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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

02/24/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

9 EMA BELL,

10 Plaintiff,

11 vs.

12 CULTUREFLY LLC,

13 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-25-622656

14 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause
15 of action in the public interest of the citizens of the State of California.

16 **BACKGROUND OF THE CASE**

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

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People's right to be informed of the health
25 hazards caused by exposure to lead, a toxic chemical found in products sold and/or distributed by
26 defendant Culturefly LLC ("Culturefly" or "Defendant") in California.

27 3. Lead is a harmful chemical known to the State of California to cause cancer and
28 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as

1 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
2 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
3 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
4 cause birth defects or other reproductive harm.

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

11 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
12 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
13 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
14 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
15 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
16 25249.7.

17 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
18 without a requisite exposure warning, (a) Oreo cookie jars and (b) Winnie The Pooh mug sets
19 (collectively, the “Products” and each a “Product”) that expose persons to lead when used for their
20 intended purpose.

21 7. Defendant’s failure to warn consumers and other individuals in California of the
22 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of
23 the Products is a violation of Proposition 65 and subjects Defendant to the injunction and civil
24 penalties described herein.

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

27 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
28 Defendant to provide purchasers or users of the Products with required warnings related to the

1 dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code §
2 25249.7(a).

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

4 **PARTIES**

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

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

14 **VENUE AND JURISDICTION**

15 13. Venue is proper in the County of San Francisco because one or more of the
16 instances of wrongful conduct occurred, and continue to occur in this county and/or because
17 Defendant conducted, and continues to conduct, business in the County of San Francisco with
18 respect to the Products.

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

24 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
25 the State of California, has sufficient minimum contacts with the State of California, is registered
26 with the California Secretary of State as foreign corporations authorized to do business in the State
27 of California, and/or has otherwise purposefully availed itself of the California market. Such
28

purposeful availment has rendered the exercise of jurisdiction by California courts consistent and permissible with traditional notions of fair play and substantial justice.

STATUTORY BACKGROUND

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

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

No 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...

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

19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or more of the following methods individually or in combination:¹

- a. A warning that appears on a product’s label or other labeling.
- b. Identification of the product at the retail outlet in a manner which provides a warning. Identification may be through shelf labeling, signs, menus, or a combination thereof.

¹ Alternatively, a person in the course of doing business may elect to comply with the warning 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.

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

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

8 20. Proposition 65 provides that any "person who violates or threatens to violate" the
9 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
10 "threaten to violate" is defined to mean creating "a condition in which there is a substantial
11 probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil
12 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
13 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

14 **FACTUAL BACKGROUND**

15 21. On October 1, 1992, the state of California listed lead as a chemical known to cause
16 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
17 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
18 1987, the State of California listed lead as a chemical known to cause birth defects or other
19 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
20 State to cause cancer and birth defects or other reproductive harm.

21 22. The exposures that are the subject of the Notice result from the purchase,
22 acquisition, handling and recommended use of the Product. The primary route of exposure to the
23 is through dermal absorption directly through the skin when consumers use, touch, or handle the
24 Products. Exposure through ingestion will occur by touching the Product with subsequent touching
25 of the user's hand to mouth. No clear and reasonable warning is provided with the Products
26 regarding the health hazards of exposure.

27 23. Defendant has processed, marketed, distributed, offered to sell and/or sold the
28 Products in California since at least July 8, 2024 with respect to the Oreo cookie jars and since at

1 least August 26, 2024 with respect to the Winnie The Pooh mug sets. The Products continue to be
2 distributed and sold in California without the requisite warning information.

3 24. At all times relevant to this action, Defendant has knowingly and intentionally
4 exposed users and/or consumers of the Products to lead without first giving a clear and reasonable
5 exposure warning to such individuals.

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

12 **SATISFACTION OF NOTICE REQUIREMENTS**

13 26. Plaintiff purchased the Products from retailers in California. At the time of
14 purchase, Defendant did not provide a Proposition 65 exposure warning for lead or any other
15 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
16 *supra*.

17 27. The Products were sent to a testing laboratory to determine if, and what amount of,
18 lead would migrate and/or leach from the Products.

19 28. The laboratory provided the results of its analysis. Results of this test determined
20 the Product exposes users to lead (the “Chemical Test Report”).

21 29. Plaintiff provided the Chemical Test Report and Product to an analytical chemist
22 to determine if, based on the findings of the Chemical Test Report and the reasonable and
23 foreseeable use of the Product, exposure to lead will occur at levels that require Proposition 65
24 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California
25 Code of Regulations.

26 30. On July 8, 2024 (Oreo cookie jars) and August 26, 2024 (Winnie The Pooh mug
27 sets), Plaintiff received from the analytical chemist an exposure assessment report which
28

1 concluded that persons in California who use the Products will be exposed to levels of lead that
2 require a Proposition 65 exposure warning.

