

1 Evan J. Smith, Esquire (SBN 242352)
2 Ryan P. Cardona, Esquire (SBN 302113)
3 BRODSKY SMITH
4 9465 Wilshire Blvd., Ste. 300
5 Beverly Hills, CA 90212
6 Telephone: (877) 534-2590
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

12/23/2025
Clerk of the Court
BY: ERNALYN BURA
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 **CGC-25-632496**

12 EMA BELL,

13 Plaintiff,

14 vs.

15 WALMART INC.,

16 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

17 Plaintiff Ema Bell (“Plaintiff”), by and through her attorneys, alleges the following cause
18 of action in the public interest of the citizens of the State of California.

19 **BACKGROUND OF THE CASE**

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

26 2. This complaint is a representative action brought by Plaintiff in the public interest
27 of the citizens of the State of California to enforce the People’s right to be informed of the health
28 hazards caused by exposure to lead and/or di(2-ethylhexyl) phthalate (DEHP), toxic chemicals
found in (a) *The Grinch*™ plush in jumbo mugs manufactured, sold, and/or distributed by Grupo
Ruz, S.A. de C.V. (lead) and (b) Hi Peach Layne berry bougie kits manufactured, sold, and/or

1 distributed by Peach Layne, LLC (DEHP) that are sold and/or distributed by defendant Walmart
2 Inc. (“Walmart” or “Defendant”) in California.

3 3. Lead is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as
5 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
6 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
7 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
8 cause birth defects or other reproductive harm.

9 4. DEHP is a harmful chemical known to the State of California to cause cancer and
10 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known
11 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since
12 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
13 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
14 reproductive toxicity.

15 5. Proposition 65 requires all businesses with ten (10) or more employees that operate
16 within California or sell products therein to comply with Proposition 65 regulations. Included in
17 such regulations is the requirement that businesses must label any product containing a Proposition
18 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
19 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
20 chemical.

21 6. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
22 for up to 365 days to be imposed upon defendants in a civil action for violations of Proposition 65.
23 Health & Safety Code § 25249.7(b). Proposition 65 also allows for any court of competent
24 jurisdiction to enjoin the actions of a defendant which “violate or threaten to violate” the statute.
25 Health & Safety Code § 25249.7.

26 7. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
27 without a requisite exposure warning, (a) *The Grinch*TM plush in jumbo mugs manufactured, sold,
28 and/or distributed by Grupo Ruz, S.A. de C.V. (lead) and (b) Hi Peach Layne berry bougie kits

1 manufactured, sold, and/or distributed by Peach Layne, LLC (DEHP) (collectively, the “Products”
2 and each a “Product”) that expose persons to lead and/or DEHP when used for their intended
3 purpose.

4 8. Defendant’s failure to warn consumers and other individuals in California of the
5 health hazards associated with exposure to lead and/or DEHP in conjunction with the sale and/or
6 distribution of the Products is a violation of Proposition 65 and subjects Defendant to the
7 enjoinder and civil penalties described herein.

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

10 10. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
11 Defendant to provide purchasers or users of the Products with required warnings related to the
12 dangers and health hazards associated with exposure to lead and/or DEHP pursuant to Health and
13 Safety Code § 25249.7(a).

14 11. Plaintiff further seeks a reasonable award of attorney’s fees and costs.

15 **PARTIES**

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

20 13. Defendant Walmart Inc., through its business, effectively imports, distributes, sells,
21 and/or offers the Products for sale or use in the State of California, or it implies by its conduct that
22 it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
23 Plaintiff alleges that defendant Walmart Inc. is a “person” in the course of doing business within
24 the meaning of Health & Safety Code sections 25249.6 and 25249.11.

25 **VENUE AND JURISDICTION**

26 14. Venue is proper in the County of San Francisco because one or more of the
27 instances of wrongful conduct occurred and continue to occur in this county and/or because
28

1 Defendant conducted, and continues to conduct, business in the County of San Francisco with
2 respect to the Products.

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

8 16. This Court has jurisdiction over Defendant because Defendant is either a citizen of
9 the State of California, has sufficient minimum contacts with the State of California, is registered
10 with the California Secretary of State as foreign corporations authorized to do business in the State
11 of California, and/or has otherwise purposefully availed itself of the California market. Such
12 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
13 permissible with traditional notions of fair play and substantial justice.

14 **STATUTORY BACKGROUND**

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

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

21 No person in the course of doing business shall knowingly and intentionally expose any
22 individual to a chemical known to the state to cause cancer or reproductive toxicity without
23 first giving clear and reasonable warning to such individual...

24 19. An exposure to a chemical in a consumer product is one “which results from a
25 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
26 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
27 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
28

1 shall provide a warning to any person to whom the product is sold or transferred unless the product
2 is packaged or labeled with a clear and reasonable warning.”

