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BLUE SKY FOREVER

ELECTRONICALLY
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Superior Court of California,
County of San Francisco

04/15/2025
Clerk of the Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED CIVIL JURISDICTION

CGC-25-624430

BLUE SKY FOREVER,

Plaintiff,

v.

DAVE RIBEIRO, LLC; and DOES 1-30,
inclusive,

Defendants.

Case No.

**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

Plaintiff BLUE SKY FOREVER, acting in the public interest, alleges a cause of action
against Defendants DAVE RIBEIRO, LLC and DOES 1-30.

INTRODUCTION AND NATURE OF THE ACTION

1. This Complaint is a representative action brought by plaintiff Blue Sky Forever
("BSF") in the public interest of the citizens of the State of California to enforce the People's right to
be informed of the health hazards caused by exposures to di(2-ethylhexyl) phthalate ("DEHP") and
diisononyl phthalate ("DINP"), found in and on the vinyl/PVC water bottle sleeves manufactured,
imported, distributed, sold or offered for sale by Defendants in the State of California.

2. By this Complaint, plaintiff seeks to remedy Defendants' continuing failure to warn
individuals not covered by California's Occupational Safety Health Act, Labor Code § 6300 *et seq.*
("consumers") they are being exposed to substances known to the State of California to cause cancer

1 and birth defects or other reproductive harm through exposures to DEHP and DINP, when they
2 purchase, use or handle Defendants' vinyl/PVC water bottle sleeves.

3 3. Detectable levels of DEHP and DINP are found in and on the vinyl/PVC water bottle
4 sleeves that Defendants manufacture, import, sell or distribute for sale to individuals throughout
5 California.

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

11 5. BSF contends and alleges Defendants manufacture, distribute, import, sell, and/or
12 offer for sale, in and into California vinyl/PVC water bottle sleeves ("**PRODUCTS**") containing
13 DEHP and DINP, without Proposition 65's requisite health hazard warning regarding the harms
14 associated with exposures to the chemical, including, but not limited to, *The Coldest Water®*
15 *Premium Sleeve Carrier 2.0 For 21 oz. and 32 oz. Barcode: X0024O2TUZ UPC: 857067007738*
16 *ASIN: B07R78F26M*. Defendants' conduct subjects them to civil penalties for each violation,
17 enjoinder as well as preliminary and permanent injunctive relief. Health & Safety Code
18 § 25249.7(a) and (b).

19 **PARTIES**

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

27 7. Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant
28 DAVE RIBEIRO, LLC ("**DAVE RIBEIRO**") was and is a "person" "in the course of doing

1 business” with ten (10) or more employees, within the meanings of Health and Safety Code
2 §§ 25249.6 and 25249.11.

3 8. DAVE RIBEIRO manufactures, imports, distributes, sells, and/or offers the
4 PRODUCTS for sale or use in the State of California, or implies by its conduct that it manufactures,
5 imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

6 9. Defendants DOES 1-10 (“**MANUFACTURER DEFENDANTS**”) are each a person
7 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
8 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and
9 manufacture, or each implies by its conduct that it does such for one or more of the PRODUCTS
10 offered for sale or use in California.

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

16 11. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the
17 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.
18 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the PRODUCTS
19 for sale to individuals in the State of California.

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

26 13. At all times mentioned herein, DAVE RIBEIRO, MANUFACTURER
27 DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall,
28 hereinafter, where appropriate, be referred to collectively as the “**DEFENDANTS.**”

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1 person in the course of doing business shall knowingly and intentionally expose any individual to a
2 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable
3 warning to such individual...”

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

8 20. Exposing individuals to hazardous chemicals means to cause individuals to ingest,
9 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. 27 CCR
10 § 25102(i). An exposure to a hazardous chemical is defined as one that “results from a person’s
11 acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product...”
12 27 C.C.R. § 25600(h).

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

16 22. On January 1, 1988, pursuant to Proposition 65’s implementing regulations, California
17 identified and listed DEHP as a chemical known to the State cause cancer. DEHP became subject to
18 the “clear and reasonable warning” requirements one year later, on January 1, 1989. Cal. Code Regs.
19 tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b). On October 24, 2003, pursuant
20 to Proposition 65’s implementing regulations, California identified and listed DEHP as a chemical
21 known to the State cause birth defects and reproductive harm. DEHP became subject to the “clear and
22 reasonable warning” requirements one year later, on October 24, 2004. Cal. Code Regs. tit. 27,
23 § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

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

1 **STATEMENT OF FACTS**

2 24. Plaintiff purchased DEFENDANTS' PRODUCTS, without a warning, in California.

3 25. Plaintiff investigated and tested DEFENDANTS' PRODUCTS at an accredited lab,
4 and consulted with a person with relevant and appropriate knowledge and expertise, who, after
5 reviewing the collected data and analyzing the risk of exposure to DEHP and DINP, determined the
6 PRODUCTS subject consumers in California to exposure to the listed chemical at levels requiring a
7 warning under the statute, based on touching, handling or otherwise utilizing PRODUCTS in
8 accordance with their reasonably foreseeable and intended usages.

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

13 27. Thereafter, on January 6, 2025, plaintiff served a 60-Day Notice of Violation
14 ("Notice"), together with the certificate of merit, on DAVE RIBEIRO, the California Attorney
15 General's Office, and the requisite public enforcement agencies, alleging, as a result of
16 DEFENDANTS' sales of the PRODUCTS, consumers in the State of California were, and are, being
17 exposed to DEHP and DINP through their reasonably foreseeable use of the PRODUCTS as intended
18 without first receiving a "clear and reasonable warning," as required by Proposition 65.

19 28. After receiving plaintiff's Notice, no public enforcement agency has commenced and
20 is diligently prosecuting a cause of action against DEFENDANTS under Proposition 65 to enforce
21 the alleged violations that are the subject of the Notice.

22 **FIRST CAUSE OF ACTION**

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

24 29. BSF realleges and incorporates by reference, as if fully stated herein, the allegations
25 set forth in Paragraphs 1 through 28, inclusive.

26 30. DEFENDANTS' PRODUCTS contain DEHP and DINP in levels requiring a clear and
27 reasonable warning under Proposition 65.
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1 31. DEFENDANTS know or should have known the PRODUCTS they manufacture,
2 import, distribute, sell, and offer for sale in California contain DEHP and DINP. As a result of
3 plaintiff's Notice, DEFENDANTS also have actual knowledge of the presence of DEHP and DINP in
4 the PRODUCTS.

5 32. The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for
6 sale in or into the State of California cause exposures to DEHP and DINP, both direct and/or indirect
7 dermal contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.

8 33. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
9 continues to cause, exposures to DEHP and DINP.

10 34. DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS
11 exposes individuals to DEHP and DINP through direct and indirect dermal contact and/or ingestion.

12 35. DEFENDANTS intend that exposures to DEHP and DINP from the reasonably
13 foreseeable use of the PRODUCTS will occur by their deliberate, non-accidental participation in the
14 California marketplace.

15 36. The exposures to DEHP and DINP, caused by DEFENDANTS and endured by
16 consumers and other individuals in California, are not exempt from the "clear and reasonable"
17 warning requirements of Proposition 65.

18 37. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers
19 and other individuals in California who have been, or who will be, exposed to DEHP and DINP
20 through direct and indirect dermal contact and/or ingestion resulting from the use of the PRODUCTS
21 as intended.

22 38. Contrary to the express policy and statutory prohibition of Proposition 65, consumers
23 and other individuals, exposed to DEHP and DINP through dermal contact and ingestion as a result of
24 their use of the PRODUCTS that DEFENDANTS sold without a "clear and reasonable" health hazard
25 warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy,
26 or adequate remedy at law.

27 39. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
28 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have

1 continued beyond their receipt of plaintiff's Notice. As such, DEFENDANTS' violations are
2 ongoing and continuous in nature and, unless enjoined, will continue in the future.

3 40. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-
4 described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500
5 per day for each violation.

6 41. As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)
7 also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

8 **PRAYER FOR RELIEF**

9 Wherefore, BSF prays for relief and judgment against DEFENDANTS, and each of them, as
10 follows:

11 1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and
12 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or
13 otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and
14 reasonable warning" to consumers addressing the harms associated with exposures to DEHP and
15 DINP;

16 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary
17 and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain
18 of commerce in California that do not bear a clear and reasonable health hazard warning;

19 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the
20 amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

21 4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit, incurred
22 herein; and

23 5. That the Court grant any further relief as it deems just and equitable.
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Dated: April 15, 2025

Respectfully submitted,
SEVEN HILLS LLP

By: 
Laralei S. Paras
Attorneys for Plaintiff
Blue Sky Forever