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Superior Court of California,  
County of Los Angeles  
3/22/2024 10:09 AM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Ayala, Deputy Clerk

7 Attorney for MONARCH LLC

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11  
12 MONARCH LLC, ) Unlimited Jurisdiction  
13 )  
14 Plaintiff, )  
15 vs. ) CASE NO. **24STCV07239**  
16 )  
17 TOTAL RESOURCES INTERNATIONAL, ) COMPLAINT FOR CIVIL PENALTY AND  
INC.; and DOES 1 through 100, ) INJUNCTIVE RELIEF  
18 Defendants. ) (Health & Safety Code § 25249.5 et seq.)  
19 )  
20 )  
21 )  
22 )

1 Plaintiff, MONARCH LLC, hereby alleges:

2 **I. PRELIMINARY STATEMENT**

3 1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure  
4 to Diisononyl Phthalate (“DINP”), a chemical known to the State of California to cause cancer.

5 2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety  
6 Code § 25249.6 (also known as “Proposition 65”) businesses must provide persons with a “clear and  
7 reasonable warning” before exposing individuals to chemicals known to the state to cause cancer, birth  
8 defects or other reproductive harm.

9 3. Plaintiff alleges a violation of Proposition 65 in product(s) sold by Defendants without  
10 first giving clear and reasonable warning.

11 **II. PARTIES**

12 4. Plaintiff is a limited liability company formed pursuant to the laws of the State of  
13 California, made up of California citizens, represented by and through its counsel of record, the  
14 Greenbaum Law Firm.

15 5. Health & Safety Code § 25249.7(d) provides that actions to enforce Proposition 65 may  
16 be brought by “any person in the public interest.”

17 6. Defendant TOTAL RESOURCES INTERNATIONAL, INC., is a business entity with  
18 ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
19 distribution, or sale of first aid kits manufactured by or for Defendant, imported by or for Defendant,  
20 or distributed or sold by or for Defendant, including, but not limited to, Be Smart Get Prepared 201  
21 Piece First Aid Kit that contain DINP, for sale within the State of California, without first giving clear  
22 and reasonable warning.

23 7. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,  
24 Plaintiff suspects they are business entities with at least ten or more employees that at all times relevant  
25 to this complaint, authorized the manufacture, distribution, or sale of first aid kits manufactured by or  
26 for Defendant, imported by or for Defendant, or distributed or sold by or for Defendant, including, but  
27

1 not limited to, Be Smart Get Prepared 201 Piece First Aid Kit, that contain DINP, for sale within the  
2 State of California, without first giving clear and reasonable warning.

3 8. Defendants named in paragraphs 6 through 8 have at all times relevant to this complaint,  
4 authorized the manufacture, distribution, or sale of first aid kits manufactured by or for Defendant,  
5 imported by or for Defendant, or distributed or sold by or for Defendant, including, but not limited to,  
6 Be Smart Get Prepared 201 Piece First Aid Kit, that contain DINP (hereinafter “PRODUCT”), for sale  
7 within the State of California, without first giving clear and reasonable warning.

8 **III. JURISDICTION AND VENUE**

9 9. This Court has jurisdiction pursuant to California Constitution Article VI, section 10,  
10 because this case is a cause not given by statute to other trial courts.

11 10. This Court has jurisdiction over Defendants, because they are business entities that do  
12 sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail  
13 themselves of the California market, through the sale, marketing, and use of its products in California,  
14 to render the exercise of jurisdiction over it by the California courts consistent with traditional notions  
15 of fair play and substantial justice.

16 11. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles  
17 County because Defendant’s products are sold and consumed in this county.

18 **IV. STATUTORY BACKGROUND**

19 12. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
20 passed as “Proposition 65” by a vote of the people in November of 1986.

21 13. The warning requirement of Proposition 65 is contained in Health & Safety Code §  
22 25249.6, which provides:

23 No person in the course of doing business shall knowingly and intentionally  
24 expose any individual to a chemical known to the state to cause cancer or  
25 reproductive toxicity without first giving clear and reasonable warning to  
26 such individual, except as provided in Section 25249.10.

1 14. An exposure to a chemical in a consumer product is one “which results from a person’s  
2 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good,  
3 or any exposure that results from receiving a consumer service.” (27 CCR 25602(b))

4 15. Proposition 65 establishes a procedure by which the State develops a list of chemicals  
5 “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code § 25249.8.)

6 16. No warning need be given concerning a listed chemical until one year after the chemical  
7 first appears on the list. (Health & Safety Code § 25249.10(b).)

8 17. Any person “violating or threatening to violate” the statute may be enjoined in any court  
9 of competent jurisdiction. (Health & Safety Code, § 25249.7.)

10 18. To “threaten to violate” is defined to mean “to create a condition in which there is a  
11 substantial probability that a violation will occur.” (Health & Safety Code § 25249.11(e).)

12 19. In addition, violators are liable for civil penalties of up to \$2,500 per day for each  
13 violation, recoverable in a civil action. (Health & Safety Code § 25249.7 (b).)

14 20. Actions to enforce the law “may be brought by the Attorney General in the name of the  
15 People of the State of California [or] by any district attorney [or] by any City Attorney of a City having  
16 a population in excess of 750,000 . . .” (Health & Safety Code § 25249.7(c).)

17 21. Private parties are given authority to enforce Proposition 65 “in the public interest,” but  
18 only if the private party first provides written notice of a violation to the alleged violator, the Attorney  
19 General, and every District Attorney in whose jurisdiction the alleged violation occurs.

20 22. If no public prosecutors commence enforcement within sixty days, then the private party  
21 may sue. (Health & Safety Code § 25249.7(d).)

## 22 V. FACTS

23 23. DINP was placed on the Governor’s list of chemicals known to the State to cause cancer  
24 on December 20, 2013. (27 CCR 27001(b))

25 24. Defendant TOTAL RESOURCES INTERNATIONAL, INC. has a business  
26 relationship with the online retail platform [www.walmart.com](http://www.walmart.com).

27 25. Plaintiff purchased the PRODUCT from Walmart.com on or about May 12, 2023.

1           26.     Walmart.com facilitated and completed the financial transaction and managed delivery  
2 of the PRODUCT.

3           27.     The PRODUCT’S online listing did not contain or present a Proposition 65 warning  
4 label prior to purchase, see Exhibit A.

5           28.     On or about June 26, 2023, Plaintiff’s expert prepared a report summarizing the results  
6 of analysis on the PRODUCT, including the amount of the DINP in the PRODUCT.

7           29.     Based on the levels, Plaintiff’s expert opined that use of the PRODUCT would lead to  
8 exposure to DINP above the safe harbor levels set by the Office of Environment Health Hazard  
9 Assessment (OEHHA).

10          30.     Based on that report and opinion, and lack of warning labels on the PRODUCT, Plaintiff  
11 and its counsel prepared a Sixty Notice of Violation.

12          31.     Pursuant to the statute and regulations referenced above, on October 9, 2023, Plaintiff  
13 served the Notices of Violation on the Office of the Attorney General, Defendant, as well as all required  
14 public agencies.

15          32.     Plaintiff is unaware of any governmental prosecution against Defendant.

16          33.     At least sixty (60) days have elapsed since service of the Notice of Violation.

17          34.     Based upon consultation with experts, Plaintiff alleges that individuals who purchase,  
18 handle, or use the PRODUCT are exposed to DINP chiefly through:

19               a.     contact between the item and the skin;

20               b.     transfer of DINP from the skin to the mouth, both by transfer of DINP directly  
21 from the hand to mouth, and indirectly by transfer of DINP from the skin to objects that are  
22 placed in the mouth, such as food; and

23               c.     through absorption of DINP through the skin.

24          35.     Such individuals are thereby exposed to the DINP that is present on or in the PRODUCT  
25 during the intended and reasonably foreseeable use of the PRODUCT.

26  
27  
28

1 36. At all times material to this complaint, Defendant has had knowledge that the  
2 PRODUCT contains DINP and that an individual's skin may contact DINP through the intended and  
3 reasonably foreseeable use of the PRODUCT.

4 37. At all times material to this complaint, Defendant has had knowledge that individuals  
5 within the State of California handle the PRODUCT, which contains DINP.

6 38. At all times material to this complaint, Defendant knew that the PRODUCT was sold  
7 throughout the State of California, and Defendant profited from such sales.

8 39. Notwithstanding this knowledge, Defendant intentionally authorized and reauthorized  
9 the sale of the PRODUCT, thereby exposing consumers to DINP.

10 40. At all times material to this complaint, therefore, Defendant has knowingly and  
11 intentionally exposed individuals within the State of California to DINP.

