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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

07/17/2024
Clerk of the Court
BY: LAURA SIMMONS
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 **CGC-24-616498**

12 EMA BELL,

13 Plaintiff,

14 vs.

15 HOBBY LOBBY STORES, INC.,

16 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

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

19 **BACKGROUND OF THE CASE**

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

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

1 3. DEHP¹ and lead² are harmful chemicals known to the State of California to cause
2 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) *Sewology*® quilters tape measures, # 783993 (DEHP),
17 (b) large shell gift plastic bags, Item # 375238, (DEHP), (c) *Sewology*® Stitch At a Time mugs, #
18 2228286, (lead), and (d) Hobby Lobby Farm Fresh enamel mugs, # 1562859, (lead) (collectively,
19 the “Products” and each a “Product”) that expose persons to lead and/or DEHP when used for their
20 intended purpose.

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

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

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

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

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

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

20 **FACTUAL BACKGROUND**

21 21. On January 1, 1988, the State of California listed DEHP as a chemical known to
22 the State to cause cancer and it has come under the purview of Proposition 65 regulations since
23 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24
25
26
27 ³ 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 On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth
2 defects or other reproductive harm.

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

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

14 24. Defendant has processed, marketed, distributed, offered to sell and/or sold the
15 Products in California since at least October 25, 2023 with respect to the *Sewology*® quilters tape
16 measures and the large shell gift plastic bags; since at least November 3, 2023 with respect to the
17 *Sewology*® Stitch At a Time mugs; and since at least March 13, 2024 with respect to the Hobby
18 Lobby Farm Fresh enamel mugs. The Products continue to be distributed and sold in California
19 without the requisite warning information.

20 25. At all times relevant to this action, Defendant has knowingly and intentionally
21 exposed users and/or consumers of the Products to lead and/or DEHP without first giving a clear
22 and reasonable exposure warning to such individuals.

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

SATISFACTION OF NOTICE REQUIREMENTS

1
2 27. Plaintiff purchased the Products from Hobby Lobby Stores, Inc. At the time of
3 purchase, Defendant did not provide a Proposition 65 exposure warning for lead, DEHP, or any
4 other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
5 *supra*.

6 28. The *Sewology*® quilting tape measures and the large shell gift plastic bags were
7 sent to a testing laboratory for phthalate testing to determine the phthalate content of the Product;
8 and the *Sewology*® Stitch At a Time mugs and the Hobby Lobby Farm Fresh enamel mugs were
9 sent to a testing laboratory to determine if, and what amount of, lead would migrate and/or leach
10 from the Products.

11 29. For each Product that was sent to the laboratory, Plaintiff received a chemical test
12 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The
13 Chemical Test Reports findings determined the *Sewology*® Stitch At a Time mugs and the Hobby
14 Lobby Farm Fresh enamel mugs expose users to lead; and the *Sewology*® quilting tape measures
15 and the large shell gift plastic bags expose users to DEHP.

16 30. Plaintiff provided each Chemical Test Report and each Product to an analytical
17 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable
18 and foreseeable use of the Products, exposure to lead and/or DEHP will occur at levels that require
19 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
20 the California Code of Regulations.

21 31. On October 25, 2023, Plaintiff received from the analytical chemist an exposure
22 assessment report for the *Sewology*® quilting tape measures and the large shell gift plastic bags
23 that concluded that persons in California who use the *Sewology*® quilting tape measures and the
24 large shell gift plastic bags will be exposed to levels of DEHP that require a Proposition 65
25 exposure warning. On November 3, 2023, Plaintiff received from the analytical chemist an
26 exposure assessment report for the *Sewology*® Stitch At a Time mugs that concluded that persons
27 in California who use the *Sewology*® Stitch At a Time mugs will be exposed to levels of lead that
28 require a Proposition 65 exposure warning. On March 13, 2024, Plaintiff received from the

1 analytical chemist an exposure assessment report for the Hobby Lobby Farm Fresh enamel mugs
2 that concluded that persons in California who use the Hobby Lobby Farm Fresh enamel mugs will
3 be exposed to levels of lead that require a Proposition 65 exposure warning.

