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Attorneys for Plaintiff
ANTHONY E. HELD, PhD., P.E.

ENDORSED

2012 AUG 21 P 12: 56

David H. [unclear] County of Santa Clara, California
By _____
County Clerk

A. Ramirez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
SANTA CLARA COUNTY
UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, PhD., P.E.,
Plaintiff,
v.
COST PLUS, INC.; MR. BAR-B-Q, INC.; and
DOES 1-150, inclusive,
Defendants.

Case No. **112CV230785**
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Cal. Health & Safety Code. § 25249.6 *et seq.*)

1 individual purchasers and users first having been provided with a “clear and reasonable
2 warning” regarding such toxic exposures.

3 30. On or about March 29, 2012, plaintiff served a second supplemental sixty-day
4 notice of violation together with the requisite certificate of merit on COST PLUS, MR. BAR-B-
5 Q, and certain public enforcement agencies which included the additional allegation that COST
6 PLUS and MR. BAR-B-Q were also responsible for purchasers’ and users’ exposures to lead
7 during the reasonably foreseeable use of the PRODUCTS resulting from DEFENDANTS’
8 unwarned sales of the PRODUCTS in California.

9 31. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of
10 the PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6, and
11 DEFENDANTS’ violations have continued beyond their receipt of Plaintiff’s sixty-day notice
12 of violation and supplemental sixty-day notice of violation. DEFENDANTS’ violations are
13 ongoing and continuous in nature, and as such will continue to occur in the future.

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

18 33. The PRODUCTS manufactured, distributed, and/or offered for sale or use in
19 California by DEFENDANTS contain the LISTED CHEMICAL in excess amounts, such that
20 the PRODUCTS require a “clear and reasonable warning” under Proposition 65.

21 34. DEFENDANTS knew or should have known that the PRODUCTS manufactured,
22 distributed, and/or offered for sale or use in California contain the LISTED CHEMICAL.

23 35. The LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to
24 expose individuals through dermal contact and/or ingestion during reasonably foreseeable use.

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

28

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 first providing a “clear and
4 reasonable warning” as such warning is defined by Tit. 27 Cal. Code Regs. § 25601;

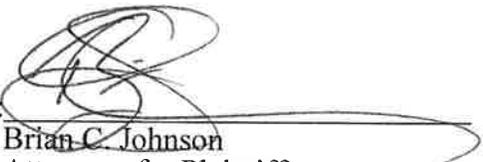
5 3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

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

7
8
9 Dated: August 20, 2012

Respectfully Submitted,

THE CHANLER GROUP

10
11 By: 

Brian C. Johnson
Attorneys for Plaintiff
ANTHONY E. HELD, PhD., P.E.