12 41. The exposure is knowing and intentional because it is the result of the Defendant's  
13 deliberate act of authorizing the sale of products known to contain DINP, in a manner whereby these  
14 products were, and would inevitably be, sold to consumers within the state of California, and with the  
15 knowledge that the intended use of this PRODUCT would result in exposures to DINP by individuals  
16 within the State of California.

17 42. Defendant has failed to provide clear and reasonable warnings that the use of the  
18 PRODUCT in question in California results in exposure to a chemical known to the State of California  
19 to cause cancer, and no such warning was provided to those individuals by any other person.

20 **VI. FIRST CAUSE OF ACTION**

21 **(Against All Defendants for Violation of Proposition 65)**

22 43. Plaintiff incorporates and re-alleges by reference all the foregoing paragraphs as if fully  
23 set forth herein.

24 44. By committing the acts alleged above, Defendant has, in the course of doing business,  
25 knowingly and intentionally exposed individuals in California to chemicals known to the State of  
26 California to cause cancer or reproductive toxicity without first giving clear and reasonable warning to  
27 such individuals, within the meaning of Health & Safety Code § 25249.6.

1 45. Said violations renders Defendant liable to Plaintiff for civil penalties not to exceed  
2 \$2,500 per day for each violation, as well as other remedies.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays that the Court:

5 1. Pursuant to the First Cause of Action, grant civil penalties of \$2,500.00 per violation  
6 per day, going back one year from the date of filing, which as of the date of filing is at least  
7 \$2,500.00.

8 2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders,  
9 preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from  
10 exposing persons within the State of California to Listed Chemicals caused by the use of their  
11 products without providing clear and reasonable warnings, as Plaintiffs shall specify in further  
12 application to the court;

13 3. Award Plaintiff the costs of suit;

14 4. Pursuant to Code of Civil Procedure § 1021.5, award Plaintiff their reasonable  
15 attorney's fees and costs of at least \$25,000.00 as of the filing of this Complaint, and an  
16 anticipated additional \$7,500.00 of attorney's fees to obtain a default judgment, if a default is  
17 entered; and

18 5. Grant such other and further relief as the court deems just and proper.

19  
20 Respectfully submitted,

21 DATED: March 22, 2024

22 GREENBAUM LAW FIRM

23  
24 

25  
26 By: DANIEL N. GREENBAUM  
27 Attorney for Plaintiff  
28 MONARCH LLC

# **EXHIBIT A**





Roll over image to zoom in



## About this item

### Product details

#### Be Smart Get Prepared 201 Piece First Aid Kit - Emergency, Home, Car, Misc

- Manufactured by the #1 leading manufacturer of first Aid kits in the USA. 303 pieces of comprehensive first aid treatment products.
- Meets United States FDA regulatory standards as a medical device. Ideal for most businesses and perfect for family Use at home or travel.
- Fully organized interior compartments provides quick access. The case is rugged, sturdy, high density, and impact resistant.
- Compact size case measures 8.5 inch by 7 inch by 3 1/2, is portable and can easily fit anywhere.
- Case includes a adjustable and removable shoulder strap and a convenient carry handle. Removable inner Mini Pouch for first aid on the go

① We aim to show you accurate product information. Manufacturers, suppliers and others provide what you see here, and we have not verified it. [See our disclaimer](#)

### Specifications

#### Brand

Be Smart Get Prepared

#### Manufacturer Part Number

10OUT02012

#### Assembled Product Weight

1.8 lb

#### Manufacturer

Be Smart Get Prepared

★★★★★ Verified Purchaser 7/27/2021

Love it strong and durable  
JACQUELINE

👍 0 🗨️ 0

★★★★☆ Verified Purchaser 11/15/2020

**poor packaging**

When we received the package it look liked it was used because it was stuffed and I mean stuffed into a small priority package that barely fit the item. The box was crushed and it looked like dirt and dust got on it. I cleaned it up because this is a gift and my daughter thought when we opened it that it was used or a return.

gram  
👍 0 🗨️ 0

See all reviews

❤️

[Be Smart Get Prepared](#)  
**Be Smart Get Prepared 201 Piece First Aid Kit -  
 Emergency, Home, Car, Misc**

★★★★☆ (4.0) 2 reviews

**\$34.97**

Price when purchased online ⓘ

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