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13 CENTER FOR ENVIRONMENTAL HEALTH

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

04/27/2026
Clerk of the Court

BY: MARIVIC VIRAY
Deputy Clerk

CGC-26-636360

16 CENTER FOR ENVIRONMENTAL HEALTH, a
17 non-profit corporation,

18 Plaintiff,

19 v.

Civil Case No.:

**COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

Health & Safety Code §25249.6 *et seq.*

20 QDOBA RESTAURANT CORPORATION;
21 QDOBA FRANCHISOR LLC; BRITISH
22 AIRWAYS PLC; CAFE POS LLC; CARDENAS
23 MARKETS LLC; DUNKIN' BRANDS, INC.;
24 DUNKIN' DONUTS FRANCHISING LLC;
25 FEDEX OFFICE AND PRINT SERVICES, INC.;
26 GONG CHA TEA, LLC; KRISPY KREME
27 DOUGHNUT CORPORATION; LUSH FRESH
28 HANDMADE COSMETICS LLC; MG
RESTAURANTS, INC.; P.F. CHANG'S CHINA
BISTRO, INC.; RALEY'S; RED ROBIN
INTERNATIONAL, INC.; SAVE MART
SUPERMARKETS LLC; THE SAVE MART
COMPANIES, LLC; ULTA SALON,
COSMETICS & FRAGRANCE, INC.; UNITED
PARCEL SERVICE, INC.; WHOLE FOODS
MARKET CALIFORNIA, INC.; YNAP

1 CORPORATION; and DOES 1 through 100,
2 inclusive,

3 Defendants.

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1 Plaintiff Center for Environmental Health, in the public interest, based on information and belief
2 and investigation of counsel, except for information based on knowledge, hereby makes the following
3 allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants’ ongoing violations of California’s
6 Proposition 65, Health & Safety Code §25249.5, *et seq.* Defendants violate Proposition 65 by
7 knowingly and intentionally exposing individuals in California to Bisphenol S (“BPS”), a chemical
8 known to the State of California to cause birth defects and other reproductive harm. Such exposures
9 have occurred, and continue to occur, when individuals handle thermal labels (which includes thermal
10 adhesive paper, sticky-back thermal paper, and thermal stickers) (“Thermal Labels”) coated with BPS
11 that are manufactured, distributed, purchased for use, sold, offered for sale, provided, or offered to be
12 provided by Defendants. Individuals, including women who are pregnant or seeking to become
13 pregnant, are exposed to BPS when they touch or handle the Thermal Labels.

14 2. Under Proposition 65, it is unlawful for businesses to knowingly and intentionally expose
15 individuals in California to chemicals known to the State to cause birth defects or other reproductive
16 harm without first providing clear and reasonable warnings to exposed individuals. Defendants
17 manufacture, distribute, purchase for use, sell, offer to sell, provide, or offer to provide Thermal Labels
18 containing significant quantities of BPS to individuals in California, thereby exposing these individuals
19 to BPS.

20 3. Despite the fact that Defendants expose those who are pregnant, those who are seeking to
21 become pregnant, and others to BPS, Defendants provide no warnings whatsoever about the
22 reproductive hazards associated with BPS exposure. Defendants’ conduct thus violates the warning
23 provision of Proposition 65. Health & Safety Code §25249.6.

24 **PARTIES**

25 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH (“CEH”) is a non-profit
26 corporation dedicated to protecting the public from environmental health hazards and toxic exposures.
27 CEH is based in Oakland, California and incorporated under the laws of the State of California. CEH is
28 a “person” within the meaning of Health & Safety Code §25249.11(a) and brings this enforcement

1 action in the public interest pursuant to Health & Safety Code §25249.7(d). CEH is a nationally
2 recognized not-for-profit environmental advocacy group that has prosecuted numerous Proposition 65
3 cases in the public interest. Through its work, CEH has created substantial public benefit, including the
4 reformulation or removal from the market of millions of products harming consumers and the
5 environment. CEH also provides information to Californians about the health risks associated with
6 exposure to hazardous substances when manufacturers and other responsible parties fail to do so.

7 5. Defendant QDOBA RESTAURANT CORPORATION is a person in the course of doing
8 business within the meaning of Health & Safety Code §25249.11. QDOBA RESTAURANT
9 CORPORATION manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to
10 provide Thermal Labels containing BPS to individuals in California.

