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KEEP AMERICA SAFE AND BEAUTIFUL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

CGC-25-632268

KEEP AMERICA SAFE AND BEAUTIFUL, Plaintiff, v. TESTEQUITY LLC; and DOES 1-30, inclusive, Defendants.	Case No. **COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF** Violations of Health & Safety Code § 25249.5 *et seq*. (Proposition 65) Warning Requirement

Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL ("KASB"), acting in the public interest, alleges a cause of action against defendants TESTEQUITY LLC, and Doe Defendants Nos. 1-30 ("Defendants") for their violations of Health & Safety Code § 25249.5, *et seq.*, as follows:

INTRODUCTION AND NATURE OF THE ACTION

1. KASB brings representative action in the public interest on behalf of the citizens of the State of California. By this action, KASB seeks to enforce the People's right to be informed of the harms caused by exposures to di(2-ethylhexyl)phthalate ("DEHP"), a toxic chemical found in and on tweezers with vinyl components manufactured, imported, distributed, sold, and offered for sale by Defendants in the State of California.

2. By this Complaint, plaintiff seeks to remedy Defendants' failure to warn individuals not covered by California's Occupational Safety Health Act, Labor Code § 6300, *et seq.* ("consumers") exposed to substances known to the State of California to cause birth defects or other reproductive harm through exposures to DEHP, when they purchase, use and handle Defendants' tweezers with vinyl components.

3. Detectable levels of DEHP are found in and on the tweezers with vinyl components Defendants manufacture, import, sell and distribute for sale in California.

4. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code § 25249.5 *et seq.* ("Proposition 65"), it is unlawful for a person in the course of doing business to knowingly and intentionally expose consumers and end-users in California to chemicals known to cause cancer, birth defects or other reproductive harm, without first providing a "clear and reasonable warning" regarding the presence of these chemicals in Defendants' products and the harms associated with exposures to such chemicals.

5. Defendants manufacture, distribute, import, sell, and offer for sale, in and into California tweezers with vinyl components ("PRODUCTS") containing DEHP, without providing a clear and reasonable warning regarding the presence of and the harms associated with exposures to DEHP in Defendants' PRODUCTS. Such PRODUCTS include, without limitation the *TECHNI-PRO Tweezer Precision Ergo Type 00, Anti-Mag, SS, Thick, Strong, 4.7" MFG #: 758TW082.*

Defendants' violations subject them to civil penalties, enjoinment, preliminary and permanent injunctive relief. Health & Safety Code § 25249.7(a) and (b).

PARTIES

6. KASB is a non-profit corporation organized under the laws of California and acting in the public interest to reduce the presence of toxic chemicals found in consumer products and to enforce California citizens' right to be informed about the presence of toxic chemicals in the products they purchase and use, and the harms associated with exposures to such chemicals. KASB is a "person" within the meaning of Health & Safety Code § 25249.11(a). It brings this action in the public interest, pursuant to Health and Safety Code § 25249.7(d).

7. At all relevant times defendant, TESTEQUITY LLC ("TESTEQUITY"), operates as a "person in the course of doing business" with ten (10) or more employees, within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11.

8. TESTEQUITY manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in California, or implies by its conduct that it manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use to consumers in California.

9. Doe Defendants 1-10 ("MANUFACTURER DEFENDANTS") are each a "person in the course of doing business" within the meaning of and as defined by Health and Safety Code §§ 25249.6 and 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and manufacture, or they each imply by their conduct they do so for one or more of the PRODUCTS sold and/or offered for sale or use to consumers in California.

10. Doe Defendants 11-20 ("DISTRIBUTOR DEFENDANTS") are each a person in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11. DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport the PRODUCTS sold and offered for sale to consumers in California, or they each imply by their conduct they distribute, transfer, and transport one or more of the PRODUCTS to individuals, businesses, and retailers for sale or use in California.

11. Doe Defendants 21-30 ("RETAILER DEFENDANTS") are each a person in the course of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6

and 25249.11. RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to consumers in California.

12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are unknown to KASB, who therefore, sues these Doe Defendants by their fictitious names, pursuant to Code of Civil Procedure § 474. Each of the fictitiously named Defendants is responsible in some manner for the acts and occurrences alleged herein and the violations and harms caused thereby. When ascertained, KASB will identify these Doe Defendants by their true names in an amendment to this Complaint.

13. TESTEQUITY, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall be referred to collectively herein as "DEFENDANTS."

JURISDICTION AND VENUE

14. This Court has jurisdiction pursuant to Health & Safety Code § 25249.7, which allows enforcement by any court of competent jurisdiction. The Superior Courts of the State of California have jurisdiction pursuant to California Constitution Article VI, section 10, which grants the Superior Courts "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

15. This Court has jurisdiction over DEFENDANTS because DEFENDANTS, and each of them are a person, firm, corporation or association that is a citizen of the State of California, does sufficient business in California, has sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail themselves of the California market through their manufacture, importation, distribution, promotion, marketing and sale of PRODUCTS in California. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by this Court consistent with traditional notions of fair play and substantial justice.

16. Venue is proper in the Superior Court for the County of San Francisco, pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because KASB seeks civil penalties against DEFENDANTS, because one or more

instances of wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with respect to the PRODUCTS.

