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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

09/26/2023
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,
12 Plaintiff,

13 vs.

14 WALMART, INC.,
15 Defendant.

Case No.:

CGC-23-609314

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

16 Plaintiff Ema Bell (“Plaintiff”), by and through her attorneys, alleges the following cause
17 of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

19 1. Plaintiff brings this representative action on behalf of all California citizens to
20 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
21 the Health and Safety Code § 25249.5 et seq (“Proposition 65”), which reads, in relevant part,
22 “[n]o person in the course of doing business shall knowingly and intentionally expose any
23 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
24 giving clear and reasonable warning to such individual ...”. Health & Safety Code § 25249.6.

25 2. This complaint is a representative action brought by Plaintiff in the public interest
26 of the citizens of the State of California to enforce the People’s right to be informed of the health
27 hazards caused by exposure to lead, diethanolamine (DEA), and/or di(2-ethylhexyl) phthalate
28 (DEHP), toxic chemicals found in products sold and/or distributed by defendant Walmart, Inc.
29 (“Walmart” or “Defendant”) in California.

1 3. DEA¹ is a harmful chemical known to the State of California to cause cancer. Lead²
2 and DEHP³ are harmful chemicals known to the State of California to cause cancer and birth
3 defects or other reproductive harm.

4 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
5 within California or sell products therein to comply with Proposition 65 regulations. Included in
6 such regulations is the requirement that businesses must label any product containing a Proposition
7 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
8 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
9 chemical.

10 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
11 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
12 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
13 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
14 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
15 25249.7.

16 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
17 without a requisite exposure warning, (a) *Way to Celebrate*® Halloween police hats, UPC #
18 4894042250297, (DEHP), (b) heavy bag hanger straps, # 650434565028, (DEHP), (c) *Cococare*®
19

20
21 ¹ On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause
22 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
23 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24 ² On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
25 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
26 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State
27 of California listed lead as a chemical known to cause birth defects or other reproductive harm.

28 ³ . On January 1, 1988, the State of California listed DEHP as a chemical known to the State to
cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.
Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24,
2003, the State of California listed DEHP as a chemical known to cause birth defects or other
reproductive harm.

1 shea butter creams, UPC # 075707098551, (DEA), (d) *Rubies*® black cream makeups, UPC #
2 082686335744, (DEA), (e) Insight Pharmaceuticals *Dermarest*® psoriasis max strength medicated
3 gels, UPC # 363736730109, (DEA), and (f) *Pure Protein*® nacho cheese puffs, UPC #
4 749826002613, (lead) (collectively, the “Products” and each a “Product”) that expose persons to
5 lead, DEA, and/or DEHP when used for their intended purpose.

6 7. Defendant’s failure to warn consumers and other individuals in California of the
7 health hazards associated with exposure to lead, DEA, and/or DEHP in conjunction with the sale
8 and/or distribution of the Products is a violation of Proposition 65 and subjects Defendant to the
9 enjoinder and civil penalties described herein.

10 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65
11 in accordance with Health and Safety Code § 25249.7(b).

12 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
13 Defendant to provide purchasers or users of the Products with required warnings related to the
14 dangers and health hazards associated with exposure to lead, DEA, and/or DEHP pursuant to
15 Health and Safety Code § 25249.7(a).

16 10. Plaintiff further seeks a reasonable award of attorney’s fees and costs.

17 **PARTIES**

18 11. Plaintiff is a citizen of the State of California acting in the interest of the general
19 public to promote awareness of exposures to toxic chemicals in products sold in California and to
20 improve human health by reducing hazardous substances contained in such items. She brings this
21 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

22 12. Defendant Walmart, through its business, effectively imports, distributes, sells,
23 and/or offers the Products for sale or use in the State of California, or it implies by its conduct that
24 it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
25 Plaintiff alleges that defendant Walmart is a “person” in the course of doing business within the
26 meaning of Health & Safety Code sections 25249.6 and 25249.11.

1 **VENUE AND JURISDICTION**

2 13. Venue is proper in the County of San Francisco because one or more of the
3 instances of wrongful conduct occurred, and continue to occur in this county and/or because
4 Defendant conducted, and continues to conduct, business in the County of San Francisco with
5 respect to the Products.

6 14. This Court has jurisdiction over this action pursuant to California Constitution
7 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
8 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
9 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
10 jurisdiction over this lawsuit.

11 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
12 the State of California, has sufficient minimum contacts with the State of California, is registered
13 with the California Secretary of State as foreign corporations authorized to do business in the State
14 of California, and/or has otherwise purposefully availed itself of the California market. Such
15 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
16 permissible with traditional notions of fair play and substantial justice.

17 **STATUTORY BACKGROUND**

18 16. The people of the State of California declared in Proposition 65 their right “[t]o be
19 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
20 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

21 17. To effect this goal, Proposition 65 requires that individuals be provided with a
22 “clear and reasonable warning” before being exposed to substances listed by the State of California
23 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
24 pertinent part:

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

1 18. An exposure to a chemical in a consumer product is one “which results from a
2 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
3 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
4 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
5 shall provide a warning to any person to whom the product is sold or transferred unless the product
6 is packaged or labeled with a clear and reasonable warning.”

7 19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
8 more of the following methods individually or in combination:⁴

9 a. A warning that appears on a product’s label or other labeling.

10 b. Identification of the product at the retail outlet in a manner which provides
11 a warning. Identification may be through shelf labeling, signs, menus, or a combination
12 thereof.

13 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
14 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
15 with such conspicuousness, as compared with other words, statements, designs, or devices
16 in the label, labeling or display as to render it likely to be read and understood by an
17 ordinary individual under customary conditions of purchase or use.

18 d. A system of signs, public advertising identifying the system and toll-free
19 information services, or any other system that provides clear and reasonable warnings.

20 20. Proposition 65 provides that any “person who violates or threatens to violate” the
21 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
22 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
23 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
24
25

26
27 ⁴ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, *et seq.* as amended on August 30,
2016, and operative on August 30, 2018.

1 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
2 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

3 **FACTUAL BACKGROUND**

4 21. On October 1, 1992, the state of California listed lead as a chemical known to cause
5 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
6 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
7 1987, the State of California listed lead as a chemical known to cause birth defects or other
8 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
9 State to cause cancer and birth defects or other reproductive harm.

10 22. On June 22, 2012, the State of California listed DEA as a chemical known to the
11 State to cause cancer and it has come under the purview of Proposition 65 regulations since that
12 time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

13 23. On January 1, 1988, the State of California listed DEHP as a chemical known to
14 the State to cause cancer and it has come under the purview of Proposition 65 regulations since
15 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
16 On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth
17 defects or other reproductive harm.

18 24. The exposures that are the subject of the Notices result from the purchase,
19 acquisition, handling, and recommended use of the Products. The primary route of exposure to
20 lead, DEA, and/or DEHP is through dermal absorption directly through the skin when consumers
21 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Products
22 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
23 with the Products regarding the health hazards of exposure.

24 25. Defendant has processed, marketed, distributed, offered to sell and/or sold the
25 Products in California since at least November 29, 2022 with respect to the *Way to Celebrate*®
26 Product; since at least December 8, 2022 with respect to the heavy bag hanger Product; since at
27 least January 27, 2023 with respect to *Cococare*® Product; since at least January 30, 2023 with
28 respect to the *Rubies*® Product; since at least March 22, 2023 with respect to the Insight

1 Pharmaceuticals *Dermarest*® Product; and since at least June 26, 2023 with respect to the *Pure*
2 *Protein*® Product. The Products continue to be distributed and sold in California without the
3 requisite warning information.

