

1 Laralei Paras, State Bar No. 203319  
2 Rebecca Jackson, State Bar No. 221583  
3 Seven Hills LLP  
4 4 Embarcadero Center, Suite 1400  
5 San Francisco, CA 94111  
6 Telephone: (415) 926-7247  
7 laralei@sevenhillslp.com  
8 rebecca@sevenhillslp.com

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

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

BY: JEFFREY FLORES  
Deputy Clerk

6 Attorneys for Plaintiff  
KEEP AMERICA SAFE AND BEAUTIFUL

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10 UNLIMITED CIVIL JURISDICTION

12 KEEP AMERICA SAFE AND BEAUTIFUL,

13 Plaintiff,

14 v.

15 QUILT IN A DAY, INC.; and DOES 1-30,  
16 inclusive,

17 Defendants.

Case No.

**CGC-23-604422**

**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.*)

UNLIMITED CIVIL

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a  
2 cause of action against Defendants QUILT IN A DAY, INC. and DOES 1-30.

3 **INTRODUCTION AND NATURE OF THE ACTION**

4 1. This Complaint is a representative action brought by plaintiff Keep America Safe and  
5 Beautiful (“**KASB**”) in the public interest of the citizens of the State of California to enforce the  
6 People’s right to be informed of the health hazards caused by exposures to di(2-ethylhexyl) phthalate  
7 (“**DEHP**”) and diisononyl phthalate (“**DINP**”), toxic chemicals found in and on the vinyl/PVC bags  
8 and adhesive craft tape manufactured, imported, distributed, sold or offered for sale by Defendants in  
9 the 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 birth  
13 defects and other reproductive harm through exposures to DEHP, when they purchase, use or handle  
14 Defendants’ vinyl/PVC bags.

15 3. Detectable levels of DEHP are found in and on the vinyl/PVC bags that Defendants  
16 manufacture, import, sell or distribute for sale to individuals throughout California.

17 4. Plaintiff also seeks to remedy Defendants’ continuing failure to warn consumers they  
18 are being exposed to substances known to the State of California to cause cancer through exposures  
19 to DINP, when they purchase, use or handle Defendants’ adhesive craft tape.

20 5. Detectable levels of DINP are found in and on the adhesive craft tape that Defendants  
21 manufacture, import, sell or distribute for sale to individuals throughout California.

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

27 7. KASB contends and alleges Defendants manufacture, distribute, import, sell, and offer  
28 for sale, in and into California vinyl/PVC bags and adhesive craft tape (collectively, the

1 “**PRODUCTS**”) containing DEHP and DINP, without Proposition 65’s requisite health hazard  
2 warning regarding the harms associated with exposures to the chemicals, including, but not limited to,  
3 a) *Project Bag-Quilt in a Day-Medium 12.5 x 14.5, Item#: 3060NO* and b) *Thread Wrap & Ruler*  
4 *Stick by Quilt in a Day, Item# 2900, Barcode: 735272029007*. Defendants’ conduct subjects them to  
5 civil penalties for each violation, enjoinder as well as preliminary and permanent injunctive relief.  
6 Health & Safety Code § 25249.7(a) and (b).

7 **PARTIES**

8 8. Plaintiff KASB is a non-profit corporation organized under the laws of California and  
9 acting in the interest of the general public, dedicated to protecting the health of California citizens and  
10 the environment through the elimination or reduction of toxic chemicals utilized in manufacturing  
11 consumer products and to increasing public awareness of those chemicals through the promotion of  
12 sound environmental practices and corporate responsibility. KASB is a person within the meaning of  
13 Health & Safety Code § 25249.11(a), and it brings this action in the public interest, pursuant to  
14 Health and Safety Code § 25249.7(d).

15 9. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
16 QUILT IN A DAY, INC. (“**QUILT IN A DAY**”) was and is a “person” “in the course of doing  
17 business” with ten (10) or more employees, within the meanings of Health and Safety Code  
18 §§ 25249.6 and 25249.11.

19 10. QUILT IN A DAY manufactures, imports, distributes, sells, and/or offers the  
20 PRODUCTS for sale or use in the State of California, or implies by its conduct that it manufactures,  
21 imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the 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 implies by its conduct that it does such for one or more of the PRODUCTS  
26 offered for sale or use in California.

27 12. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in  
28 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

1 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each  
2 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or  
3 retailers for sale or use in the State of California

4 13. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the  
5 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
6 **RETAILER DEFENDANTS**, and each of them, by and through their conduct, offer the PRODUCTS  
7 for sale to individuals in the State of California.