REGULATORY BACKGROUND AND LAW

17. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and codified at Health & Safety Code § 25249.6 *et seq.,* Proposition 65 states, in relevant part, "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable warning to such individual . . ."

18. Under the Act, a "person in the course of doing business" is defined as a business with ten (10) or more employees. Health & Safety Code § 25249.11(b). Businesses are prohibited from exposing consumers to hazardous chemicals without first giving a "clear and reasonable" warning. Health & Saf. Code § 25249.6.

19. Exposing consumers to hazardous chemicals means to cause consumers to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical. California Code of Regulations ("Cal. Code Regs.") Title 27, § 25102(i). An exposure to a hazardous chemical is defined as one that "results from a person's acquisition, purchase, storage, consumption or other reasonably foreseeable use of a product…" Cal. Code Regs. Tit. 27, § 25600(h).

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

21. On October 24, 2003, pursuant to Proposition 65 implementing regulations, the State of California listed DEHP as a chemical known to cause birth defects or other reproductive harm. DEHP became subject to the "clear and reasonable warning" requirements one year later, on October 24, 2004. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

STATEMENT OF FACTS

22. DEFENDANTS sell and offer their PRODUCTS for sale in California without a clear and reasonable warning in violation of Cal. Code Regs. Tit. 27, § 25600, *et seq*.

23. DEFENDANTS' PRODUCTS expose consumers and end-users in California to DEHP at levels requiring a warning under Proposition 65 when they touch, handle or otherwise contact the PRODUCTS during reasonably foreseeable use.

24. On October 10, 2025, KASB served a 60-Day Notice of Violation ("Notice"), together with the required certificate of merit, on TESTEQUITY, the Office of the California Attorney General, and all requisite public enforcement agencies, alleging, as a result of DEFENDANTS' sales of the PRODUCTS, consumers in California were, and are, exposed to DEHP without first receiving the "clear and reasonable warning" required by Proposition 65.

25. After receiving KASB's Notice, no public enforcement agency commenced and is diligently prosecuting a cause of action against DEFENDANTS to enforce the violations of Proposition 65 alleged in the Notice.

FIRST CAUSE OF ACTION

(Violation of Proposition 65 - Against All DEFENDANTS)

26. KASB realleges and incorporates by reference, as if fully stated herein, the allegations set forth in Paragraphs 1 through 25, inclusive.

27. DEFENDANTS' PRODUCTS contain DEHP in levels requiring a clear and reasonable warning under Proposition 65.

28. DEFENDANTS know or should have known their PRODUCTS contain DEHP. As a result of KASB's Notice, DEFENDANTS now possess actual knowledge of the presence of DEHP in their PRODUCTS.

29. DEFENDANTS' PRODUCTS expose consumers in California to DEHP through dermal contact and ingestion during the reasonably foreseeable use of the PRODUCTS.

30. The normal and reasonably foreseeable use of the PRODUCTS causes exposures to DEHP.

31. DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS exposes consumers to DEHP through dermal contact and/or ingestion.

32. DEFENDANTS intend to expose consumers in California to DEHP during their reasonably foreseeable use of the PRODUCTS. Such exposures to DEHP occur through DEFENDANTS' deliberate and non-accidental participation in the California market.

33. The exposures to DEHP caused by DEFENDANTS and endured by consumers in California are not exempt from the "clear and reasonable warning" requirements of Proposition 65.

34. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers in California exposed to DEHP through dermal contact and/or ingestion during their reasonably foreseeable use of the PRODUCTS. DEFENDANTS continue to fail to provide such warning.

35. Contrary to the express policy and statutory prohibition of Proposition 65, consumers are exposed to DEHP through dermal contact and ingestion during their use of PRODUCTS DEFENDANTS sold, sell and offer for sale without a "clear and reasonable warning." Such consumers in California suffer irreparable harms for which they have no plain, speedy, or adequate remedy at law.

36. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for sale or use in violation of Health and Safety Code § 25249.6. DEFENDANTS' violations continue beyond their receipt of KASB's Notice. As such, DEFENDANTS' violations are ongoing and continuous in nature and, unless enjoined, will continue in the future.

37. Pursuant to Health and Safety Code § 25249.7(b), and as a consequence of their acts and omissions, DEFENDANTS, and each of them, are liable for a maximum civil penalty of $2,500 per violation.

38. As a consequence of DEFENDANTS' acts and omissions, Health and Safety Code § 25249.7(a) specifically authorizes this Court to grant the injunctive relief prayed for herein.

PRAYER FOR RELIEF

Wherefore, KASB prays for judgment against DEFENDANTS, and each of them, as follows:

1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and

reasonable warning" to consumers regarding the presence of, and the harms associated with, exposures to DEHP;

2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary and permanent injunctions mandating DEFENDANTS recall PRODUCTS intended for sale in or into California that do not bear a clear and reasonable warning;

3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the amount of $2,500 per violation, according to proof at trial;

4. That the Court award KASB its reasonable attorneys' fees and costs of suit; and

5. That the Court grant such further relief as it deems just and equitable.

Dated: December 19, 2025

Respectfully submitted,

SEVEN HILLS LLP

By: _____

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KEEP AMERICA SAFE AND BEAUTIFUL