11 6. Defendant QDOBA FRANCHISOR LLC is a person in the course of doing business
12 within the meaning of Health & Safety Code §25249.11. QDOBA FRANCHISOR LLC manufactures,
13 distributes, purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels
14 containing BPS to individuals in California.

15 7. Defendant BRITISH AIRWAYS PLC is a person in the course of doing business within
16 the meaning of Health & Safety Code §25249.11. BRITISH AIRWAYS PLC manufactures, distributes,
17 purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels containing BPS to
18 individuals in California.

19 8. Defendant CAFE POS LLC is a person in the course of doing business within the
20 meaning of Health & Safety Code §25249.11. CAFE POS LLC manufactures, distributes, purchases for
21 use, sells, offers to sell, provides, or offers to provide Thermal Labels containing BPS to individuals in
22 California.

23 9. Defendant CARDENAS MARKETS LLC is a person in the course of doing business
24 within the meaning of Health & Safety Code §25249.11. CARDENAS MARKETS LLC manufactures,
25 distributes, purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels
26 containing BPS to individuals in California.

27 10. Defendant DUNKIN' BRANDS, INC. is a person in the course of doing business within
28 the meaning of Health & Safety Code §25249.11. DUNKIN' BRANDS, INC. manufactures, distributes,

1 purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels containing BPS to
2 individuals in California.

3 11. Defendant DUNKIN' DONUTS FRANCHISING LLC is a person in the course of doing
4 business within the meaning of Health & Safety Code §25249.11. DUNKIN' DONUTS
5 FRANCHISING LLC manufactures, distributes, purchases for use, sells, offers to sell, provides, or
6 offers to provide Thermal Labels containing BPS to individuals in California.

7 12. Defendant FEDEX OFFICE AND PRINT SERVICES, INC. is a person in the course of
8 doing business within the meaning of Health & Safety Code §25249.11. FEDEX OFFICE AND PRINT
9 SERVICES, INC. manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to
10 provide Thermal Labels containing BPS to individuals in California.

11 13. Defendant GONG CHA TEA, LLC is a person in the course of doing business within the
12 meaning of Health & Safety Code §25249.11. GONG CHA TEA, LLC manufactures, distributes,
13 purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels containing BPS to
14 individuals in California.

15 14. Defendant KRISPY KREME DOUGHNUT CORPORATION is a person in the course of
16 doing business within the meaning of Health & Safety Code §25249.11. KRISPY KREME
17 DOUGHNUT CORPORATION manufactures, distributes, purchases for use, sells, offers to sell,
18 provides, or offers to provide Thermal Labels containing BPS to individuals in California.

19 15. Defendant LUSH FRESH HANDMADE COSMETICS LLC is a person in the course of
20 doing business within the meaning of Health & Safety Code §25249.11. LUSH FRESH HANDMADE
21 COSMETICS LLC manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers
22 to provide Thermal Labels containing BPS to individuals in California.

23 16. Defendant MG RESTAURANTS, INC. is a person in the course of doing business within
24 the meaning of Health & Safety Code §25249.11. MG RESTAURANTS, INC. manufactures,
25 distributes, purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels
26 containing BPS to individuals in California.

27 17. Defendant P.F. CHANG'S CHINA BISTRO, INC. is a person in the course of doing
28 business within the meaning of Health & Safety Code §25249.11. P.F. CHANG'S CHINA BISTRO,

1 INC. manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to provide
2 Thermal Labels containing BPS to individuals in California.

3 18. Defendant RALEY'S is a person in the course of doing business within the meaning of
4 Health & Safety Code §25249.11. RALEY'S manufactures, distributes, purchases for use, sells, offers
5 to sell, provides, or offers to provide Thermal Labels containing BPS to individuals in California.

6 19. Defendant RED ROBIN INTERNATIONAL, INC. is a person in the course of doing
7 business within the meaning of Health & Safety Code §25249.11. RED ROBIN INTERNATIONAL,
8 INC. manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to provide
9 Thermal Labels containing BPS to individuals in California.

10 20. Defendant SAVE MART SUPERMARKETS LLC is a person in the course of doing
11 business within the meaning of Health & Safety Code §25249.11. SAVE MART SUPERMARKETS
12 LLC manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to provide
13 Thermal Labels containing BPS to individuals in California.

14 21. Defendant THE SAVE MART COMPANIES, LLC is a person in the course of doing
15 business within the meaning of Health & Safety Code §25249.11. THE SAVE MART COMPANIES,
16 LLC manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to provide
17 Thermal Labels containing BPS to individuals in California.

18 22. Defendant ULTA SALON, COSMETICS & FRAGRANCE, INC. is a person in the
19 course of doing business within the meaning of Health & Safety Code §25249.11. ULTA SALON,
20 COSMETICS & FRAGRANCE, INC. manufactures, distributes, purchases for use, sells, offers to sell,
21 provides, or offers to provide Thermal Labels containing BPS to individuals in California.

22 23. Defendant UNITED PARCEL SERVICE, INC. is a person in the course of doing
23 business within the meaning of Health & Safety Code §25249.11. UNITED PARCEL SERVICE, INC.
24 manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers to provide Thermal
25 Labels containing BPS to individuals in California.

26 24. Defendant WHOLE FOODS MARKET CALIFORNIA, INC. is a person in the course of
27 doing business within the meaning of Health & Safety Code §25249.11. WHOLE FOODS MARKET
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1 CALIFORNIA, INC. manufactures, distributes, purchases for use, sells, offers to sell, provides, or offers
2 to provide Thermal Labels containing BPS to individuals in California.

3 25. Defendant YNAP CORPORATION is a person in the course of doing business within the
4 meaning of Health & Safety Code §25249.11. YNAP CORPORATION manufactures, distributes,
5 purchases for use, sells, offers to sell, provides, or offers to provide Thermal Labels containing BPS to
6 individuals in California.

7 26. DOES 1 through 100 are each a person in the course of doing business within the
8 meaning of Health & Safety Code §25249.11. DOES 1 through 100 each manufacture, distribute,
9 purchase for use, sell, offer to sell, provide, or offer to provide Thermal Labels containing BPS to
10 individuals in California.

11 27. The true names of DOES 1 through 100 are either unknown to CEH at this time or the
12 applicable time period before which CEH may file a Proposition 65 action has not run. When CEH
13 ascertains the identities of the DOE Defendants and/or the applicable time period before which CEH
14 may file a Proposition 65 action has run, CEH will amend the Complaint to reflect the true names and
15 identities of the DOE Defendants.

16 28. The defendants identified in the paragraphs 5 through 25 and DOES 1 through 100 are
17 collectively referred to herein as “Defendants.”

18 **JURISDICTION AND VENUE**

19 29. The Court has jurisdiction over this action pursuant to Health & Safety Code §25249.7,
20 which allows enforcement in any court of competent jurisdiction, and pursuant to California
21 Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial courts.

22 30. This Court has jurisdiction over Defendants because each is a business entity that either
23 (i) has its principal place of business in California or is headquartered in California; or (ii) does
24 sufficient business, has sufficient minimum contacts in California, or otherwise avails itself of the
25 California market through its manufacture, distribution, purchasing for use, selling, offering to sell,
26 providing, or offering to provide Thermal Labels in California and such business and contacts gave rise
27 to the claims at issue. Such contacts with California also render the exercise of jurisdiction over
28 Defendants by California courts consistent with traditional notions of fair play and substantial justice.

1 dermal absorption directly through the skin when individuals touch or handle Thermal Labels, and
2 ingestion via hand-to-mouth contact after individuals touch or handle Thermal Labels. These exposures
3 occur in homes, workplaces, retail establishments, and everywhere else throughout California where the
4 Thermal Labels are touched or handled.

5 38. The addition of BPS in the Thermal Labels is not necessary, as such labels can be
6 produced, processed, packaged, purchased, and provided without BPS.

7 39. Defendants fail to provide any warning, let alone the required clear and reasonable
8 warning, with their Thermal Labels regarding the reproductive toxicity of BPS.

9 40. Any person acting in the public interest has standing to enforce violations of Proposition
10 65 provided that such person supplied the requisite public enforcers with a valid 60-Day Notice of
11 Violation and such public enforcers are not diligently prosecuting the action within such time. Health &
12 Safety Code §25249.7(d).

13 41. More than sixty days prior to naming each Defendant in this lawsuit, CEH provided a 60-
14 Day “Notice of Violation” of Proposition 65 to the California Attorney General, to the District Attorneys
15 of every county in California, to the City Attorneys of every California city with a population greater
16 than 750,000, and to each of the named Defendants. In compliance with Health & Safety Code
17 §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following information: (1) the name
18 and address of each violator; (2) the statute violated; (3) the time period during which violations
19 occurred; (4) specific descriptions of the violations, including (a) the routes of exposures to BPS from
20 Defendants’ Thermal Labels; and (b) the specific type of products sold or provided in violation of
21 Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of the
22 violations described in each Notice. Each Notice also included a proposal for resolution of the noticed
23 claims and a demand that Defendants preserve all evidence relevant to the noticed claims.

24 42. CEH also sent a Certificate of Merit for each Notice to the California Attorney General,
25 to the District Attorneys of every county in California, to the City Attorneys of every California city
26 with a population greater than 750,000, and to each of the named Defendants. In compliance with
27 Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate certified that CEH’s counsel:
28 (1) has consulted with one or more persons with relevant and appropriate experience or expertise who

1 reviewed facts, studies, or other data regarding the exposures to BPS alleged in each Notice; and (2)
2 based on the information obtained through such consultations, believes that there is a reasonable and
3 meritorious case for a citizen enforcement action based on the facts alleged in each Notice. In
4 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the
5 Attorney General included factual information – provided on a confidential basis – sufficient to establish
6 the basis for the Certificate, including the identity of the person(s) consulted by CEH’s counsel and the
7 facts, studies, or other data reviewed by such persons.

8 43. None of the public prosecutors with the authority to prosecute violations of Proposition
9 65 have commenced or is diligently prosecuting a cause of action against Defendants under Health &
10 Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH’s Notices regarding BPS in
11 Thermal Labels.

12 44. Defendants both know and intend that individuals – including those who are pregnant and
13 seeking to become pregnant – touch or handle their Thermal Labels, thus exposing them to BPS.

14 45. Under Proposition 65, an exposure is “knowing” where the party responsible for such
15 exposure has:

16 knowledge of the fact that a[n] ... exposure to a chemical listed pursuant to
17 [Health & Safety Code §25249.8(a)] is occurring. No knowledge that the ...
18 exposure is unlawful is required.

19 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final Statement
20 of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2, §12601).

21 46. Defendants continue to expose individuals to BPS without prior clear and reasonable
22 warnings regarding the reproductive toxicity of BPS.

23 47. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to filing
24 this Complaint.

25 48. Any person “violating or threatening to violate” Proposition 65 may be enjoined in any
26 court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to violate” is defined to
27 mean “to create a condition in which there is a substantial probability that a violation will occur.”
28

1 Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not to exceed \$2,500
2 per day for each violation of Proposition 65.

3 **FIRST CAUSE OF ACTION**

4 (Violations of Health & Safety Code §25249.6)

5 49. CEH realleges and incorporates by reference as if specifically set forth herein the
6 paragraphs of this Complaint.

7 50. By placing the Thermal Labels into the stream of commerce or providing Thermal Labels
8 to California consumers, each Defendant is a person in the course of doing business within the meaning
9 of Health & Safety Code §25249.11.

10 51. BPS is a chemical listed by the State of California as a known female, male, and
11 developmental reproductive toxicant.

12 52. Each Defendant knows that average use of the Thermal Labels will expose individuals
13 who touch or handle the Thermal Labels to BPS.

14 53. Each Defendant intends that the Thermal Labels be used in a manner that results in
15 exposures to BPS from these products.

16 54. Each Defendant has failed, and continues to fail, to provide clear and reasonable
17 warnings regarding the reproductive toxicity of BPS to individuals who touch or handle its Thermal
18 Labels.

19 55. By committing the acts alleged above, each Defendant has at all times relevant to this
20 Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to BPS without
21 first giving clear and reasonable warnings to such individuals regarding the reproductive toxicity of
22 BPS.

23 **PRAYER FOR RELIEF**

24 CEH prays for judgment against Defendants as follows:

25 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
26 permanently enjoin Defendants from either offering the Thermal Labels that will be sold in California or
27 providing the Thermal Labels to California consumers without either reducing the BPS levels in their
28

1 Thermal Labels such that no Proposition 65 warnings are required or providing prior clear and
2 reasonable warnings, as CEH shall specify in further application to the Court;

3 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties
4 against each Defendant in the amount of \$2,500 per day for each violation of Proposition 65 according
5 to proof;

6 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to take
7 action to stop ongoing unwarned exposures to BPS resulting from the use of Thermal Labels sold or
8 provided to consumers by Defendants, as CEH shall specify in further application to the Court;

9 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable
10 theory, grant CEH its reasonable attorneys' fees and costs of suit; and

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

12
13 Dated: April 27, 2026

Respectfully submitted,

14 LEXINGTON LAW GROUP, LLP

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16
17 Mark Todzo
18 Patrick Carey
19 Joseph Mann
20 Attorneys for Plaintiff
21 Center for Environmental Health
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