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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF MARIN - UNLIMITED CIVIL JURISDICTION

14 KEEP AMERICA SAFE AND BEAUTIFUL,

15 Plaintiff,

16 v.

17 UPPER DECK LTD.; and DOES 1-30, inclusive,

18 Defendants.

Case No. CV0009373

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

Violations of Health & Safety Code § 25249.5,
et seq. (Proposition 65)

19
20 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL (“KASB” or “Plaintiff”), acting in the
21 public interest, alleges a cause of action against defendants UPPER DECK LTD. and DOES 1-30
22 (“Defendants”) for their alleged violations of Health & Safety Code § 25249.6, *et seq.*, as follows:

23 **INTRODUCTION AND NATURE OF THE ACTION**

24 1. KASB brings this representative action in the public interest on behalf of the citizens of
25 the State of California. By this action, KASB seeks to enforce the People’s right to be informed of the
26 health hazards caused by exposures to Lead, a heavy metal found in and on magnifying glasses with
27 brass components manufactured, imported, distributed, sold and offered for sale by Defendants in the
28 State of California.

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

4 9. Doe Defendants 1-10 (“MANUFACTURER DEFENDANTS”) are each a “person in the
5 course of doing business” within the meaning of and as defined by Health and Safety Code
6 §§ 25249.6 and 25249.11. MANUFACTURER DEFENDANTS, and each of them, assemble,
7 fabricate, and manufacture, or each imply by their conduct that they do so, for one or more of the
8 PRODUCTS sold and/or offered for sale or use to consumers in California.

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

15 11. Doe Defendants 21-30 (“RETAILER DEFENDANTS”) are each a person in the course
16 of doing business within the meaning of and as defined by Health and Safety Code §§ 25249.6 and
17 25249.11. RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to
18 consumers in California.

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

25 13. UPPER DECK, MANUFACTURER DEFENDANTS, DISTRIBUTOR
26 DEFENDANTS, and RETAILER DEFENDANTS shall be referred to collectively herein as the
27 “DEFENDANTS.”

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1 **JURISDICTION AND VENUE**

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

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

15 16. Venue is proper in the Superior Court for the County of Marin pursuant to Code of Civil
16 Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because
17 KASB seeks civil penalties against DEFENDANTS, because one or more instances of wrongful
18 conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS conducted,
19 and continue to conduct, business in the County of Marin with respect to the PRODUCTS.

20 **REGULATORY BACKGROUND AND LAW**

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

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1 18. Under the Act, a “person in the course of doing business” is defined as a business with
2 ten (10) or more employees. Health & Safety Code § 25249.11(b). The Act prohibits businesses from
3 exposing consumers to listed chemicals without first giving a “clear and reasonable warning.” Health
4 & Safety Code § 25249.6.

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

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

13 21. On February 27, 1987, pursuant to Proposition 65 implementing regulations, California
14 listed Lead as a chemical known to cause birth defects or other reproductive harm. Lead became
15 subject to the “clear and reasonable warning” requirements one year later, on February 27, 1988. Cal.
16 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8, 25249.10(b).

17 22. On October 1, 1992, pursuant to Proposition 65 implementing regulations, California
18 listed Lead as a chemical known to cause cancer. Lead became subject to the “clear and reasonable
19 warning” requirements one year later, on October 1, 1993. Cal. Code Regs., tit. 27, § 27001(c);
20 Health & Safety Code §§ 25249.8, 25249.10(b).

21 **STATEMENT OF FACTS**

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

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

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

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

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

5 Dated: March 9, 2026

Respectfully submitted,

6 SEVEN HILLS LLP

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8 By: _____


9 Laralei Paras

Attorneys for Plaintiff

10 KEEP AMERICA SAFE AND BEAUTIFUL