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

5 a. A warning that appears on a product’s label or other labeling.

6 b. Identification of the product at the retail outlet in a manner which provides
7 a warning. Identification may be through shelf labeling, signs, menus, or a combination
8 thereof.

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

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

16 21. Proposition 65 provides that any “person who violates or threatens to violate” the
17 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
18 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
19 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
20 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
21 365 days.

22 22. Pursuant to Cal. Code Regs. Tit. 27, § 25600.2(e), a retail seller is responsible for
23 providing the warning required by § 25249.6 of the Act for a consumer product exposure when
24 one or more of the following circumstances exist: (a) the retailer seller is selling the product under
25

26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 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 a brand or trademark that is owned or licensed by the retail seller or an affiliated entity; (b) the
2 retailer seller has knowingly introduced a listed chemical into the product, or knowingly caused
3 the listed chemical to be created in the product; (c) the retail seller has covered, obscured or altered
4 a warning label that has been affixed to the product pursuant to § 25600.2(b); (d) the retail seller
5 has received a notice and warning materials for the exposure pursuant to § 25600.2(b)-(c) and the
6 retail seller has sold the product without conspicuously posting or displaying the warning; or (e)
7 the retailer seller has actual knowledge of the potential consumer product exposure requiring the
8 warning, and there is no manufacturer, producer, packager, importer, supplier, or distributor of the
9 product who: (i) is a “person in the course of doing business under § 25249.11(b) of the Act, and
10 (ii) has designated an agent for service of process in California, or has a place of business in
11 California.

12 **FACTUAL BACKGROUND**

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

18 24. On January 1, 1988, the State of California listed DEHP as a chemical known to
19 the State to cause cancer and it has come under the purview of Proposition 65 regulations since
20 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
21 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
22 reproductive toxicity.

23 25. On October 23, 2024 (*The Grinch*TM plush in jumbo mugs) and December 3, 2024
24 (Hi Peach Layne berry bougie kits), Plaintiff purchased the Products from Defendant. At the time
25 of the purchase, Defendant did not provide a clear and reasonable exposure warning pursuant to
26 Cal. Code Regs. Tit. 27, § 25602.

27 26. On December 23, 2024 (*The Grinch*TM plush in jumbo mugs) and February 13, 2025
28 (Hi Peach Layne berry bougie kits), Plaintiff served notice of alleged violation of Health and Safety

1 Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning the
2 exposure of California citizens to lead and/or DEHP from use of the Products without proper
3 warning, subject to a private action to Defendant and to the California Attorney General’s office
4 and the offices of the County District attorneys and City Attorneys for each city with a population
5 greater than 750,000 persons wherein the herein violations allegedly occurred. The exposures that
6 are the subject of the Notices result from the purchase, acquisition, handling and recommended
7 use of the Product. The primary route of exposure to the chemicals is through dermal absorption
8 directly through the skin when consumers use, touch, or handle the Products. Exposure through
9 ingestion will occur by touching the Products with subsequent touching of the user’s hand to
10 mouth. No clear and reasonable warning is provided with the Products regarding the health hazards
11 of exposure.

12 27. Defendant has actual knowledge that sales of the Products in California will result
13 in an actionable consumer product exposure pursuant to Cal. Health & Safety Code § 25249.5 et
14 seq.

15 28. Defendant has sold the Product under a brand or trademark that is owned or licensed
16 by Defendant or an affiliated entity; and/or Defendant has knowingly introduced lead and/or DEHP
17 into the Products, or knowingly caused lead and/or DEHP to be created in the Products; and/or
18 Defendant has covered, obscured or altered a warning label that has been affixed to the Products
19 pursuant to § 25600.2(b); and/or Defendant has received a notice and warning materials for the
20 exposure pursuant to § 25600.2(b)-(c) and Defendant has sold the Products without conspicuously
21 posting or displaying the warning; and/or Defendant has actual knowledge of the potential
22 consumer product exposure requiring the warning, and there is no manufacturer, producer,
23 packager, importer, supplier, or distributor of the Products who: (i) is a “person in the course of
24 doing business under § 25249.11(b) of the Act, and (ii) has designated an agent for service of
25 process in California, or has a place of business in California.

26 29. At all times relevant to this action, Defendant has knowingly and intentionally
27 exposed users of the Products to lead and/or DEHP without first giving a clear and reasonable
28 exposure warning to such individuals. More than five business days after receipt of the Notices,

1 Defendant continued to distribute, sell, and/or offer to and sell in California without the requisite
2 warning information.

3 30. On December 22, 2025, Plaintiff purchased the Product a second time from
4 Defendant. At the time of the purchase, Defendant did not provide a clear and reasonable exposure
5 warning pursuant to Cal. Code Regs. Tit. 27, § 25602.

