

1 Clifford A. Chanler, State Bar No. 135534  
CHANLER, LLC  
2 72 Huckleberry Hill Road  
New Canaan, CT 06840  
3 Telephone: (475) 277-2932  
Facsimile: (203) 702-5011  
4 Email: Clifford@ChanlerLLC.com

5 Steven Y. Chen, State Bar No. 243200  
STEVEN Y. CHEN, APLC  
6 2650 River Avenue, Unit A  
Rosemead, CA 91770  
7 Telephone: (626) 782-5017  
Facsimile: (626) 307-1657  
8 Email: Schen@Schenlaw.com

9 Attorneys for Plaintiff  
JAY EPPS

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

**02/25/2025**  
Clerk of the Court  
BY: AUSTIN LAM  
Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

**CGC-25-622712**

14 UNLIMITED CIVIL JURISDICTION

16 JAY EPPS,

17 Plaintiff,

18 v.

19 AMAZON.COM, INC.,

20 Defendant.

Case No. \_\_\_\_\_

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff Jay Epps in the  
3 public interest of the citizens of the State of California to enforce the People's right to be  
4 informed of the health hazards caused by exposures to lead, a toxic chemical found in artist paste  
5 paints (the Products). The Products are repackaged, produced, stored, distributed, shipped and/or  
6 sold online (sold) to California citizens (or to a non-California citizen and shipped to an address  
7 in California) by defendant.

8 2. By this Complaint, plaintiff seeks to remedy defendant Amazon.com, Inc.  
9 (AMAZON or defendant) continuing failure to warn consumers and businesses not covered by  
10 California's Occupational Safety Health Act, Labor Code §§6300 *et seq.* about the risks of  
11 exposure to lead present in the Products that are manufactured, distributed, and/or offered for sale  
12 for used by citizens in the State of California. Individuals, consumers and businesses not covered  
13 by California's Occupational Safety Health Act, Labor Code §§6300 *et seq.* who purchase, and/or  
14 use or handle the Products are referred to hereinafter as "consumers."

15 3. Defendant has actual knowledge of the lead contents of the Products which were  
16 and do continue to be offered for purchase and/or transacted through amazon.com.

17 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
18 Health & Safety Code §§25249.6 *et seq.* (Proposition 65), "[n]o person in the course of doing  
19 business shall knowingly and intentionally expose any individual to a chemical known to the state  
20 to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
21 individual..." Health & Safety Code §25249.6.

22 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed  
23 lead as a chemical known to cause birth defects and other reproductive harm. Lead became  
24 subject to the "clear and reasonable warning" requirements of the act one year later on February  
25 27, 1988. 27 Cal. Code Regs. §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

6. Defendant imports, distributes, facilitates and/or otherwise offers for sale the Products without the mandated health hazard warning in California. An example of the Products is shown on the table below:

<i>Product Exemplar</i>	<i>ASIN</i>
Williamsburg Artist Oil Colors, Flake White, Ser 6, #6000104- 9, 37 ml, UPC No. 8 77463 00048 5	B0006OJCO0

7. Defendant's failure to warn consumers and other individuals in California of the reproductive hazards associated with exposures to lead in conjunction with its sale of the Products are violations of Proposition 65 which subject defendant to be enjoined of such conduct as well as civil penalties assessed for each violation. Health & Safety Code §25249.7(a) and (b)(1).

8. For defendant's violations and threatened (i.e., continuing) violations of Proposition 65, plaintiff seeks preliminary and permanent injunctive relief to compel defendant to provide purchasers of the Products with the required warning regarding specific health hazards associated with exposures to lead prior to the sale. Health & Safety Code §25249.7(a).

9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil penalties against defendant for its violations of Proposition 65, dating back as far as February 25, 2021.

### **PARTIES**

10. Plaintiff Jay Epps is a citizen of the State of California who is dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposures from consumer products, and he brings this action in the public interest pursuant to Health & Safety Code §25249.7(d).

11. AMAZON is person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.

12. AMAZON imports, distributes, sells, facilitates, and/or offers the Products for sale or use in the State of California, or implies by its conduct that it imports, distributes, facilitates for sale, sells, and/or offers the Products for sale or use in the State of California. Some of the

1 Products that were offered for sale by AMAZON were supplied to it by entities that are not subject  
2 to enforcement under Proposition 65 because: (i) they have fewer than ten employees during all  
3 relevant periods; and/or (ii) do not have an agent for process of service in California. Further, in  
4 some instances, the Products may be shipped to California consumers, either directly (or indirectly  
5 through an AMAZON fulfilment center in the United States) by exporters located in foreign  
6 countries without offices in the United States, after purchase at amazon.com.

### 7 **VENUE AND JURISDICTION**

8 13. Venue is proper in the Superior Court for the County of San Francisco pursuant to  
9 Code of Civil Procedure §§393, 395, and 395.5, because this Court is a court of competent  
10 jurisdiction, because plaintiff seeks civil penalties against defendant, one or more instances of  
11 wrongful conduct occurred, and continue to occur, in this county, and/or defendant conducted, and  
12 continue to conduct business in San Francisco.

13 14. The California Superior Court has jurisdiction over this action pursuant to  
14 California Constitution Article VI, section 10, which grants the Superior Court “original  
15 jurisdiction in all causes except those given by statute to other trial courts.” The statute under  
16 which this action is brought does not specify any other basis of subject matter jurisdiction.