4 32. On October 25, 2023 (*Sewology*® quilters tape measures and large shell gift plastic
5 bags), November 3, 2023 (*Sewology*® Stitch At a Time mugs), and March 13, 2024 (Hobby Lobby
6 Farm Fresh enamel mugs), Plaintiff gave notice of alleged violation of Health and Safety Code §
7 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning the exposure
8 of California citizens to lead and/or DEHP contained in the Products without proper warning,
9 subject to a private action to Defendant and to the California Attorney General’s office and the
10 offices of the County District attorneys and City Attorneys for each city with a population greater
11 than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits
12 “A” – “D” a true and correct copy of the Notices.

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

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

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

24 **FIRST CAUSE OF ACTION**

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

26 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of
27 this Complaint as though fully set forth herein.

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

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

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

6 40. Plaintiff, based on her best information and belief, avers that at all relevant times
7 herein, and since at least October 25, 2023 with respect to the *Sewology*® quilting tape measures
8 and the large shell gift plastic bags; since at least November 3, 2023 with respect to the *Sewology*®
9 Stitch At a Time mugs; and since at least March 13, 2024 with respect to the Hobby Lobby Farm
10 Fresh enamel mugs, continuing until the present, that Defendant has continued to knowingly and
11 intentionally expose California users and consumers of the Products to lead and/or DEHP without
12 providing required warnings under Proposition 65.

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

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

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

26 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
27 Complaint.

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

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

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
7 relief:

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

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

13 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
14 amount of \$50,000.00.

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

16 Dated: July 17, 2024

BRODSKY SMITH

17 By: 

18 Evan J. Smith (SBN242352)
19 Ryan P. Cardona (SBN302113)
20 9465 Wilshire Boulevard, Suite 300
21 Beverly Hills, CA 90212
22 Telephone: (877) 534-2590
23 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT “A”

LAW OFFICES
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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

October 25, 2023

President/CEO Hobby Lobby Stores, Inc. c/o Kathie Craig 18400 Von Karman Ave., Suite 800 Irvine, CA 92612	President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 10300 Greenbriar Place Oklahoma City, OK 73159
President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	

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):** Hobby Lobby Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least October 25, 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 birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Tape Measure	Sew Ology Quilters Tape Measure 783993

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
BRODSKY SMITH

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

October 25, 2023

President/CEO Hobby Lobby Stores, Inc. c/o Kathie Craig 18400 Von Karman Ave., Suite 800 Irvine, CA 92612	President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 10300 Greenbriar Place Oklahoma City, OK 73159
President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	

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):** Hobby Lobby Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least October 25, 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 birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Plastic Bag	Large Shell Gift Plastic Bag Item# 375238

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.

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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 “C”

LAW OFFICES
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PENNSYLVANIA OFFICE
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610.667.6200

November 3, 2023

President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	President/CEO Hobby Lobby Stores, Inc. c/o Kathie Craig 18400 Von Karman Ave., Suite 800 Irvine, CA 92612
President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 10300 Greenbriar Place Oklahoma City, OK 73159-7653	

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

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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.

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1. **Enforcer:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Hobby Lobby Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least November 3, 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
Mug	Sew-Ology Stitch At A Time Mug 2228286

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 “D”

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

March 13, 2024

President/CEO Hobby Lobby Stores, Inc. c/o Kathie Cragi 18400 Von Karman Ave., Suite 800 Irvine, CA 92612	President/CEO Hobby Lobby Stores, Inc. 7707 SW 44 th Street Oklahoma City, OK 73179
President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 10300 Greenbriar Place Oklahoma City, OK 73159-7653	President/CEO Hobby Lobby Stores, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808

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):** Hobby Lobby Stores, Inc.
- 3. **Time Period of Exposure:** Violations have been occurring since at least March 13, 2024 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
Mug	Hobby Lobby Farm Fresh Enamel Mug 1562859

- 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.

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Sincerely,



Evan J. Smith

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