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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

10/24/2024
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

14 CENTER FOR ENVIRONMENTAL HEALTH,
15 a non-profit corporation,

16 Plaintiff,

17 v.

18 ECOLAB USA INC., DOLLAR TREE STORES,
19 INC., UNILEVER UNITED STATES, INC.,
20 CONOPCO, INC., KAMEDIS INC., and DOES 1
21 through 50, inclusive,

22 Defendants.

Case No.

CGC-24-619214

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6, *et seq.*

(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on knowledge,
3 hereby makes the following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn
6 individuals in California that they are being exposed to 1,4-Dioxane, a chemical known to the
7 State of California to cause cancer. This Complaint addresses exposures that have occurred, and
8 continue to occur, through the manufacture, distribution, sale and/or use of Defendants' shampoo,
9 body wash, and/or hand soap (the "Products"). Individuals in California are exposed to 1,4-
10 Dioxane through ordinary use of the Products.

11 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et seq.*, it is
12 unlawful for businesses to knowingly and intentionally expose individuals in California to
13 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without
14 first providing clear and reasonable warnings to exposed individuals. Defendants introduce the
15 Products containing significant quantities of 1,4-Dioxane into the California marketplace, thereby
16 exposing consumers of such Products to 1,4-Dioxane.

17 3. Defendants provide no warnings whatsoever about the carcinogenic hazards
18 associated with 1,4-Dioxane exposure. Defendants' conduct thus violates the warning provision
19 of Proposition 65. Health & Safety Code §25249.6.

20 **PARTIES**

21 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit
22 corporation dedicated to protecting the public from environmental health hazards and toxic
23 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of
24 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and
25 brings this enforcement action in the public interest pursuant to Health & Safety Code
26 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has
27 prosecuted a large number of Proposition 65 cases in the public interest. These cases have
28 resulted in significant public benefit, including the reformulation of millions of products to

1 remove toxic chemicals and to make them safer. CEH also provides information to Californians
2 about the health risks associated with exposure to hazardous substances, where manufacturers and
3 other responsible parties fail to do so.

4 5. Defendant ECOLAB USA INC. is a person in the course of doing business within
5 the meaning of Health & Safety Code §25249.11. Defendant ECOLAB USA INC. markets,
6 distributes, and/or sells Products containing 1,4-Dioxane for sale or use in California.

7 6. Defendant DOLLAR TREE STORES, INC. is a person in the course of doing
8 business within the meaning of Health & Safety Code §25249.11. Defendant DOLLAR TREE
9 STORES, INC. markets, distributes, and/or sells Products containing 1,4-Dioxane for sale or use
10 in California.

11 7. Defendant UNILEVER UNITED STATES, INC. is a person in the course of doing
12 business within the meaning of Health & Safety Code §25249.11. Defendant UNILEVER
13 UNITED STATES, INC. markets, distributes, and/or sells Products containing 1,4-Dioxane for
14 sale or use in California.

15 8. Defendant CONOPCO, INC. is a person in the course of doing business within the
16 meaning of Health & Safety Code §25249.11. Defendant CONOPCO, INC. markets, distributes,
17 and/or sells Products containing 1,4-Dioxane for sale or use in California.

18 9. Defendant KAMEDIS INC. is a person in the course of doing business within the
19 meaning of Health & Safety Code §25249.11. Defendant KAMEDIS INC. markets, distributes,
20 and/or sells Products containing 1,4-Dioxane for sale or use in California.

21 10. DOES 1 through 50 are each a person in the course of doing business within the
22 meaning of Health & Safety Code §25249.11. DOES 1 through 50 manufacture, distribute,
23 and/or sell Products for sale or use in California.

24 11. The true names of DOES 1 through 50 are either unknown to CEH at this time or
25 the applicable time period before which CEH may file a Proposition 65 action has not run. When
26 their identities are ascertained or the applicable time period before which CEH may file a
27 Proposition 65 action has run, the Complaint shall be amended to reflect their true names.
28

1 12. The defendants identified in paragraphs 5-9 and DOES 1 through 50 are
2 collectively referred to herein as “Defendants.”

3 **JURISDICTION AND VENUE**

4 13. The Court has jurisdiction over this action pursuant to Health & Safety Code
5 §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
6 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
7 other trial courts.

8 14. This Court has jurisdiction over Defendants because each is a business entity that
9 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
10 avails itself of the California market through the sale, marketing, or use of the Products in
11 California or by having such other contacts with California so as to render the exercise of
12 jurisdiction over it by the California courts consistent with traditional notions of fair play and
13 substantial justice.

14 15. Venue is proper in San Francisco County Superior Court because one or more of
15 the violations arise in the County of San Francisco.

16 **BACKGROUND FACTS**

17 16. The People of the State of California have declared by initiative under Proposition
18 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
19 other reproductive harm.” Proposition 65, §1(b).

20 17. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals
21 listed by the State of California as known to cause cancer, birth defects, or other reproductive
22 harm above certain levels without a “clear and reasonable warning” unless the business
23 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety
24 Code §25249.6 states, in pertinent part:

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

1 18. On January 1, 1988, the State of California officially listed 1,4-Dioxane as a
2 chemical known to cause cancer. 27 California Code of Regulations (“C.C.R.”) §27001(b). On
3 January 1, 1989, one year after it was listed as a chemical known to cause cancer, 1,4-Dioxane
4 became subject to the clear and reasonable warning requirement regarding carcinogens under
5 Proposition 65. Health & Safety Code §25249.10(b).

6 19. Defendants’ Products contain sufficient quantities of 1,4-Dioxane such that
7 consumers who use the Products are exposed to 1,4-Dioxane. The routes of exposure for the
8 violations include dermal contact, inhalation, and ingestion. These exposures occur through the
9 reasonably foreseeable use of the Products when, for example, individuals apply the Products to
10 their hair, scalp, and/or skin. These exposures occur in homes, workplaces and everywhere else
11 throughout California where the products are used.

12 20. No clear and reasonable warning is provided with Defendants’ Products regarding
13 the carcinogenic hazards of 1,4-Dioxane.

14 21. Any person acting in the public interest has standing to enforce violations of
15 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
16 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
17 within such time. Health & Safety Code §25249.7(d).

18 22. More than sixty days prior to naming each Defendant in this lawsuit, CEH
19 provided a 60-Day “Notice of Violation” of Proposition 65 to the California Attorney General, to
20 the District Attorneys of every county in California, to the City Attorneys of every California city
21 with a population greater than 750,000, and to each of the named Defendants. In compliance with
22 Health & Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following
23 information: (1) the name and address of each violator; (2) the statute violated; (3) the time period
24 during which violations occurred; (4) specific descriptions of the violations, including (a) the
25 routes of exposures to 1,4-Dioxane from Defendants’ shampoo, body wash, and/or hand soap, and
26 (b) the specific type of products sold and used in violation of Proposition 65; and (5) the name of
27 the specific Proposition 65-listed chemical that is the subject of the violations described in each
28 Notice.

1 23. CEH also sent a Certificate of Merit for each Notice to the California Attorney
2 General, to the District Attorneys of every county in California, to the City Attorneys of every
3 California city with a population greater than 750,000, and to each of the named Defendants. In
4 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate
5 certified that CEH’s counsel: (1) has consulted with one or more persons with relevant and
6 appropriate experience or expertise who reviewed facts, studies, or other data regarding the
7 exposures to 1,4-Dioxane alleged in each Notice; and (2) based on the information obtained
8 through such consultations, believes that there is a reasonable and meritorious case for a citizen
9 enforcement action based on the facts alleged in each Notice. In compliance with Health &
10 Safety Code §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the Attorney General
11 included factual information – provided on a confidential basis – sufficient to establish the basis
12 for the Certificate, including the identity of the person(s) consulted by CEH’s counsel and the
13 facts, studies, or other data reviewed by such persons.

14 24. None of the public prosecutors with the authority to prosecute violations of
15 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants
16 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH’s
17 Notices regarding 1,4-Dioxane in the Products.

18 25. Defendants both know and intend that individuals will use, touch, and/or handle
19 the Products, thus exposing them to 1,4-Dioxane.

20 26. Defendants continue to expose consumers to 1,4-Dioxane without prior clear and
21 reasonable warnings regarding the carcinogenic hazards of 1,4-Dioxane.

22 27. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
23 filing this Complaint.

24 28. Any person “violating or threatening to violate” Proposition 65 may be enjoined in
25 any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to violate” is
26 defined to mean “to create a condition in which there is a substantial probability that a violation
27 will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not
28 to exceed \$2,500 per day for each violation of Proposition 65.

1 **FIRST CAUSE OF ACTION**
2 **(Violations of Health & Safety Code §25249.6)**

3 29. CEH realleges and incorporates by reference as if specifically set forth herein
4 Paragraphs 1 through 28, inclusive.

5 30. By placing the Products into the stream of commerce, each Defendant is a person
6 in the course of doing business within the meaning of Health & Safety Code §25249.11.

7 31. 1,4-Dioxane is a chemical listed by the State of California as known to cause
8 cancer.

9 32. Each Defendant knows that average use of the Products will expose users of these
10 products to 1,4-Dioxane. Each Defendant intends that the Products be used in a manner that
11 results in exposures to 1,4-Dioxane from these products.

12 33. Each Defendant has failed, and continues to fail, to provide clear and reasonable
13 warnings regarding the carcinogenicity of 1,4-Dioxane to users of its Products.

14 34. By committing the acts alleged above, each Defendant has at all times relevant to
15 this Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to
16 1,4-Dioxane without first giving clear and reasonable warnings to such individuals regarding the
17 carcinogenicity of 1,4-Dioxane.

18 **PRAYER FOR RELIEF**

19 CEH prays for judgment against Defendants as follows:

20 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
21 permanently enjoin Defendants from offering the Products that will be sold in California without
22 either reducing the 1,4-Dioxane levels in their shampoo, body wash, and/or hand soap such that
23 no Proposition 65 warnings are required or providing prior clear and reasonable warnings, as
24 CEH shall specify in further application to the Court;

25 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil
26 penalties against each Defendant in the amount of \$2,500 per day for each violation of
27 Proposition 65 according to proof;

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3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to take action to stop ongoing unwarned exposures to 1,4-Dioxane resulting from the use of shampoo, body wash, and/or hand soap sold by Defendants, as CEH shall specify in further application to the Court;

4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable theory, grant CEH its 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: October 24, 2024

Respectfully submitted,

LEXINGTON LAW GROUP



Mark N. Todzo
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH