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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

01/23/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 WALMART INC.,

15 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

CGC-25-621711

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

16 Plaintiff Gabriel Espinoza (“Plaintiff”), by and through his attorneys, alleges the following
17 cause of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

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

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

1 3. Lead¹ is a harmful chemical known to the State of California to cause cancer and
2 birth defects or other reproductive harm. DEA² is a harmful chemical known to the State of
3 California to cause cancer.

4 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
5 within California or sell products therein to comply with Proposition 65 regulations. Included in
6 such regulations is the requirement that businesses must label any product containing a Proposition
7 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
8 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
9 chemical.

10 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
11 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
12 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
13 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
14 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
15 25249.7.

16 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
17 without a requisite exposure warning, (a) magic coffee heat sensitive mugs manufactured,
18 distributed, and/or sold by The Edwards Press (lead), (b) Holiday Time mini pie plates
19 manufactured, distributed, and/or sold by Bico International Co., Ltd. (lead), and (c) Tyro aloe
20 vera face masks manufactured, distributed, and/or sold by Special Cosmetics B.V. (DEA)
21 (collectively, the “Products” and each a “Product”) that expose persons to lead and/or DEA when
22 used for their intended purpose.

23 _____
24 ¹ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
25 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
26 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.

27 ² On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause
28 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

1 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
2 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
3 jurisdiction over this lawsuit.

4 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
5 the State of California, has sufficient minimum contacts with the State of California, is registered
6 with the California Secretary of State as foreign corporations authorized to do business in the State
7 of California, and/or has otherwise purposefully availed itself of the California market. Such
8 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
9 permissible with traditional notions of fair play and substantial justice.

10 **STATUTORY BACKGROUND**

11 16. The people of the State of California declared in Proposition 65 their right “[t]o be
12 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
13 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

14 17. To effect this goal, Proposition 65 requires that individuals be provided with a
15 “clear and reasonable warning” before being exposed to substances listed by the State of California
16 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
17 pertinent part:

18 No person in the course of doing business shall knowingly and intentionally expose any
19 individual to a chemical known to the state to cause cancer or reproductive toxicity without
20 first giving clear and reasonable warning to such individual...

21 18. An exposure to a chemical in a consumer product is one “which results from a
22 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
23 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
24 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
25 shall provide a warning to any person to whom the product is sold or transferred unless the product
26 is packaged or labeled with a clear and reasonable warning.”
27
28

1 1987, the State of California listed lead as a chemical known to cause birth defects or other
2 reproductive harm.

3 22. On June 22, 2012, the State of California listed DEA as a chemical known to the
4 State to cause cancer and it has come under the purview of Proposition 65 regulations since that
5 time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

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

12 24. Defendant has processed, marketed, distributed, offered to sell and/or sold the
13 Products in California since at least January 24, 2024 with respect to the magic coffee heat
14 sensitive mugs; since at least January 30, 2024 with respect to the Holiday Time mini pie plates;
15 and since at least September 26, 2024 with respect to the Tyro aloe vera face masks. The Products
16 continue to be distributed and sold in California without the requisite warning information.

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

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

SATISFACTION OF NOTICE REQUIREMENTS

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

5 28. The magic coffee heat sensitive mugs were sent to a testing laboratory to determine
6 if, and what amount of, lead would migrate and/or leach from the Product. For the magic coffee
7 heat sensitive mugs, Plaintiff received a Chemical Test Report. The Chemical Test Report findings
8 determined the magic coffee heat sensitive mugs expose users to lead. Plaintiff provided the
9 Chemical Test Report and Product to an analytical chemist to determine if, based on the findings
10 of the Chemical Test Report and the reasonable and foreseeable use of the Product, exposure to
11 lead will occur at levels that require Proposition 65 warnings under the Clear and Reasonable
12 Warnings section 25601 of Title 27 of the California Code of Regulations. On January 24, 2024,
13 Plaintiff received from the analytical chemist an exposure assessment report for the magic coffee
14 heat sensitive mugs that concluded that persons in California who consume the magic coffee heat
15 sensitive mugs will be exposed to levels of lead that require a Proposition 65 exposure warning.

16 29. The Holiday Time mini pie plates were sent to a testing laboratory to determine if,
17 and what amount of, lead would migrate and/or leach from the Product. For the Holiday Time mini
18 pie plates, Plaintiff received a Chemical Test Report. The Chemical Test Report findings
19 determined the Holiday Time mini pie plates expose users to lead. Plaintiff provided the Chemical
20 Test Report and Product to an analytical chemist to determine if, based on the findings of the
21 Chemical Test Report and the reasonable and foreseeable use of the Product, exposure to lead will
22 occur at levels that require Proposition 65 warnings under the Clear and Reasonable Warnings
23 section 25601 of Title 27 of the California Code of Regulations. On January 30, 2024, Plaintiff
24 received from the analytical chemist an exposure assessment report for the Holiday Time mini pie
25 plates that concluded that persons in California who consume the Holiday Time mini pie plates
26 will be exposed to levels of lead that require a Proposition 65 exposure warning.

27 30. The Tyro aloe vera face masks were sent to a testing laboratory for diethanolamine
28 testing to determine the DEA content of the Products. For the Tyro aloe vera face masks, Plaintiff

1 received a Chemical Test Report. The Chemical Test Report findings determined the Tyro aloe
2 vera face masks expose users to DEA. Plaintiff provided the Chemical Test Report and Product to
3 an analytical chemist to determine if, based on the findings of the Chemical Test Reports and the
4 reasonable and foreseeable use of the Product, exposure to DEA will occur at levels that require
5 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
6 the California Code of Regulations. On September 26, 2024, Plaintiff received from the analytical
7 chemist an exposure assessment report for the Tyro aloe vera face masks that concluded that
8 persons in California who use the Tyro aloe vera face masks will be exposed to levels of DEA that
9 require a Proposition 65 exposure warning.

10 **NOTICES OF VIOLATION**

11 31. On January 24, 2024, Plaintiff gave notice of alleged violation of Health and Safety
12 Code § 25249.6 to Defendant concerning the exposure of California citizens to lead from use of
13 the magic coffee heat sensitive mugs without proper warning, subject to a private action to
14 Defendant and to the California Attorney General’s office and the offices of the County District
15 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
16 the herein violations allegedly occurred. See attached at Exhibit “A” a true and correct copy of the
17 January 24, 2024 notice of violation.

18 32. On January 30, 2024, Plaintiff gave notice of alleged violation of Health and Safety
19 Code § 25249.6 to Defendant concerning the exposure of California citizens to lead from use of
20 the Holiday Time mini pie plates without proper warning, subject to a private action to Defendant
21 and to the California Attorney General’s office and the offices of the County District attorneys and
22 City Attorneys for each city with a population greater than 750,000 persons wherein the herein
23 violations allegedly occurred. See attached at Exhibit “B” a true and correct copy of the January
24 30, 2024 notice of violation.

25 33. On September 26, 2024, Plaintiff gave notice of alleged violation of Health and
26 Safety Code § 25249.6 to Defendant concerning the exposure of California citizens to DEA from
27 use of the Tyro aloe vera face masks without proper warning, subject to a private action to
28 Defendant and to the California Attorney General’s office and the offices of the County District

1 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
2 the herein violations allegedly occurred. See attached at Exhibit "C" a true and correct copy of the
3 September 26, 2024 notice of violation.

4 34. The Notices complied with all procedural requirements of Proposition 65 including
5 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at
6 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead
7 and/or DEA exposure, and that counsel believed there was meritorious and reasonable cause for a
8 private action.

9 35. After receiving the Notices, and to Plaintiff's best information and belief, none of
10 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
11 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
12 the subject of the Notices.

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

15 **FIRST CAUSE OF ACTION**

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

17 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of
18 this Complaint as though fully set forth herein.

19 38. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of
20 the Products.

