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**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**11/22/2024  
Clerk of the Court**

**BY: SAHAR ENAYATI  
Deputy Clerk**

6 Attorneys for Plaintiff  
KEEP AMERICA SAFE AND BEAUTIFUL

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO  
11 UNLIMITED CIVIL JURISDICTION

12 KEEP AMERICA SAFE AND BEAUTIFUL,  
13  
14 Plaintiff,  
15  
16 v.  
17 BALLISLIFE, INC.; and DOES 1-30, inclusive,  
18 Defendants.

Case No. **CGC-24-620069**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

Violation of Proposition 65, The Safe  
Drinking Water and Toxic Enforcement Act  
of 1986 (Health & Safety Code § 25249.5 *et  
seq.*)

UNLIMITED CIVIL

1 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a  
2 cause of action against Defendants BALLISLIFE, INC. and DOES 1-30.

3 **INTRODUCTION AND NATURE OF THE ACTION**

4 1. This Complaint is a representative action brought by plaintiff Keep America Safe and  
5 Beautiful (“**KASB**”) in the public interest of the citizens of the State of California to enforce the  
6 People’s right to be informed of the health hazards caused by exposures to di(2-ethylhexyl) phthalate  
7 (“**DEHP**”), di-n-butyl phthalate (“**DBP**”), and diisononyl phthalate (“**DINP**”), toxic chemicals found  
8 in and on the vinyl backpacks manufactured, imported, distributed, sold or offered for sale by  
9 Defendants in the State of California.

10 2. By this Complaint, plaintiff seeks to remedy Defendants’ continuing failure to warn  
11 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*  
12 (“**consumers**”) they are being exposed to substances known to the State of California to cause cancer  
13 and birth defects or other reproductive harm through exposures to DEHP, DBP, and DINP, when they  
14 purchase, use or handle Defendants’ vinyl backpacks.

15 3. Detectable levels of DEHP, DBP, and DINP are found in and on the vinyl backpacks  
16 that Defendants manufacture, import, sell or distribute for sale to individuals throughout California.

17 4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
18 Health and Safety Code § 25249.6 *et seq.* (“**Proposition 65**”), it is unlawful for a person in the course  
19 of doing business to knowingly and intentionally expose consumers in California to chemicals known  
20 to the State to cause cancer, birth defects or other reproductive harm, without first providing a “clear  
21 and reasonable” health hazard warning to such individuals prior to purchase or use.

22 5. KASB contends and alleges Defendants manufacture, distribute, import, sell, and offer  
23 for sale, in and into California vinyl backpacks (“**PRODUCTS**”) containing DEHP, DBP, and DINP,  
24 without Proposition 65’s requisite health hazard warning regarding the harms associated with  
25 exposures to the chemicals, including, but not limited to, *LX1 Backpack in Black*. Defendants’  
26 conduct subjects them to civil penalties for each violation, enjoinder as well as preliminary and  
27 permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).  
28

1 **PARTIES**

2 6. Plaintiff KASB is a non-profit corporation organized under the laws of California and  
3 proceeding in the interest of the general public, dedicated to protecting the health of California  
4 citizens and the environment through the elimination or reduction of toxic chemicals utilized in  
5 manufacturing consumer products and to increasing public awareness of those chemicals through the  
6 promotion of sound environmental practices and corporate responsibility. KASB is a person within  
7 the meaning of Health & Safety Code § 25249.11(a), and it brings this action in the public interest,  
8 pursuant to Health and Safety Code § 25249.7(d).

9 7. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
10 BALLISLIFE, INC. (“**BALLISLIFE**”) was and is a “person” “in the course of doing business” with  
11 ten (10) or more employees, within the meanings of Health and Safety Code §§ 25249.6 and  
12 25249.11.

13 8. BALLISLIFE manufactures, imports, distributes, sells, and/or offers the PRODUCTS  
14 for sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
15 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

16 9. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person  
17 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and  
18 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and  
19 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS  
20 offered for sale or use in California.

21 10. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in  
22 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
23 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each  
24 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or  
25 retailers for sale or use in the State of California

26 11. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the  
27 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
28

1 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the PRODUCTS  
2 for sale to individuals in the State of California.

3 12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are  
4 unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names, pursuant  
5 to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, each  
6 of the fictitiously named Defendants is responsible in some manner for the acts and occurrences  
7 alleged herein and the damages caused thereby. When ascertained, their true names and capacities  
8 shall be reflected in an amended complaint.

9 13. At all times mentioned herein, BALLISLIFE, MANUFACTURER DEFENDANTS,  
10 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, hereinafter, where  
11 appropriate, be referred to collectively as the “DEFENDANTS.”

12 **JURISDICTION AND VENUE**

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

19 15. The California Superior Court has jurisdiction over DEFENDANTS, based on  
20 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation or  
21 association that is a citizen of the State of California, does sufficient business in California, has  
22 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail  
23 themselves of the California market through their manufacture, importation, distribution, promotion,  
24 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful availment renders  
25 the exercise of personal jurisdiction by California courts consistent with traditional notions of fair  
26 play and substantial justice.

27 16. Venue is proper in the Superior Court for the County of San Francisco, pursuant to  
28 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent

1 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more  
2 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
3 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with  
4 respect to the PRODUCTS that are the subject of this action.

5 **REGULATORY BACKGROUND AND LAW**

6 17. In 1986, the people of the State of California approved an initiative addressing the  
7 harms caused by hazardous chemicals and declared their right “[t]o be informed about exposures to  
8 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed  
9 General Law, Gen. Elec. (Nov. 4, 1986) at p.3.

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

15 19. Under the Act, a “person in the course of doing business” is defined as a business with  
16 ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from  
17 exposing individuals to hazardous chemicals without first giving a “clear and reasonable” warning.  
18 Health & Safety Code § 25249.6.

19 20. Exposing individuals to hazardous chemicals means to cause individuals to ingest,  
20 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR  
21 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s  
22 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”  
23 27 C.C.R. § 25600(h).

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

27 22. On January 1, 1988, pursuant to Proposition 65’s implementing regulations, California  
28 identified and listed DEHP as a chemical known to the State cause cancer. DEHP became subject to

1 the “clear and reasonable warning” requirements one year later, on January 1, 1989. Cal. Code Regs.  
2 tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b). On October 24, 2003, pursuant  
3 to Proposition 65’s implementing regulations, California identified and listed DEHP as a chemical  
4 known to the State to cause birth defects and reproductive harm. DEHP became subject to the “clear  
5 and reasonable warning” requirements one year later, on October 24, 2004. Cal. Code Regs. tit. 27,  
6 § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

7 23. On December 5, 2005, pursuant to Proposition 65’s implementing regulations,  
8 California identified and listed DBP as a chemical known to the State to cause birth defects and  
9 reproductive harm. DBP became subject to the “clear and reasonable warning” requirements one year  
10 later, on December 5, 2006. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8,  
11 25249.10(b).

12 24. On December 20, 2013, pursuant to Proposition 65’s implementing regulations,  
13 California identified and listed DINP as a chemical known to the State to cause cancer. DINP became  
14 subject to the “clear and reasonable warning” requirements one year later, on December 20, 2014.  
15 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

16 **STATEMENT OF FACTS**

17 25. Plaintiff purchased DEFENDANTS’ PRODUCTS, without a warning, in California.

18 26. Plaintiff investigated and tested DEFENDANTS’ PRODUCTS at an accredited lab,  
19 and consulted with a person with relevant and appropriate knowledge and expertise, who, after  
20 reviewing the collected data and analyzing the risk of exposure to DEHP, DBP, and DINP,  
21 determined the PRODUCTS subject consumers in California to exposure to the listed chemical at  
22 levels requiring a warning under the statute, based on touching, handling or otherwise utilizing  
23 PRODUCTS in accordance with their reasonably foreseeable and intended usages.

24 27. Based on the foregoing, Plaintiff’s attorney executed a certificate of merit, attesting  
25 there was a reasonable and meritorious case for this private action and included the factual  
26 information supporting the certificate when it served the notice on the California Attorney General’s  
27 Office, as required. Health & Safety Code § 25249.7(d); Title 11 C.C.R. § 3102.

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