6 31. 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 and/or DEHP without a
9 clear and reasonable warning on the Products. The individuals subject to the violative exposures
10 include normal and foreseeable users and consumers that use the Products, as well as all others
11 exposed to the Products.

12 SATISFACTION OF NOTICE REQUIREMENTS

13 32. On October 23, 2024 (*The Grinch*TM plush in jumbo mugs) and December 3, 2024
14 (Hi Peach Layne berry bougie kits), Plaintiff purchased the Products from Walmart. At the time
15 of purchase, Walmart did not provide a Proposition 65 exposure warning for lead and/or DEHP or
16 any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as
17 described *supra*.

18 33. The Hi Peach Layne berry bougie kits were sent to a testing laboratory for phthalate
19 testing to determine the phthalate content of the Product. *The Grinch*TM plush in jumbo mugs were
20 sent to a testing laboratory to determine if, and what amount of, lead would migrate and/or leach
21 from the Product.

22 34. The laboratory provided the results of its analysis. Results of these tests determined
23 the Products expose users to lead and/or DEHP (collectively, the “Chemical Test Reports” and
24 each a “Chemical Test Report”).

25 35. Plaintiff provided the Chemical Test Reports and Products to an analytical chemist
26 to determine if, based on the findings of the Chemical Test Reports and the reasonable and
27 foreseeable use of the Products, exposure to lead and/or DEHP will occur at levels that require
28

1 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
2 the California Code of Regulations.

3 36. On December 23, 2024, Plaintiff received from the analytical chemist an exposure
4 assessment report which concluded that persons in California who use *The Grinch*TM plush in
5 jumbo mugs will be exposed to levels of lead that require a Proposition 65 exposure warning. On
6 February 13, 2025, Plaintiff received from the analytical chemist an exposure assessment report
7 which concluded that persons in California who use the Hi Peach Layne berry bougie kits will be
8 exposed to levels of DEHP that require a Proposition 65 exposure warning.

9 37. On December 23, 2024 (*The Grinch*TM plush in jumbo mugs) and February 13, 2025
10 (Hi Peach Layne berry bougie kits), Plaintiff served the Notices on Defendant concerning the
11 exposure of California citizens to lead and/or DEHP from use of the Products without proper
12 warning, subject to a private action to Defendant and to the California Attorney General's office
13 and the offices of the County District attorneys and City Attorneys for each city with a population
14 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at
15 Exhibits A – B a true and correct copy of each Notice.

16 38. The Notices complied with all procedural requirements of Proposition 65 including
17 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at
18 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead
19 and/or DEHP exposure, and that counsel believed there was meritorious and reasonable cause for
20 a private action.

21 39. After receiving the Notices, and to Plaintiff's best information and belief, none of
22 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
23 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
24 the subject of the Notices.

25 40. Plaintiff is commencing this action more than sixty (60) days from the date of the
26 Notices to Defendant, as required by law.

1 **FIRST CAUSE OF ACTION**

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

3 41. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 40 of
4 this Complaint as though fully set forth herein.

5 42. Defendant has manufactured, processed, marketed, distributed, offered to sell
6 and/or sold the Products in California since at least October 23, 2024 with respect to *The Grinch*TM
7 plush in jumbo mugs, and since at least December 3, 2024 with respect to the Hi Peach Layne
8 berry bougie kits.

9 43. On December 23, 2024 (*The Grinch*TM plush in jumbo mugs) and February 13, 2025
10 (Hi Peach Layne berry bougie kits), Plaintiff served the Notices on Defendant concerning the
11 exposure of California citizens to lead and/or DEHP from use of the Products without proper
12 warning, subject to a private action to Defendant and to the California Attorney General's office
13 and the offices of the County District attorneys and City Attorneys for each city with a population
14 greater than 750,000 persons wherein the herein violations allegedly occurred.

15 44. The Notices gives Defendant actual knowledge of the potential consumer product
16 exposure requiring the warning pursuant to Cal. Code Regs, Tit. 27, § 25600.2. Use of the Products
17 will expose users and consumers thereof to lead and/or DEHP, hazardous chemicals found on the
18 Proposition 65 list of chemicals known to be hazardous to human health.

19 45. The Products do not comply with the Proposition 65 warning requirements.

20 46. Plaintiff, based on her best information and belief, avers that at all relevant times
21 herein, and since at least October 23, 2024 with respect to *The Grinch*TM plush in jumbo mugs, and
22 since at least December 3, 2024 with respect to the Hi Peach Layne berry bougie kits, continuing
23 until the present, that Defendant has continued to knowingly and intentionally expose California
24 users and consumers of the Products to lead and/or DEHP without providing required warnings
25 under Proposition 65.

