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**FILED**

**DEC 15 2011**

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT

*By: K. Main, Deputy*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF MARIN  
14 UNLIMITED CIVIL JURISDICTION

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

16 Plaintiff,

17 v.

18 DELORME PUBLISHING COMPANY, INC.;  
19 RODCO ENTERPRISES; and DOES 1-150,  
20 inclusive,

21 Defendants.

Case No. CIV 1106114

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

BY FAX

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff, ANTHONY E.  
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 pouches sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to  
7 warn California citizens about reproductive toxicity associated with their exposure to DEHP  
8 present in or on certain pouches that defendants manufacture, import, distribute, and/or offer for  
9 sale to consumers throughout the state of California.

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

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

17 5. On October 24, 2003, California identified and listed DEHP as a chemical known  
18 to cause birth defects and other reproductive harm. DEHP became subject to the "clear and  
19 reasonable warning" requirements of Proposition 65 one year later on October 24, 2004. (Tit.  
20 27 Cal. Code Regs. ("CCR") § 27001(c); Cal. Health & Safety Code §§ 25249.8 &  
21 25249.10(b).)

22 6. Defendants manufacture, distribute, and/or offer for sale pouches containing  
23 excessive levels of DEHP including, but not limited to, *DeLorme Clear Map Holder, AB-*  
24 *000045-000 (#0 19916 99997)*. All such pouches containing DEHP shall hereinafter be referred  
25 to as the "PRODUCTS."

26 7. Defendants' failure to warn consumers and/or other individuals in the state of  
27 California not covered by California's Occupational Safety Health Act, Labor Code § 6300 *et*  
28 *seq.* about their exposure to DEHP and its potential to cause birth defects and other reproductive

1 harm in conjunction with Defendants' distribution, importation, manufacturing, and/or sale of the  
2 PRODUCTS is a violation of Proposition 65 and subjects Defendants to enjoinder of such  
3 conduct as well as civil penalties for each such violation.

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

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

10 **PARTIES**

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

15 11. Defendant DELORME PUBLISHING COMPANY, INC. ("DELORME") is a  
16 person in the course of doing business within the meaning of California Health & Safety Code §  
17 25249.11.

18 12. Defendant DELORME manufactures, distributes, and/or offers the PRODUCTS  
19 for sale or use in the state of California, or implies by its conduct that it manufactures,  
20 distributes, and/or offers the PRODUCTS for sale or use in the state of California.

21 13. Defendant RODCO ENTERPRISES ("RODCO") is a person in the course of  
22 doing business within the meaning of California Health & Safety Code § 25249.11.

23 14. Defendant RODCO manufactures, distributes, and/or offers the PRODUCTS for  
24 sale or use in the state of California, or implies by its conduct that it manufactures, distributes,  
25 and/or offers the PRODUCTS for sale or use in the state of California.

26 15. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each  
27 persons in the course of doing business within the meaning of California Health & Safety Code  
28 § 25249.11.



1 Marin, and/or because DEFENDANTS conducted, and continue to conduct, business in this  
2 County with respect to the PRODUCTS.

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

7 25. The California Superior Court has jurisdiction over DEFENDANTS based on  
8 plaintiff’s information and good faith belief that each defendant is a person, firm, corporation,  
9 or association that is a citizen of the state of California, has sufficient minimum contacts in the  
10 state of California, or otherwise purposefully avails itself of the California market.  
11 DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by  
12 California courts consistent with traditional notions of fair play and substantial justice.

13 **FIRST CAUSE OF ACTION**

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

15 26. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
16 Paragraphs 1 through 25, inclusive.

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

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

25 29. On or about September 1, 2011, a sixty-day notice of violation, together with the  
26 requisite certificate of merit, was provided to DELORME, RODCO, 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 DEHP resulting from the

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

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

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

12 32. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
13 California by DEFENDANTS contained DEHP in an amount above the allowable state limits.

14 33. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
15 distributed, and/or offered for sale or use in California contained DEHP.

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

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

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

24 37. DEFENDANTS intended that such exposures to DEHP from the reasonably  
25 foreseeable use of the PRODUCTS would occur by their deliberate, non-accidental participation  
26 in the manufacture, distribution, and/or offering of the PRODUCTS for sale or use to  
27 individuals in the state of California.  
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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: December 14, 2011

Respectfully Submitted,  
THE CHANLER GROUP

By: \_\_\_\_\_  
Christopher M. Martin  
Attorney for Plaintiff  
ANTHONY E. HELD. Ph.D., P.E.