3 31. On July 8, 2024 (Oreo cookie jars) and August 26, 2024 (Winnie The Pooh mug
4 sets), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively,
5 the “Notices”) to Defendant concerning the exposure of California citizens to lead contained in the
6 Products without proper warning, subject to a private action to Defendant and to the California
7 Attorney General’s office and the offices of the County District attorneys and City Attorneys for
8 each city with a population greater than 750,000 persons wherein the herein violations allegedly
9 occurred. See attached at Exhibits “A” – “B” a true and correct copy of the Notices.

10 32. The Notices complied with all procedural requirements of Proposition 65 including
11 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
12 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead
13 exposure, and that counsel believed there was meritorious and reasonable cause for a private
14 action.

15 33. After receiving the Notices, and to Plaintiff’s best information and belief, none of
16 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
17 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
18 the subject of the Notice.

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

21 **FIRST CAUSE OF ACTION**

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

23 35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of
24 this Complaint as though fully set forth herein.

25 36. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of
26 the Product.

27 37. Use of the Products will exposed users to lead, a hazardous chemical found on the
28 Proposition 65 list of chemicals known to be hazardous to human health.

1 38. The Product does not comply with the Proposition 65 warning requirements.

2 39. Plaintiff, based on her best information and belief, avers that at all relevant times
3 herein, and since at least July 8, 2024 with respect to the Oreo cookie jars and since at least August
4 26, 2024 with respect to the Winnie The Pooh mug sets, continuing until the present, that
5 Defendant has continued to knowingly and intentionally expose California users and consumers
6 of the Product to lead without providing required warnings under Proposition 65.

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

13 41. Plaintiff, based on her best information and belief, avers that such exposures will
14 continue every day until clear and reasonable warnings are provided to purchasers and users or
15 until this known toxic chemical is removed from the Products.

16 42. Defendant has knowledge that the normal and reasonably foreseeable use of the
17 Products exposes individuals to lead, and Defendant intends that exposures to lead will occur by
18 its deliberate, non-accidental participation in the importation, distribution, sale and offering of the
19 Products to consumers in California

20 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
21 Complaint.

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

24 45. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
25 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: February 24, 2025

BRODSKY SMITH 

13 By: _____

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

16 9465 Wilshire Boulevard, Suite 300

17 Beverly Hills, CA 90212

18 Telephone: (877) 534-2590

19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

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NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
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

July 8, 2024

President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO The TJX Companies, Inc. c/o CT Corporation System 101 Federal Street Boston, MA 02110
President/CEO The TJX Companies, Inc. dba TJMaxx c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Culturefly LLC Sanlian Village Yucheng Town Jiaxing, China 314308
President/CEO Yongrui Home Textile Co. Ltd. Sanlian Village Yucheng Town Jiaxing, China 314308	

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 Ema Bell ("Bell"), 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, Bell 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

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.

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:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** The TJX Companies, Inc.; The TJX Companies, Inc, dba TJMaxx; Culturefly LLC; Yongrui Home Textile Co. Ltd.
3. **Time Period of Exposure:** Violations have been occurring since at least July 8, 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
Cookie Jar	Oreo Cookie Jar 20-7811-552044-001999-22-1 RN# 152992

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

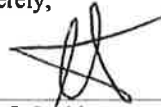
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Bell against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure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

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 Bell'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.

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, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Bell 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,

A handwritten signature in black ink, appearing to be 'EJ 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

EXHIBIT “B”

LAW OFFICES
BRODSKY SMITH

9465 WILSHIRE BLVD., STE. 300
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

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20 BRACE RD., STE. 350
CHERRY HILL, NJ 08034
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

August 26, 2024

Member/Manager Culturefly LLC c/o Corporation Service Company 80 State St. Albany, NY 12207	Member/Manager Culturefly LLC 48 W. 37 th Street, 4 th Floor New York, NY 10018
President/CEO LOHO World, Inc. 1816 Angus Avenue, Suite A Simi Valley, CA 93063	President/CEO LOHO World, Inc. 4495 Runway Street Simi Valley, CA 93063
President/CEO LOHO World, Inc. c/o Shirley S. Joung 2711 Stearns Street, Unit A Simi Valley, CA 93063	

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).

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With respect to the Product herein, Bell 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

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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:** Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
2. **Alleged Violator(s):** Culturefly LLC; LOHO World, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least August 26, 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	Winnie The Pooh Mug Set UPC# 8 40070 94 3

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 Bell 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 Bell'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.

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Sincerely,

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Evan J. Smith

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Certificate of Service

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