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4 Environmental Health Advocates, Inc.

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

6 **IN AND FOR THE COUNTY OF ALAMEDA**

7 ENVIRONMENTAL HEALTH ADVOCATES,  
8 INC.,

9 Plaintiff,

0 v.

1 DASTMALCHI LLC, a Nevada limited liability  
2 company; and DOES 1 through 100, inclusive,

3 Defendants.

Case No.: **23CV048941**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendant's failure to inform the People of exposure to Di(2-ethylhexyl) phthalate  
5 (“DEHP”), a known carcinogen. Defendant exposes consumers to DEHP by manufacturing, importing,  
6 selling, and/or distributing bags including, but not limited to, Vanity Planet - Bolsa Makeup Bag  
7 (“Products”). Defendant knows and intends that customers will dermally absorb or ingest Products  
8 containing DEHP.

9           2.       Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California  
10 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing  
11 business shall knowingly and intentionally expose any individual to a chemical known to the state to  
12 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
13 individual. . . .” (Health & Safety Code, § 25249.6.)

14           3.       California identified and listed DEHP as a chemical known to cause cancer as early as  
15 January 1, 1988, and as a chemical known to cause developmental/reproductive toxicity on October 24,  
16 2003.

17           4.       Defendant failed to sufficiently warn consumers and individuals in California about  
18 potential exposure to DEHP in connection with Defendant's manufacture, import, sale, or distribution  
19 of Products. This is a violation of Proposition 65.

20           5.       Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in  
21 California before exposing them to DEHP in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff  
22 also seeks civil penalties against Defendant for violations of Proposition 65 along with attorney’s fees  
23 and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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25           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a  
26 corporation in the State of California dedicated to protecting the health of California citizens through  
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
28 interest pursuant to Health and Safety Code, section 25249.7.



1 **IV.**  
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

6 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that  
7 cause cancer, birth defects, and other reproductive harm.

8 15. Defendant manufactured, imported, sold, and/or distributed Products containing DEHP  
9 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such  
10 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the  
11 future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendant failed to  
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed  
14 to DEHP through reasonably foreseeable use of the Products.

15 17. Products expose individuals to DEHP through dermal absorption and ingestion. This  
16 exposure is a natural and foreseeable consequence of Defendant placing Products into the stream of  
17 commerce. As such, Defendant intends that consumers will dermally absorb or ingest Products,  
18 exposing them to DEHP.

19 18. Defendant knew or should have known that the Products contained DEHP and exposed  
20 individuals to DEHP in the ways provided above. The Notice informed Defendant of the presence of  
21 DEHP in the Products. Likewise, media coverage concerning DEHP and related chemicals in consumer  
22 products provided constructive notice to Defendant.

23 19. Defendant's actions in this regard were deliberate and not accidental.

24 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a  
25 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff  
26 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
27 The Notice alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in  
28 California of the health hazards associated with exposures to DEHP contained in the Products.

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