

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BEST BRANDS CONSUMER  
PRODUCTS INC.,

Plaintiff,

v.

PUBLIC HEALTH AND SAFETY  
ADVOCATES, LLC,

Defendant.

Civil Action No.

(JURY TRIAL DEMANDED)

**COMPLAINT**

Plaintiff Best Brands Consumer Products, Inc. (“Plaintiff” or “BBCP”), by its attorneys, hereby complains of Defendant Public Health and Safety Advocates, LLC (“Defendant” or “PHSA”) and alleges as follows, upon actual knowledge with respect to itself and its own acts, upon information and belief as to all other matters:

**INTRODUCTION**

1. BBCP brings this action against PHSA for intentional interference with BBCP’s business. In addition, BBCP seeks a declaratory judgment finding that BBCP’s product, Star Wars Mandalorian Hand Sanitizer (“the Product”) does not violate California’s Proposition 65 (“Prop 65” or “Proposition 65”), also called the Safe Drinking Water and Toxic Enforcement Act.

2. On November 9, 2021, Defendant PHSA filed a Prop 65 lawsuit against Best Brands Sales Company, LLC – a distinctly separate company from BBCP – alleging that the Product contains benzene, and that Best Brands Sales Company knowingly and

intentionally exposed purchasers of the Product to benzene without warning, in violation of Prop 65.

3. Best Brands Sales Company, LLC does not manufacture, import, distribute, wholesale, or retail the Product (or any other BBCP hand sanitizer).

4. BBCP sent over forty bottles of BBCP's hand sanitizer, including the Product, to an independent, well-respected laboratory named Certified Laboratories ("the Lab") to be tested for benzene. The Lab tested every one of these samples, which included the regulatory reserve sample(s) for every commercialized lot of hand sanitizer ever sold by BBCP. The lab results show that no benzene was detected in any sample. The analytic chemistry reports are attached as Exhibit A.

5. BBCP provided every one of these lab reports to PHSA and asked PHSA to provide any lab report(s) that PHSA relies on to claim that the Product contains benzene in violation of Prop 65. To date, PHSA has still not produced a single lab report.

### **THE PARTIES**

6. At the time of the commencement of the events in question, Plaintiff BBCP was a New York corporation. It is currently a New Jersey corporation having its principal place of business at 2147 State Route 27, Suite 402, Edison, NJ 08817-3365.

7. Upon information and belief, Defendant PHSA is a corporation organized and existing under the laws of the State of California having a principal place of business at 10429 Eastborne Avenue, Los Angeles, CA 90049.

### **JURISDICTION AND VENUE**

8. This is an action arising under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and the common law of the state of New York.

9. This Court has jurisdiction over the federal claims of this action pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

10. This Court has personal jurisdiction over Defendant and venue in this district is proper pursuant to 28 U.S.C. §1391(b) and (c) because Defendant has engaged in acts directed to the State of New York, including in this judicial district. Defendant sent a “Notice of Violation” letter dated July 25, 2021 (“the June 25<sup>th</sup> Notice”) to BBCP into this district in New York threatening suit (see Exhibit B attached hereto). Likewise, Defendant has filed suit against Best Brands Sales Company, LLC – citizen and resident of the state of New York – in the Superior Court of the State of California, County of Los Angeles.

### **FACTS**

11. BBCP is a company that sells consumer products.

12. BBCP has sold the Product for sale to customers in the United States.

13. To date, Defendant has engaged in communications with BBCP in which Defendant has alleged that the Product is sold in violation of Prop 65.

14. This includes the June 25<sup>th</sup> Notice which is a “60 day notice of intent to sue for violations of the Safe Drinking Water and Toxic Enforcement act of 1986” directed at both BBCP and Best Brands Sales Company, LLC.

15. Defendant has falsely alleged that sales of the Product in California constitute a violation of Prop 65 and has then brought a lawsuit against Best Brands Sales Company, LLC for the same.

16. On November 9, 2021 Defendant filed suit against Best Brands Sales Company, LLC in the Superior Court of the State of California, County of Los Angeles captioned PUBLIC HEALTH AND SAFETY ADVOCATES, LLC., a Limited Liability Company, in the public interest v. BEST BRANDS SALES COMPANY, LLC, et al. (21-ST CV-41274) (“The California Lawsuit”).

17. BBCP was not named in the California Lawsuit, but is under a continuous and immediate threat of litigation.

18. Instead, Best Brands Sales Company, LLC. – a distinctly different company (from BBCP) that does not manufacture, import, distribute, wholesale, or retail the Product – was named as a Defendant.

19. Defendant has yet to provide BBCP with lab results, to the extent there are any, supporting its false allegations that sale of the Product violates Prop 65.

20. As a result of Defendant’s threats of litigation against BBCP and the actual litigation against Best Brands Sales Company, LLC, and the circumstances surrounding those threats, an actual, present, and justiciable controversy has arisen between BBCP and Defendant regarding BBCP’s sale of the Product.

**PLAINTIFF’S NON-VIOLATION OF  
PROPOSITION 65**

21. Defendant alleges that the Product – manufactured, imported, and distributed by BBCP – contains benzene and is sold in violation of California’s Proposition 65, also called the Safe Drinking Water and Toxic Enforcement Act.

22. Defendant has thus far provided BBCP with no documentation substantiating any violation of Prop 65. Nor has Defendant provided any such documentation to Best Brands Sales Company, LLC.

23. BBCP sent over forty bottles of BBCP’s hand sanitizer, including the regulatory reserve sample(s) for every lot of BBCP’s hand sanitizer ever sold, to the Lab for independent testing for benzene.

24. The Lab test results confirmed that, in fact, no benzene was detected in the Product, or in any other sample tested.

25. BBCP’s product has not violated Proposition 65.

26. Defendant has maliciously and frivolously filed suit against Best Brands Sales Company, LLC, and threatened to file suit against BBCP to wrongfully extort money from BBCP for no reason and without any lawful basis for these allegations.

**DEFENDANT’S TORTIOUS INTERFERENCE WITH  
PLAINTIFF’S BUSINESS RELATIONSHIP**

27. BBCP repeats and re-alleges each and every allegation set forth in the preceding paragraphs of this Complaint.

28. BBCP sells the Product to numerous retail customers.

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