

1 Clifford A. Chanler, State Bar No. 135534  
CHANLER, LLC  
2 72 Huckleberry Hill Road  
New Canaan, CT 06840  
3 Telephone: (475) 277-2932  
Facsimile: (203) 702-5011  
4 Email: Clifford@ChanlerLLC.com

5 Steven Y. Chen, State Bar No. 243200  
STEVEN Y. CHEN, APLC  
6 2650 River Avenue, Unit A  
Rosemead, CA 91702  
7 Telephone: (626) 782-5017  
Facsimile: (626) 307-1657  
8 Email: Schen@Schenlaw.com

9 Attorneys for Plaintiff  
JAY EPPS

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO  
12 UNLIMITED CIVIL JURISDICTION

**CGC-24-614279**

14 JAY EPPS,

15 Plaintiff,

16 v.

17 WALMART INC.,

18 Defendant.

Case No. \_\_\_\_\_

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**04/30/2024  
Clerk of the Court**

**BY: LAURA SIMMONS  
Deputy Clerk**

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff Jay Epps in the public  
3 interest of California citizens to enforce the People’s right to be informed of certain health hazards  
4 caused by exposures to lead, a toxic chemical found in lead tape (including kits containing such  
5 items) (the Products). The Products are repackaged, produced, stored, distributed, shipped and/or  
6 sold online and/or at its brick-and-mortar locations (sold) to California citizens by defendant  
7 Walmart Inc.

8 2. By this Complaint, plaintiff seeks to remedy defendant’s continuing failure to warn  
9 consumers and businesses not covered by California’s Occupational Safety Health Act, Labor  
10 Code §§6300 *et seq.* about the risks of exposure to lead in the Products offered for sale or use  
11 throughout the State of California. Individuals, consumers and businesses not covered by  
12 California’s Occupational Safety Health Act, Labor Code §§6300 *et seq.* who purchase, use or  
13 handle the Products are referred to hereinafter as “consumers.”

14 3. Defendant has knowledge of the lead contents of the Products which were and  
15 continue to be offered for purchase and/or transacted through walmart.com and/or at its brick-and-  
16 mortar locations.

17 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
18 California Health & Safety Code §§25249.6 *et seq.* (Proposition 65), “[n]o person in the course of  
19 doing business shall knowingly and intentionally expose any individual to a chemical known to  
20 the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning  
21 to such individual...” Health & Safety Code §25249.6.

22 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed  
23 lead as a chemical known to cause birth defects and other reproductive harm. Lead became  
24 subject to the “clear and reasonable warning” requirements of the act one year later on February  
25 27, 1988. 27 Cal. Code Regs. §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

26 6. Defendant imports, distributes, facilitates and/or otherwise offers for sale the  
27 Products without the mandated health hazard warning in California. The Products include, but are  
28

1 not limited to, the example of the product display page associated with one of the Products, as  
2 shown on Exhibit A. An example of the immediate Product packaging is shown on Exhibit B.

3 7. Defendant's failure to warn consumers of the health hazards associated with  
4 exposures to lead in conjunction with defendant's sales of the Products are violations of  
5 Proposition 65 which subject defendant to enjoinder of such conduct as well as civil penalties for  
6 each violation. Health & Safety Code §25249.7(a) and (b)(1).

7 8. For defendant's violations and threatened violations of Proposition 65, plaintiff  
8 seeks preliminary and permanent injunctive relief to compel it to provide purchasers and users of  
9 the Products with the required warning regarding specific health hazards associated with  
10 exposures to lead. Health & Safety Code §25249.7(a).

11 9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil penalties  
12 against defendant for its violations of Proposition 65, some of which are ongoing.

### 13 **PARTIES**

14 10. Plaintiff Jay Epps 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 he brings this action in the public interest pursuant to Health &  
17 Safety Code §25249.7(d).

18 11. Defendant Walmart Inc. (WALMART) is a person in the course of doing business  
19 within the meaning of Health & Safety Code §§25249.6 and 25249.11.

20 12. WALMART imports, distributes, sells, facilitates, and/or offers the Products for  
21 sale in the State of California. WALMART has offered (and, in many instances, continues to  
22 offer) for sale Products, many of which were supplied to it by entities that are not subject to  
23 enforcement under Proposition 65 because: (i) they have less than ten employees during all  
24 relevant periods; and/or (ii) do not have an agent for process of service in California.

### 25 **VENUE AND JURISDICTION**

26 13. Venue is proper in the Superior Court for the County of San Francisco pursuant to  
27 Code of Civil Procedure §§393, 395, and 395.5, because this Court is a court of competent  
28

1 jurisdiction, because plaintiff seeks civil penalties against WALMART, one or more instances of  
2 wrongful conduct occurred, and continue to occur, in this county, and/or WALMART conducts,  
3 and continues to conduct business in San Francisco.

4 14. The California Superior Court has jurisdiction over this action pursuant to  
5 California Constitution Article VI, section 10, which grants the Superior Court “original  
6 jurisdiction in all causes except those given by statute to other trial courts.” The statute under  
7 which this action is brought does not specify any other basis of subject matter jurisdiction.

