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FILED

APR 24 2024

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN
UNLIMITED CIVIL JURISDICTION

SUSAN DAVIA,

Plaintiff,

v.

AMAZON.COM, INC., DEMMEX AND
DOES 1-150,

Defendants.

Case No. CV **0002609**
**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**
(Cal. Health & Safety Code § 25249.6 et seq.)

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff SUSAN DAVIA, in the
3 public interest of the citizens of the State of California, to enforce the People’s right to be informed
4 of the presence of Lead and Lead compound toxic chemicals found in certain Demmex copper
5 cookware and pitchers with brass handles manufactured, distributed and/or otherwise sold by
6 defendants in California.

7 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
8 California Health & Safety Code Section 25249.6 *et seq.* (“Proposition 65”), “No person in the course
9 of doing business shall knowingly and intentionally expose any individual to a chemical known to
10 the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning
11 to such individual. . .” (*Cal. Health & Safety Code § 25249.6.*)

12 3. On February 27, 1987, the State of California identified and listed Lead as a chemical
13 known to cause birth defects and other reproductive harm. Lead became subject to the Proposition
14 65 statutory “clear and reasonable” warning requirement on February 27, 1988. (*27 CCR § 27001(c);*
15 *Cal. Health & Safety Code § 25249.8.*)

16 4. Lead and Lead Compounds shall hereinafter be referred to as “LISTED
17 CHEMICAL.”

18 5. Significant levels of LISTED CHEMICAL have been discovered in or on the brass
19 components of Demmex copper cookware and pitchers, including, but not limited to, Demmex
20 1.2mm Thick Hammered Copper Saucepan with Lid & Helper Handle (1.7 Qt.) (ASIN
21 B01CAWU8W0, Model SYNCHK081999), Demmex 1.2mm Thick Hammered Copper Soup
22 Pot Stew Pan Casserole, 3 Qt. (ASIN B01F19E7LW, Model SYNCHKG128587), Demmex
23 1.2mm Thick Hammered Copper Sugar Sauce Zabaglione Pan with Helper Handle (1.7 Qt.)
24 (ASIN B01CAWJK6A, Model SYNCHKG100806), Demmex Handmade 1.2mm Thick Solid
25 Unlined Uncoated Hammered Copper Water Moscow Mule Pitcher Jug (ASIN
26 B08DYBYSRH), Demmex 1mm Thick Solid Copper Personal Mini Pitcher (ASIN
27 B0B34PTJ9H) and Demmex Solid 1mm Thick Copper Olive Oil Vinegar Dispenser Bottle,
28 Oil Cruet, Pure Copper Body, Tin Lined, Brass Handle & Removable Brass Spout (Model

1 BAKIR-YAGDANLIK). All such Demmex copper cookware and pitcher products with brass
2 components containing any LISTED CHEMICAL shall hereinafter be referred to as the
3 "PRODUCTS."

4 6. Defendants' failure to warn consumers and/or other individuals in the State of
5 California about their exposures to the LISTED CHEMICAL in conjunction with defendants' sale of
6 the PRODUCTS is a violation of Proposition 65.

7 7. For defendants' violations of Proposition 65, plaintiff seeks preliminary and
8 permanent injunctive relief to compel defendants to provide employees handling the PRODUCTS
9 and purchasers or users of the PRODUCTS with the required warning regarding the health hazards
10 of the LISTED CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

11 8. Plaintiff also seeks civil penalties against defendants for their violations of
12 Proposition 65, as provided for by California Health & Safety Code Section 25249.7(b).

13 **PARTIES**

14 9. Plaintiff SUSAN DAVIA is a citizen of the State of California who is dedicated to
15 protecting the health of California citizens through the elimination or reduction of toxic exposures
16 from consumer products and brings this action in the public interest pursuant to California Health
17 & Safety Code Section 25249.7.

18 10. Based upon publicly available information, plaintiff is informed and believes, and
19 thereupon alleges, that each defendant AMAZON.COM, INC. and DEMMEX is a person doing
20 business within the meaning of California Health & Safety Code Section 25249.11.

21 11. Based upon publicly available information, plaintiff is informed and believes, and
22 thereupon alleges, that each defendant AMAZON.COM, INC. and DEMMEX is legally responsible
23 for the manufacture, distribution, and/or offer of the PRODUCTS for sale or use in the State of
24 California or implies by its conduct that it manufactures, distributes, and/or offers the PRODUCTS
25 for sale or use in the State of California.

26 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons
27 doing business within the meaning of California Health & Safety Code Section 25249.11.

28

1 13. MANUFACTURER DEFENDANTS engage in the process of research, testing,
2 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they
3 engage in the process of research, testing, designing, assembling, fabricating, and/or
4 manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

5 14. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons doing
6 business within the meaning of California Health & Safety Code Section 25249.11.

7 15. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or
8 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in the
9 State of California.

10 16. Defendants DOES 101-150 ("RETAIL DEFENDANTS") are each persons doing
11 business within the meaning of California Health & Safety Code Section 25249.11.

12 17. RETAIL DEFENDANTS offer of the PRODUCTS for sale to individuals in the State
13 of California.

14 18. At this time, the true names of Defendants DOES 1 through 150, inclusive, are
15 unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code
16 of Civil Procedure Section 474. Plaintiff is informed and believes, and on that basis alleges, that
17 each of the fictitiously named defendants is responsible for the acts and occurrences herein alleged.
18 When ascertained, their true names shall be reflected in an amended complaint.

19 19. AMAZON.COM, INC., DEMMEX, MANUFACTURER DEFENDANTS,
20 DISTRIBUTOR DEFENDANTS, and RETAIL DEFENDANTS shall, where appropriate, collectively
21 be referred to hereinafter as "DEFENDANTS".

22 VENUE AND JURISDICTION

23 20. Venue is proper in the Marin County Superior Court, pursuant to Code of Civil
24 Procedure Sections 394, 395, and 395.5, because this Court is a court of competent jurisdiction,
25 because one or more instances of wrongful conduct occurred, and continues to occur, in the County
26 of Marin and/or because DEFENDANTS conducted, and continue to conduct, business in this
27 County with respect to the PRODUCTS.

1 21. The California Superior Court has jurisdiction over this action pursuant to California
2 Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction in all
3 causes except those given by statute to other trial courts." The statute under which this action is
4 brought does not specify any other basis of subject matter jurisdiction.

5 22. The California Superior Court has jurisdiction over DEFENDANTS based on
6 plaintiff's information and good faith belief that each defendant is a person, firm, corporation or
7 association that either are citizens of the State of California, have sufficient minimum contacts in the
8 State of California, or otherwise purposefully avail themselves of the California market.
9 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California
10 courts consistent with traditional notions of fair play and substantial justice.

11 **FIRST CAUSE OF ACTION**
12 **(Violation of Proposition 65 - Against All Defendants)**

13 23. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
14 Paragraphs 1 through 22, inclusive.

15 24. In passing Proposition 65, the citizens of the State of California expressed their intent
16 through the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986 that they must
17 be "informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
18 harm."

19 25. Proposition 65 states, "[n]o person in the course of doing business shall knowingly
20 and intentionally expose any individual to a chemical known to the state to cause cancer or
21 reproductive toxicity without first giving clear and reasonable warning to such individual . . ."
22 Health & Safety Code § 25249.6.

23 26. On January 24, 2024, a valid and compliant Proposition 65 60-Day Notice of
24 Violation ("60-Day Notice"), together with a valid, requisite Certificate of Merit, were provided to
25 AMAZON.COM, INC., DEMMEX and various public enforcement agencies stating that as a result
26 of the DEFENDANTS' manufacture, distribution and sales of the PRODUCTS, workers, purchasers
27 and users in the State of California are being exposed to the LISTED CHEMICAL resulting from the
28 reasonably foreseeable uses of the PRODUCTS, without the individual purchasers and users first

1 having been provided with a “clear and reasonable warning” regarding such toxic exposures. The
2 January 24, 2024, Proposition 65 60-Day Notice shall hereafter be referred to as “Notice.”

3 27. On August 25, 2017, AMAZON.COM, INC. was provided similar notice that as a
4 result of its distribution and sales of the PRODUCTS, workers, purchasers and users in the State of
5 California were being exposed to the LISTED CHEMICAL resulting from the reasonably
6 foreseeable uses of the PRODUCTS, without the individual purchasers and users first having been
7 provided with a “clear and reasonable warning” regarding such toxic exposures

8 28. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of
9 the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 and
10 plaintiff is informed and believes that DEFENDANTS’ manufacture, distribution, and/or offering
11 of the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6
12 has continued to occur beyond DEFENDANTS’ receipt of plaintiff’s Notice. Plaintiff further alleges
13 and believes that such violations will continue to occur into the future.

14 29. After receipt of the claims asserted in the Notice, the appropriate public enforcement
15 agencies have failed to commence and diligently prosecute a cause of action against DEFENDANTS
16 under Proposition 65.

17 30. The PRODUCTS manufactured, distributed, and/or offered for sale or use in
18 California by DEFENDANTS, contain the LISTED CHEMICAL.

19 31. DEFENDANTS knew or should have known that the PRODUCTS contained such
20 LISTED CHEMICAL.

21 32. The LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to
22 expose individuals to the LISTED CHEMICAL, as such exposure is defined by 27 CCR Section
23 25602(b), through dermal contact and/or ingestion and/or inhalation during, or as a consequence
24 of, the packing, shipping, unpacking, display and daily organization and movement of PRODUCTS
25 as well as the reasonably foreseeable use of the PRODUCTS.

26 33. DEFENDANTS knew or should have known that the packing, shipping, unpacking,
27 display and daily organization and movement of PRODUCTS as well as the reasonably foreseeable
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1 use of the PRODUCTS exposes individuals to the LISTED CHEMICAL through dermal contact
2 and/or ingestion and/or inhalation.

3 34. DEFENDANTS' participation in the manufacture, distribution and/or offer for sale
4 or use of PRODUCTS to individuals in the State of California was deliberate and non-accidental.

5 35. DEFENDANTS failed to provide a "clear and reasonable warning" to those
6 employees, consumers and/or other individuals in the State of California who were or who could
7 become exposed to Lead or a LISTED CHEMICAL during the reasonably foreseeable retail receipt,
8 display and organization of PRODUCTS as well as the reasonably foreseeable use of the
9 PRODUCTS.

10 36. Contrary to the express policy and statutory prohibition of Proposition 65,
11 employees and individuals exposed to the LISTED CHEMICAL through dermal contact and/or
12 ingestion and/or inhalation resulting from the reasonably foreseeable use of the PRODUCTS, sold
13 by DEFENDANTS without a "clear and reasonable warning", have suffered, and continue to suffer,
14 irreparable harm, for which harm they have no other plain, speedy or adequate remedy at law.

15 37. As a consequence of the above-described acts, DEFENDANTS are liable for a
16 maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to California
17 Health & Safety Code Section 25249.7(b).

18 38. As a consequence of the above-described acts, California Health & Safety Code
19 Section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
20 DEFENDANTS.

21 39. In addition to the commission of all acts and actions identified hereinabove,
22 defendant AMAZON.COM, INC. and DEMMEX further violated 27 C.C.R. 25600.2(g), by failing to
23 promptly provide the name and contact information for the manufacturer, producer, packager,
24 importer, supplier, and distributor of the product to plaintiff as demanded in the Notice.

25 **PRAYER FOR RELIEF**

26 Wherefore, plaintiff prays for judgment against DEFENDANTS, and each of them, as
27 follows:

1 1. That the Court, pursuant to California Health & Safety Code Section 25249.7(b),
2 assess civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation
3 alleged herein;

4 2. That the Court, pursuant to California Health & Safety Code Section 25249.7(a),
5 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering
6 the PRODUCTS for sale or use in California, without providing "clear and reasonable warnings" as
7 defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED
8 CHEMICAL;

9 3. That the Court grant plaintiff her reasonable attorneys' fees and costs of suit; and

10 4. That the Court grant such other and further relief as may be just and proper.

11 Dated: April 23, 2024

Respectfully submitted,

SHEFFER LAW FIRM

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14 By: 

Gregory M. Sheffer
Attorneys for Plaintiff
SUSAN DAVIA