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16 JAY EPPS

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

04/08/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

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19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF SAN FRANCISCO

CGC-25-624142

21 UNLIMITED CIVIL JURISDICTION

22 JAY EPPS,

23 Plaintiff,

24 v.

25 WALGREENS BOOTS ALLIANCE,

26 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 public
3 interest of the citizens of the State of California to enforce the People's right to be informed of the
4 health hazards caused by exposures to carcinogens, specifically naphthalene found in moth balls,
5 limited to those manufactured by Willert Home Products and/or branded under its Enoz name (the
6 Products). The Products are repackaged, produced, stored, distributed, shipped and/or sold online
7 (sold) to California citizens (or to a non-California citizen and shipped to an address in California)
8 by defendant.

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

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

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

23 5. Pursuant to Proposition 65, on April 19, 2002, California identified and listed
24 naphthalene as a chemical known to cause cancer. Naphthalene became subject to the "clear and
25 reasonable warning" requirements of the act twelve months later. 27 Cal. Code Regs. §27001(b);
26 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 a Product is shown on the table below:

<i>Product Exemplar</i>	<i>UPC</i>
Enoz Old Fashioned Moth Balls	070922042815

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

8. For defendant's violations and threatened 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 naphthalene prior to the sale. Health & Safety Code §25249.7(a).

9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil fines against defendant for its violations of Proposition 65, dating back as far as April 8, 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. WALGREENS is person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.

12. WALGREENS 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. One or more of the Products offered for sale by WALGREENS were supplied to it by entities that are

1 not subject to enforcement under Proposition 65 because: (i) they have fewer than ten employees
2 during all relevant periods; and/or (ii) do not have an agent for process of service in California.

3 **VENUE AND JURISDICTION**

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

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

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

19 **FIRST CAUSE OF ACTION**

20 **(Violation of Proposition 65)**

21 16. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
22 Paragraphs 1 through 15, inclusive.

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

26 18. Proposition 65 states, “[n]o person in the course of doing business shall knowingly
27 and intentionally expose any individual to a chemical known to the state to cause cancer or
28

1 reproductive toxicity without first giving clear and reasonable warning to such individual...”
2 Health & Safety Code §25249.6.

3 19. On January 27, 2025, plaintiff served a 60-Day Notice of Violation dated January
4 24, 2025 (Notice), together with the requisite certificates of merit, on WALGREENS, the
5 California Attorney General’s Office, and the requisite public enforcement agencies alleging that,
6 as a result of defendant’s sales of Enoz-branded moth balls, consumers in California were and
7 likely continue to be exposed to naphthalene from the reasonably foreseeable use of the Products,
8 without them first receiving a “clear and reasonable warning” at the time of purchase of the moth
9 balls on walgreens.com regarding the risk of cancer associated with such exposures, as required by
10 Proposition 65.

11 20. Defendant imported, distributed, facilitated for sale, sold, and/or offered the
12 Products for sale or use on its website in violation of Health & Safety Code §25249.6, as far back
13 as May 1, 2021. Defendant’s violations likely have continued beyond its receipt of the Notice. As
14 such, defendant’s violations are allegedly ongoing and, unless enjoined, will continue to occur.

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

18 22. The Products that defendant imports, distributes, or offers for sale throughout the
19 State of California cause exposures to naphthalene as a result of the reasonably foreseeable use of
20 the Products. Such exposures caused by defendant and endured by consumers in California who
21 purchase, use or handle the Products are not exempt from the “clear and reasonable” warning
22 requirements of Proposition 65, yet defendant does not provide compliant warnings for the risk of
23 cancer from naphthalene on its website in a clear and conspicuous manner, if at all.

24 23. Defendant has actual knowledge that the Products contain naphthalene

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

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

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

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

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

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

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

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

24 **PRAYER FOR RELIEF**

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

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

8 3. That the Court, pursuant to Health & Safety Code §25249.7(a), mandate defendant
9 to contact each California online purchaser of the Products that were sold in violation of Health &
10 Safety Code §25249.6 and refund them of the monies paid to WALGREENS for each such
11 transaction;

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

13 5. That the Court grant such other and further relief as may be just and proper.
14

15 Dated: April 8, 2025

Respectfully submitted,

CHANLER, LLC

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18 By: _____

19 Clifford A. Chanler

20 Attorneys for Plaintiff
21 JAY EPPS
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