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

14 15. At all times mentioned herein, QUILT IN A DAY, MANUFACTURER  
15 DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall,  
16 hereinafter, where appropriate, be referred to collectively as the “**DEFENDANTS.**”

17 **JURISDICTION AND VENUE**

18 16. This Court has jurisdiction over this action, pursuant to Cal. Health & Safety Code  
19 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior  
20 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,  
21 which grants the Superior Court “original jurisdiction in all causes except those given by statute to  
22 other trial courts.” The statute under which this action is brought does not specify any other basis of  
23 subject matter jurisdiction.

24 17. The California Superior Court has jurisdiction over DEFENDANTS, based on  
25 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation or  
26 association that is a citizen of the State of California, does sufficient business in California, has  
27 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail  
28 themselves of the California market through their manufacture, importation, distribution, promotion,

1 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful avilment renders  
2 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair  
3 play and substantial justice.

4 18. Venue is proper in the Superior Court for the County of San Francisco, pursuant to  
5 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent  
6 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more  
7 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
8 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with  
9 respect to the PRODUCTS that are the subject of this action.

10 **REGULATORY BACKGROUND AND LAW**

11 19. In 1986, the people of the State of California approved an initiative addressing the  
12 harms caused by hazardous chemicals and declared their right “[t]o be informed about exposures to  
13 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed  
14 General Law, Gen, Elec. (Nov. 4, 1986) at p.3.

15 20. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
16 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o  
17 person in the course of doing business shall knowingly and intentionally expose any individual to a  
18 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
19 warning to such individual...”

20 21. Under the Act, a “person in the course of doing business” is defined as a business with  
21 ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from  
22 exposing individuals to hazardous chemicals without first giving a “clear and reasonable” warning.  
23 Health & Safety Code § 25249.6.

24 22. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
25 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR  
26 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s  
27 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”  
28 27 C.C.R. § 25600(h).



1 through their reasonably foreseeable use of the vinyl/PVC bags as intended without first receiving a  
2 “clear and reasonable warning,” as required by Proposition 65.

3 30. On November 4, 2022, plaintiff served a Supplemental 60-Day Notice of Violation  
4 (“**Supplemental Notice**”), along with the certificate of merit, on QUILT IN A DAY, the California  
5 Attorney General’s Office, and the requisite public enforcement agencies, alleging, as a result of  
6 DEFENDANTS’ sales of the PRODUCTS, consumers in the State of California were, and are, being  
7 exposed to DEHP and DINP through their reasonably foreseeable use of the PRODUCTS as intended  
8 without first receiving a “clear and reasonable warning,” as required by Proposition 65.

9 31. After receiving plaintiff’s Notice and Supplemental Notice (collectively, “**Notices**”),  
10 no public enforcement agency has commenced and is diligently prosecuting a cause of action against  
11 DEFENDANTS under Proposition 65 to enforce the alleged violations that are the subject of the  
12 Notices.

### 13 **FIRST CAUSE OF ACTION**

#### 14 **(Violation of Proposition 65 - Against All DEFENDANTS)**

15 32. KASB realleges and incorporates by reference, as if fully stated herein, the allegations  
16 set forth in Paragraphs 1 through 31, inclusive.

17 33. DEFENDANTS’ PRODUCTS contain DEHP and DINP at levels requiring a clear and  
18 reasonable warning under Proposition 65.

19 34. DEFENDANTS know or should have known the PRODUCTS they manufacture,  
20 import, distribute, sell, and offer for sale in California contain DEHP and DINP. As a result of  
21 plaintiff’s Notice, DEFENDANTS also have actual knowledge of the presence of DEHP and DINP in  
22 the PRODUCTS.

23 35. The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for  
24 sale in or into the State of California cause exposures to DEHP and DINP, both direct and/or indirect  
25 dermal contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.

26 36. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
27 continues to cause, exposures to DEHP and DINP.

28

1           37.       DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS  
2 exposes individuals to DEHP and DINP through direct and indirect dermal contact and/or ingestion.

3           38.       DEFENDANTS intend that exposures to DEHP and DINP from the reasonably  
4 foreseeable use of the PRODUCTS will occur by their deliberate, non-accidental participation in the  
5 California marketplace.

6           39.       The exposures to DEHP and DINP, caused by DEFENDANTS and endured by  
7 consumers and other individuals in California, are not exempt from the “clear and reasonable”  
8 warning requirements of Proposition 65.

9           40.       DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers  
10 and other individuals in California who have been, or who will be, exposed to DEHP and DINP  
11 through direct and indirect dermal contact and/or ingestion resulting from the use of the PRODUCTS  
12 as intended.

13           41.       Contrary to the express policy and statutory prohibition of Proposition 65, consumers  
14 and other individuals, exposed to DEHP and DINP through dermal contact and ingestion as a result of  
15 their use of the PRODUCTS that DEFENDANTS sold without a “clear and reasonable” health hazard  
16 warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy,  
17 or adequate remedy at law.

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

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

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

27 ///

28 ///



