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16 JAY EPPS

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/21/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CGC-25-625564

UNLIMITED CIVIL JURISDICTION

JAY EPPS,

Plaintiff,

v.

UBER TECHNOLOGIES INC.,

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 *p*-dichlorobenzene (*p*-DCB) found
5 in moth balls, limited to those manufactured by Willert Home Products and/or branded under its
6 Enoz name (the Products). The Products are repackaged, stored, distributed, shipped and/or sold
7 online to California citizens (or to a non-California citizen and shipped to an address in California)
8 (sold) by defendant Uber Technologies Inc. (UBER or defendant).

9 2. By this Complaint, plaintiff seeks to remedy defendant's continuing failure to warn
10 consumers and businesses not covered by California's Occupational Safety Health Act, Labor
11 Code §§6300 *et seq.*, about the risks of exposure to *p*-DCB in the Products that are distributed
12 and/or offered for sale for use by citizens in the State of California. Individuals, consumers and
13 businesses not covered by California's Occupational Safety Health Act, Labor Code §§6300 *et*
14 *seq.*, are referred to hereinafter as "consumers."

15 3. Defendant has actual knowledge of the *p*-DCB contents of the Products which were
16 and do continue to be offered for purchase and/or transacted through *ubereats.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 January 1, 1989, California identified and listed *p*-
23 DCB as a chemical known to cause cancer. *P*-DCB became subject to the "clear and reasonable
24 warning" requirements of the act twelve months later. 27 Cal. Code Regs. §27001(b); Health &
25 Safety Code §25249.8 and §25249.10(b).

6. Defendant distributes, facilitates and/or otherwise offers for sale the Products without the mandated health hazard warning in California. An example of a Product is Enoz Moth Balls, UPC #0007092203301.

7. Defendant's failure to warn consumers and other individuals in California of the risk of cancer associated with exposures to *p*-DCB, which bears the chemical abstracts service (CAS) number: 106-46-7, in conjunction with each online 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 such acts. 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 *p*-DCB prior to 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 May 21, 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. UBER is person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.

12. UBER distributes, sells, facilitates, and/or offers the Products for sale online and are shipped to an address in California, or implies by its conduct that it distributes, facilitates for sale, sells, and/or offers the Products for sale online and are shipped to an address in California. One or more of the Products offered for sale by UBER were supplied to it by entities that are not subject to enforcement under Proposition 65 because: (i) they have fewer than ten employees during all relevant periods; and/or (ii) do not have an agent for process of service in California.

1 **VENUE AND JURISDICTION**

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

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

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

17 **FIRST CAUSE OF ACTION**

18 **(Violation of Proposition 65)**

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

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

24 18. Proposition 65 states, “[n]o person in the course of doing business shall knowingly
25 and intentionally expose any individual to a chemical known to the state to cause cancer or
26 reproductive toxicity without first giving clear and reasonable warning to such individual...”
27 Health & Safety Code §25249.6.
28

1 19. On March 14, 2025, plaintiff served a 60-Day Notice of Violation dated March 13,
2 2025 (Notice), together with the requisite certificates of merit, on UBER, the California Attorney
3 General's Office, and the requisite public enforcement agencies alleging that, as a result of
4 defendant's sales of Enoz-branded moth balls, consumers in California were and likely continue to
5 be exposed to *p*-DCB from the reasonably foreseeable use of the Products, without them first
6 receiving a "clear and reasonable warning" at the time of their online purchase of the moth balls
7 on ubereats.com regarding the risk of cancer associated with such exposures, as required by
8 Proposition 65.

9 20. Defendant distributed, facilitated for sale, sold, and/or offered the Products for sale
10 or use on its website in violation of Health & Safety Code §25249.6, as far back as May 21, 2021
11 (relevant period). Defendant's violations likely have continued beyond its receipt of the Notice.
12 As such, defendant's violations are allegedly ongoing and, unless enjoined, will continue to occur.

13 21. After receiving the Notice, no public enforcement agency has commenced and
14 diligently prosecuted a cause of action against defendant under Proposition 65 to enforce the
15 alleged violations that are the subject of plaintiff's sixty-day letter dated March 13, 2025.

16 22. The Products that defendant distributes, sold, or offers for sale throughout the State
17 of California cause exposures to *p*-DCB as a result of the reasonably foreseeable use. Defendant
18 did not provide a compliant warnings for the risk of cancer linked to *p*-DCB on its website in a
19 clear and conspicuous manner, if at all, during the relevant period.

20 23. Defendant has (and has had at all relevant times) actual knowledge that the Products
21 contain *p*-DCB.

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

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

1 26. Defendant knows that the normal and reasonably foreseeable use of the Products
2 exposes individuals to *p*-DCB through dermal contact, ingestion and/or inhalation.

3 27. Defendant intends that exposures to *p*-DCB from the reasonably foreseeable use of
4 the Products will occur by its deliberate, non-accidental participation in the distribution, sale,
5 and/or offering of the Products for sale or use to consumers and others in California.

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

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

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

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

19 **PRAYER FOR RELIEF**

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

21 1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil
22 penalties against defendant, in the amount of \$2,500 per day for each violation that occurred since
23 May 21, 2021;

24 2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
25 permanently enjoin defendant from distributing, or offering the Products for sale online in
26 California without first providing a “clear and reasonable warning” regarding the harms associated
27 with exposures to *p*-DCB unless they are reformulated to eliminate the toxicant;
28

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

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

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

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7 Dated: May 21, 2025

Respectfully submitted,

8 CHANLER, LLC

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10 By: _____

11 Clifford A. Chanler

12 Attorneys for Plaintiff
13 JAY EPPS
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