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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**06/16/2025**  
Clerk of the Court  
BY: WILMA CORRALES  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

**CGC-25-626218**

GABRIEL ESPINOZA,

Plaintiff,

vs.

BUNZL DISTRIBUTION INC., BUNZL  
IP HOLDINGS, LLC, BUNZL  
DISTRIBUTION USA, LLC, BUNZL  
DISTRIBUTION USA, INC.,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

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

**BACKGROUND OF THE CASE**

1. Plaintiff brings this representative action on behalf of all California citizens to  
enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,  
"[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  
giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

2. This complaint is a representative action brought by Plaintiff in the public interest  
of the citizens of the State of California to enforce the People's right to be informed of the health  
hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP), a toxic chemical found in  
Majestic high visibility mesh vests sold and/or distributed by defendant Bunzl Distribution Inc.,

1 and/or defendant Bunzl IP Holdings, LLC, and/or defendant Bunzl Distribution USA, LLC, and/or  
2 defendant Bunzl Distribution USA, Inc. (collectively, “Bunzl” or “Defendants” and each a  
3 “Defendant”) in California.

4 3. DEHP is a harmful chemical known to the State of California to cause cancer and  
5 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known  
6 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since  
7 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).  
8 On October 24, 2003, the State of California listed DEHP as a chemical known to cause  
9 reproductive toxicity.

10 4. Proposition 65 requires all businesses with ten (10) or more employees that operate  
11 within California or sell products therein to comply with Proposition 65 regulations. Included in  
12 such regulations is the requirement that businesses must label any product containing a Proposition  
13 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
14 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
15 chemical.

16 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
17 for up to 365 days to be imposed upon defendants in a civil action for violations of Proposition 65.  
18 Health & Safety Code § 25249.7(b). Proposition 65 also allows for any court of competent  
19 jurisdiction to enjoin the actions of a defendant which “violate or threaten to violate” the statute.  
20 Health & Safety Code § 25249.7.

21 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
22 without a requisite exposure warning, Majestic high visibility mesh vests (the “Products”) that  
23 expose persons to DEHP when used for their intended purpose.

24 7. Defendants’ failure to warn consumers and other individuals in California of the  
25 health hazards associated with exposure to DEHP in conjunction with the sale and/or distribution  
26 of the Products is a violation of Proposition 65 and subjects Defendants to the enjoinder and civil  
27 penalties described herein.

8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition 65 in accordance with Health and Safety Code § 25249.7(b).

9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendants to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to DEHP pursuant to Health and Safety Code § 25249.7(a).

10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

## PARTIES

11. Plaintiff is a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items. He brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

12. Defendant Bunzl Distribution Inc., through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Bunzl Distribution Inc. is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

13. Defendant Bunzl IP Holdings, LLC, through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Bunzl IP Holdings, LLC is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14. Defendant Bunzl Distribution USA, LLC, through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Bunzl Distribution USA, LLC is a “person” in

1 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
2 25249.11.

3 15. Defendant Bunzl Distribution USA, Inc., through its business, effectively imports,  
4 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
5 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
6 State of California. Plaintiff alleges that defendant Bunzl Distribution USA, Inc. is a “person” in  
7 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
8 25249.11.

### 9 **VENUE AND JURISDICTION**

10 16. Venue is proper in the County of San Francisco because one or more of the  
11 instances of wrongful conduct occurred and continue to occur in this county and/or because  
12 Defendants conducted, and continue to conduct, business in the County of San Francisco with  
13 respect to the Products.

14 17. This Court has jurisdiction over this action pursuant to California Constitution  
15 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
16 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
17 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
18 jurisdiction over this lawsuit.

19 18. This Court has jurisdiction over Defendants because each Defendant is either a  
20 citizen of the State of California, has sufficient minimum contacts with the State of California, is  
21 registered with the California Secretary of State as foreign corporations authorized to do business  
22 in the State of California, and/or has otherwise purposefully availed itself of the California market.  
23 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent  
24 and permissible with traditional notions of fair play and substantial justice.

### 25 **STATUTORY BACKGROUND**

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

1           20.     To effect this goal, Proposition 65 requires that individuals be provided with a  
2 “clear and reasonable warning” before being exposed to substances listed by the State of California  
3 as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent part:

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

7           21.     An exposure to a chemical in a consumer product is one “which results from a  
8 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
9 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
10 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
11 shall provide a warning to any person to whom the product is sold or transferred unless the product  
12 is packaged or labeled with a clear and reasonable warning.”

13           22.     Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
14 more of the following methods individually or in combination:<sup>1</sup>

15           a.       A warning that appears on a product’s label or other labeling.

16           b.       Identification of the product at the retail outlet in a manner which provides  
17 a warning. Identification may be through shelf labeling, signs, menus, or a combination  
18 thereof.

19           c.       The warnings provided pursuant to subparagraphs (a) and (b) shall be  
20 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet  
21 with such conspicuousness, as compared with other words, statements, designs, or devices  
22 in the label, labeling or display as to render it likely to be read and understood by an  
23 ordinary individual under customary conditions of purchase or use.

24           d.       A system of signs, public advertising identifying the system and toll-free  
25 information services, or any other system that provides clear and reasonable warnings.

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26  
27 <sup>1</sup> Alternatively, a person in the course of doing business may elect to comply with the warning  
28 requirements set out in the amended version of 27 CCR 25601, *et.seq.* as amended on August 30,  
2016, and operative on August 30, 2018.

23. Proposition 65 provides that any “person who violates or threatens to violate” the statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase “threaten to violate” is defined to mean creating “a condition in which there is a substantial probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to 365 days.

## FACTUAL BACKGROUND

24. On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause 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). On October 24, 2003, the State of California listed DEHP as a chemical known to cause reproductive toxicity.

25. The exposures that are the subject of the Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Exposure through ingestion will 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.

26. Defendants have manufactured, processed, marketed, distributed, offered to sell and/or sold the Products in California since at least April 5, 2024. The Products continue to be distributed and sold in California without the requisite warning information.

27. At all times relevant to this action, Defendants have knowingly and intentionally exposed users of the Products to DEHP without first giving a clear and reasonable exposure warning to such individuals.

28. As a proximate result of acts by each Defendant, as a person in the course of doing business within the meaning of H&S Code § 25249.11, individuals throughout the State of California, including in San Francisco County, have been exposed to DEHP without a clear and reasonable warning on the Products. The individuals subject to the violative exposures include

1 normal and foreseeable users and consumers that use the Products, as well as all others exposed to  
2 the Products.

3 **SATISFACTION OF NOTICE REQUIREMENTS**

4 29. Plaintiff purchased the Product from W.B. Mason. At the time of purchase,  
5 Defendants did not provide a Proposition 65 exposure warning for DEHP or any other Proposition  
6 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

7 30. The Product was sent to a testing laboratory for phthalate testing to determine the  
8 phthalate content of the Product.

9 31. The laboratory provided the results of its analysis. Results of this test determined  
10 the Product exposes users to DEHP (the “Chemical Test Report”).

11 32. Plaintiff provided the Chemical Test Report and Product to an analytical chemist  
12 to determine if, based on the findings of the Chemical Test Report and the reasonable and  
13 foreseeable use of the Product, exposure to DEHP will occur at levels that require Proposition 65  
14 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California  
15 Code of Regulations.

16 33. On April 5, 2024, Plaintiff received from the analytical chemist an exposure  
17 assessment report which concluded that persons in California who use the Products will be exposed  
18 to levels of DEHP that require a Proposition 65 exposure warning.

19 34. On April 5, 2024, Plaintiff gave notice of alleged violation of Health and Safety  
20 Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens to  
21 DEHP from use of the Products without proper warning, subject to a private action to Defendants  
22 and to the California Attorney General’s office and the offices of the County District attorneys and  
23 City Attorneys for each city with a population greater than 750,000 persons wherein the herein  
24 violations allegedly occurred.

35. The Notice complied with all procedural requirements of Proposition 65 including the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at least one person with relevant and appropriate expertise who reviewed relevant data regarding DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a private action.

37. Plaintiff is commencing this action more than sixty (60) days from the date of the Notice to Defendants, as required by law.

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

39. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer of the Products.

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

43. The exposures that are the subject of the Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Exposure through ingestion will occur by touching the Product with subsequent touching



1 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
2 regarding the health hazards of exposure.

3 44. Plaintiff, based on his best information and belief, avers that such exposures will  
4 continue every day until clear and reasonable warnings are provided to purchasers and users or  
5 until this known toxic chemical is removed from the Products.

6 45. Defendants have knowledge that the normal and reasonably foreseeable use of the  
7 Products exposes individuals to DEHP, and Defendants intend that exposures to DEHP will occur  
8 by their deliberate, non-accidental participation in the importation, distribution, sale and offering  
9 of the Products to consumers in California

10 46. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
11 Complaint.

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

15 48. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
16 authorized to grant injunctive relief in favor of Plaintiff and against each Defendant.

1 **PRAYER FOR RELIEF**

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

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

7 B. That the court preliminarily and permanently enjoin Defendants 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: June 16, 2025

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