4 26. At all times relevant to this action, Defendant has knowingly and intentionally
5 exposed users and/or consumers of the Products to lead, DEA, and/or DEHP without first giving
6 a clear and reasonable exposure warning to such individuals.

7 27. As a proximate result of acts by Defendant, as a person in the course of doing
8 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
9 California, including in San Francisco County, have been exposed to lead, DEA, and/or DEHP
10 without a clear and reasonable warning on the Products. The individuals subject to the violative
11 exposures include normal and foreseeable users and consumers that use the Products, as well as
12 all others exposed to the Products.

13 **SATISFACTION OF NOTICE REQUIREMENTS**

14 28. Plaintiff purchased the Products from Walmart. At the time of purchase, Defendant
15 did not provide a Proposition 65 exposure warning for lead, DEA, DEHP, or any other Proposition
16 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

17 29. The *Way to Celebrate*® Product and the heavy bag hanger Product were sent to a
18 testing laboratory for phthalate testing to determine the phthalate content of the Product; the
19 *Cococare*® Product, the *Rubies*® Product, and the Insight Pharmaceuticals *Dermarest*® Product
20 were sent to a testing laboratory for diethanolamine testing to determine the DEA content of the
21 Products; and the *Pure Protein*® Product was sent to a testing laboratory to determine if exposure
22 to lead per serving size will exceed safe harbor levels.

23 30. For each Product that was sent to the laboratory, Plaintiff received a chemical test
24 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The
25 Chemical Test Reports findings determined the *Way to Celebrate*® Product and the heavy bag
26 hanger Product exposes users to DEHP; the *Cococare*® Product, the *Rubies*® Product, and the
27 Insight Pharmaceuticals *Dermarest*® Product exposes users to DEA; and the *Pure Protein*®
28 Product exposes users to lead.

1 31. Plaintiff provided each Chemical Test Report and each Product to an analytical
2 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable
3 and foreseeable use of the Products, exposure to lead, DEA, and/or DEHP will occur at levels that
4 require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title
5 27 of the California Code of Regulations.

6 32. On November 29, 2022, Plaintiff received from the analytical chemist an exposure
7 assessment report for the *Way to Celebrate*® Product that concluded that persons in California
8 who use the *Way to Celebrate*® Product will be exposed to levels of DEHP that require a
9 Proposition 65 exposure warning. On December 8, 2022, Plaintiff received from the analytical
10 chemist an exposure assessment report for the heavy bag hanger Product that concluded that
11 persons in California who use the heavy bag hanger Product will be exposed to levels of DEHP
12 that require a Proposition 65 exposure warning. On January 27, 2023, Plaintiff received from the
13 analytical chemist an exposure assessment report for the *Cococare*® Product that concluded that
14 persons in California who use the *Cococare*® Product will be exposed to levels of DEA that
15 require a Proposition 65 exposure warning. On January 30, 2023, Plaintiff received from the
16 analytical chemist an exposure assessment report for the *Rubies*® Product that concluded that
17 persons in California who use the *Rubies*® Product will be exposed to levels of DEA that require
18 a Proposition 65 exposure warning. On March 22, 2023, Plaintiff received from the analytical
19 chemist an exposure assessment report for the Insight Pharmaceuticals *Dermarest*® Product that
20 concluded that persons in California who use the Insight Pharmaceuticals *Dermarest*® Product
21 will be exposed to levels of DEA that require a Proposition 65 exposure warning. On June 26,
22 2023, Plaintiff received from the analytical chemist an exposure assessment report for the *Pure*
23 *Protein*® Product that concluded that persons in California who use the *Pure Protein*® Product
24 will be exposed to levels of lead that require a Proposition 65 exposure warning.

