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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

Attorneys for Plaintiff,
Consumer Protection Group, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CONSUMER PROTECTION GROUP,
LLC, in the public interest,

PLAINTIFF,

v.

THE BETTY MILLS COMPANY, INC;
AND DOES 1 TO 50

DEFENDANTS.

CASE NO. **24STCV12465**

**PLAINTIFF CONSUMER
PROTECTION GROUP, LLC'S
COMPLAINT FOR PENALTY AND
INJUNCTION**

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

UNLIMITED CIVIL
(Demand exceeds \$25,000)

Plaintiff CONSUMER PROTECTION GROUP, LLC alleges a cause of action against
THE BETTY MILLS COMPANY, INC; AND DOES 1 TO 50 (“DEFENDANTS”).

THE PARTIES

1. Plaintiff, CONSUMER PROTECTION GROUP LLC (“Plaintiff” or “CPG”), is
an organization qualified to do business in the State of California. CPG is a person within the
meaning of Health and Safety Code section 25249.11, subdivision (a). CPG, acting as a private

1 attorney general, brings this action in the public interest as defined under Health and Safety
2 Code section 25249.7, subdivision (d).

3 2. Defendant, THE BETTY MILLS COMPANY, INC. (“Defendant” or “BMC”)
4 is a California Corporation, doing business in the State of California at all relevant times herein.

5 3. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
6 under the fictitious names DOES 1 through 50 but will seek leave of this Court to amend the
7 complaint and serve such fictitiously named Defendants once their names and capacities
8 become known.

9 4. Plaintiff is informed and believes, and thereon alleges that Defendant at all times
10 mentioned herein has conducted business within the State of California.

11 5. Upon information and belief, at all times relevant to this action, Defendant was
12 an agent, servant, or employee of the Defendant. In conducting the activities alleged in this
13 Complaint, Defendant was acting within the course and scope of this agency, service, or
14 employment, and was acting with the consent, permission, and authorization of the Defendant.

15 6. Plaintiff is informed, believes, and thereon alleges that at all relevant times the
16 Defendant was a person doing business within the meaning of Health and Safety Code section
17 25249.11, subdivision (b), and that the Defendant had ten (10) or more employees at all
18 relevant times.

19 **JURISDICTION**

20 7. The Court has jurisdiction over this lawsuit pursuant to California Constitution
21 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
22 those given by statute to other trial courts. This Court has jurisdiction over this action pursuant
23 to Health and Safety Code section 25249.7, which allows enforcement of violations of
24 Proposition 65 in any Court of competent jurisdiction.

25 8. This Court has jurisdiction over Defendant named herein because Defendant
26 either resides or is located in this State or are foreign corporations authorized to do business in
27 California, are registered with the California Secretary of State, or who do sufficient business
28

1 in California, have sufficient minimum contacts with California, or otherwise intentionally avail
2 themselves of the markets within California through their manufacture, distribution, promotion,
3 marketing, or sale of their products within California to render the exercise of jurisdiction by
4 the California courts permissible under traditional notions of fair play and substantial justice.

5 9. Venue is proper in the County of Los Angeles because one or more of the
6 instances of wrongful conduct occurred, and continues to occur, in the County of Los Angeles
7 and/or because Defendant conducted, and continues to conduct, business in the County of Los
8 Angeles with respect to the consumer product that is the subject of this action.

9 **BACKGROUND AND PRELIMINARY FACTS**

10 10. In 1986, California voters approved an initiative to address growing concerns
11 about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
12 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed
13 Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic
14 Enforcement Act of 1986, codified at Health and Safety Code sections 25249.5, *et seq.*
15 (“Proposition 65”), helps to protect California’s drinking water sources from contamination, to
16 allow consumers to make informed choices about the products they buy, and to enable persons
17 to protect themselves from toxic chemicals as they see fit.

18 11. Proposition 65 requires the Governor of California to publish a list of chemicals
19 known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
20 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over 700
21 chemicals and chemical families. Proposition 65 imposes warning requirements and other
22 controls that apply to Proposition 65-listed chemicals.

23 12. All businesses with ten (10) or more employees that operate or sell products in
24 California must comply with Proposition 65. Under Proposition 65, businesses are: (1)
25 prohibited from knowingly discharging Proposition 65-listed chemicals into sources of drinking
26 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and reasonable”
27
28

1 warnings before exposing a person, knowingly and intentionally, to a Proposition 65-listed
2 chemical (*Health & Safety Code* § 25249.6).

3 13. Proposition 65 provides that any person "violating or threatening to violate" the
4 statute may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
5 25249.7. "Threaten to violate" means "to create a condition in which there is a substantial
6 probability that a violation will occur." *Health & Safety Code* § 25249.11(e). Defendant is also
7 liable for civil penalties of up to \$2,500.00 per day per violation, recoverable in a civil action.
8 *Health & Safety Code* § 25249.7(b).

9 14. On January 1, 1988, the Governor of California added Di(2-ethylhexyl)
10 phthalate ("DEHP") to the list of chemicals known to the state to cause cancer. On October 24,
11 2003, the Governor of California added DEHP to the list of chemicals known to the state to
12 cause developmental toxicity, male reproductive toxicity, and female reproductive toxicity.

