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KEEP AMERICA SAFE AND BEAUTIFUL

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA - UNLIMITED CIVIL JURISDICTION

KEEP AMERICA SAFE AND BEAUTIFUL,  
  
Plaintiff,  
  
v.  
  
AUTOMANN INC.; and DOES 1-30, inclusive,  
  
Defendants.

Case No. 25CV459547  
  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
  
Violations of Health & Safety Code  
§ 25249.5, *et seq.* (Proposition 65)

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL (“KASB” or “Plaintiff”), acting in the  
2 public interest, alleges a cause of action against defendants AUTOMANN INC. and DOES 1-30  
3 (“Defendants”) for their alleged violations of Health & Safety Code § 25249.6, et seq., as follows:

4 **INTRODUCTION AND NATURE OF THE ACTION**

5 1. KASB brings this representative action in the public interest on behalf of the citizens of  
6 the State of California. By this action, KASB seeks to enforce the People’s right to be informed of the  
7 health hazards caused by exposures to Lead, a heavy metal found in and on brass elbow fittings  
8 manufactured, imported, distributed, sold and offered for sale by Defendants in the State of  
9 California.

10 2. By this Complaint, plaintiff seeks to remedy Defendants’ failure to warn individuals not  
11 covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.* (“consumers”)  
12 exposed to substances known to cause birth defects or other reproductive harm through exposures to  
13 Lead when they purchase, use and handle Defendants’ brass elbow fittings.

14 3. Detectable levels of Lead are found in and on the brass elbow fittings Defendants  
15 manufacture, import, sell and distribute for sale in California.

16 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
17 Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”), it is unlawful for a person in the course  
18 of doing business to knowingly and intentionally expose consumers and end-users in California to  
19 chemicals known to the State to cause cancer, birth defects or other reproductive harm, without first  
20 providing a “clear and reasonable warning” regarding the presence of these chemicals in Defendants’  
21 products and the harms associated with exposures to such chemicals.

22 5. Defendants manufacture, distribute, import, sell, and offer for sale, in and into  
23 California brass elbow fittings (“PRODUCTS”) containing Lead, without providing a warning  
24 regarding the presence of and the harms associated with exposures to Lead in Defendants’  
25 PRODUCTS. Such PRODUCTS include, without limitation, the *Brass PLC Male Elbow Fitting*  
26 *Volvo 177.V20378449*. Defendants’ violations subject them to civil penalties, injunction, and  
27 preliminary and permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).  
28

1 **PARTIES**

2 6. KASB is a non-profit corporation organized under the laws of California to reduce the  
3 presence of toxic chemicals found in consumer products and to enforce California citizens' right to be  
4 informed about the presence of toxic chemicals in the products they purchase and use, and the harms  
5 associated with exposures to such chemicals. KASB is a "person" within the meaning of Health &  
6 Safety Code § 25249.11(a). It brings this action in the public interest, pursuant to Health and Safety  
7 Code § 25249.7(d).

8 7. At all relevant times, defendant AUTOMANN INC. ("AUTOMANN") operates as a  
9 "person in the course of doing business" with ten (10) or more employees within the meaning of and  
10 as defined by Health and Safety Code §§ 25249.6 and 25249.11.

11 8. AUTOMANN manufactures, imports, distributes, sells, and offers the PRODUCTS for  
12 sale or use in California, or implies by its conduct that it manufactures, imports, distributes, sells,  
13 and/or offers the PRODUCTS for sale or use to consumers in California.

14 9. Doe Defendants 1-10 ("MANUFACTURER DEFENDANTS") are each a "person in the  
15 course of doing business" within the meaning of and as defined by Health and Safety Code  
16 §§ 25249.6 and 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble,  
17 fabricate, and manufacture, or each imply by their conduct that they do so, for one or more of the  
18 PRODUCTS sold and/or offered for sale or use to consumers in California.

19 10. Doe Defendants 11-20 ("DISTRIBUTOR DEFENDANTS") are each a person in the  
20 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
21 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport the  
22 PRODUCTS sold and offered for sale to consumers in California, or each imply by their conduct that  
23 they do so, one or more PRODUCTS to individuals, businesses, and retailers for sale or use in  
24 California.