25 33. On November 29, 2022 (*Way to Celebrate*® Halloween police hats), December 8,
26 2022 (heavy bag hanger straps), January 27, 2023 (*Cococare*® shea butter creams), January 30,
27 2023 (*Rubies*® black cream makeups), March 22, 2023 (Insight Pharmaceuticals *Dermarest*®
28 psoriasis max strength medicated gels), and June 26, 2023 (*Pure Protein*® nacho cheese puffs),

1 41. Plaintiff, based on her best information and belief, avers that at all relevant times
2 herein, and since at least November 29, 2022 with respect to the *Way to Celebrate*® Product; since
3 at least December 8, 2022 with respect to the heavy bag hanger Product; since at least January 27,
4 2023 with respect to *Cococare*® Product; since at least January 30, 2023 with respect to the
5 *Rubies*® Product; since at least March 22, 2023 with respect to the Insight Pharmaceuticals
6 *Dermarest*® Product; and since at least June 26, 2023 with respect to the *Pure Protein*® Product,
7 continuing until the present, that Defendant has continued to knowingly and intentionally expose
8 California users and consumers of the Products to lead, DEA, and/or DEHP without providing
9 required warnings under Proposition 65.

10 42. The exposures that are the subject of the Notices result from the purchase,
11 acquisition, handling and recommended use of the Products. The primary route of exposure to
12 lead, DEA, and/or DEHP is through dermal absorption directly through the skin when consumers
13 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Product
14 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
15 with the Products regarding the health hazards of exposure.

16 43. Plaintiff, based on her best information and belief, avers that such exposures will
17 continue every day until clear and reasonable warnings are provided to purchasers and users or
18 until these known toxic chemicals are removed from the Products.

19 44. Defendant has knowledge that the normal and reasonably foreseeable use of the
20 Products expose individuals to lead, DEA, and/or DEHP, and Defendant intends that exposures to
21 lead, DEA, and/or DEHP will occur by its deliberate, non-accidental participation in the
22 importation, distribution, sale and offering of the Products to consumers in California.

23 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
24 Complaint.

25 46. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
26 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

27 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
28 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
3 relief:

4 A. That the court assess civil penalties against Defendant in the amount of \$2,500 per
5 day for each violation for up to 365 days (up to a maximum civil penalty amount per
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant mandating
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit, in the
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: September 26, 2023

BRODSKY SMITH

13 By:  _____

14 Evan J. Smith (SBN242352)
15 Ryan P. Cardona (SBN302113)
16 9595 Wilshire Boulevard, Suite 900
17 Beverly Hills, CA 90212
18 Telephone: (877) 534-2590
19 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT "A"

LAW OFFICES
BRODSKY & SMITH

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PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

November 29, 2022

President/CEO Kai Yee Industrial Limited Flat A, 11/F, Sunrise Industrial Building 10 Hong Man Street Chai Wan HONG KONG, CHINA	Member/Manager Walmart Apollo, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Kai Yee Industrial Limited; Walmart Apollo, LLC; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least November 29, 2022 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Police Hat	Way To Celebrate Halloween Police Hat UPC# 4894042250297

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Bell has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “B”

LAW OFFICES
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PENNSYLVANIA OFFICE
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BALA CYNWYD, PA 19004
610.667.6200

December 8, 2022

Member/Manager Blue Ridge Product Solutions, LLC c/o James H. Addison, III 1905 Huguenot Road, Suite 203 North Chesterfield, VA 23235	Member/Manager Blue Ridge Product Solutions, LLC dba Fitness Fanatic c/o James H. Addison, III 1905 Huguenot Road, Suite 203 North Chesterfield, VA 23235
President/CEO/Owner High Standard Icemakers 7964 Crest Hills Drive Loves Park, IL 61111-8300	President/CEO Walmart Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Member/Manager Walmart Apollo, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

reproductive toxicity without first providing a clear and reasonable warning to such individual ...” Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Blue Ridge Product Solutions, LLC; Blue Ridge Product Solutions, LLC dba Fitness Fanatic; High Standard Icemakers; Walmart, Inc.; Walmart Apollo, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least December 8, 2022 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Bag Hanger Strap	Heavy Bag Hanger Strap 650434565028

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators’ reference, enclosed is a copy of “Proposition 65: A Summary” that has been prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant

² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell’s position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators’ custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “C”

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

January 27, 2023

President/CEO Cococare Products, Inc. c/o Joanne Schlesinger 85 Franklin Road Dover, NJ 07801	President/CEO Cococare Products, Inc. 11 Barkman Way Chester, NJ 07930
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager Walmart Apollo, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Cococare Products, Inc.; Walmart, Inc.; Walmart Apollo, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least January 27, 2023 and are continuing to this day.
4. **Listed Chemical:** Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Shea Butter Cream	Cococare Shea Butter Cream UPC# 0 75707 09855 1

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal exposure. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “D”

LAW OFFICES
BRODSKY & SMITH

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NEW YORK OFFICE
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MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

January 30, 2023

Member/Manager Rubies II, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager Rubies II, LLC 601 Cantiague Rock Road Westbury, NY 11590
President/CEO Rubie's Costume Co., Inc. One Rubie Plaza Richmond Hill, NY 11418	President/CEO Fun.com, Inc. 2080 Lookout Drive North Mankato, MN 56003
President/CEO Fun.com, Inc. aka Costumes Galore, Inc. 2080 Lookout Drive North Mankato, MN 56003	President/CEO Fun.com, Inc. dba halloweencostumes.com 2080 Lookout Drive North Mankato, MN 56003
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager Walmart Apollo, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code §

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer without first providing a clear and reasonable warning to such individual ...” Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Rubies II, LLC; Rubie’s Costume Co., Inc.; Fun.com, Inc.; Fun.com, Inc. aka Costumes Galore, Inc.; Fun.com, Inc. dba halloweencostumes.com; Walmart, Inc.; Walmart Apollo, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least January 30, 2023 and are continuing to this day.
4. **Listed Chemical:** Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Black Cream Makeup	Rubies Black Cream Makeup UPC# 0 82686 33574 4

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal exposure. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators’ reference, enclosed is a copy of “Proposition 65: A Summary” that has been prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell’s position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators’ custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “E”

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
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877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINGOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

March 22, 2023

Member/Manager Insight Pharmaceuticals LLC c/o National Registered Agents, Inc. 1209 Orange Street Wilmington, DE 19801	Member/Manager Insight Pharmaceuticals LLC c/o National Registered Agents, Inc. 28 Liberty St. New York, NY 10005
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager Walmart Apollo, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO/Owner Mr Medical 1926 Atlantic Ave. Brooklyn, NY 11233	President/CEO/Owner Mr Medical 383 Kingston Ave., #303 Brooklyn, NY 11213

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Insight Pharmaceuticals LLC; Walmart, Inc.; Walmart Apollo, LLC; Mr Medical
3. **Time Period of Exposure:** Violations have been occurring since at least March 22, 2023 and are continuing to this day.
4. **Listed Chemical:** Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Psoriasis Medicated Gel	Insight Pharmaceuticals Dermarest Psoriasis Max Strength Medicated Gel UPC#363736730109

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal exposure. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “F”

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

June 26, 2023

President/CEO Worldwide Sport Nutritional Supplements, Inc. c/o Corporation Service Company 80 State Street Albany, NY 12207	President/CEO Worldwide Sport Nutritional Supplements, Inc. 90 Orville Drive Bohemia, NY 11718
President/CEO Walmart Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Worldwide Sport Nutritional Supplements, Inc.; Walmart Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least June 26, 2023 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Nacho Cheese Puffs	Pure Protein Nacho Cheese Puffs UPCH# 749826002613

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

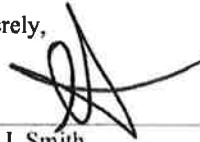
III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Bell's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Bell has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'Evan J. Smith', written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary