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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/25/2023
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 CITY AND COUNTY OF SAN FRANCISCO

9 UNLIMITED CIVIL JURISDICTION

CGC-23-606733

10
11 KEEP AMERICA SAFE AND BEAUTIFUL,

12 Plaintiff,

13 v.

14 ROUND TWO DESIGNS LLC; ROUND TWO
15 LLC; and DOES 1-30, inclusive,

16 Defendants.

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 KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a
2 cause of action against DEFENDANTS ROUND TWO DESIGNS LLC, ROUND TWO LLC, and
3 DOES 1-30.

4 INTRODUCTION AND NATURE OF THE ACTION

5 1. This Complaint is a representative action brought by plaintiff KEEP AMERICA
6 SAFE AND BEAUTIFUL in the public interest of the citizens of the State of California to enforce
7 the People’s right to be informed of the health hazard caused by exposures to diisononyl phthalate
8 (“**DINP**”), a toxic chemical in and on defendants’ vinyl/PVC bags sold in the state of California.

9 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to warn
10 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*
11 they are being exposed to substances known to the State of California to cause cancer through
12 exposures to DINP, present in and on vinyl/PVC bags manufactured, branded, distributed, imported,
13 sold and otherwise offered for sale or use throughout the state of California by defendants.

14 3. Detectable levels of DINP are found in and on the vinyl/PVC bags defendants
15 manufacture, brand, import, distribute, sell or offer for sale to individuals throughout the state of
16 California.

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

22 5. KEEP AMERICA SAFE AND BEAUTIFUL contends and alleges defendants
23 manufacture, distribute, import, sell, and offer for sale, in or into California, distribute vinyl/PVC
24 bags containing DINP without Proposition 65’s requisite health hazard warning about the presence
25 of, and the harm associated with exposures to, the chemical, including, but not limited to, *R2 Bag*
26 *Within a Bag PVC Tote, 30-H20007, PO: 10455* (collectively referred to hereinafter, the
27 “**PRODUCTS**”). Defendants’ conduct subjects them to civil penalties for each violation, as well as
28 enjoinder and preliminary and permanent injunctive relief. Health & Saf. Code § 25249.7(a)-(b).

PARTIES

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2 6. Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL is a citizen of the state of
3 California seeking to eliminate toxic chemicals in consumer products, to increase public awareness
4 of those chemicals and to promote corporate responsibility. KEEP AMERICA SAFE AND
5 BEAUTIFUL is a person within the meaning of Health & Safety Code § 25249.11(a) and brings this
6 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

7 7. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
8 Defendant ROUND TWO DESIGNS LLC was and is a person in the course of doing business, with
9 ten (10) or more employees, within the meaning of Health and Safety Code §§ 25249.6 and
10 25249.11.

11 8. ROUND TWO DESIGNS LLC manufactures, brands, imports, distributes, sells,
12 and/or offers the PRODUCTS for sale or use in the state of California, or implies by its conduct that
13 it manufactures, brands, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in
14 the state of California.

15 9. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
16 Defendant ROUND TWO LLC was and is a person in the course of doing business, with ten (10) or
17 more employees, within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

18 10. ROUND TWO LLC manufactures, brands, imports, distributes, sells, and/or offers
19 the PRODUCTS for sale or use in the state of California, or implies by its conduct that it
20 manufactures, brands, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
21 state of California.

22 11. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person
23 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
24 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and
25 manufacture, or each impliedly does so by its conduct, one or more of the PRODUCTS offered for
26 sale or use in California.

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

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

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

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

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

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

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

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PRAYER FOR RELIEF


Wherefore, KEEP AMERICA SAFE AND BEAUTIFUL 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, and each of them, from manufacturing, branding, distributing, importing, selling or otherwise offering the PRODUCTS for sale or use in California without first providing a “clear and reasonable warning” regarding the harms associated with exposures to DINP;
2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and permanent injunctions mandating that DEFENDANTS, and each of them, recall all PRODUCTS currently in the chain of commerce in California without a “clear and reasonable 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 the Court may deem just and equitable.

Dated: May 25, 2023

Respectfully submitted,

SEVEN HILLS LLP

By: 
Laralei S. Paras
Attorneys for Plaintiff
KEEP AMERICA SAFE AND BEAUTIFUL