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Attorneys for Plaintiff

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

06/28/2024
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

PRECILA BALABBO,

Plaintiff,

vs.

WALMART, INC.,

Defendant.

Case No.:

CGC-24-616010

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

Plaintiff Precila Balabbo ("Plaintiff"), by and through her attorneys, alleges the following cause of action in the public interest of the citizens of the State of California.

BACKGROUND OF THE CASE

1. Plaintiff brings this representative action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part, "[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 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

2. This complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to lead, chromium (VI) ("CrVI"), and/or di(2-ethylhexyl) phthalate ("DEHP"), toxic chemicals found in products sold and/or distributed by defendant Walmart, Inc. ("Walmart" or "Defendant") in California.

1 3. CrVI¹, DEHP², and lead³ are harmful chemicals known to the State of California to
2 cause cancer and birth defects or other reproductive harm.

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

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

15 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
16 without a requisite exposure warning, (a) Hold'em genuine leather weight lifting belts, (CrVI), (b)
17 Northwest Survival waterproof backpacks, # 200010912559744, (DEHP), (c) Bright Star Products
18
19

20 ¹ On February 27, 1987, the State of California listed chromium (VI) as a chemical known to the
21 State to cause cancer and it has come under the purview of Proposition 65 regulations since that
22 time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On
December 19, 2008, the State of California listed chromium (VI) as a chemical known to cause
birth defects or other reproductive harm.

23 ² . On January 1, 1988, the State of California listed DEHP as a chemical known to the State to
24 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.
25 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.

26 ³ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
27 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
28 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

1 faux plants, UPC # 810084667712, (lead), and (d) *Lundberg Family Farms®* organic brown
2 jasmine rice, UPC # 073416533103, (lead) (collectively, the “Products” and each a “Product”) that
3 expose persons to lead, CrVI, and/or DEHP when used for their intended purpose.

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

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

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

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

15 **PARTIES**

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

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

25 **VENUE AND JURISDICTION**

26 13. Venue is proper in the County of San Francisco because one or more of the
27 instances of wrongful conduct occurred, and continue to occur in this county and/or because
28

1 Defendant conducted, and continues to conduct, business in the County of San Francisco with
2 respect to the Products.

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

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

14 **STATUTORY BACKGROUND**

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

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

22 No 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 giving clear and reasonable warning to such individual...

24 18. An exposure to a chemical in a consumer product is one “which results from a
25 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
26 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
27 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
28

1 shall provide a warning to any person to whom the product is sold or transferred unless the product
2 is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

16 20. Proposition 65 provides that any “person who violates or threatens to violate” the
17 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
18 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
19 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
20 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
21 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

22 **FACTUAL BACKGROUND**

23 21. On February 27, 1987, the State of California listed chromium (VI) as a chemical
24 known to the State to cause cancer and it has come under the purview of Proposition 65 regulations
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 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
2 25249.10(b). On December 19, 2008, the State of California listed chromium (VI) as a chemical
3 known to cause birth defects or other reproductive harm.

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

9 23. On October 1, 1992, the state of California listed lead as a chemical known to cause
10 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
11 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
12 1987, the State of California listed lead as a chemical known to cause birth defects or other
13 reproductive harm.

14 24. The exposures that are the subject of the Notices result from the purchase,
15 acquisition, handling, consumption, and recommended use of the Products. The primary route of
16 exposure to lead in ceramic products, CrVI, and/or DEHP is through dermal absorption directly
17 through the skin when consumers use, touch, or handle the Products. Exposure through ingestion
18 will occur by touching the Products with subsequent touching of the user's hand to mouth. The
19 primary route of exposure to lead in food products is through ingestion. When foods contaminated
20 with lead are consumed, ingestion of lead will occur which will increase blood lead levels. No
21 clear and reasonable warning is provided with the Products regarding the health hazards of
22 exposure.

23 25. Defendant has processed, marketed, distributed, offered to sell and/or sold the
24 Products in California since at least June 30, 2023 with respect to the Hold'em genuine leather
25 weight lifting belts; since at least July 13, 2023 with respect to the Northwest Survival waterproof
26 backpacks; since at least July 31, 2023 with respect to Bright Star Products faux plants; and since
27 at least October 2, 2023 with respect to the *Lundberg Family Farms®* organic brown jasmine rice.
28

1 The Products continue to be distributed and sold in California without the requisite warning
2 information.

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

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

12 **SATISFACTION OF NOTICE REQUIREMENTS**

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

16 29. The Northwest Survival waterproof backpacks were sent to a testing laboratory for
17 phthalate testing to determine the phthalate content of the Product; the Hold'em genuine leather
18 weight lifting belts were sent to a testing laboratory to determine the chromium (VI) content of the
19 Product; the *Lundberg Family Farms*® organic brown jasmine rice was sent to a testing laboratory
20 to determine if, and what amount of, lead a consumer would be exposed to per serving size; and
21 the Bright Star Products faux plants were sent to a testing laboratory to determine if, and what
22 amount of, lead would migrate and/or leach from the Product.

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 *Lundberg Family Farms*® organic brown jasmine
26 rice and the Bright Star Products faux plants expose users and/or consumers to lead; the Northwest
27 Survival waterproof backpacks expose users to DEHP; and the Hold'em genuine leather weight
28 lifting belts exposes users to CrVI.

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, CrVI, 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 June 30, 2023, Plaintiff received from the analytical chemist an exposure
7 assessment report for the Hold'em genuine leather weight lifting belts that concluded that persons
8 in California who use the Hold'em genuine leather weight lifting belts will be exposed to levels of
9 CrVI that require a Proposition 65 exposure warning. On July 13, 2023, Plaintiff received from
10 the analytical chemist an exposure assessment report for the Northwest Survival waterproof
11 backpacks that concluded that persons in California who use the Northwest Survival waterproof
12 backpacks will be exposed to levels of DEHP that require a Proposition 65 exposure warning. On
13 July 31, 2023, Plaintiff received from the analytical chemist an exposure assessment report for the
14 Bright Star Products faux plants that concluded that persons in California who use the Bright Star
15 Products faux plants will be exposed to levels of lead that require a Proposition 65 exposure
16 warning. On October 2, 2023, Plaintiff received from the analytical chemist an exposure
17 assessment report for the *Lundberg Family Farms*® organic brown jasmine rice that concluded
18 that persons in California who consumer the *Lundberg Family Farms*® organic brown jasmine
19 rice will be exposed to levels of lead that require a Proposition 65 exposure warning.

20 33. On June 30, 2023 (Hold'em genuine leather weight lifting belts), July 13, 2023
21 (Northwest Survival waterproof backpacks), July 31, 2023 (Bright Star Products faux plants), and
22 October 2, 2023 (*Lundberg Family Farms*® organic brown jasmine rice), Plaintiff gave notice of
23 alleged violation of Health and Safety Code § 25249.6 (collectively, the "Notices" and each a
24 "Notice") to Defendant concerning the exposure of California citizens to lead, CrVI, and/or DEHP
25 contained in the Products without proper warning, subject to a private action to Defendant and to
26 the California Attorney General's office and the offices of the County District attorneys and City
27 Attorneys for each city with a population greater than 750,000 persons wherein the herein
28

violations allegedly occurred. See attached at Exhibits “A” – “D” a true and correct copy of the Notices.

34. The Notices complied with all procedural requirements of Proposition 65 including the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at least one person with relevant and appropriate expertise who reviewed relevant data regarding lead, CrVI, and/or DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a private action.

35. After receiving the Notices, and to Plaintiff’s best information and belief, none of the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged violations which are the subject of the Notices.

36. Plaintiff is commencing this action more than sixty (60) days from the date of each Notice to Defendant, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiff against Defendant for the Violation of Proposition 65)

37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of this Complaint as though fully set forth herein.

38. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of the Products.

39. Use of the Products will expose users to lead, CrVI, and/or DEHP, hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to human health.

40. The Products do not comply with the Proposition 65 warning requirements.

41. Plaintiff, based on her best information and belief, avers that at all relevant times herein, and since at least June 30, 2023 with respect to the Hold’em genuine leather weight lifting belts; since at least July 13, 2023 with respect to the Northwest Survival waterproof backpacks; since at least July 31, 2023 with respect to Bright Star Products faux plants; and since at least October 2, 2023 with respect to the *Lundberg Family Farms®* organic brown jasmine rice, continuing until the present, that Defendant has continued to knowingly and intentionally expose

1 California users and consumers of the Products to lead, CrVI, and/or DEHP without providing
2 required warnings under Proposition 65.

3 42. The exposures that are the subject of the Notices result from the purchase,
4 acquisition, handling, consumption, and recommended use of the Products. The primary route of
5 exposure to lead in ceramic products, CrVI, and/or DEHP is through dermal absorption directly
6 through the skin when consumers use, touch, or handle the Products. Exposure through ingestion
7 will occur by touching the Products with subsequent touching of the user's hand to mouth. The
8 primary route of exposure to lead in food products is through ingestion. When foods contaminated
9 with lead are consumed, ingestion of lead will occur which will increase blood lead levels. No
10 clear and reasonable warning is provided with the Products regarding the health hazards of
11 exposure.

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

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

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

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

23 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
24 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: June 28, 2024

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

9595 Wilshire Boulevard, Suite 900

Beverly Hills, CA 90212

16 Telephone: (877) 534-2590

17 Facsimile: (310) 247-0160

18 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

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www.brodkysmith.com

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CHERRY HILL, NJ 08934
856.795.7250

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

June 30, 2023

President/CEO BSD Belts, Inc. 18 Hayes Ct., Unit 201 Monroe, NY 10950	President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
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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 Precila Balabbo ("Balabbo"), 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, Balabbo 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.

I. DESCRIPTION OF THE VIOLATION

- 1. Enforcer:** Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph)818-434-4023.
- 2. Alleged Violator(s):** BSD Belts, Inc.; Walmart, Inc.

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.

3. **Time Period of Exposure:** Violations have been occurring since at least June 30, 2023 and are continuing to this day.
4. **Listed Chemical:** Chromium (VI). Chromium (VI) is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity and cancer.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Weight Lifting Belt	Hold'em Genuine Leather Weight Lifting Belt

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 Balabbo 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, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Balabbo 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

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 Balabbo'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.

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

July 13, 2023

President/CEO Black Mountain Products, Inc. c/o Godfrey, Liebsle, Blackburn & Howarth, S.C. 354 Seymour Ct. Elkhorn, WI 53121-4236	President/CEO Black Mountain Products, Inc. 975 Koopman Lane Elkhorn, WI 53121-2023
President/CEO Black Mountain Products, Inc. c/o Patricia Weidner 7016 Johnsbury Road Spring Grove, IL 60081	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 Precila Balabbo ("Balabbo"), 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, Balabbo 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:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Black Mountain Products, Inc.; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least July 13, 2023 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
Waterproof Backpack	Northwest Survival Waterproof Backpack

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 Balabbo 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, Balabbo 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 Balabbo'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.

Balabbo 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 'EJ 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

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

July 31, 2023

Member/Manager Bright Star Products, L.L.C. c/o CT Corporation System 124 West Capitol Avenue, Suite 1900 Little Rock, AR 72201	Member/Manager Bright Star Products, L.L.C. c/o CT Corporation System 124 West Capitol Avenue, Suite 1900 Little Rock, MN 72201-7220
Member/Manager Bright Star Products, L.L.C. Limited c/o CT Corporation System 124 West Capitol Avenue, Suite 1900 Little Rock, MN 72201-7220	Member/Manager Bright Star Products, L.L.C. 2996 Centre Pointe drive Roseville, MN 55113-5511
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 Precila Balabbo ("Balabbo"), 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, Balabbo 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

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.

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:** Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Bright Star Products, L.L.C.; Bright Star Products, L.L.C. Limited; Walmart Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least July 31, 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:**

Product ²	Non- Exclusive Examples of the Product
Faux Plant	Bright Star Products Faux Plant UPC# 810084667712

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

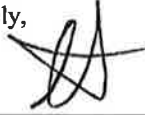
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure 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 Balabbo'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, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Balabbo 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 'EJ 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

EXHIBIT “D”

LAW OFFICES
BRODSKY SMITH

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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 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

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

October 2, 2023

President/CEO Wehah Farm, Inc. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	President/CEO Wehah Farm, Inc. dba Lundberg Family Farms c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Walmart, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

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 Precila Balabbo ("Balabbo"), 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, Balabbo 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:** Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Wehah Farm, Inc.; Wehah Farm, Inc. dba Lundberg Family Farms; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least October 2, 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 birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Organic Brown Jasmine Rice	Organic Brown Jasmine Rice UPC# 073416533103

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 Balabbo 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, Balabbo 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 Balabbo'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.

Balabbo 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