13 15. Plaintiff identified certain practices of manufacturers and distributors of
14 products bearing DEHP, exposing, knowingly, and intentionally, persons in California to said
15 Proposition 65-listed chemical without first providing clear and reasonable warnings to the
16 exposed persons prior to the time of exposure. Plaintiff later learned that Defendant has
17 engaged in such practice.

18 **SATISFACTION OF PRIOR NOTICE**

19 16. On or about December 8, 2023, Plaintiff gave notice of alleged violations of
20 Health and Safety Code section 25249.6, concerning consumer product exposures, subject to a
21 private action to BMC and to the California Attorney General, County District Attorneys, and
22 City Attorneys for each County containing a population of at least 750,000 people in whose
23 jurisdiction the violations allegedly occurred, concerning a Disposables Syringe containing
24 violative amounts of DEHP.

25 17. Before sending the notices of alleged violations, Plaintiff investigated the
26 consumer products involved, the likelihood that such products would cause users to suffer
27 significant exposures to DEHP, and the corporate structure of the Defendant.

1 **FIRST CAUSE OF ACTION**

2 (By CONSUMER PROTECTION GROUP, LLC against THE BETTY MILLS COMPANY,
3 INC., and DOES 1-50 for Violations of Proposition 65,
4 The Safe Drinking Water and Toxic Enforcement Act of 1986
5 (*Health & Safety Code, §§ 25249.5, et seq.*))

6 **DISPOSABLES SYRINGE**

7 22. Plaintiff repeats and incorporates by reference paragraphs 1 through 21 of this
8 complaint as though fully set forth herein. The Defendants are and at all times mentioned
9 herein was a manufacturer and/or supplier of the Disposables Syringe (“Syringe”).

10 23. Plaintiff is informed, believes, and thereon alleges that the Syringe
11 contains DEHP.

12 24. Defendant knew or should have known that Syringe has been identified by the
13 State of California as a chemical known to cause Cancer, developmental toxicity, female
14 reproductive toxicity, and male reproductive toxicity and therefore was subject to Proposition
15 65 warning requirements. Defendant was also informed of the presence of DEHP in the Syringe
16 within Plaintiff’s notice of alleged violations further discussed above at
17 Paragraph 16.

18 25. Plaintiff’s allegations regarding the Syringe concerning “[c]onsumer products
19 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase, storage,
20 consumption, or other reasonably foreseeable use of a consumer good, or any exposure that
21 results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*. The Syringe
22 is a consumer product, and, as mentioned herein, exposures to DEHP took place as a result of
23 such normal and foreseeable consumption and use.

24 26. Plaintiff is informed, believes, and thereon alleges that between December 8,
25 2020, and the present, Defendant knowingly and intentionally exposed California consumers
26 and users of the Syringe, which Defendant manufactured, distributed, or sold as mentioned
27 above, to DEHP, without first providing any type of clear and reasonable warning of such to
28 the exposed persons before the time of exposure. Defendant has distributed and sold the

1 Syringe in California. Defendant knows and intends that California consumers will use and
2 handle the Syringe, thereby exposing them to DEHP. Defendant thereby violated
3 Proposition 65.

4 27. The principal routes of exposure with regard to the Syringe are and were through
5 dermal contact and ingestion. Persons sustain exposures by handling or otherwise using the
6 Syringe with bare skin, without wearing gloves, or by touching bare skin or mucous membranes
7 with the Syringe, as well as through direct and indirect hand to mouth contact, hand to food to
8 mouth, direct contact to food then to mouth, hand to mucous membrane.

9 28. Plaintiff is informed, believes, and thereon alleges that each of Defendant's
10 violations of Proposition 65 as to the Syringe have been ongoing and continuous to the date of
11 the signing of this complaint, as Defendant engaged and continue to engage in conduct which
12 violates Health and Safety Code section 25249.6, including the manufacture, distribution,
13 promotion, and sale of the Syringe, so that a separate and distinct violation of Proposition 65
14 occurred each and every time a person was exposed to DEHP by the Syringe as
15 mentioned herein.

16 29. Plaintiff is informed, believes, and thereon alleges that each violation of
17 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that
18 the violations alleged herein will continue to occur into the future.

19 30. Based on the allegations herein, Defendant is liable for civil penalties of up to
20 \$2,500.00 per day per individual exposure to DEHP from the Syringe pursuant to Health and
21 Safety Code section 25249.7(b).

22 31. In the absence of equitable relief, the general public will continue to be
23 involuntarily exposed to DEHP from the Syringe, creating a substantial risk of irreparable harm.
24 Thus, by committing the acts alleged herein, Defendant has caused irreparable harm for which
25 there is no plain, speedy, or adequate remedy at law.

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

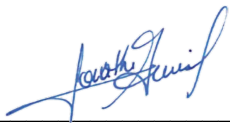
PRAYER FOR RELIEF

Plaintiff demands against the Defendant as follows:

1. A permanent injunction mandating Proposition 65-compliant warnings for any future sales of the Syringe;
2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: May 16, 2024

BLACKSTONE LAW, APC

By: 
Jonathan M. Genish
Attorneys for Plaintiff,
Consumer Protection Group, LLC