8 15. The California Superior Court has jurisdiction over WALMART based on  
9 plaintiff’s information and good faith belief that WALMART is a person, firm, corporation has a  
10 principal office or association that is a citizen of the State of California, has sufficient minimum  
11 contacts in the State of California, and/or otherwise purposefully avails itself of the California  
12 market. WALMART’s purposeful availment renders the exercise of personal jurisdiction  
13 (specific, limited or both) by California courts consistent with traditional notions of fair play and  
14 substantial justice.

15 **FIRST CAUSE OF ACTION**

16 **(Violation of Proposition 65)**

17 16. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
18 Paragraphs 1 through 15, inclusive.

19 17. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
20 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed  
21 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”

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

26 19. On January 29, 2024, plaintiff served a 60-Day Notice of Violation, (the Notice),  
27 together with the requisite certificate of merit, on WALMART, the California Attorney General’s  
28

1 Office, and the requisite public enforcement agencies alleging that, as a result of WALMART's  
2 sales of the Products, consumers in California are being exposed to the toxicant lead resulting  
3 from their reasonably foreseeable use of the Products, without them first receiving a "clear and  
4 reasonable warning" regarding the reproductive toxicity associated with exposures to the heavy  
5 metal, as required by Proposition 65.

6 20. WALMART imports, distributes, facilitates for sale, sells, and/or offers the  
7 Products for sale or use in violation of Health & Safety Code §25249.6, and WALMART's  
8 violations have continued beyond its receipt of plaintiff's Notice. As such, WALMART's  
9 violations are ongoing and continuous in nature and, unless enjoined, will continue until  
10 compliance is ensured by the Court.

11 21. After receiving plaintiff's Notice, no public enforcement agency has commenced  
12 and diligently prosecuted a cause of action against WALMART under Proposition 65 to enforce  
13 the alleged violations that are the subject of plaintiff's Notice.

14 22. The Products that WALMART distributes or offers for sale throughout the State of  
15 California cause exposures to lead as a result of their reasonably foreseeable use. Such exposures  
16 caused by WALMART and endured by consumers in California who purchase, use or handle the  
17 Products are not exempt from the "clear and reasonable" warning requirements of Proposition 65,  
18 yet WALMART does not provide compliant warnings for the risk of reproductive toxicity of lead.

19 23. WALMART has actual knowledge that the Products it imports, distributes, sells,  
20 facilitates for sale or offers for sale in California contain lead.

21 24. Lead is present in or on the Products in such a way as to expose consumers and  
22 other users through dermal contact and/or ingestion during reasonably foreseeable use.

23 25. The normal and reasonably foreseeable use of the Products has caused, and  
24 continues to cause, consumer product exposures to lead as defined by 27 California Code of  
25 Regulations §25600.1(e).

26 26. WALMART knows that the normal and reasonably foreseeable use of the Products  
27 exposes individuals to lead through dermal contact and/or ingestion.

28



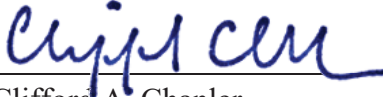
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

commerce in California without a “clear and reasonable warning” as defined by 27 California Code of Regulations §25600 *et seq.*;

- 4. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
- 5. That the Court grant such other and further relief as may be just and proper.

Dated: April 29, 2024

Respectfully submitted,  
CHANLER, LLC

By:  \_\_\_\_\_  
Clifford A. Chanler

**EXHIBIT A**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Captured at: 01/18/2024, 12:01 PM

URL: https://www.walmart.com/ip/LYTIVAGEN-12-PCS-Golf-Lead-Tape-Adhesive-Lead-Tape-Add-Swing-Weight-Lead-Weighted-Tape-for-Tennis-Racket-and-Golf-Club-5-1cm/638058106

Walmart Departments Services Search Walmart Reorder My Items Sign In Account \$6.99

How do you want your items? | Orangevale, 95662 Orangevale Supercenter Deals Grocery & Essentials Valentine's Day Winter Prep



For the planet

Sponsored



Can be cut into desired shapes



LYTIVAGEN

### LYTIVAGEN 12 PCS Golf Lead Tape, Adhesive Lead Tape Add Swing Weight Lead Weighted Tape for Tennis Racket and Golf Club (5 \* 1cm)

\$7.89

Price when purchased online

Add to cart

#### How do you want your item?

Shipping Arrives Jan 22

Pickup Not available

Delivery Not available

Delivery to Orangevale, 95662

Sold by LYTIVAGOU

Fulfilled by Walmart

★★★★★ 3 seller reviews

[View seller information](#)

Free 90-day returns [Details](#)

[Add to list](#)

[Add to registry](#)



Join Walmart+ for a year & get \$50 Walmart Cash!

Limited time. Terms apply. [Claim offer](#)

Sponsored

\$9.99

11" x 50" Clear Skateboard Grip Tape, ZUEXT...

2-day shipping

+ Add

## About this item

### Product details

LYTIVAGEN golf adhesive strips can add weight to the golf club and help you solve problems in your swing.

#### Features:

- Made of lead material, safe, non-toxic, robust, super soft and durable.
- Lead strips can add half golf weight so you can change the center of gravity of your putter, helping you solve the problems in your swing.
- Just remove the release paper on the back of the tape and apply it where you need to increase the weight. It makes your swing more precise.
- They can move the center of gravity back to help bring the ball into the air.

#### Specifications:

Material: lead  
 Dimensions: 5 \* 1cm  
 Weight: 39 g

#### Packaging:

12 x lead tap

- LYTIVAGEN 12 PCS Golf Lead Tape, Adhesive Lead Tape Add Swing Weight Lead Weighted Tape for Tennis Racket and Golf Club (5 \* 1cm)

- Made of lead material, safe, non-toxic, robust, super soft and durable. Lead strips can add half golf weight so you can change the center of gravity of your putter, helping you solve the problems in your swing. Just remove the release paper on the back of the tape and apply it where you need to increase the weight. It makes your swing more precise. They can move the center of gravity back to help bring the ball into the air.

**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

LYTIVAGEN

Color

Multicolor

Directions

Instructions

Step:1,1.Remove the release paper on the back.Step:2,2.Put it on where you want increase Weight.

Warranty

Warranty information

Please be aware that the warranty terms on items offered for sale by third party Marketplace sellers may differ from those displayed in this section (if any). To confirm warranty terms on an item offered for sale by a third party Marketplace seller, please use the 'Contact seller' feature on the third party Marketplace seller's information page and...

Warnings

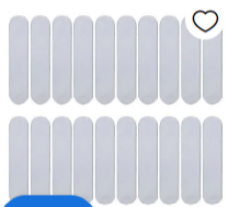
California State Chemical Warning Text

no

Similar items you might like

Based on what customers bought

Clearance



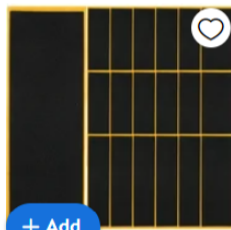
+ Add

Now \$6.93 ~~\$7.79~~ +\$4.49 shipping

20pcs Golfer Adhesive Lead Tape Strips Add Power Weight to Tennis Racket

3+ day shipping

Clearance



+ Add

Now \$7.05 ~~\$7.90~~ +\$3.89 shipping

20Pcs Fingerboard Grip Tape Adhesive Mini Skateboard Foam Grip Tape for Kids Adults

3+ day shipping



+ Add

\$9.29

Grip Tape Self Adhesive Friction Waterproof Bt Sand Paper for Skateboard

3+ day shipping

Customers also considered



Clearance





\$10.01

Tennis Racket Grip Tape , Soft Racquet Overgrip for All Kinds...

2-day shipping

Now \$8.99 \$9.99

11" x 50" Black Skateboard Grip Tape Sheet, ZUEXT Bubble...

★★★★★ 1  
2-day shipping

\$9.99

11" x 50" Clear Skateboard Grip Tape, ZUEXT Waterproof...

2-day shipping

\$7.99

10" x 36" Skateboard Grip Tape Sheets, ZUEXT Bubble Free...

2-day shipping

### Customer ratings & reviews

☆☆☆☆ (0 reviews)

Write a review

**Bake, load, Finish®**  
This game day, take the Ultimate challenge\*.

[Find out more](#)

\*If Finish® ULTIMATE can't tackle burnt-on stains THE REAL IS ON FINISH! (Up to \$30) Finishultimatechallenge.com for terms & conditions.

Sponsored

### More items to explore

Sponsored



\$12.99  
\$12.99

Golf Impact Tape Labels,300Pcs Golf Stickers,Driver,Iron...

3+ day shipping

\$10.01  
\$10.01

Tennis Racket Grip Tape , Soft Racquet Overgrip for All Kinds...

2-day shipping

Now \$8.99 \$9.99  
Now \$8.99 \$9.99

11" x 50" Black Skateboard Grip Tape Sheet, ZUEXT Bubble...

★★★★★ 1  
2-day shipping

\$9.99  
\$9.99

11" x 50" Clear Skateboard Grip Tape, ZUEXT Waterproof...

2-day shipping

\$11.99  
\$11.99

2 Pack 9" x 33" Skateboard Grip Tape Sheets, ZUEXT Bubl...

★★★★★ 4  
2-day shipping

\$9.99  
\$9.99

9" x 33" Clear Skateboard Grip Tape Sheet 2 Pack, ZUEXT...

2-day shipping

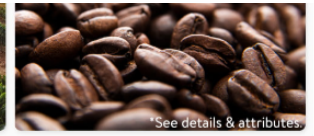
Report: [Report seller](#) | [Report suspected stolen goods \(to CA Attorney General\)](#)

**For the planet**  
Find products with environmental...



Find products with environmental certifications.\*

Shop now



\*See details & attributes

Sponsored

### Related pages

[Golf Strike Tape](#)

[Golf Regripping](#)

[Golf Club Face Tape](#)

[Golf Impact Tape](#)

[Lead Tape Golf Clubs](#)

[Golf Tape](#)

© 2024 Walmart. All Rights Reserved.

**EXHIBIT B**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





00671716799955

LYTIVAG ... 1cm)

Made in China

