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14 Environmental Health Advocates, Inc.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **IN AND FOR THE COUNTY OF ALAMEDA**

17 ENVIRONMENTAL HEALTH ADVOCATES,  
18 INC.,

19 Plaintiff,

20 v.

21 REARTH, INC., a California corporation;  
22 AMAZON.COM, INC., a Delaware  
23 corporation; and DOES 1 through 100,  
24 inclusive,

25 Defendants.

Case No.: **22CV024336**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
**12/21/2022 at 12:08:56 PM**  
By: Angela Linhares,  
Deputy Clerk

**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendants’ failure to inform the People of exposure to Bisphenol- A (“BPA”), a known  
5 reproductive and developmental toxin. Defendants expose consumers to BPA by manufacturing,  
6 importing, selling, and/or distributing phone cases including, but not limited to, Rearth iPhone 12 Case  
7 (“Products”). Defendants know and intend that customers will use Products containing BPA.

8           2.       Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California  
9 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing  
10 business shall knowingly and intentionally expose any individual to a chemical known to the state to  
11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
12 individual. . . .” (Health & Safety Code, § 25249.6.)

13           3.       California identified and listed BPA as a chemical known to cause reproductive toxicity  
14 as early as May 11, 2015, and as a chemical known to cause developmental toxicity on December 18,  
15 2020.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to BPA in connection with Defendants’ manufacture, import, sale, or distribution of  
18 Products. This is a violation of Proposition 65.

19           5.       Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers  
20 in California before exposing them to BPA in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff  
21 also seeks civil penalties against Defendants for their violations of Proposition 65 along with attorney’s  
22 fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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24  
25           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a  
26 corporation in the State of California dedicated to protecting the health of California citizens through  
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
28 interest pursuant to Health and Safety Code, section 25249.7.



1 13. Defendants have sufficient minimum contacts in the State of California or otherwise  
2 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would  
3 be consistent with traditional notions of fair play and substantial justice.

4 **IV.**  
**CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**  
6 **(Violation of Proposition 65 – Against all Defendants)**

7 14. Plaintiff incorporates by reference each and every allegation contained above.

8 15. Proposition 65 mandates that citizens be informed about exposures to chemicals that  
9 cause cancer, birth defects, and other reproductive harm.

10 16. Defendants manufactured, imported, sold, and/or distributed Products containing BPA  
11 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such  
12 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the  
13 future.

14 17. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to  
15 provide a clear and reasonable warning to consumers and individuals in California who may be exposed  
16 to BPA through reasonably foreseeable use of the Products.

17 18. Products expose individuals to BPA through dermal absorption. This exposure is a  
18 natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As  
19 such, Defendants intend that consumers will use Products, exposing them to BPA.

20 19. Defendants knew or should have known that the Products contained BPA and exposed  
21 individuals to BPA in the ways provided above. The Notice informed Defendants of the presence of  
22 BPA in the Products. Likewise, media coverage concerning BPA and related chemicals in consumer  
23 products provided constructive notice to Defendants.

24 20. Defendants' actions in this regard were deliberate and not accidental.

25 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a  
26 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff  
27 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
28 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in  
California of the health hazards associated with exposures to BPA contained in the Products.

