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Attorneys for Plaintiff  
JOHN MOORE

**FILED**  
Superior Court of California  
County of San Francisco

JUN 11 2012

CLERK OF THE COURT  
BY: [Signature] Deputy Clerk

**SUMMONS ISSUED**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO  
UNLIMITED CIVIL JURISDICTION

JOHN MOORE,  
  
Plaintiff,  
  
v.  
  
STANLEY BLACK & DECKER, INC. and  
DOES 1-150,  
  
Defendants.

CGC-12-527520  
Case No. \_\_\_\_\_

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

NATURE OF THE ACTION

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2           1.     This Complaint is a representative action brought by plaintiff JOHN MOORE, in  
3 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 the  
5 grips of certain of defendants’ hand tools manufactured, distributed and/or otherwise sold by  
6 defendants in California.

7           2.     Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,  
8 California Health & Safety Code Section 25249.6 *et seq.* (“Proposition 65”), “No person in the  
9 course of doing business shall knowingly and intentionally expose any individual to a  
10 chemical known to the state to cause cancer or reproductive toxicity without first giving clear  
11 and reasonable warning to such individual. . . .” (*Cal. Health & Safety Code § 25249.6.*)

12           3.     On October 24, 2003, the State listed Di(2-ethylhexyl)phthalate as a chemical  
13 known to cause birth defects and other reproductive harm. DEHP became subject to the  
14 warning requirement one year later and was therefore subject to the “clear and reasonable  
15 warning” requirements of Proposition 65, beginning on October 24, 2004. (*27 CCR § 27001(c);*  
16 *Cal. Health & Safety Code § 25249.8.*)

17           4.     DEHP shall hereinafter be referred to as the “LISTED CHEMICAL.”

18           5.     Significant levels of the LISTED CHEMICAL have been discovered in or grips of  
19 hand tools that defendants manufacture, distribute, and/or offer for sale to consumers  
20 throughout the State of California including, but not limited to, Stanley Ultimate Tool Kit  
21 pliers, Item #STMT70683 and Stanley 2-piece pliers set, Item #84-212. All such hand tools with  
22 grips containing the LISTED CHEMICAL shall hereinafter be referred to as the “PRODUCTS.”

23           6.     Defendants’ failure to warn consumers and/or other individuals in the State of  
24 California about their exposures to the LISTED CHEMICAL in conjunction with defendants’  
25 sale of the PRODUCTS is a violation of Proposition 65.

26           7.     For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
27 permanent injunctive relief to compel defendants to provide purchasers or users of the  
28

1 PRODUCTS with the required warning regarding the health hazards of the LISTED  
2 CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

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

5 **PARTIES**

6 9. Plaintiff JOHN MOORE is a citizen of the State of California who is dedicated to  
7 protecting the health of California citizens through the elimination or reduction of toxic  
8 exposures from consumer products, and brings this action in the public interest pursuant to  
9 California Health & Safety Code Section 25249.7.

10 10. Defendant STANLEY BLACK & DECKER, INC. ("STANLEY") is a person doing  
11 business within the meaning of California Health & Safety Code Section 25249.11.

12 11. Defendant STANLEY manufactures, distributes, and/or offers the PRODUCTS  
13 for sale or use in the State of California or implies by its conduct that it manufactures,  
14 distributes, and/or offers the PRODUCTS for sale or use in the State of California.

15 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons  
16 doing business within the meaning of California Health & Safety Code Section 25249.11.

17 13. MANUFACTURER DEFENDANTS engage in the process of research, testing,  
18 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they  
19 engage in the process of research, testing, designing, assembling, fabricating, and/or  
20 manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

21 14. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons  
22 doing business within the meaning of California Health & Safety Code Section 25249.11.

23 15. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or  
24 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use  
25 in the State of California.

26 16. Defendants DOES 101-150 ("RETAIL DEFENDANTS") are each persons doing  
27 business within the meaning of California Health & Safety Code Section 25249.11.



1 FIRST CAUSE OF ACTION

2 (Violation of Proposition 65 - Against All Defendants)

3 23. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,  
4 Paragraphs 1 through 22, inclusive.

5 24. The citizens of the State of California have expressly stated in the Safe Drinking  
6 Water and Toxic Enforcement Act of 1986, California Health & Safety Code Section 25249.5, *et*  
7 *seq.* (Proposition 65) that they must be informed "about exposures to chemicals that cause  
8 cancer, birth defects and other reproductive harm." (*Cal. Health & Safety Code § 25249.6.*)

9 25. On January 31, 2012, a sixty-day notice of violation ("60-Day Notice"), together  
10 with the requisite Certificate of Merit, was provided to STANLEY and various public  
11 enforcement agencies stating that as a result of the STANLEY's manufacture, distribution and  
12 sales of the PRODUCTS, purchasers and users in the State of California are being exposed to  
13 lead resulting from the reasonably foreseeable uses of the PRODUCTS, without the individual  
14 purchasers and users first having been provided with a "clear and reasonable warning"  
15 regarding such toxic exposures.

16 26. DEFENDANTS have engaged in the manufacture, distribution, and/or offering  
17 of the PRODUCTS for sale or use in violation of California Health & Safety Code Section  
18 25249.6 and DEFENDANTS' manufacture, distribution, and/or offering of the PRODUCTS for  
19 sale or use in violation of California Health & Safety Code Section 25249.6 has continued to  
20 occur beyond STANLEY's receipt of plaintiff's 60-Day Notice. Plaintiff further alleges and  
21 believes that such violations will continue to occur into the future.

22 27. After receipt of the claims asserted in the 60-Day Notice, the appropriate public  
23 enforcement agencies have failed to commence and diligently prosecute a cause of action  
24 against DEFENDANTS under Proposition 65.

25 28. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
26 California by DEFENDANTS, contain the LISTED CHEMICAL.

27 29. DEFENDANTS knew or should have known that the PRODUCTS contained the  
28 LISTED CHEMICAL.



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

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

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

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

11  
12 Dated: June 11, 2012

Respectfully submitted,

13 THE CHANLER GROUP

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15 By: 

16 Gregory M. Sheffer  
17 Attorneys for Plaintiff  
18 JOHN MOORE  
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