25 11. Doe Defendants 21-30 ("RETAILER DEFENDANTS") are each a person in the course  
26 of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6 and  
27 25249.11. RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to  
28 consumers in California.

12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are unknown to KASB, who therefore, sues these Doe Defendants by their fictitious names, pursuant to Code of Civil Procedure § 474. Each of the fictitiously named Defendants is responsible in some manner for the acts and occurrences alleged herein and the violations and harms caused thereby. When ascertained, KASB will identify these Doe Defendants by their true names in an amendment to this amended Complaint.

13. AUTOMANN, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall be referred to collectively herein as the “DEFENDANTS.”

## **JURISDICTION AND VENUE**

14. This Court has jurisdiction pursuant to Health & Safety Code § 25249.7, which allows enforcement by any court of competent jurisdiction. The Superior Courts of the State of California have jurisdiction pursuant to California Constitution Article VI, section 10, which grants the Superior Courts “original jurisdiction in all causes except those given by statute to other trial courts.” The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

15. This Court has jurisdiction over DEFENDANTS because DEFENDANTS, and each of them are a person, firm, corporation or association that is a citizen of the State of California, does sufficient business in California, has sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail themselves of the California market through their manufacture, importation, distribution, promotion, marketing and sale of PRODUCTS in California. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by this Court consistent with traditional notions of fair play and substantial justice.

16. Venue is proper in the Superior Court for the County of Santa Clara, pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because KASB seeks civil penalties against DEFENDANTS, because one or more instances of wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS conducted, and continue to conduct, business in the County of Santa Clara with respect to the PRODUCTS.

1 **REGULATORY BACKGROUND AND LAW**

2 17. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
3 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o  
4 person in the course of doing business shall knowingly and intentionally expose any individual to a  
5 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
6 warning to such individual . . .”

7 18. Under the Act, a “person in the course of doing business” is defined as a business with  
8 ten (10) or more employees. Health & Safety Code § 25249.11(b). The Act prohibits businesses from  
9 exposing consumers to listed chemicals without first giving a “clear and reasonable warning.” Health  
10 & Safety Code § 25249.6.

11 19. Exposing consumers to listed chemicals means to cause consumers to ingest, inhale,  
12 contact via body surfaces or otherwise come into contact with a listed chemical. California Code of  
13 Regulations (“Cal. Code Regs.”) Title 27, § 25102(i). An exposure to a hazardous chemical is defined  
14 as one that “results from a person’s acquisition, purchase, storage, consumption or other reasonably  
15 foreseeable use of a product...” Cal. Code Regs. Tit. 27, § 25600(h).

16 20. Under Proposition 65, persons violating the statute may be enjoined in any court of  
17 competent jurisdiction and may be subject to civil penalties of up to \$2,500 per day, per violation.  
18 Health & Safety Code § 25249.7.

19 21. On February 27, 1987, pursuant to Proposition 65 implementing regulations, California  
20 listed Lead as a chemical known to cause birth defects or other reproductive harm. Lead became  
21 subject to the “clear and reasonable warning” requirements one year later, on February 27, 1988. Cal.  
22 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

23 22. On October 1, 1992, pursuant to Proposition 65 implementing regulations, California  
24 listed Lead as a chemical known to cause cancer. Lead became subject to the “clear and reasonable  
25 warning” requirements one year later, on October 1, 1993. Cal. Code Regs., tit. 27, § 27001(c);  
26 Health & Safety Code §§ 25249.8, 25249.10(b).

1 **STATEMENT OF FACTS**

2 23. DEFENDANTS sell and offer their PRODUCTS for sale in California without a clear  
3 and reasonable warning in violation of Cal. Code Regs. Tit. 27, § 25600, *et seq.*

4 24. DEFENDANTS' PRODUCTS expose consumers and end-users in California to Lead at  
5 levels requiring a warning under Proposition 65 when they touch, handle or otherwise contact the  
6 PRODUCTS during reasonably foreseeable use.

7 25. On September 9, 2024, KASB served a 60-Day Notice of Violation ("Notice"), together  
8 with the required certificate of merit, on AUTOMANN, the Office of the Attorney General, and all  
9 requisite public enforcement agencies, alleging, as a result of DEFENDANTS' sales of the  
10 PRODUCTS, consumers in California were, and are, exposed to Lead without first receiving the  
11 "clear and reasonable warning" required by Proposition 65.

12 26. After receiving plaintiff's Notice, no public enforcement agency has commenced or is  
13 diligently prosecuting a cause of action against DEFENDANTS to enforce the alleged violations of  
14 Proposition 65 that are the subject of the Notice.

15 **FIRST CAUSE OF ACTION**

16 **(Violation of Proposition 65 - Against All DEFENDANTS)**

17 27. KASB realleges and incorporates by reference, as if fully stated herein, the allegations  
18 set forth in Paragraphs 1 through 26, inclusive.

19 28. DEFENDANTS' PRODUCTS contain Lead in levels requiring a clear and reasonable  
20 warning under Proposition 65.

21 29. DEFENDANTS know or should have known their PRODUCTS contain Lead. As a  
22 result of plaintiff's Notice, DEFENDANTS now possess actual knowledge of the presence of Lead in  
23 their PRODUCTS.

24 30. DEFENDANTS' PRODUCTS expose consumers, end-users, and other individuals in  
25 California to Lead through dermal contact and ingestion during the reasonably foreseeable of the  
26 PRODUCTS.

27 31. The reasonably foreseeable use of the PRODUCTS causes exposures to Lead.  
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1           32. DEFENDANTS know the reasonably foreseeable use of the PRODUCTS exposes  
2 consumers to Lead through dermal contact and/or ingestion.

3           33. DEFENDANTS intend to expose consumers in California to Lead during their  
4 reasonably foreseeable use of the PRODUCTS. Such exposures to Lead occur through  
5 DEFENDANTS deliberate and non-accidental participation in the California market.

6           34. The exposures to Lead caused by DEFENDANTS and endured by consumers in  
7 California are not exempt from the “clear and reasonable warning” requirements of Proposition 65.

8           35. DEFENDANTS failed to provide a “clear and reasonable warning” to consumers in  
9 California exposed to Lead through dermal contact and/or ingestion during their reasonably  
10 foreseeable use of the PRODUCTS. Defendants continue to fail to provide such warning.

11           36. Contrary to the express policy and statutory prohibition of Proposition 65, consumers  
12 are exposed to Lead through dermal contact and ingestion during their use of PRODUCTS  
13 DEFENDANTS sold, sell and offer for sale without a “clear and reasonable warning.” Such  
14 consumers in California suffer irreparable harms for which they have no plain, speedy, or adequate  
15 remedy at law.

16           37. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for sale  
17 or use in violation of Health and Safety Code § 25249.6. DEFENDANTS’ violations continue beyond  
18 their receipt of KASB’s Notice. As such, DEFENDANTS’ violations are ongoing and continuous in  
19 nature and, unless enjoined, will continue in the future.

20           38. Pursuant to Health and Safety Code § 25249.7(b), and as a consequence their acts and  
21 omissions, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500 per  
22 violation.

23           39. As a consequence of DEFENDANTS’ acts and omissions, Health and Safety Code  
24 § 25249.7(a) specifically authorizes the Court to grant the relief prayed for herein.

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1 **PRAYER FOR RELIEF**

2 Wherefore, KASB prays for relief and judgment against DEFENDANTS, and each of them,  
3 as follows:

4 1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
5 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or  
6 otherwise offering the PRODUCTS for sale or use in California without first providing a “clear and  
7 reasonable warning” to consumers regarding the presence of, and the harms associated with,  
8 exposures to Lead;

9 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and  
10 permanent injunctions mandating DEFENDANTS recall PRODUCTS intended for sale in or into  
11 California that do not bear a clear and reasonable warning;

12 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the  
13 amount of \$2,500 per violation, according to proof at trial;

14 4. That the Court award plaintiff its reasonable attorneys’ fees and costs of suit; and

15 5. That the Court grant such further relief as it deems just and equitable.

16 Dated: February 21, 2025

17 Respectfully submitted,

18 SEVEN HILLS LLP

19  
20 By: 

Laralei Paras

Attorneys for Plaintiff

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