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**ENDORSED  
FILED  
ALAMEDA COUNTY  
JAN 17 2012  
CLERK OF THE SUPERIOR COURT  
By S. McMillen Deputy**

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

14 ANTHONY E. HELD, PhD., P.E.,

15 Plaintiff,

16 v.

17 DEAN STREET GROUP LLC; CP  
18 INTERNATIONAL CORP.; and DOES 1-150,  
19 inclusive,

20 Defendants.

Case No. **RG 12612586**

**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 footwear 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 footwear 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 footwear 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 footwear containing  
22 excessive levels of the LISTED CHEMICAL including, but not limited to, the *Bahama Bay*  
23 *Sandals, Stock #41210 (#8 38640 01375 9)*. All such footwear containing the LISTED  
24 CHEMICAL shall hereinafter be referred to as the “PRODUCTS.”

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



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 17. 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 18. 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 19. 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 20. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
13 State of California.

14 21. 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 22. DEAN STREET, CP, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
20 DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate, collectively be  
21 referred to as “DEFENDANTS.”

22 **VENUE AND JURISDICTION**

23 23. 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, and  
25 because one or more instances of wrongful conduct occurred, and continue to occur, in the  
26 County of Alameda, and/or because DEFENDANTS conducted, and continue to conduct,  
27 business in this County with respect to the PRODUCTS.



1 about October 31, 2011, a supplemental sixty-day notice of violation, together with the requisite  
2 certificate of merit, was provided to DEAN STREET, CP and various public enforcement  
3 agencies stating that, as a result of the DEFENDANTS' sales of the PRODUCTS, purchasers  
4 and users in the State of California were being exposed to DEHP resulting from the reasonably  
5 foreseeable use of the PRODUCTS, without the individual purchasers and users first having  
6 been provided with a "clear and reasonable warning" regarding such toxic exposures.

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

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

16 32. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
17 California by DEFENDANTS contained the LISTED CHEMICAL in an amount above the  
18 allowable state limits.

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

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

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

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

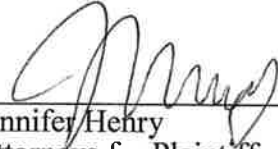
6           3.     That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

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

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Dated: January 12, 2012

Respectfully Submitted,  
THE CHANLER GROUP

By:   
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Jennifer Henry  
Attorneys for Plaintiff  
ANTHONY E. HELD, PHD., P.E.