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**FILED**

JAN 29 2024

JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: J. Chen, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MARIN  
UNLIMITED CIVIL JURISDICTION

SUSAN DAVIA,  
Plaintiff,

v.

RAPPI PALM SPRINGS, MARIOTT  
INTERNATIONAL INC., HYATT HOTELS  
CORPORATION, HILTON WORLDWIDE  
HOLDINGS, INC. and DOES 1-150,  
Defendants.

CV

Case No. CIV 0001933

COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF

(Cal. Health & Safety Code § 25249.6 et seq.)

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff SUSAN DAVIA, in the  
3 public interest of the citizens of the State of California, to enforce the People’s right to be informed of  
4 the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical found in certain vinyl adult  
5 purse products manufactured, distributed and/or otherwise sold by defendants in California.

6 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,  
7 California Health & Safety Code Section 25249.6 *et seq.* (“Proposition 65”), “No person in the course  
8 of doing business shall knowingly and intentionally expose any individual to a chemical known to  
9 the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning  
10 to such individual. . . .” (*Cal. Health & Safety Code* § 25249.6.)

11 3. On October 24, 2003, the State listed di(2-ethylhexyl)phthalate as a chemical known to  
12 cause birth defects and other reproductive harm. DEHP became subject to the warning requirement  
13 one year later and was therefore subject to the “clear and reasonable warning” requirements of  
14 Proposition 65, beginning on October 24, 2004. (27 CCR § 27001(c); *Cal. Health & Safety Code*  
15 § 25249.8.)

16 4. DEHP shall hereinafter be referred to as “LISTED CHEMICAL.”

17 5. Significant levels of the LISTED CHEMICAL have been discovered in or on the  
18 vinyl/PVC components of certain vinyl adult purse products that defendants design, manufacture,  
19 distribute, and/or offer for sale to consumers throughout the State of California including, as  
20 example, but not limited to, Rappi Adult T/Purse/Postcard Tramway S/S Crew 200101XL and other  
21 variations of such shirt/purse package. All such vinyl purse products containing any LISTED  
22 CHEMICAL shall hereinafter be referred to as the “PRODUCTS.”

23 6. Defendants’ failure to warn consumers and/or other individuals in the State of  
24 California about their exposures to the LISTED CHEMICAL in conjunction with defendants’ sale of  
25 the PRODUCTS is a violation of Proposition 65.

26 7. For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
27 permanent injunctive relief to compel defendants to provide employees handling the PRODUCTS  
28

1 and purchasers or users of the PRODUCTS with the required warning regarding the health hazards  
2 of the LISTED CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

3 8. Plaintiff also seeks civil penalties against defendants for their violations of  
4 Proposition 65, as provided for by California Health & Safety Code Section 25249.7(b).

5 **PARTIES**

6 9. Plaintiff SUSAN DAVIA is a citizen of the State of California who is dedicated to  
7 protecting the health of California citizens through the elimination or reduction of toxic exposures  
8 from consumer products, and brings this action in the public interest pursuant to California Health  
9 & Safety Code Section 25249.7.

10 10. Based upon publicly available information, plaintiff is informed and believes, and  
11 thereupon alleges, that each defendant RAPPI PALM SPRINGS, MARIOTT INTERNATIONAL  
12 INC., HYATT HOTELS CORPORATION and HILTON WORLDWIDE HOLDINGS, INC. is a person  
13 doing business within the meaning of California Health & Safety Code Section 25249.11.

14 11. Based upon publicly available information, plaintiff is informed and believes, and  
15 thereupon alleges, that each defendant RAPPI PALM SPRINGS, MARIOTT INTERNATIONAL  
16 INC., HYATT HOTELS CORPORATION and HILTON WORLDWIDE HOLDINGS, INC. is legally  
17 responsible for the design, manufacture, distribution, and/or offer of the PRODUCTS for sale or use  
18 in the State of California or implies by its conduct that it designs, manufactures, distributes, and/or  
19 offers the PRODUCTS for sale or use in the State of California.

20 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons  
21 doing business within the meaning of California Health & Safety Code Section 25249.11.

22 13. MANUFACTURER DEFENDANTS and RAPPI PALM SPRINGS engage in the  
23 process of research, testing, designing, assembling, fabricating and/or manufacturing, or imply by  
24 their conduct that they engage in the process of research, testing, designing, assembling, fabricating,  
25 and/or manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

26 14. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons doing  
27 business within the meaning of California Health & Safety Code Section 25249.11.

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1 plaintiff is informed and believes that DEFENDANTS' manufacture, distribution, and/or offering of  
2 the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 has  
3 continued to occur beyond DEFENDANTS' receipt of plaintiff's 60-Day Notice. Plaintiff further  
4 alleges and believes that such violations will continue to occur into the future.

5 28. After receipt of the claims asserted in the 60-Day Notice, the appropriate public  
6 enforcement agencies have failed to commence and diligently prosecute a cause of action against  
7 DEFENDANTS under Proposition 65.

8 29. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
9 California by DEFENDANTS, contain one or more LISTED CHEMICAL.

10 30. DEFENDANTS knew or should have known that the PRODUCTS contained such  
11 LISTED CHEMICAL.

12 31. A LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to expose  
13 individuals to the LISTED CHEMICAL, as such exposure is defined by 27 CCR Section 25602(b),  
14 through dermal contact and/or ingestion and/or inhalation during or as a consequence of the  
15 packing, shipping, unpacking, display and daily organization and movement of PRODUCTS as well  
16 as the reasonably foreseeable use of the PRODUCTS.

17 32. DEFENDANTS knew or should have known that the packing, shipping, unpacking,  
18 display and daily organization and movement of PRODUCTS as well as the reasonably foreseeable  
19 use of the PRODUCTS exposes individuals to a LISTED CHEMICAL through dermal contact and/or  
20 ingestion and/or inhalation.

21 33. Each of the RETAIL DEFENDANTS and MARIOTT INTERNATIONAL INC.,  
22 HYATT HOTELS CORPORATION, HILTON WORLDWIDE HOLDINGS, INC. has actual  
23 knowledge of the potential consumer product exposures to the LISTED CHEMICAL both pursuant  
24 to information obtained by them from reliable sources in the course of doing business and pursuant  
25 to the 60-Day Notice.

26 34. No manufacturer, producer, packager, importer, supplier, or distributor of the  
27 exemplar PRODUCTS sold by RETAIL DEFENDANTS and MARIOTT INTERNATIONAL INC.,  
28

1 HYATT HOTELS CORPORATION, HILTON WORLDWIDE HOLDINGS, INC. has designated an  
2 agent for service of process in California or has a primary place of business in California.

3 35. DEFENDANTS' participation in the manufacture, distribution and/or offer for sale or  
4 use of PRODUCTS to individuals in the State of California was deliberate and non-accidental.

5 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
6 consumers and/or other individuals in the State of California who were or who could become  
7 exposed to a LISTED CHEMICAL during the reasonably foreseeable retail receipt, display and  
8 organization of PRODUCTS as well as the reasonably foreseeable use of the PRODUCTS.

9 37. Contrary to the express policy and statutory prohibition of Proposition 65, employees  
10 and individuals exposed to a LISTED CHEMICAL through dermal contact and/or ingestion and/or  
11 inhalation resulting from the reasonably foreseeable use of the PRODUCTS, sold by DEFENDANTS  
12 without a "clear and reasonable warning", have suffered, and continue to suffer, irreparable harm,  
13 for which harm they have no other plain, speedy or adequate remedy at law.

14 38. As a consequence of the above-described acts, DEFENDANTS are liable for a  
15 maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to California  
16 Health & Safety Code Section 25249.7(b).

17 39. As a consequence of the above-described acts, California Health & Safety Code  
18 Section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
19 DEFENDANTS.

20 40. In addition to the commission of all acts and actions identified hereinabove,  
21 defendants MARIOTT INTERNATIONAL INC., HYATT HOTELS CORPORATION and HILTON  
22 WORLDWIDE HOLDINGS, INC. further violated 27 C.C.R. 25600.2(g), by failing to promptly  
23 provide the name and contact information for the manufacturer, producer, packager, importer,  
24 supplier, and distributor of the product to plaintiff as demanded in her 60-Day Notice to them.

25 **PRAYER FOR RELIEF**

26 Wherefore, plaintiff prays for judgment against DEFENDANTS, and each of them, as  
27 follows:

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1           1.       That the Court, pursuant to California Health & Safety Code Section 25249.7(b), assess  
2 civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation alleged  
3 herein;

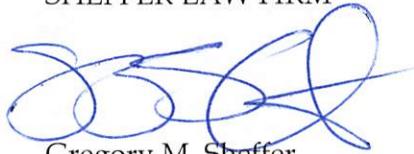
4           2.       That the Court, pursuant to California Health & Safety Code Section 25249.7(a),  
5 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering  
6 the PRODUCTS for sale or use in California, without providing “clear and reasonable warnings” as  
7 defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED  
8 CHEMICAL;

9           3.       That the Court grant plaintiff her reasonable attorneys’ fees and costs of suit; and

10          4.       That the Court grant such other and further relief as may be just and proper.

11 Dated: January 29, 2024

SHEFFER LAW FIRM



Gregory M. Sheffer  
Attorneys for Plaintiff