on her best information and belief, avers that such exposures will  
5 continue every day until clear and reasonable warnings are provided to purchasers and users or  
6 until these known toxic chemicals are removed from the Products.

7 44. Defendant has knowledge that the normal and reasonably foreseeable use of the  
8 Products expose individuals to DEA and/or DEHP, and Defendant intends that exposures to DEA  
9 and/or DEHP will occur by its deliberate, non-accidental participation in the importation,  
10 distribution, sale and offering of the Products to consumers in California

11 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
12 Complaint.

13 46. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
14 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

15 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
16 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

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1 **PRAYER FOR RELIEF**

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

4 A. That the court assess civil penalties against each Defendant in the amount of \$2,500  
5 per day for each violation for up to 365 days (up to a maximum civil penalty amount per  
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant mandating  
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the  
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: August 2, 2023

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)  
15 Ryan P. Cardona (SBN302113)  
16 9595 Wilshire Boulevard, Suite 900  
17 Beverly Hills, CA 90212  
18 Telephone: (877) 534-2590  
19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

# EXHIBIT “A”

LAW OFFICES  
**BRODSKY & SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

August 3, 2022

Member/Manager Lily Frilly, LLC c/o Courtney Adeleye 131 Mist River Lane Huntsville, AL 35824	Member/Manager Olbali, LLC c/o Lily Frilly, LLC 6526 Old Brick Road, Suite 120-327 Windermere, FL 34786
President/CEO Target Corporation c/o CT Corporation System 1010 Dale St. N St. Paul, MN 55117-5603	President/CEO Target Brands, Inc. c/o CT Corporation System 1010 Dale St. N St. Paul, MN 55117-5603

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Precila Balabbo, 285 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Lily Frilly, LLC; Olbali, LLC; Target Corporation; Target Brands, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least August 3, 2022 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Clip	Lily Frilly Mermaid Sparkle Clip for toddlers UPC# 850007602222

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).

Sincerely,

  
\_\_\_\_\_  
Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

# EXHIBIT “B”

LAW OFFICES  
**BRODSKY & SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

May 30, 2023

President/CEO Shinhwa Corp. c/o Jay Seo 3435 Wilshire Blvd., #2310 Los Angeles, CA 90010	President/CEO Target Corporation c/o CT Corporation System 1010 Dale St. N St. Paul, MN 55117-5603
President/CEO Target Brands, Inc. c/o CT Corporation System 1010 Dale St. N St. Paul, MN 55117-5603	

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**I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Precila Balabbo, 285 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Shinhwa Corp.; Target Corporation; Target Brands, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least May 30, 2023 and are continuing to this day.
4. **Product: Listed Chemical:** Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Face Mask	Pure Aura Silver Foil Mask UPC# 850002134018

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal exposure. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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Balabbo has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Evan J. Smith', written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary