

FILED

FEB 10 2012

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: D. Taylor, Deputy

1 Laurence D. Haveson, State Bar No. 152631  
2 Laralei S. Paras, State Bar No. 203319  
3 THE CHANLER GROUP  
4 81 Throckmorton Avenue, Suite 203  
5 Mill Valley, CA 94941  
6 Telephone: (415) 388-1128  
7 Facsimile: (415) 388-1135

8 Attorneys for Plaintiff  
9 ANTHONY E. HELD, Ph.D., P.E.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF MARIN  
12 UNLIMITED CIVIL JURISDICTION

13 ANTHONY E. HELD, Ph.D., P.E.,

14 Plaintiff,

15 v.

16 BELL AUTOMOTIVE PRODUCTS, INC.;

17 and DOES 1-150, inclusive,

18 Defendants.

Case No. CIV 1106026 \_\_\_\_\_

**FIRST AMENDED COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**

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

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
BY FAX

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff, ANTHONY HELD,  
3 in the public interest of the citizens of the state of California, to enforce the People’s right to be  
4 informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical found in pouch  
5 organizers and automotive seat covers sold in California.

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

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

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

20 5. Defendants manufacture, import, distribute, and/or sell pouch organizers containing  
21 the LISTED CHEMICAL including, but not limited to, the *Bell Glove Box Envelope, #33207-A*  
22 *(#0 76027 33207 3)*, and automotive seat covers containing the LISTED CHEMICAL including,  
23 but not limited to, *Bell Seat Skin Universal Bucket Seat Cover, #55442-A (#0 76027 55442 0)*.  
24 All such pouch organizers and automotive seat covers containing the LISTED CHEMICAL shall  
25 hereinafter be referred to as the “PRODUCTS.”

26 6. 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’ sale  
28 of the PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder of such

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

2 7. 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 CHEMICAL.  
5 (Cal. Health & Safety Code § 25249.7(a).)

6 8. 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 9. Plaintiff, ANTHONY HELD, is a citizen of the state of California who is dedicated  
10 to protecting the health of California citizens through the elimination or reduction of toxic  
11 exposures from consumer products; he brings this action in the public interest pursuant to  
12 California Health & Safety Code § 25249.7(d).

13 10. Defendant, BELL AUTOMOTIVE PRODUCTS, INC. ("BELL"), is a person in the  
14 course of doing business within the meaning of California Health & Safety Code § 25249.11.

15 11. Defendant BELL manufactures, distributes, and/or offers the PRODUCTS for sale  
16 or use in the state of California, or implies by its conduct that it manufactures, distributes, and/or  
17 offers the PRODUCTS for sale or use in the state of California.

18 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons  
19 in the course of doing business within the meaning of California Health & Safety Code  
20 § 25249.11.

21 13. MANUFACTURER DEFENDANTS engage in the process of research, testing,  
22 designing, assembling, fabricating, and/or manufacturing, or imply by their conduct that they  
23 engage in the process of research, testing, designing, assembling, fabricating, and/or  
24 manufacturing, one or more of the PRODUCTS offered for sale or use in the state of California.

25 14. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons in  
26 the course of doing business within the meaning of California Health & Safety Code § 25249.11.

27  
28



1 of California, or otherwise purposefully avails itself of the California market. DEFENDANTS'  
2 purposeful availment renders the exercise of personal jurisdiction by California courts consistent  
3 with traditional notions of fair play and substantial justice.

4 **FIRST CAUSE OF ACTION**

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

6 23. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
7 Paragraphs 1 through 22, inclusive.

8 24. The citizens of the state of California have expressly stated in the Safe Drinking  
9 Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.*  
10 that they must be informed “about exposures to chemicals that cause cancer, birth defects and  
11 other reproductive harm.” (Cal. Health & Safety Code, § 25249.6.)

12 25. Proposition 65 states, “[n]o person in the course of doing business shall knowingly  
13 and intentionally expose any individual to a chemical known to the state to cause cancer or  
14 reproductive toxicity without first giving clear and reasonable warning to such individual....”  
15 (*Ibid.*)

16 26. On or about June 29, 2011, a sixty-day notice of violation, together with the  
17 requisite certificate of merit, was provided to BELL and various public enforcement agencies  
18 stating that, as a result of the DEFENDANTS’ sales of pouch organizers containing the LISTED  
19 CHEMICAL including, but not limited to, the *Bell Glove Box Envelope, #33207-A (#0 76027*  
20 *33207 3)*, purchasers and users in the state of California were being exposed to the LISTED  
21 CHEMICAL resulting from the reasonably foreseeable use of pouch organizers containing the  
22 LISTED CHEMICAL including, but not limited to, the *Bell Glove Box Envelope, #33207-A (#0*  
23 *76027 33207 3)*, without the individual purchasers and users first having been provided with a  
24 “clear and reasonable warning” regarding such toxic exposures.

25 27. On or about October 28, 2011, a supplemental sixty-day notice of violation,  
26 together with the requisite certificate of merit, was provided to BELL and various public  
27 enforcement agencies stating that, as a result of the DEFENDANTS’ sales of the PRODUCTS,  
28 purchasers and users in the state of California were being exposed to the LISTED CHEMICAL

1 resulting from the reasonably foreseeable use of the PRODUCTS, without the individual  
2 purchasers and users first having been provided with a “clear and reasonable warning” regarding  
3 such toxic exposures.

4 28. DEFENDANTS have engaged in the manufacture, importation, distribution, and/or  
5 offering of the PRODUCTS for sale or use in violation of California Health & Safety Code  
6 § 25249.6 and DEFENDANTS’ manufacture, distribution, and/or offering of the PRODUCTS for  
7 sale or use in violation of California Health & Safety Code § 25249.6 has continued to occur  
8 beyond DEFENDANTS’ receipt of Plaintiff’s sixty-day notice of violation. Plaintiff further  
9 alleges and believes that such violations will continue to occur into the future.

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

13 30. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
14 California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state  
15 limits.

16 31. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
17 imported, distributed, and/or offered for sale or use by DEFENDANT in California contained the  
18 LISTED CHEMICAL.

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

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

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

28



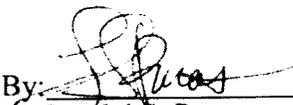
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

warnings” as defined by 27 CCR § 25601, as to the harms associated with exposure the LISTED  
CHEMICAL;

- 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: January 30, 2011

Respectfully Submitted,  
THE CHANLER GROUP

By:   
Laralei S. Paras  
Attorneys for Plaintiff  
ANTHONY E. HELD, PHD., P.E.