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ELECTRONICALLY
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Superior Court of California,
County of San Francisco

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Clerk of the Court

BY: DAEJA ROGERS
Deputy Clerk

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SAN FRANCISCO

9 EMA BELL,
10 Plaintiff,

11 vs.

12 WALGREEN CO.,
13 Defendant.

Case No.:

CGC-25-632033

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

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

16 **BACKGROUND OF THE CASE**

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

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People’s right to be informed of the health
25 hazards caused by exposure to lead, a toxic chemical found in Walgreens hand held shower heads
26 sold and/or distributed by defendant Walgreen Co. (“Walgreens” or “Defendant”) in California
27 and manufactured, sold, and/or distributed by Xiamen Delmei Sanitary Ware Co., Ltd.
28

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

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

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

18 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
19 without a requisite exposure warning, Walgreens hand held shower heads (the “Products”) that
20 expose persons to lead when used for their intended purpose.

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

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

27 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
28 Defendant to provide purchasers or users of the Products with required warnings related to the

1 dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code §
2 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

4 **PARTIES**

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

9 12. Defendant Walgreen Co., through its business, effectively imports, distributes,
10 sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct
11 that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
12 Plaintiff alleges that defendant Walgreen Co. is a "person" in the course of doing business within
13 the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14 **VENUE AND JURISDICTION**

15 13. Venue is proper in the County of San Francisco because one or more of the
16 instances of wrongful conduct occurred and continue to occur in this county and/or because
17 Defendant conducted, and continues to conduct, business in the County of San Francisco with
18 respect to the Products.

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

24 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
25 the State of California, has sufficient minimum contacts with the State of California, is registered
26 with the California Secretary of State as foreign corporations authorized to do business in the State
27 of California, and/or has otherwise purposefully availed itself of the California market. Such
28

1 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
2 permissible with traditional notions of fair play and substantial justice.

3 STATUTORY BACKGROUND

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

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

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

13 18. An exposure to a chemical in a consumer product is one “which results from a
14 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
15 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
16 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
17 shall provide a warning to any person to whom the product is sold or transferred unless the product
18 is packaged or labeled with a clear and reasonable warning.”

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

- 21 a. A warning that appears on a product’s label or other labeling.
- 22 b. Identification of the product at the retail outlet in a manner which provides
23 a warning. Identification may be through shelf labeling, signs, menus, or a combination
24 thereof.

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

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

8 20. Proposition 65 provides that any "person who violates or threatens to violate" the
9 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
10 "threaten to violate" is defined to mean creating "a condition in which there is a substantial
11 probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil
12 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
13 365 days.

14 21. Pursuant to Cal. Code Regs. Tit. 27, § 25600.2(e), a retail seller is responsible for
15 providing the warning required by § 25249.6 of the Act for a consumer product exposure when
16 one or more of the following circumstances exist: (a) the retailer seller is selling the product under
17 a brand or trademark that is owned or licensed by the retail seller or an affiliated entity; (b) the
18 retailer seller has knowingly introduced a listed chemical into the product, or knowingly caused
19 the listed chemical to be created in the product; (c) the retail seller has covered, obscured or altered
20 a warning label that has been affixed to the product pursuant to § 25600.2(b); (d) the retail seller
21 has received a notice and warning materials for the exposure pursuant to § 25600.2(b)-(c) and the
22 retail seller has sold the product without conspicuously posting or displaying the warning; or (e)
23 the retailer seller has actual knowledge of the potential consumer product exposure requiring the
24 warning, and there is no manufacturer, producer, packager, importer, supplier, or distributor of the
25 product who: (i) is a "person in the course of doing business under § 25249.11(b) of the Act, and
26 (ii) has designated an agent for service of process in California, or has a place of business in
27 California.

FACTUAL BACKGROUND

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

8 23. On December 13, 2024, Plaintiff purchased the Product from Defendant. At the
9 time of the purchase, Defendant did not provide a clear and reasonable exposure warning pursuant
10 to Cal. Code Regs. Tit. 27, § 25602.

11 24. On February 13, 2025, Plaintiff served notice of alleged violation of Health and
12 Safety Code § 25249.6 (the “Notice”) to Defendant concerning the exposure of California citizens
13 to lead from use of the Products without proper warning, subject to a private action to Defendant
14 and to the California Attorney General’s office and the offices of the County District attorneys and
15 City Attorneys for each city with a population greater than 750,000 persons wherein the herein
16 violations allegedly occurred. The exposures that are the subject of the Notice result from the
17 purchase, acquisition, handling and recommended use of the Product. The primary route of
18 exposure to the chemical is through dermal absorption directly through the skin when consumers
19 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Product
20 with subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided
21 with the Products regarding the health hazards of exposure.

22 25. On May 9, 2025, Plaintiff provided Defendant and Xiamen Delmei Sanitary Ware
23 Co., Ltd. with further notice concerning the exposure of California citizens to lead from use of the
24 Products without proper warning, subject to a private action to Defendant and to the California
25 Attorney General’s office and the offices of the County District attorneys and City Attorneys for
26 each city with a population greater than 750,000 persons wherein the herein violations allegedly
27 occurred.

1 26. Defendant has actual knowledge that sales of the Product in California will result
2 in an actionable consumer product exposure pursuant to Cal. Health & Safety Code § 25249.5 et
3 seq.

4 27. Defendant has sold the Product under a brand or trademark that is owned or licensed
5 by Defendant or an affiliated entity; and/or Defendant has knowingly introduced lead into the
6 Product, or knowingly caused lead to be created in the Product; and/or Defendant has covered,
7 obscured or altered a warning label that has been affixed to the Product pursuant to § 25600.2(b);
8 and/or Defendant has received a notice and warning materials for the exposure pursuant to §
9 25600.2(b)-(c) and Defendant has sold the product without conspicuously posting or displaying
10 the warning; and/or Defendant has actual knowledge of the potential consumer product exposure
11 requiring the warning, and there is no manufacturer, producer, packager, importer, supplier, or
12 distributor of the Product who: (i) is a “person in the course of doing business under § 25249.11(b)
13 of the Act, and (ii) has designated an agent for service of process in California, or has a place of
14 business in California.

15 28. At all times relevant to this action, Defendant has knowingly and intentionally
16 exposed users of the Products to lead without first giving a clear and reasonable exposure warning
17 to such individuals. More than five business days after receipt of the Notice of Violation,
18 Defendant continued to distribute, sell, and/or offer to and sell in California without the requisite
19 warning information.

20 29. On September 9, 2025, Plaintiff purchased the Product a second time from
21 Defendant. At the time of the purchase, Defendant did not provide a clear and reasonable exposure
22 warning pursuant to Cal. Code Regs. Tit. 27, § 25602.

23 30. As a proximate result of acts by Defendant, as a person in the course of doing
24 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
25 California, including in San Francisco County, have been exposed to lead without a clear and
26 reasonable warning on the Products. The individuals subject to the violative exposures include
27 normal and foreseeable users and consumers that use the Products, as well as all others exposed to
28 the Products.

1 38. After receiving the Notice, and to Plaintiff's best information and belief, none of
2 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
3 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
4 the subject of the Notice.

5 39. Plaintiff is commencing this action more than sixty (60) days from the date of the
6 Notice to Defendant, as required by law.

7 **FIRST CAUSE OF ACTION**

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

9 40. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 39 of
10 this Complaint as though fully set forth herein.

11 41. Defendant has manufactured, processed, marketed, distributed, offered to sell
12 and/or sold the Products in California since at least December 13, 2024.

13 42. On February 13, 2025, Plaintiff served the Notice on Defendant concerning the
14 exposure of California citizens to lead from use of the Products without proper warning, subject
15 to a private action to Defendant and to the California Attorney General's office and the offices of
16 the County District attorneys and City Attorneys for each city with a population greater than
17 750,000 persons wherein the herein violations allegedly occurred.

18 43. The Notice gives Defendant actual knowledge of the potential consumer product
19 exposure requiring the warning pursuant to Cal. Code Regs, Tit. 27, § 25600.2. Use of the Products
20 will expose users and consumers thereof to lead, a hazardous chemical found on the Proposition
21 65 list of chemicals known to be hazardous to human health.

22 44. The Products do not comply with the Proposition 65 warning requirements.

23 45. Plaintiff, based on her best information and belief, avers that at all relevant times
24 herein, and at least since February 13, 2025, continuing until the present, that Defendant has
25 continued to knowingly and intentionally expose California users and consumers of the Products
26 to lead without providing required warnings under Proposition 65.

27 46. Defendant continues to sell the Product under a brand or trademark that is owned
28 or licensed by Defendant or an affiliated entity; and/or Defendant has knowingly introduced lead

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

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

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

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

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

26 51. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
27 Complaint.
28

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

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

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
7 relief:

8 A. That the court assess civil penalties against Defendant in the amount of \$2,500 per
9 day for each violation for up to 365 days in accordance with Health and Safety Code §
10 25249.7(b);

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

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

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

16 Dated: December 12, 2025

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