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ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**10/23/2023**  
Clerk of the Court  
BY: KALENE APOLONIO  
Deputy Clerk

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

14 UNLIMITED CIVIL JURISDICTION

15 KEEP AMERICA SAFE AND BEAUTIFUL,

16 Plaintiff,

17 v.

18 KINGPIN TATTOO SUPPLY, LLC; and  
19 DOES 1-30, inclusive,

20 Defendants.

Case No.

**CGC-23-609937**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

Violation of Proposition 65, The Safe  
Drinking Water and Toxic Enforcement Act  
of 1986 (Health & Safety Code § 25249.5 *et*  
*seq.*)

UNLIMITED CIVIL

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a  
2 cause of action against Defendants KINGPIN TATTOO SUPPLY, LLC and DOES 1-30.

3 **INTRODUCTION AND NATURE OF THE ACTION**

4 1. This Complaint is a representative action brought by plaintiff Keep America Safe and  
5 Beautiful (“**KASB**”) in the public interest of the citizens of the State of California to enforce the  
6 People’s right to be informed of the health hazards caused by exposures to di(2-ethylhexyl) phthalate  
7 (“**DEHP**”), a toxic chemical found in and on the vinyl /PVC aprons manufactured, imported,  
8 distributed, sold or offered for sale by Defendants in the State of California.

9 2. By this Complaint, plaintiff seeks to remedy Defendants’ continuing failure to warn  
10 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*  
11 (“**consumers**”) they are being exposed to substances known to the State of California to cause birth  
12 defects or other reproductive harm through exposures to DEHP, when they purchase, use or handle  
13 Defendants’ vinyl /PVC aprons.

14 3. Detectable levels of DEHP are found in and on the vinyl/PVC aprons that Defendants  
15 manufacture, import, sell or distribute for sale to individuals throughout California.

16 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
17 Health and Safety Code § 25249.6 *et seq.* (“**Proposition 65**”), it is unlawful for a person in the course  
18 of doing business to knowingly and intentionally expose consumers in California to chemicals known  
19 to the State to cause cancer, birth defects or other reproductive harm, without first providing a “clear  
20 and reasonable” health hazard warning to such individuals prior to purchase or use.

21 5. KASB contends and alleges Defendants manufacture, distribute, import, sell, and  
22 offer for sale, in and into California vinyl/PVC aprons (“**PRODUCTS**”) containing DEHP, without  
23 Proposition 65’s requisite health hazard warning regarding the harms associated with exposures to  
24 the chemical, including, but not limited to, the *Half Body Tattoo Apron-Black, SKU: TA-HB-BLK*.  
25 Defendants’ conduct subjects them to civil penalties for each violation, enjoinder as well as  
26 preliminary and permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).

1 PARTIES

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

9 7. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
10 KINGPIN TATTOO SUPPLY, LLC (“**KINGPIN**”) was and is a “person” “in the course of doing  
11 business” with ten (10) or more employees, within the meanings of Health and Safety Code  
12 §§ 25249.6 and 25249.11.

13 8. KINGPIN manufactures, imports, distributes, sells, and/or offers the PRODUCTS for  
14 sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
15 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

16 9. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person  
17 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and  
18 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and  
19 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS  
20 offered for sale or use in California.

21 10. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in  
22 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
23 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each  
24 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or  
25 retailers for sale or use in the State of California.

26 11. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the  
27 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
28

1 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the PRODUCTS  
2 for sale to individuals in the State of California.

3 12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are  
4 unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names, pursuant  
5 to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, each  
6 of the fictitiously named Defendants is responsible in some manner for the acts and occurrences  
7 alleged herein and the damages caused thereby. When ascertained, their true names and capacities  
8 shall be reflected in an amended complaint.

9 13. At all times mentioned herein, KINGPIN, MANUFACTURER DEFENDANTS,  
10 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, hereinafter, where  
11 appropriate, be referred to collectively as the “DEFENDANTS.”

12 **JURISDICTION AND VENUE**

13 14. This Court has jurisdiction over this action, pursuant to Cal. Health & Safety Code  
14 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior  
15 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,  
16 which grants the Superior Court “original jurisdiction in all causes except those given by statute to  
17 other trial courts.” The statute under which this action is brought does not specify any other basis of  
18 subject matter jurisdiction.

19 15. The California Superior Court has jurisdiction over DEFENDANTS, based on  
20 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation or  
21 association that is a citizen of the State of California, does sufficient business in California, has  
22 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail  
23 themselves of the California market through their manufacture, importation, distribution, promotion,  
24 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful availment renders  
25 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair  
26 play and substantial justice.

27 16. Venue is proper in the Superior Court for the County of San Francisco, pursuant to  
28 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent

1 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more  
2 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
3 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with  
4 respect to the PRODUCTS that are the subject of this action.

5 **REGULATORY BACKGROUND AND LAW**

6 17. In 1986, the people of the State of California approved an initiative addressing the  
7 harms caused by hazardous chemicals and declared their right “[t]o be informed about exposures to  
8 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed  
9 General Law, Gen. Elec. (Nov. 4, 1986) at p.3.

10 18. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
11 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o  
12 person in the course of doing business shall knowingly and intentionally expose any individual to a  
13 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
14 warning to such individual...”

15 19. Under the Act, a “person in the course of doing business” is defined as a business with  
16 ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from  
17 exposing individuals to hazardous chemicals without first giving a “clear and reasonable” warning.  
18 Health & Safety Code § 25249.6.

19 20. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
20 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR  
21 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s  
22 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”  
23 27 C.C.R. § 25600(h).

24 21. Under Proposition 65, persons violating the statute may be enjoined in any court of  
25 competent jurisdiction and may be subject to civil penalties of up to \$2,500 per day, per violation.  
26 Health & Safety Code § 25249.7.

27 22. On October 24, 2003, pursuant to Proposition 65’s implementing regulations,  
28 California identified and listed DEHP as a chemical known to the State cause birth defects and

1 reproductive harm. DEHP became subject to the “clear and reasonable warning” requirements one  
2 year later, on October 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code  
3 §§ 25249.8, 25249.10(b).

#### 4 **STATEMENT OF FACTS**

5 23. Plaintiff purchased DEFENDANTS’ PRODUCTS, without a warning, in California.

6 24. Plaintiff investigated and tested DEFENDANTS’ PRODUCTS at an accredited lab,  
7 and consulted with a person with relevant and appropriate knowledge and expertise, who, after  
8 reviewing the collected data and analyzing the risk of exposure to DEHP, determined the  
9 PRODUCTS subject consumers in California to exposure to the listed chemical at levels requiring a  
10 warning under the statute, based on touching, handling or otherwise utilizing PRODUCTS in  
11 accordance with their reasonably foreseeable and intended usages.

12 25. Based on the foregoing, Plaintiff’s attorney executed a certificate of merit, attesting  
13 there was a reasonable and meritorious case for this private action and included the factual  
14 information supporting the certificate when it served the notice on the California Attorney General’s  
15 Office, as required. Health & Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

16 26. Thereafter, on March 17, 2023, plaintiff served a 60-Day Notice of Violation  
17 (“**Notice**”), together with the certificate of merit, on KINGPIN, the California Attorney General’s  
18 Office, and the requisite public enforcement agencies, alleging, as a result of DEFENDANTS’ sales  
19 of the PRODUCTS, consumers in the State of California were, and are, being exposed to DEHP  
20 through their reasonably foreseeable use of the PRODUCTS as intended without first receiving a  
21 “clear and reasonable warning,” as required by Proposition 65.

22 27. After receiving plaintiff’s Notice, no public enforcement agency has commenced and  
23 is diligently prosecuting a cause of action against DEFENDANTS under Proposition 65 to enforce  
24 the alleged violations that are the subject of the Notice.

#### 25 **FIRST CAUSE OF ACTION**

##### 26 **(Violation of Proposition 65 - Against All DEFENDANTS)**

27 28. KASB realleges and incorporates by reference, as if fully stated herein, the allegations  
28 set forth in Paragraphs 1 through 27, inclusive.

1           29.     DEFENDANTS' PRODUCTS contain DEHP in levels requiring a clear and  
2 reasonable warning under Proposition 65.

3           30.     DEFENDANTS know or should have known the PRODUCTS they manufacture,  
4 import, distribute, sell, and offer for sale in California contain DEHP. As a result of plaintiff's  
5 Notice, DEFENDANTS also have actual knowledge of the presence of DEHP in the PRODUCTS.

6           31.     The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for  
7 sale in or into the State of California cause exposures to DEHP, both direct and/or indirect dermal  
8 contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.

9           32.     The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
10 continues to cause, exposures to DEHP.

11          33.     DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS  
12 exposes individuals to DEHP through direct and indirect dermal contact and/or ingestion.

13          34.     DEFENDANTS intend that exposures to DEHP from the reasonably foreseeable use  
14 of the PRODUCTS will occur by their deliberate, non-accidental participation in the California  
15 marketplace.

16          35.     The exposures to DEHP, caused by DEFENDANTS and endured by consumers and  
17 other individuals in California, are not exempt from the "clear and reasonable" warning requirements  
18 of Proposition 65.

19          36.     DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers  
20 and other individuals in California who have been, or who will be, exposed to DEHP through direct  
21 and indirect dermal contact and/or ingestion resulting from the use of the PRODUCTS as intended.

22          37.     Contrary to the express policy and statutory prohibition of Proposition 65, consumers  
23 and other individuals, exposed to DEHP through dermal contact and ingestion as a result of their use  
24 of the PRODUCTS that DEFENDANTS sold without a "clear and reasonable" health hazard  
25 warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy,  
26 or adequate remedy at law.

27          38.     DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for  
28 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have

1 continued beyond their receipt of plaintiff's Notice. As such, DEFENDANTS' violations are  
2 ongoing and continuous in nature and, unless enjoined, will continue in the future.

3 39. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-  
4 described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500  
5 per day for each violation.

6 40. As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)  
7 also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

8 **PRAYER FOR RELIEF**

9 Wherefore, KASB prays for relief and judgment against DEFENDANTS, and each of them,  
10 as follows:

11 1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
12 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or  
13 otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and  
14 reasonable warning" to consumers addressing the harms associated with exposures to DEHP;

15 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary  
16 and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain  
17 of commerce in California that do not bear a clear and reasonable health hazard warning;

18 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the  
19 amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

20 4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit, incurred  
21 herein; and

22 5. That the Court grant any further relief as it deems just and equitable.

23 Dated: October 23, 2023

Respectfully submitted,

24 SEVEN HILLS LLP

25  
26 By:  \_\_\_\_\_

Laralei Paras

Attorneys for Plaintiff

*Keep America Safe and Beautiful*