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FILED

APR 03 2023

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF MARIN

12 UNLIMITED CIVIL JURISDICTION

13 SUSAN DAVIA,

14 Plaintiff,

15 v.

16 NEW PRIDE CORP. DBA PRIDE PRODUCTS,
17 HASSAN & SONS, INC. and DOES 1-150,

18 Defendants.

Case No. CIV

2300969

COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF

(Cal. Health & Safety Code § 25249.6 et seq.)

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1 and purchasers or users of the PRODUCTS with the required warning regarding the health hazards
2 of the LISTED CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

3 7. Plaintiff also seeks civil penalties against defendants for their violations of
4 Proposition 65, as provided for by California Health & Safety Code Section 25249.7(b).

5 **PARTIES**

6 8. Plaintiff SUSAN DAVIA is a citizen of the State of California who is dedicated to
7 protecting the health of California citizens through the elimination or reduction of toxic exposures
8 from consumer products and brings this action in the public interest pursuant to California Health &
9 Safety Code Section 25249.7.

10 9. Based upon publicly available information, plaintiff is informed and believes, and
11 thereupon alleges, that each defendant NEW PRIDE CORP. DBA PRIDE PRODUCTS and HASSAN
12 & SONS, INC. is a person in the course of doing business within the meaning of California Health &
13 Safety Code Section 25249.11.

14 10. Based upon publicly available information, plaintiff is informed and believes, and
15 thereupon alleges, that each defendant NEW PRIDE CORP. DBA PRIDE PRODUCTS and HASSAN
16 & SONS, INC. is legally responsible for the design, manufacture, distribution, and/or offer of the
17 PRODUCTS for sale or use in the State of California or implies by its conduct that it designs,
18 manufactures, distributes, and/or offers the PRODUCTS for sale or use in the State of California.

19 11. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons in
20 the course of doing business within the meaning of California Health & Safety Code Section
21 25249.11.

22 12. MANUFACTURER DEFENDANTS engage in the process of researching, testing,
23 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they
24 engage in the process of researching, testing, designing, assembling, fabricating, and/or
25 manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

26 13. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons in the
27 course of doing business within the meaning of California Health & Safety Code Section 25249.11.

14. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in the State of California.

15. Defendants DOES 101-150 ("RETAIL DEFENDANTS") are each persons in the course of doing business within the meaning of California Health & Safety Code Section 25249.11.

16. RETAIL DEFENDANTS and HASSAN & SONS, INC. offer the PRODUCTS for sale to individuals in the State of California.

17. At this time, the true names of Defendants DOES 1 through 150, inclusive, are unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code of Civil Procedure Section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences herein alleged. When ascertained, their true names shall be reflected in an amended complaint.

18. NEW PRIDE CORP. DBA PRIDE PRODUCTS, HASSAN & SONS, INC.,
MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAIL DEFENDANTS
shall, where appropriate, collectively be referred to hereinafter as "DEFENDANTS".

VENUE AND JURISDICTION

19. Venue is proper in the Marin County Superior Court, pursuant to Code of Civil Procedure Sections 394, 395, and 395.5, because this Court is a court of competent jurisdiction, because one or more instances of wrongful conduct occurred, and continues to occur, in the County of Marin and/or because DEFENDANTS conducted, and continue to conduct, business in this County with respect to the PRODUCTS.

20. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

21. The California Superior Court has jurisdiction over DEFENDANTS based on plaintiff's information and good faith belief that each defendant is a person, firm, corporation or association that either are citizens of the State of California, have sufficient minimum contacts in the

1 State of California, or otherwise purposefully avail themselves of the California market.
2 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California
3 courts consistent with traditional notions of fair play and substantial justice.

4 **FIRST CAUSE OF ACTION**
5 **(Violation of Proposition 65 - Against All Defendants)**

6 22. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
7 Paragraphs 1 through 22, inclusive.

8 23. In passing Proposition 65, the citizens of the State of California expressed their intent
9 through the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986 that they must
10 be "informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
11 harm."

12 24. Proposition 65 states, "[n]o person in the course of doing business shall knowingly
13 and intentionally expose any individual to a chemical known to the state to cause cancer or
14 reproductive toxicity without first giving clear and reasonable warning to such individual"
15 Health & Safety Code § 25249.6.

16 25. On May 16, 2022, plaintiff SUSAN DAVIA served a valid and compliant Proposition
17 65 60-Day Notice of Violation ("60-Day Notice"), together with a valid, requisite Certificate of Merit,
18 on NEW PRIDE CORP. DBA PRIDE PRODUCTS and various public enforcement agencies stating
19 that as a result of the DEFENDANTS' manufacture, distribution and sales of the PRODUCTS,
20 purchasers and users in the State of California are being exposed to the LISTED CHEMICAL
21 resulting from the reasonably foreseeable uses of certain PRODUCTS, without the individual
22 purchasers and users first having been provided with a "clear and reasonable warning" regarding
23 such toxic exposures.

24 26. On January 10, 2023, plaintiff SUSAN DAVIA served a valid and compliant
25 Supplemental Proposition 65 60-Day Notice of Violation ("Supplemental 60-Day Notice"), together
26 with a valid, requisite Certificate of Merit, on NEW PRIDE CORP. DBA PRIDE PRODUCTS,
27 HASSAN & SONS, INC. and various public enforcement agencies stating that as a result of the
28 DEFENDANTS' manufacture, distribution and sales of the PRODUCTS, purchasers and users in the

1 State of California are being exposed to the LISTED CHEMICAL resulting from the reasonably
2 foreseeable uses of certain PRODUCTS, without the individual purchasers and users first having
3 been provided with a "clear and reasonable warning" regarding such toxic exposures.

4 27. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of the
5 PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 and
6 plaintiff is informed and believes that DEFENDANTS' manufacture, distribution, and/or offering of
7 the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 has
8 continued to occur beyond DEFENDANTS' receipt of plaintiff's 60-Day Notice and Supplemental
9 60-Day Notice. Plaintiff further alleges and believes that such violations will continue to occur into
10 the future.

11 28. After receipt of the claims asserted in the 60-Day Notice and Supplemental 60-Day
12 Notice, the appropriate public enforcement agencies failed to commence and diligently prosecute a
13 cause of action against DEFENDANTS under Proposition 65 for DEFENDANTS' manufacture,
14 distribution and sale of the COVERED PRODUCTS to California citizens without a warning
15 regarding the LISTED CHEMICAL.

16 29. The PRODUCTS manufactured, distributed and/or offered for sale or use in
17 California by DEFENDANTS contain one or more LISTED CHEMICAL.

18 30. DEFENDANTS knew or should have known that the PRODUCTS contained such
19 LISTED CHEMICAL.

20 31. A LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to expose
21 individuals to the LISTED CHEMICAL, as such exposure is defined by 27 CCR Section 25602(b),
22 through dermal contact and/or ingestion and/or inhalation during, or as a consequence of, the
23 packing, shipping, unpacking, display and daily organization and movement of PRODUCTS as well
24 as the reasonably foreseeable handling and use of the PRODUCTS.

25 32. DEFENDANTS knew or should have known that the packing, shipping, unpacking,
26 display and daily organization and movement of PRODUCTS as well as the reasonably foreseeable
27 handling and use of the PRODUCTS exposes individuals to a LISTED CHEMICAL through dermal
28 contact and/or ingestion and/or inhalation.

1 33. Each of the RETAIL DEFENDANTS and HASSAN & SONS, INC. has actual
2 knowledge of the potential consumer product exposures to the LISTED CHEMICAL both pursuant
3 to information obtained by them from reliable sources in their course of doing business and
4 pursuant to the 60-Day Notice and Supplemental 60-Day Notice.

5 34. No manufacturer, producer, packager, importer, supplier, or distributor of the
6 PRODUCTS sold by RETAIL DEFENDANTS and HASSAN & SONS, INC. has designated an agent
7 for service of process in California or has a place of business in California.

8 35. DEFENDANTS' participation in the manufacture, distribution and/or offer for sale or
9 use of PRODUCTS to individuals in the State of California was deliberate and non-accidental.

10 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those
11 consumers and/or other individuals in the State of California who were or who could become
12 exposed to a LISTED CHEMICAL during the reasonably foreseeable retail receipt, display and
13 organization of PRODUCTS as well as the reasonably foreseeable use of the PRODUCTS.

14 37. Contrary to the express policy and statutory prohibition of Proposition 65, employees
15 and individuals exposed to a LISTED CHEMICAL through dermal contact and/or ingestion and/or
16 inhalation resulting from the reasonably foreseeable use of the PRODUCTS, sold by DEFENDANTS
17 without a "clear and reasonable warning", have suffered, and continue to suffer, irreparable harm,
18 for which harm they have no other plain, speedy or adequate remedy at law.

19 38. As a consequence of the above-described acts, DEFENDANTS are liable for a
20 maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to California
21 Health & Safety Code Section 25249.7(b).

22 39. As a consequence of the above-described acts, California Health & Safety Code
23 Section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
24 DEFENDANTS.

25 40. In addition to the commission of all acts and actions identified hereinabove,
26 defendants NEW PRIDE CORP. DBA PRIDE PRODUCTS, HASSAN & SONS, INC. further violated
27 C.C.R. 25600.2(g), by failing to promptly provide the name and contact information for the
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1 manufacturer, producer, packager, importer, supplier, and distributor of the product to plaintiff as
2 demanded in her 60-Day Notice and Supplemental 60-Day Notice to them.

3 PRAYER FOR RELIEF

4 Wherefore, plaintiff prays for judgment against DEFENDANTS, and each of them, as
5 follows:

6 1. That the Court, pursuant to California Health & Safety Code Section 25249.7(b), assess
7 civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation alleged
8 herein;

9 2. That the Court, pursuant to California Health & Safety Code Section 25249.7(a),
10 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering
11 the PRODUCTS for sale or use in California, without providing "clear and reasonable warnings" as
12 defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED
13 CHEMICAL;

14 3. That the Court grant plaintiff her reasonable attorneys' fees and costs of suit; and

15 4. That the Court grant such other and further relief as may be just and proper.

16 Dated: March 22, 2023

SHEFFER LAW FIRM

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18 Gregory M. Sheffer
19 Attorneys for Plaintiff Susan Davia