17 15. The California Superior Court has jurisdiction over defendant based on plaintiff’s  
18 information and good faith belief that defendant is a person, firm, corporation has a principal  
19 office or association that is a citizen of the State of California, has sufficient minimum contacts in  
20 the State of California, and/or otherwise purposefully avails itself of the California market.  
21 defendant’s purposeful availment renders the exercise of personal jurisdiction (specific, limited or  
22 both) by California courts consistent with traditional notions of fair play and substantial justice.

### 23 **FIRST CAUSE OF ACTION**

#### 24 **(Violation of Proposition 65)**

25 16. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
26 Paragraphs 1 through 15, inclusive.  
27  
28

1           17.     In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
2 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed  
3 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”

4           18.     Proposition 65 states, “[n]o person in the course of doing business shall knowingly  
5 and intentionally expose any individual to a chemical known to the state to cause cancer or  
6 reproductive toxicity without first giving clear and reasonable warning to such individual...”  
7 Health & Safety Code §25249.6.

8           19.     On September 23, 2024, plaintiff served a 60-Day Notice of Violation (Notice),  
9 together with the requisite certificates of merit, on AMAZON, the California Attorney General’s  
10 Office, and the requisite public enforcement agencies alleging that, as a result of defendant’s sales  
11 of artist paste paints, consumers in California were and likely continue to be exposed to lead from  
12 the reasonably foreseeable use of the Products, without them first receiving a “clear and  
13 reasonable warning” at the time of purchase of the artist paste paints on amazon.com regarding the  
14 reproductive and developmental harms associated with such exposures, as required by Proposition  
15 65.

16           20.     As alleged in the Notice, during the relevant period, defendant imported,  
17 distributed, facilitated for sale, sold, and/or offered the Products for sale or use on its website in  
18 violation of Health & Safety Code §25249.6, and defendant’s violations likely have continued  
19 beyond its receipt of the Notice. As such, defendant’s violations are ongoing and continuous in  
20 nature and, unless enjoined, will continue.

21           21.     After receiving the Notice, no public enforcement agency has commenced and  
22 diligently prosecuted a cause of action against defendant under Proposition 65 to enforce the  
23 alleged violations that are the subject of plaintiff’s sixty-day letter.

24           22.     The Products that defendant imports, distributes, or offers for sale throughout the  
25 State of California cause exposures to lead as a result of the reasonably foreseeable use of the  
26 Products. Such exposures caused by defendant and endured by consumers in California who  
27 purchase, use or handle the Products are not exempt from the “clear and reasonable” warning  
28

requirements of Proposition 65, yet defendant does not provide compliant warnings for the reproductive toxicity of lead on its website in a clear and conspicuous manner, if at all.

23. Defendant has actual knowledge that the Products contain lead.

24. Lead is present in or on the Products in such a way as to expose consumers through dermal contact, ingestion and/or inhalation during reasonably foreseeable use.

25. The normal and reasonably foreseeable use of the Products has caused, and continues to cause, consumer product exposures to lead as defined by 27 California Code of Regulations §25600.1(e) and other types of exposures set forth in the Notice.

26. Defendant knows that the normal and reasonably foreseeable use of the Products exposes individuals to lead through dermal contact, ingestion and/or inhalation.

27. Defendant intends that exposures to lead from the reasonably foreseeable use of the Products will occur by its deliberate, non-accidental participation in the importation, distribution, sale, and offering of the Products for sale or use to consumers and others in California.

28. Defendant failed to provide a “clear and reasonable warning” on its website to those consumers and other citizens in California who have been, or who will be, exposed to lead through dermal contact, ingestion and/or inhalation resulting from their use of the Products.

29. Contrary to the express policy and statutory prohibition of Proposition 65 enacted directly by California voters, consumers exposed to lead as a result of their use of the Products that defendant sold without a “clear and reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

30. Pursuant to Health & Safety Code §25249.7(b), as a consequence of the above-described acts, defendant is liable for a maximum civil penalty of \$2,500 per day for each violation (e.g., each unit sale).

31. As a consequence of the above-described acts, Health & Safety Code §25249.7(a) also specifically authorizes the Court to grant injunctive relief against defendant.

//

1 **PRAYER FOR RELIEF**

2 Wherefore, plaintiff prays for judgment against defendant as follows:

3 1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil  
4 penalties against defendant, in the amount of \$2,500 per day for each violation that occurred since  
5 February 25, 2021;

6 2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and  
7 permanently enjoin defendant from manufacturing, importing, distributing, or offering the  
8 Products for sale or use in California without first providing a “clear and reasonable warning”  
9 regarding the harms associated with exposures to lead unless they are reformulated to eliminate  
10 the toxicant;

11 3. That the Court, pursuant to Health & Safety Code §25249.7(a), issue preliminary  
12 and permanent injunctions mandating that defendant recall all Products currently in the chain of  
13 commerce in California without a “clear and reasonable warning” as defined by 27 California  
14 Code of Regulations §25600 *et seq.*, and refund purchasers of the purchase price and shipping  
15 costs;

16 4. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

17 5. That the Court grant such other and further relief as may be just and proper.

18  
19 Dated: February 25, 2025

Respectfully submitted,

20 CHANLER, LLC

21  
22 By: 

23 Clifford A. Chanler  
24 Attorneys for Plaintiff  
25 JAY EPPS  
26  
27  
28