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Gregory M. Sheffer, State Bar No. 173124
SHEFFER LAW FIRM
232 E. Blithedale Ave., Suite 210
Mill Valley, CA 94941
Telephone: 415.388.0911
gregs@sheffer-law.net

Attorneys for Plaintiff
SUSAN DAVIA

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. and DOES 1-150,
Defendants.

Case No. CV **0002610**
**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 of
4 the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical found in certain JUCFHY
5 brand vinyl tablecloth products components 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 October 24, 2003, the State listed di(2-ethylhexyl)phthalate as a chemical known to
13 cause birth defects and other reproductive harm. DEHP became subject to the warning requirement
14 one year later and was therefore subject to the “clear and reasonable warning” requirements of
15 Proposition 65, beginning on October 24, 2004. (*27 CCR § 27001(c); Cal. Health & Safety Code*
16 *§ 25249.8.*)

17 4. DEHP shall hereinafter be referred to as “LISTED CHEMICAL.”

18 5. Significant levels of the LISTED CHEMICAL have been discovered in or on the
19 JUCFHY brand vinyl tablecloth products that defendants design, manufacture, distribute, and/or
20 offer for sale to consumers throughout the State of California including, as example, but not limited
21 to, JUCFHY vinyl tablecloth, 52 x 72, Fern (X002JWO469, ASIN B08B82NF8G) and all
22 associated sizes and colors of JUCFHY brand vinyl tablecloth products. All such JUCFHY vinyl
23 tablecloth products containing any LISTED CHEMICAL shall hereinafter be referred to as the
24 “PRODUCTS.”

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

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

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

7 **PARTIES**

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

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

15 11. Based upon publicly available information, plaintiff is informed and believes, and
16 thereupon alleges, that defendant AMAZON.COM, INC. is legally responsible for the design,
17 manufacture, distribution, and/or offer of the PRODUCTS for sale or use in the State of California or
18 implies by its conduct that it designs, manufactures, distributes, markets and/or offers the
19 PRODUCTS for sale or use in the State of California.

20 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a person
21 doing business within the meaning of California Health & Safety Code Section 25249.11.

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

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

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1 State of California, or otherwise purposefully avail themselves of the California market.
2 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California
3 courts consistent with traditional notions of fair play and substantial justice.

4 **FIRST CAUSE OF ACTION**
5 **(Violation of Proposition 65 - Against All Defendants)**

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

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

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

16 26. On January 24, 2024, a valid and compliant Proposition 65 60-Day Notice of Violation
17 ("60-Day Notice"), together with a valid, requisite Certificate of Merit, was served on
18 AMAZON.COM, INC. and various public enforcement agencies stating that as a result of these
19 DEFENDANTS' manufacture, distribution and sales of the PRODUCTS, purchasers and users in the
20 State of California are being exposed to the Listed Chemical resulting from the reasonably
21 foreseeable uses of PRODUCTS, without the individual purchasers and users first having been
22 provided with a "clear and reasonable warning" regarding such toxic exposures.

23 27. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of the
24 PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 and
25 plaintiff is informed and believes that DEFENDANTS' manufacture, distribution, and/or offering of
26 the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 has
27 continued to occur beyond DEFENDANTS' receipt of plaintiff's 60-Day Notice. Plaintiff further
28 alleges and believes that such violations will continue to occur into the future.

1 28. After receipt of the claims asserted in the 60-Day Notice, the appropriate public
2 enforcement agencies have failed to commence and diligently prosecute a cause of action against
3 DEFENDANTS under Proposition 65.

4 29. The PRODUCTS manufactured, distributed, and/or offered for sale or use in
5 California by DEFENDANTS, contain one or more LISTED CHEMICAL.

6 30. DEFENDANTS knew or should have known that the PRODUCTS contained such
7 LISTED CHEMICAL.

8 31. A LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to expose
9 individuals to the LISTED CHEMICAL, as such exposure is defined by 27 CCR Section 25602(b),
10 through dermal contact and/or ingestion and/or inhalation during or as a consequence of the
11 packing, shipping, unpacking, display and daily organization and movement of PRODUCTS as well
12 as the reasonably foreseeable use of the PRODUCTS.

13 32. DEFENDANTS knew or should have known that the packing, shipping, unpacking,
14 display and daily organization and movement of PRODUCTS as well as the reasonably foreseeable
15 use of the PRODUCTS exposes individuals to a LISTED CHEMICAL through dermal contact and/or
16 ingestion and/or inhalation.

17 33. Each of the RETAIL DEFENDANTS and AMAZON.COM, INC. has actual
18 knowledge of the potential consumer product exposures to the LISTED CHEMICAL both pursuant
19 to information obtained by them from reliable sources in the course of doing business and pursuant
20 to the 60-Day Notice.

21 34. No manufacturer, producer, packager, importer, supplier, or distributor of the
22 exemplar PRODUCTS sold by RETAIL DEFENDANTS or AMAZON.COM, INC., has designated an
23 agent for service of process in California or has a primary place of business in California.

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

26 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those
27 consumers and/or other individuals in the State of California who were or who could become
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1 exposed to a LISTED CHEMICAL during the reasonably foreseeable retail receipt, display and
2 organization of PRODUCTS as well as the reasonably foreseeable use of the PRODUCTS.

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

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

11 39. As a consequence of the above-described acts, California Health & Safety Code
12 Section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
13 DEFENDANTS.

14 40. In addition to the commission of all acts and actions identified hereinabove,
15 defendants or AMAZON.COM, INC. further violated 27 C.C.R. 25600.2(g), by failing to sufficiently
16 and promptly provide the name and U.S. contact information for the manufacturer, producer,
17 packager, importer, supplier, and distributor of the product to plaintiff as demanded in her 60-Day
18 Notice to them.

19 **PRAYER FOR RELIEF**

20 Wherefore, plaintiff prays for judgment against DEFENDANTS, and each of them, as
21 follows:

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

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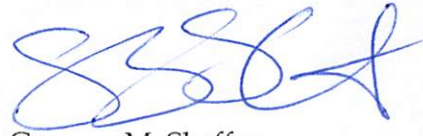
1 defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED
2 CHEMICAL;

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

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

5 Dated: April 23, 2024

SHEFFER LAW FIRM



Gregory M. Sheffer
Attorneys for Plaintiff

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