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CASE MANAGEMENT CONFERENCE SET  
MAR - 4 2011 9:00 AM  
DEPARTMENT 212

ENDORSED  
FILED  
San Francisco County Superior Court

OCT - 1 2010

CLERK OF THE COURT  
BY: PARAM NATT  
Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF SAN FRANCISCO  
13 UNLIMITED CIVIL JURISDICTION

14 RUSSELL BRIMER,

15 Plaintiff,

16 v.

17 TANDY LEATHER FACTORY, INC.; and  
18 DOES 1-150, inclusive,

19 Defendants.

CGC - 10 - 504327

Case No. \_\_\_\_\_

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

*(Cal. Health & Safety Code § 25249.6 et seq.)*

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff RUSSELL  
3 BRIMER, in the public interest of the citizens of the State of California, to enforce the People’s  
4 right to be informed of the presence of lead, a toxic chemical found in metal charms sold in  
5 California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failures to  
7 warn California citizens about their exposure to lead, present in or on certain metal charms that  
8 defendants import, manufacture, distribute, and/or offer for sale to consumers throughout the  
9 State of California.

10 3. High levels of lead are commonly found in and on metal charms that defendants  
11 import, manufacture, distribute, and/or offer for sale to consumers throughout the State of  
12 California.

13 4. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,  
14 California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), “No person in the course  
15 of doing business shall knowingly and intentionally expose any individual to a chemical known  
16 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
17 warning to such individual. . . .” (*Cal. Health & Safety Code § 25249.6.*)

18 5. On February 27, 1987, California identified and listed lead as a chemical known  
19 to cause birth defects and other reproductive harm. Lead became subject to the warning  
20 requirement one year later and was therefore subject to the “clear and reasonable warning”  
21 requirements of Proposition 65, beginning on February 27, 1988. (*27 CCR § 27001 (c); Cal.*  
22 *Health & Safety Code § 25249.8.*) Lead shall be referred to hereinafter as the “LISTED  
23 CHEMICAL.”

24 6. Defendants import, manufacture, distribute, and/or sell metal charms containing  
25 excessive levels of the LISTED CHEMICAL including, but not limited to, the *Tandy Leather*  
26 *Company Arrowhead Bolo Tip #1493*. All such metal charms containing the LISTED  
27 CHEMICAL shall hereinafter be referred to as the “PRODUCTS.”







1 continued to occur beyond DEFENDANTS' receipt of plaintiff's sixty-day notices of violation.  
2 Plaintiff further alleges and believes that such violations will continue to occur into the future.

3 29. After receipt of the claims asserted in the sixty-day notices of violation, the  
4 appropriate public enforcement agencies have failed to commence and diligently prosecute a  
5 cause of action against DEFENDANTS under Proposition 65.

6 30. The PRODUCTS imported, manufactured, distributed, and/or offered for sale or  
7 use in California by DEFENDANTS contained the LISTED CHEMICAL above the allowable  
8 state limits.

9 31. DEFENDANTS knew or should have known that the PRODUCTS imported,  
10 manufactured, distributed, and/or offered for sale or use by DEFENDANTS in California  
11 contained the LISTED CHEMICAL.

12 32. The LISTED CHEMICAL was present in or on the PRODUCTS in such a way as  
13 to expose individuals to the LISTED CHEMICAL through dermal contact and/or ingestion  
14 during the reasonably foreseeable use of the PRODUCTS.

15 33. The normal and reasonably foreseeable use of the PRODUCTS has caused and  
16 continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure is  
17 defined by 27 CCR § 25602(b).

18 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
19 the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact  
20 and/or ingestion.

21 35. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from  
22 the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-  
23 accidental participation in the importation, manufacture, distribution, and/or offer for sale or use  
24 of PRODUCTS to individuals in the State of California.

25 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
26 consumers and/or other individuals in the State of California who were or who could become  
27 exposed to the LISTED CHEMICAL through dermal contact and/or ingestion during the  
28 reasonably foreseeable use of the PRODUCTS.




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- 3. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and
- 4. That the Court grant such other and further relief as may be just and proper.

Dated: September 30, 2010

Respectfully Submitted,  
THE CHANLER GROUP

By:   
Jennifer Henry  
Attorneys for Plaintiff  
RUSSELL BRIMER