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Superior Court of California,  
County of Los Angeles  
2/02/2024 10:11 AM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Tarasyuk, Deputy Clerk

5 Attorneys for Plaintiff,  
6 KEEP AMERICA SAFE AND BEAUTIFUL

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF LOS ANGELES**

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11 KEEP AMERICA SAFE AND BEAUTIFUL, in  
12 the public interest,

13 Plaintiff,

14 v.

15 Vital Plan, Inc.; Amazon.com Services, LLC; and  
16 DOES 1 through 100, inclusive,

17 Defendants.  
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Civil Action No.: **24STCV02775**

**COMPLAINT FOR INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

[Cal. Health and Safety Code Sec. 25249.6, *et seq.*]

**KJT** LAWGROUP <sup>LLP</sup>  
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1 corporation organized under the laws of California and acting in the interest of the general public,  
2 dedicated to protecting the health of California citizens and the environment through the elimination  
3 or reduction of toxic chemicals utilized in manufacturing consumer products and to increasing  
4 public awareness of those chemicals through the promotion of sound environmental practices and  
5 corporate responsibility. KASB is a person within the meaning of Health & Safety Code §  
6 25249.11(a), and it brings this action in the public interest, pursuant to Health and Safety Code §  
7 25249.7(d).

8           5. Defendant VITAL PLAN, INC. (“VITAL PLAN”) is a person in the course of  
9 doing business within the meaning of Health & Safety Code § 25249.11 VITAL PLAN  
10 manufactures, distributes and/or sells the Product for sale and use in California.

11           6. Defendant AMAZON.COM SERVICES, LLC (“AMAZON”) is a person in the  
12 course of doing business within the meaning of Health & Safety Code § 25249.11. AMAZON  
13 manufactures, distributes and/or sells the Product for sale and use in California.

14           7. The true names of DOES 1 through 100 are unknown to Plaintiff at this time. When  
15 their identities are ascertained, the Complaint shall be amended to reflect their true names.

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17 **JURISDICTION AND VENUE**

18           8. The Court has jurisdiction over this action pursuant to Health & Safety Code §  
19 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to  
20 California Constitution Article VI, Section 10, because this case is a cause not given by statute to  
21 other trial courts.

22           9. This Court has jurisdiction over Defendants as business entities that do sufficient  
23 business, have sufficient minimum contacts in California or otherwise intentionally avails itself of the  
24 California market through the sale, marketing or use of the Product in California and/or by having  
25 such other contacts with California so as to render the exercise of jurisdiction over them by the  
26 California courts consistent with traditional notions of fair play and substantial justice.

27           10. Venue is proper in Los Angeles County Superior Court because one or more of the  
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1 violations arise in the County of Los Angeles.  
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4 **BACKGROUND FACTS**

5 11. The People of the State of California have declared by initiative under Proposition  
6 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
7 other reproductive harm.” Proposition 65 § 1(b).

8 12. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed  
9 by the State of California as known to cause cancer, birth defects or other reproductive harm above  
10 certain levels without a “clear and reasonable warning” unless the business responsible for the  
11 exposure can prove that it fits within a statutory exemption. Health & Safety Code § 25249.6 states  
12 in pertinent part:

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

16 13. The State of California has officially listed lead as a chemical known to cause cancer  
17 and reproductive harm.

18 14. The level of exposure to a chemical causing reproductive toxicity under Proposition  
19 65 is determined by multiplying the level in question times the reasonably anticipated rate of  
20 exposure for an individual to a given medium. 27 C.C.R. § 25821(b). for exposures to consumer  
21 products, the level of exposure is calculated using the reasonably anticipated rate of intake or  
22 exposure for average users of the consumer product. 27 C.C.R. § 25821(C)(2).

23 15. Defendants’ Product contains sufficient quantities of lead such that consumers,  
24 including pregnant women, who consume the Product are exposed to lead. The primary route of  
25 exposure for the violations is direct ingestion when consumers orally ingest the Product. These  
26 exposures occur in homes, workplaces and everywhere in California where the Product is  
27 consumed.

28 16. During the relevant one-year period herein, no clear and reasonable warning was  
provided with the Product regarding the reproductive hazards of lead.

1           17. Any person acting in the public interest has standing to enforce violations of  
2 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid  
3 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
4 within such time. Health & Safety Code § 25249.7(d).

5           18. More than sixty days prior to naming each Defendant in this lawsuit, Plaintiff  
6 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General, the  
7 District Attorneys of every county in California, the City Attorneys of every California city with a  
8 population greater than 750,000 and to the named Defendants. In compliance with Health & Safety  
9 Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the following information: (1)  
10 the name and address of each violator; (2) the statute violated; (3) the time period during which  
11 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure  
12 to lead from the Product, and (b) the specific type of Product sold and used in violation of  
13 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of  
14 the violations described in each Notice.

15           19. Plaintiff also sent a Certificate of Merit for each Notice to the California Attorney  
16 General, the District Attorneys of every county in California, the City Attorneys of every California  
17 city with a population greater than 750,000 and to the named Defendants. In compliance with  
18 Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each Certificate certified that Plaintiff’s  
19 counsel: (1) has consulted with one or more persons with relevant and appropriate experience or  
20 expertise who reviewed facts, studies or other data regarding the exposures to lead alleged in each  
21 Notice; and (2) based on the information obtained through such consultations, believes that there is  
22 a reasonable and meritorious case for an enforcement action based on the facts alleged in each  
23 Notice. In compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each  
24 Certificate served on the Attorney General included factual information-provided on a confidential  
25 basis-sufficient to establish the basis for the Certificate, including the identity of the person(s)  
26 consulted by the Plaintiff’s counsel and the facts, studies or other data reviewed by such persons.

27           20. None of the public prosecutors with the authority to prosecute violations of  
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Proposition 65 has commenced and/or is diligently prosecuting a cause of action against Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each of Plaintiff's Notices.

21. Defendants both know and intend that individuals will consume the Product, thus exposing them to lead.

22. Under Proposition 65, an exposure is "knowing" where the party responsible for such exposure has:

Knowledge of the fact that a[n]...exposure to a chemical listed pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No knowledge that the... exposure is unlawful is required. 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2, § 12201).

23. Defendants have been informed of the lead in their Products by the 60-Day Notice of Violation and accompanying Certificate of Merit served on them.

24. Defendants also have constructive knowledge that the Products contain lead due to the widespread media coverage concerning the problem of lead in consumer products.

25. As entities that manufacture, import, distribute and/or sell the Product for use in the California marketplace, Defendants know or should know that the Product contains lead and that individuals who consume the Product will be exposed to lead. The lead exposures to consumers who consume the Product are a natural and foreseeable consequence of Defendant's placing the Product into the stream of commerce.

26. Nevertheless, Defendants continue to expose consumers to lead without prior clear and reasonable warnings regarding the reproductive hazards of lead.

27. Plaintiff has engaged in good-faith efforts to resolve the claims alleged herein prior to filing this Complaint.

28. Any person "violating or threatening to violate" Proposition 65 may be enjoined in any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is

1 defined to mean “to create a condition in which there is a substantial probability that a violation will  
2 occur.” Health & Safety Code § 25249.11(c). Proposition 65 provides for civil penalties not to  
3 exceed \$2,500 per day for each violation of Proposition 65.  
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6 **CAUSE OF ACTION**

(Violations of the Health & Safety Code 25249.6)

7 29. Plaintiff realleges and incorporates by reference as if specifically set forth herein  
8 Paragraphs 1 through 27, inclusive.

9 30. By placing the Product into the stream of commerce, each Defendant is a person in  
10 the course of doing business within the meaning of Health & Safety Code § 25249.11.

11 31. Lead is a chemical listed by the State of California as known to cause cancer and  
12 other reproductive harm.

13 32. Defendants know that average use of the Product will expose users of the Product to  
14 lead. Defendants intend that the Product be used in a manner that results in exposures to lead from  
15 the Products.

16 33. Defendants have failed, and continue to fail, to provide clear and reasonable  
17 warnings regarding the reproductive toxicity of lead to users of the Products.

18 34. By committing the acts alleged above, Defendants have at all times relevant to this  
19 Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to lead  
20 without first giving clear and reasonable warnings to such individuals regarding the reproductive  
21 toxicity of lead.  
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23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment against Defendants as follows:

25 1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess civil penalties  
26 against the Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

27 2. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and  
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1 permanently enjoin Defendants from offering the Product for sale in California without either  
2 reformulating the Products such that no Proposition 65 warnings are required or providing prior  
3 clear and reasonable warnings, as Plaintiff shall specify in further application to the Court;

4 3. That the Court, pursuant to Health & Safety Code § 25249.7(a), order Defendants to  
5 take action to stop ongoing unwarranted exposures to lead resulting from use of Product sold, as  
6 Plaintiff shall specify in further application to the Court;

7 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other  
8 applicable theory or doctrine, grant Plaintiff her reasonable attorneys' fees and costs of suit; and

9 5. That the Court grant such other and further relief as may be just and proper.

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12 Dated: February 1, 2023

KJT LAW GROUP, LLP

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15 By: 

Tro Krikorian, Esq.

Attorneys for Plaintiff

KEEP AMERICA SAFE AND BEAUTIFUL