21 39. Use of the Products will expose users to lead and/or DEA, hazardous chemicals
22 found on the Proposition 65 list of chemicals known to be hazardous to human health.

23 40. The Products do not comply with the Proposition 65 warning requirements.

24 41. Plaintiff, based on his best information and belief, avers that at all relevant times
25 herein, and since at least January 24, 2024 with respect to the magic coffee heat sensitive mugs;
26 since at least January 30, 2024 with respect to the Holiday Time mini pie plates; and since at least
27 September 26, 2024 with respect to the Tyro aloe vera face masks, continuing until the present,
28 that Defendant has continued to knowingly and intentionally expose California users and

1 consumers of the Products to lead and/or DEA without providing required warnings under
2 Proposition 65.

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

9 43. Plaintiff, based on his best information and belief, avers that such exposures will
10 continue every day until clear and reasonable warnings are provided to purchasers and users or
11 until these known toxic chemicals are removed from the Products.

12 44. Defendant has knowledge that the normal and reasonably foreseeable use of the
13 Products expose individuals to lead and/or DEA, and Defendant intends that exposures to lead
14 and/or DEA will occur by its deliberate, non-accidental participation in the importation,
15 distribution, sale and offering of the Products to consumers in California.

16 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
17 Complaint.

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

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

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
3 relief:

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

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

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

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

12 Dated: January 23, 2025

BRODSKY SMITH

13 By:  _____

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

9465 Wilshire Boulevard, Suite 300

Beverly Hills, CA 90212

16 Telephone: (877) 534-2590

17 Facsimile: (310) 247-0160

18 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
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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

January 24, 2024

President/CEO/Owner The Edwards Press 309 South Drive Rochester, NY 14612	President/CEO/Owner The Edwards Press 1271 Long Pond Road Rochester, NY 14626-3093
President/CEO Silk Rose, Inc. 911 Seton Place, Suite 17 Brooklyn, NY 11230	President/CEO Silk Rose, Inc. dba Chuzy Chef 911 Seton Place, Suite 17 Brooklyn, NY 11230
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Walmart, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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

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.

whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 310.863.2852.
2. **Alleged Violator(s):** The Edwards Press; Silk Rose, Inc.; Silk Rose, Inc. dba Chuzy Chef; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least January 24, 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	Magic Coffee Heat Sensitive Mug UPC# 018227300513

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

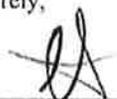
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant 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

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 Espinoza'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.

these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza 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
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MINEOLA, NY 11501
516.741.4977

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

January 30, 2024

President/CEO Bico International Co., Ltd. 4F-1, No. 123, Sec. 4 PA The Road Taipei TAIWAN, R.O.C. 105	President/CEO Bico International Co., Ltd. 4F-1, No. 123, Bade Road, Sec. 4 Taipei City 10561 TAIWAN
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Walmart, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

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

To Whom It May Concern:

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With respect to the Product herein, Espinoza 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:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 310.863.2852.
2. **Alleged Violator(s):** Bico International Co., Ltd.; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least January 30, 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:**

Product²	Non- Exclusive Examples of the Product
Pie Plate	Holiday Time 2 Pair Mini Pie Plates UPC# 808608071077

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

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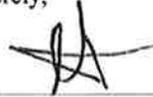
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Espinoza has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

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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BALA CYNWYD, PA 19004
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September 26, 2024

President/CEO Special Cosmetics B.V. 1521 RC, Samsonweg Wormerveer NETHERLANDS	President/CEO Antoinette Cosmetics Comp. BV. Samsonweg 22 Wormerveer NETHERLANDS 1521RC
President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Walmart, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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 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:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Special Cosmetics B.V.; Antoinette Cosmetics Comp. BV.; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 26, 2024 and are continuing to this day.
4. **Listed Chemical:** Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Aloe Vera Face Mask	Tyro Aloe Vera Face Mask UPC# 8 717801 048880

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 exposure. 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 Espinoza 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, Espinoza 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 Espinoza'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.

Espinoza has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Evan J. Smith', written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary