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**ENDORSED
FILED**
San Francisco County Superior Court

APR 26 2011

CLERK OF THE COURT
BY: DEBORAH STEPPE
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10 UNLIMITED CIVIL JURISDICTION

CGC-11-510505

12 ANTHONY E. HELD, PhD., P.E.,

13 Plaintiff,

14 v.

15 RVC ENTERPRISES LLC; DENIM
16 PROJECT LLC; and DOES 1-150, inclusive,

17 Defendants.

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, ANTHONY
3 HELD, PH.D, P.E., in the public interest of the citizens of the State of California, to enforce the
4 People’s right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic
5 chemical found in belts sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to
7 warn California citizens about their exposure to DEHP present in or on belts that defendants
8 manufacture, distribute, and/or offer for sale to consumers throughout the State of California.

9 3. High levels of DEHP are commonly found in and on the belts that defendants
10 manufacture, distribute, and/or offer for sale to consumers throughout the State of California.

11 4. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
12 California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the
13 course of doing business shall knowingly and intentionally expose any individual to a chemical
14 known to the state to cause cancer or reproductive toxicity without first giving clear and
15 reasonable warning to such individual ...” (Cal. Health & Safety Code, § 25249.6.)

16 5. On October 24, 2003, California identified and listed DEHP as a chemical known
17 to cause birth defects and other reproductive harm. DEHP became subject to the “clear and
18 reasonable warning” requirements of Proposition 65 one year later on October 24, 2004. (Tit.
19 27 Cal. Code Regs. (“CCR”) § 27001(c); Cal. Health & Safety Code §§ 25249.8 &
20 25249.10(b).) DEHP shall be referred to hereinafter as the “LISTED CHEMICAL.”

21 6. Defendants manufacture, distribute, and/or offer for sale belts containing
22 excessive levels of the LISTED CHEMICAL including, but not limited to, the belt offered for
23 sale or use in conjunction with the *Risque Red Denim Company Jeans and Belt Set, RRC101413*
24 *(#8 45922 07243 4)*. All such belts containing the LISTED CHEMICAL shall hereinafter be
25 referred to as the “PRODUCTS.”

26 7. Defendants’ failure to warn consumers and/or other individuals in the State of
27 California about their exposure to the LISTED CHEMICAL in conjunction with defendants’
28 sale of the PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder

1 of such conduct as well as civil penalties for each such violation.

2 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary injunctive
3 and permanent injunctive relief to compel defendants to provide purchasers or users of the
4 PRODUCTS with the required warning regarding the health hazards of the LISTED
5 CHEMICAL. (Cal. Health & Safety Code § 25249.7(a).)

6 9. Plaintiff also seeks civil penalties against defendants for their violations of
7 Proposition 65, as provided by California Health & Safety Code § 25249.7(b).

8 **PARTIES**

9 10. Plaintiff, ANTHONY HELD, PH.D., P.E., is a citizen of the State of California
10 who is dedicated to protecting the health of California citizens through the elimination or
11 reduction of toxic exposures from consumer products; he brings this action in the public interest
12 pursuant to California Health & Safety Code § 25249.7(d).

13 11. Defendants RVC ENTERPRISES LLC ("RVC") and DENIM PROJECT LLC
14 ("DENIM PROJECT"), are each persons in the course of doing business within the meaning of
15 California Health & Safety Code § 25249.11(c).

16 12. Defendant RVC manufactures, distributes, and/or offers the PRODUCTS for sale
17 or use in the State of California, or implies by its conduct that it manufactures, distributes,
18 and/or offers the PRODUCTS for sale or use in the State of California.

19 13. Defendant DENIM PROJECT manufactures, distributes, and/or offers the
20 PRODUCTS for sale or use in the State of California, or implies by its conduct that it
21 manufactures, distributes, and/or offers the PRODUCTS for sale or use in the State of
22 California.

23 14. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each
24 persons in the course of doing business within the meaning of California Health & Safety Code
25 § 25249.11(c).

26 15. MANUFACTURER DEFENDANTS engage in the process of research, testing,
27 designing, assembling, fabricating, and/or manufacturing, or imply by their conduct that they
28

1 engage in the process of research, testing, designing, assembling, fabricating, and/or
2 manufacturing, one or more of the PRODUCTS offered for sale or use in the State of California.

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

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

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

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 alleged
18 herein. When ascertained, their true names shall be reflected in an amended complaint.

19 21. RVC, DENIM PROJECT, MANUFACTURER DEFENDANTS, DISTRIBUTOR
20 DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate, collectively be
21 referred to as “DEFENDANTS.”

22 VENUE AND JURISDICTION

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

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 notice of violation. Plaintiff further alleges and
6 believes that such violations will continue to occur into the future.

7 30. After receipt of the claims asserted in the sixty-day notice 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 in an amount above the
12 allowable state limits.

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

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

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

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

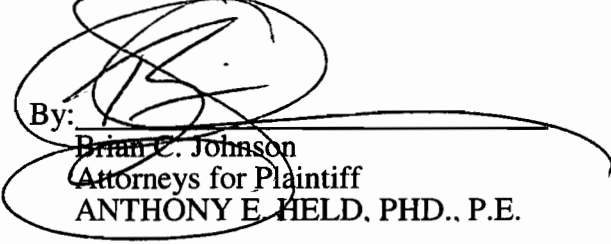
24 36. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from
25 the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-
26 accidental participation in the manufacture, distribution, and/or offering of the PRODUCTS for
27 sale or use to individuals in the State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

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1 4. That the Court grant such other and further relief as may be just and proper.

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3 Dated: April 26 2011

Respectfully Submitted,
THE CHANLER GROUP

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6 By: 
 Brian E. Johnson
 Attorneys for Plaintiff
 ANTHONY E. HELD, PHD., P.E.

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