26 47. Defendant continues to sell the Products under a brand or trademark that is owned
27 or licensed by Defendant or an affiliated entity; and/or Defendant has knowingly introduced lead
28 and/or DEHP into the Products, or knowingly caused lead and/or DEHP to be created in the

1 Products; and/or Defendant has covered, obscured or altered a warning label that has been affixed
2 to the Products pursuant to § 25600.2(b); and/or Defendant has received a notice and warning
3 materials for the exposure pursuant to § 25600.2(b)-(c) and Defendant has sold the Products
4 without conspicuously posting or displaying the warning; and/or Defendant has actual knowledge
5 of the potential consumer product exposure requiring the warning, and there is no manufacturer,
6 producer, packager, importer, supplier, or distributor of the Product who: (i) is a “person in the
7 course of doing business under § 25249.11(b) of the Act, and (ii) has designated an agent for
8 service of process in California, or has a place of business in California

9 48. On December 22, 2025, more than five business days after Defendant received the
10 Notice, Plaintiff purchased the Product from Defendant. At the time of purchase, Defendant did
11 not provide a Proposition 65 compliant exposure warning.

12 49. The exposures that are the subject of the Notices result from the purchase,
13 acquisition, handling and recommended use of the Products. The primary route of exposure to the
14 Products is through dermal absorption directly through the skin when consumers use, touch, or
15 handle the Products. Exposure through ingestion will occur by touching the Products with
16 subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided
17 with the Products regarding the health hazards of exposure.

18 50. Plaintiff, based on her best information and belief, avers that such exposures will
19 continue every day until clear and reasonable warnings are provided to purchasers and users or
20 until these known toxic chemicals are removed from the Products.

21 51. Defendant has knowledge that the normal and reasonably foreseeable use of the
22 Products exposes individuals to lead and/or DEHP, and Defendant intends that exposures to lead
23 and/or DEHP will occur by their deliberate, non-accidental participation in the importation,
24 distribution, sale and offering of the Products to consumers in California.

25 52. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
26 Complaint.

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

1 54. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
2 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
5 relief:

6 A. That the court assess civil penalties against Defendant in the amount of \$2,500 per
7 day for each violation for up to 365 days in accordance with Health and Safety Code §
8 25249.7(b);

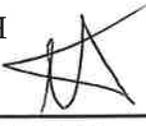
9 B. That the court preliminarily and permanently enjoin Defendant mandating
10 Proposition 65 compliant warnings on the Products;

11 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
12 amount of \$50,000.00.

13 D. That the court grant any further relief as may be just and proper.

14 Dated: December 23, 2025

BRODSKY SMITH

15 By: 

16 Evan J. Smith (SBN242352)
17 Ryan P. Cardona (SBN302113)
18 9465 Wilshire Boulevard, Suite 300
19 Beverly Hills, CA 90212
20 Telephone: (877) 534-2590
21 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

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

NEW JERSEY OFFICE
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

December 23, 2024

President/CEO Access Asia-Pacific Ltd. Room 10A Por Yen Bldg. 478 Castle Peak Rd. Lai Chi Kok, Kowloon Hong Kong CHINA	President/CEO Grupo Ruz, S.A. de C.V. Av. Pirules S/N Lt. 125 B 3 San Martin Obispo Tepetlixpan Cuautitlan Izcalli Estado De Mexico, 54763 MEXICO
President/CEO Walmart, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Walmart, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Walmart, Inc. 702 SW 8 th Street Bentonville, AR 72716	

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

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.

Product, California citizens lack the information necessary to make informed decisions on whether and/or 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):** Access Asia-Pacific Ltd.; Grupo Ruz, S.A. de C.V.; Walmart, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least December 23, 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:**

Product²	Non- Exclusive Examples of the Product
Ceramicware	The Grinch Plush in Jumbo Mug UPC# 1 93849 06607 5

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.

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, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



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

NEW JERSEY OFFICE
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

February 13, 2025

Member/Manager Peach Layne, LLC c/o Rachael Bailey Oberste 5517 Stonewall Road Little Rock, AR 72207	Member/Manager Hi Peach Layne, LLC c/o Rachael Oberste 5517 Stonewall Road Little Rock, AR 72207
Member/Manager Hi Peach Layne, LLC c/o Michael Wong 5509 Stockdale Court Jurupa Valley, CA 92509	President/CEO Walmart Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Walmart Inc. c/o CT Corporation System 330 N. brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Walmart Inc. 702 SW 8 th Street Bentonville, AR 72716

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

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.

Product, California citizens lack the information necessary to make informed decisions on whether and/or 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):** Peach Layne, LLC; Hi Peach Layne, LLC; Walmart Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least February 13, 2025 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Kit/Bag	Hi Peach Layne Berry Bougie Kit UPC# 8 10141 99225 2

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.

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, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary