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ENDORSED  
FILED  
ALAMEDA COUNTY

APR 15 2011

CLERK OF THE SUPERIOR COURT  
By E. Robinson Deputy

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

14 RUSSELL BRIMER,

15 Plaintiff,

16 v.

17 CAMPING WORLD, INC.; CWI, INC.; and  
18 DOES 1-150, inclusive,

19 Defendants.

Case No. RC11571252

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

**NATURE OF THE ACTION**

1  
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 tire pressure gauges sold  
5 in 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 tire pressure  
8 gauges that defendants manufacture, distribute, and/or offer for sale to consumers throughout  
9 the State of California.

10          3.     High levels of lead are commonly found in and on tire pressure gauges that  
11 defendants 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 manufacture, distribute, and/or sell tire pressure gauges containing  
25 excessive levels of the LISTED CHEMICAL including, but not limited to, the *Tire Pressure*  
26 *Gauge, Item #25770 (#8 38361 00336 7)* and the *Wheel Masters Dual Tire Equalization Tool,*  
27 *#85-2819-00/01-06/Part #8216-9 (#0 15407 82169 1).* All such tire pressure gauges containing  
28 the LISTED CHEMICAL shall hereinafter be referred to as the “PRODUCTS.”



1           15.   MANUFACTURER DEFENDANTS engage in the process of research, testing,  
2 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they  
3 engage in the process of research, testing, designing, assembling, fabricating, and/or  
4 manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

5           16.   Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each persons  
6 doing business within the meaning of California Health & Safety Code § 25249.11.

7           17.   DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or  
8 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in  
9 the State of California.

10           18.   Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each persons  
11 doing business within the meaning of California Health & Safety Code § 25249.11.

12           19.   RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
13 State of California.

14           20.   At this time, the true names of Defendants DOES 1 through 150, inclusive, are  
15 unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to  
16 Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, that  
17 each of the fictitiously named defendants is responsible for the acts and occurrences herein  
18 alleged. When ascertained, their true names shall be reflected in an amended complaint.

19           21.   CAMPING WORLD, CWI, MANUFACTURER DEFENDANTS,  
20 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate,  
21 collectively be referred to hereinafter as “DEFENDANTS.”

22   **VENUE AND JURISDICTION**

23           22.   Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
24 Procedure §§ 394, 395, 395.5, because this Court is a court of competent jurisdiction, because  
25 one or more instances of wrongful conduct occurred, and continues to occur, in the County of  
26 Alameda and/or because DEFENDANTS conducted, and continue to conduct, business in this  
27 County with respect to the PRODUCTS.  
28

1           23.    The California Superior Court has jurisdiction over this action pursuant to  
2 California Constitution Article VI, § 10, which grants the Superior Court “original jurisdiction  
3 in all causes except those given by statute to other trial courts.” The statute under which this  
4 action is brought does not specify any other basis of subject matter jurisdiction.

5           24.    The California Superior Court has jurisdiction over DEFENDANTS based on  
6 plaintiff’s information and good faith belief that each defendant is a person, firm, corporation or  
7 association that either are citizens of the State of California, have sufficient minimum contacts  
8 in the State of California, or otherwise purposefully avail themselves of the California market.  
9 DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by  
10 California courts consistent with traditional notions of fair play and substantial justice.

11                                 **FIRST CAUSE OF ACTION**

12   **(Violation of Proposition 65 - Against All Defendants)**

13           25.    Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
14 Paragraphs 1 through 24, inclusive.

15           26.    The citizens of the State of California have expressly stated in Proposition 65 that  
16 they must be informed “about exposures to chemicals that cause cancer, birth defects and other  
17 reproductive harm.” (*Cal. Health & Safety Code § 25249.6.*)

18           27.    Proposition 65 states, “No person in the course of doing business shall knowingly  
19 and intentionally expose any individual to a chemical known to the state to cause cancer or  
20 reproductive toxicity without first giving clear and reasonable warning to such individual....”

21 (*Id.*)

22           28.    On or about October 29, 2010 and February 1, 2011, sixty-day notices of  
23 violation, together with the requisite certificates of merit, were provided to CAMPING  
24 WORLD, CWI and various public enforcement agencies stating that as a result of the  
25 DEFENDANTS’ sales of the PRODUCTS, purchasers and users in the State of California were  
26 being exposed to lead resulting from the reasonably foreseeable uses of the PRODUCTS,  
27 without the individual purchasers and users first having been provided with a “clear and  
28 reasonable warning” regarding such toxic exposures.

1           29. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of  
2 the PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6 and  
3 DEFENDANTS' manufacture, distribution, and/or offering of the PRODUCTS for sale or use  
4 in violation of California Health & Safety Code § 25249.6 has continued to occur beyond  
5 DEFENDANTS' receipt of plaintiff's sixty-day notices of violation. Plaintiff further alleges  
6 and believes that such violations will continue to occur into the future.

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

10          31. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
11 California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state  
12 limits.

13          32. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
14 distributed, and/or offered for sale or use by DEFENDANTS in California contained the  
15 LISTED CHEMICAL.

16          33. The LISTED CHEMICAL was present in or on the PRODUCTS in such a way as  
17 to expose individuals to the LISTED CHEMICAL through dermal contact and/or ingestion  
18 during the reasonably foreseeable use of the PRODUCTS.

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

22          35. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
23 the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact  
24 and/or ingestion.

25          36. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from  
26 the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-  
27 accidental participation in the manufacture, distribution and/or offer for sale or use of  
28 PRODUCTS to individuals in the State of California.

1           37. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
2 consumers and/or other individuals in the State of California who were or who could become  
3 exposed to the LISTED CHEMICAL through dermal contact and/or ingestion during the  
4 reasonably foreseeable use of the PRODUCTS.

5           38. Contrary to the express policy and statutory prohibition of Proposition 65, enacted  
6 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
7 contact and/or ingestion resulting from the reasonably foreseeable use of the PRODUCTS, sold  
8 by DEFENDANTS without a “clear and reasonable warning,” have suffered, and continue to  
9 suffer, irreparable harm, for which harm they have no plain, speedy or adequate remedy at law.

10          39. As a consequence of the above-described acts, DEFENDANTS are liable for a  
11 maximum civil penalty of \$2,500 per day for each violation pursuant to California Health &  
12 Safety Code § 25249.7(b).

13          40. As a consequence of the above-described acts, California Health & Safety Code  
14 § 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
15 DEFENDANTS.

16                           **PRAYER FOR RELIEF**

17           Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

18           1. That the Court, pursuant to California Health & Safety Code § 25249.7(b), assess  
19 civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation  
20 alleged herein;

21           2. That the Court, pursuant to California Health & Safety Code § 25249.7(a),  
22 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, and/or  
23 offering the PRODUCTS for sale or use in California, without providing “clear and reasonable  
24 warnings” as defined by 27 CCR § 25601, as to the harms associated with exposures the  
25 LISTED CHEMICAL;

26 ///

27 ///

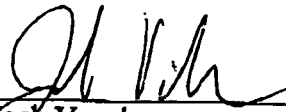
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- 3. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and
- 4. That the Court grant such other and further relief as may be just and proper.

Dated: April 15, 2011

Respectfully Submitted,  
THE CHANLER GROUP

By:   
Josh Voorhees  
Attorneys for Plaintiff  
RUSSELL BRIMER