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ENDORSED  
FILED

2012 SEP 12 PM 3:46

David H. ... M. Rawson  
County ...  
By: \_\_\_\_\_

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SANTA CLARA  
10 UNLIMITED CIVIL JURISDICTION  
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12 ANTHONY E. HELD, PH.D., P.E.,  
13 Plaintiff,  
14 v.  
15 URBAN DECAY COSMETICS LLC; and  
DOES 1-150, inclusive,  
16 Defendants.  
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Case No. 112CV232188

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

BY FAX

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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 cosmetic bags sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendant’s continuing failure to warn  
7 California citizens about their exposure to DEHP, present in or on certain cosmetic bags that  
8 defendant manufactures, imports, distributes, and/or offers for sale to consumers throughout the  
9 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”), “No person in the course  
12 of doing business shall knowingly and intentionally expose any individual to a chemical known  
13 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
14 warning to such individual...” (*Cal. Health & Safety Code § 25249.6.*)

15 4. On October 24, 2003, California identified and listed DEHP as a chemical known  
16 to cause birth defects and other reproductive harm. DEHP became subject to the warning  
17 requirement one year later and was, therefore, subject to the “clear and reasonable warning”  
18 requirements of Proposition 65, beginning on October 24, 2004. (*27 CCR § 27001 (c); Cal.*  
19 *Health & Safety Code § 25249.8.*)

20 5. Defendant URBAN DECAY COSMETICS (“Urban Decay” or “Defendant”)  
21 manufactures, imports, distributes, and/or sells cosmetic bags containing DEHP including, but  
22 not limited to, *Urban Decay The Quinceanera Bag (#6 04214 91660 9).*

23 6. All such cosmetic bags containing DEHP, shall hereinafter be collectively referred  
24 to as the “Products.”

25 7. Defendant’s failure to warn consumers and/or other individuals in the State of  
26 California not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et*  
27 *seq.* about their exposure to DEHP in conjunction with Defendant’s distribution, importation,  
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1 manufacturing, and/or sale of the Products is a violation of Proposition 65 and subjects  
2 Defendant to enjoinder of such conduct as well as civil penalties for each such violation.

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

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

9 **PARTIES**

10 10. Anthony E. Held, Ph.D., P.E. is a citizen of the State of California who is  
11 dedicated to protecting the health of California citizens through the elimination or reduction of  
12 toxic exposures from consumer and commercial products, and brings this action in the public  
13 interest pursuant to California Health & Safety Code § 25249.7.

14 11. Urban Decay is a person doing business within the meaning of California Health &  
15 Safety Code § 25249.11.

16 12. Urban Decay manufactures, imports, distributes, and/or offers the Products for sale  
17 or use in the State of California or implies by its conduct that it manufactures, imports,  
18 distributes, and/or offers the Products for sale or use in the State of California.

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

21 14. 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 for sale or use in the State of California.

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

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1 association that either are citizens of the State of California, have sufficient minimum contacts in  
2 the State of California, or otherwise purposefully avail themselves of the California market.  
3 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California  
4 courts consistent with traditional notions of fair play and substantial justice.

5 **FIRST CAUSE OF ACTION**

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

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

9 25. The citizens of the State of California have expressly stated in Proposition 65 that  
10 they must be informed "about exposures to chemicals that cause cancer, birth defects and other  
11 reproductive harm." (*Cal. Health & Safety Code § 25249.6.*)

12 26. 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 (*Id.*)

16 27. On April 25, 2012, a 60-Day Notice of Violation, together with the requisite  
17 Certificate of Merit (the "Notice"), was provided to Urban Decay and various public  
18 enforcement agencies stating that as a result of DEFENDANTS' manufacture, importation,  
19 distribution and/or sale of the Products, purchasers and users in the State of California were  
20 being exposed to DEHP resulting from the reasonably foreseeable uses of the Products, without  
21 the individual purchasers and users first having been provided with a "clear and reasonable  
22 warning" regarding such toxic exposures.

23 28. DEFENDANTS have engaged in the manufacture, importation, distribution, and/or  
24 offering of the Products for sale or use in violation of California Health & Safety Code § 25249.6  
25 and DEFENDANTS' manufacture, importation, distribution, and/or offering of the Products for  
26 sale or use in violation of California Health & Safety Code § 25249.6 has continued to occur  
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1 beyond Urban Decay's receipt of plaintiff's Notice. Plaintiff further alleges and believes that  
2 such violations will continue to occur into the future.

3 29. After receipt of the claims asserted in the Notice, the appropriate public  
4 enforcement agencies have failed to commence and diligently prosecute a cause of action against  
5 DEFENDANTS under Proposition 65.

6 30. The Products manufactured, imported, distributed, and/or offered for sale or use in  
7 California by DEFENDANTS contained DEHP above the allowable state limits.

8 31. DEFENDANTS knew or should have known that the Products manufactured,  
9 imported, distributed, and/or offered for sale or use by DEFENDANTS in California contained  
10 DEHP.

11 32. DEHP was present in or on the Products in such a way as to expose individuals to  
12 DEHP through dermal contact and ingestion during the reasonably foreseeable use of the  
13 Products.

14 33. The normal and reasonably foreseeable use of the Products has caused and  
15 continues to cause consumer and workplace exposures to DEHP, as such exposure is defined by  
16 27 California Code of Regulations ("CCR") § 25602(b).

17 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
18 the Products would expose individuals to DEHP through dermal contact and ingestion.

19 35. DEFENDANTS intended that such exposures to DEHP from the reasonably  
20 foreseeable use of the Products would occur by their deliberate, non-accidental participation in  
21 the manufacture, importation, distribution, and/or offer for sale or use of Products to individuals  
22 in the State of California.

23 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
24 consumers and/or other individuals in the State of California who were or who could become  
25 exposed to DEHP through dermal contact and ingestion during the reasonably foreseeable use of  
26 the Products.

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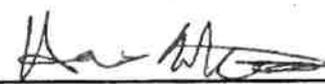


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- 3. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and
- 4. That the Court grant such other and further relief as may be just and proper.

Dated: September 5, 2012

Respectfully Submitted,  
THE CHANLER GROUP

By:   
Harris A. Weinstein  
Attorneys for Plaintiff  
ANTHONY E. HELD, PH.D., P.E.