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County of Alameda

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5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

6 **IN AND FOR THE COUNTY OF ALAMEDA**

7 ENVIRONMENTAL HEALTH ADVOCATES,
8 INC.,

9 Plaintiff,

10 v.

11 IHEARTRAVES, LLC, a California limited
12 liability company; and DOES 1 through 100,
13 inclusive,

14 Defendants.

Case No.: **24CV076120**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1
2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendant's failure to inform the People of exposure to Di(2-ethylhexyl) phthalate
5 (“DEHP”), a known carcinogen and developmental/reproductive toxin. Defendant exposes consumers
6 to DEHP by manufacturing, importing, selling, and/or distributing plastic pouches including, but not
7 limited to, Hair Goals Black Hair Elastic Pack (“Products”). Defendant knows and intends that
8 customers will use Products containing DEHP.

9 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California
10 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
11 business shall knowingly and intentionally expose any individual to a chemical known to the state to
12 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
13 individual. . . .” (Health & Safety Code, § 25249.6.)

14 3. California identified and listed DEHP as a chemical known to cause cancer as early as
15 January 1, 1988, and as a chemical known to cause developmental/reproductive toxicity on October 24,
16 2003.

17 4. Defendant failed to sufficiently warn consumers and individuals in California about
18 potential exposure to DEHP in connection with Defendant's manufacture, import, sale, or distribution
19 of Products. This is a violation of Proposition 65.

20 5. Plaintiff seeks injunctive relief compelling Defendant to sufficiently warn consumers in
21 California before exposing them to DEHP in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
22 also seeks civil penalties against Defendant for violations of Proposition 65 along with attorney’s fees
23 and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

24
25 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
26 corporation in the State of California dedicated to protecting the health of California citizens through
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
28 interest pursuant to Health and Safety Code, section 25249.7.

1 **IV.**
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

6 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that
7 cause cancer, birth defects, and other reproductive harm.

8 15. Defendant manufactured, imported, sold, and/or distributed Products containing DEHP
9 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such
10 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the
11 future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendant failed to
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
14 to DEHP through reasonably foreseeable use of the Products.

15 17. Products expose individuals to DEHP through dermal absorption and indirect ingestion
16 through hand to mouth exposure. This exposure is a natural and foreseeable consequence of Defendant
17 placing Products into the stream of commerce. As such, Defendant intends that consumers will use
18 Products, exposing them to DEHP.

19 18. Defendant knew or should have known that the Products contained DEHP and exposed
20 individuals to DEHP in the ways provided above. The Notice informed Defendant of the presence of
21 DEHP in the Products. Likewise, media coverage concerning DEHP and related chemicals in consumer
22 products provided constructive notice to Defendant.

23 19. Defendant's actions in this regard were deliberate and not accidental.

24 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
25 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff
26 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
27 The Notice alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in
28 California of the health hazards associated with exposures to DEHP contained in the Products.

1 21. The appropriate public enforcement agencies provided with the Notice failed to
2 commence and diligently prosecute a cause of action against Defendant.

3 22. Individuals exposed to DEHP contained in Products through dermal absorption and
4 indirect ingestion through hand to mouth exposure resulting from reasonably foreseeable use of the
5 Products have suffered and continue to suffer irreparable harm. There is no other plain, speedy, or
6 adequate remedy at law.

7 23. Defendant is liable for a maximum civil penalty of \$2,500 per day for each violation of
8 Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
9 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff prays for judgment against Defendant as follows:

3 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that
4 damages total a minimum of \$1,000,000;

5 2. A preliminary and permanent injunction against Defendant from manufacturing,
6 importing, selling, and/or distributing Products in California without providing a clear and reasonable
7 warning as required by Proposition 65 and related Regulations;

8 3. Reasonable attorney’s fees and costs of suit; and

9 4. Such other and further relief as may be just and proper.

10
11 Respectfully submitted:

12 Dated: May 17, 2024

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