

1 John C. Mayo, State Bar No. 233359  
2 Brian C. Johnson, State Bar No. 235965  
3 THE CHANLER GROUP  
4 2560 Ninth Street  
5 Parker Plaza, Suite 214  
6 Berkeley, CA 94710-2565  
7 Telephone: (510) 848-8880  
8 Facsimile: (510) 848-8118

9 Attorneys for Plaintiff  
10 LAURENCE VINO CUR

ENDORSED  
FILED  
ALAMEDA COUNTY  
2013 JUN -6 AM 11:32  
CLERK OF THE SUPERIOR COURT  
H. SALCIDO, DEPUTY

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

15 LAURENCE VINO CUR,

16 Plaintiff,

17 v.

18 TAYLOR CORPORATION; COSCO  
19 INDUSTRIES, INC.; and DOES 1-150,  
20 inclusive,

21 Defendants.

**RG13682497**

Case No. \_\_\_\_\_

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff LAURENCE  
3 VINOCUR in the public interest of the citizens of the State of California to enforce the People’s  
4 right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical  
5 found in vinyl/PVC ID holders sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
7 warn California citizens about the risk of exposure to DEHP present in and on the vinyl/PVC ID  
8 holders manufactured, distributed, and offered for sale or use to consumers throughout the State  
9 of California.

10 3. Detectable levels of DEHP are commonly found in and on the vinyl/PVC ID  
11 holders that defendants manufacture, distribute, and offer for sale to consumers throughout the  
12 State of California.

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

18 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed  
19 DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP became  
20 subject to the “clear and reasonable warning” requirements of the act one year later on October  
21 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
22 25249.10(b). DEHP is referred to hereinafter as the “LISTED CHEMICAL.”

23 6. Defendants manufacture, distribute, import, sell, and/or offer for sale vinyl/PVC  
24 ID holders containing the LISTED CHEMICAL without a warning, including, but not limited  
25 to, the *My ID Card Holder (#0 39956 75020 2)*. All such vinyl/PVC ID holders containing the  
26 LISTED CHEMICAL are referred to collectively hereinafter as “PRODUCTS.”  
27  
28



1 therefore, sues said defendants by their fictitious names pursuant to Code of Civil Procedure  
2 section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the  
3 fictitiously named defendants is responsible for the acts and occurrences alleged herein. When  
4 ascertained, their true names and capacities shall be reflected in an amended complaint.

5 14. TAYLOR, COSCO, and Defendants DOES 1-150 shall, where appropriate,  
6 collectively be referred to as "DEFENDANTS."

7 **VENUE AND JURISDICTION**

8 15. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
9 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,  
10 because plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of  
11 wrongful conduct occurred, and continue to occur, in Alameda County, and/or because  
12 DEFENDANTS conducted, and continue to conduct, business in this county with respect to the  
13 PRODUCTS.

14 16. The California Superior Court has jurisdiction over this action pursuant to  
15 California Constitution Article VI, section 10, which grants the Superior Court "original  
16 jurisdiction in all causes except those given by statute to other trial courts." The statute under  
17 which this action is brought does not specify any other basis of subject matter jurisdiction.

18 17. The California Superior Court has jurisdiction over DEFENDANTS based on  
19 plaintiff's information and good faith belief that each defendant is a person, firm, corporation or  
20 association that is a citizen of the State of California, has sufficient minimum contacts in the  
21 State of California, and/or otherwise purposefully avails itself of the California market.  
22 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by  
23 California courts consistent with traditional notions of fair play and substantial justice.

24 **FIRST CAUSE OF ACTION**

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

26 18. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
27 Paragraphs 1 through 17, inclusive.  
28

1           19. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
2 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be  
3 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
4 harm.”

5           20. Proposition 65 states, “[n]o person in the course of doing business shall  
6 knowingly and intentionally expose any individual to a chemical known to the state to cause  
7 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
8 individual . . . .” Health & Safety Code § 25249.6.

9           21. On November 21, 2012, plaintiff’s sixty-day notice of violation, together with the  
10 requisite certificate of merit, was provided to TAYLOR, COSCO, and certain public  
11 enforcement agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS  
12 containing the LISTED CHEMICAL, purchasers and users in the State of California were being  
13 exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use of the  
14 PRODUCTS, without the individual purchasers and users first having been provided with a  
15 “clear and reasonable warning” regarding such toxic exposures, as required by Proposition 65.

16           22. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
17 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
18 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of  
19 plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’ violations are ongoing and  
20 continuous in nature, and will continue to occur in the future.

21           23. After receiving plaintiff’s sixty-day notice of violation, the appropriate public  
22 enforcement agencies have failed to commence and diligently prosecute a cause of action  
23 against DEFENDANTS under Proposition 65.

24           24. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
25 or use in California by DEFENDANTS contain the LISTED CHEMICAL such that they require  
26 a “clear and reasonable” warning under Proposition 65.

1           25.    DEFENDANTS knew or should have known that the PRODUCTS they  
2 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED  
3 CHEMICAL.

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

7           27.    The normal and reasonably foreseeable uses of the PRODUCTS have caused, and  
8 continue to cause, consumer exposures to the LISTED CHEMICAL, as such exposures are  
9 defined by the California Code of Regulations title 27, section 25602(b).

10          28.    DEFENDANTS had knowledge that the normal and reasonably foreseeable uses  
11 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact  
12 and/or ingestion.

13          29.    DEFENDANTS intended that such exposures to the LISTED CHEMICAL from  
14 the reasonably foreseeable uses of the PRODUCTS would occur by their deliberate, non-  
15 accidental participation in the manufacture, importation, distribution, sale, and offering of the  
16 PRODUCTS for sale or use to individuals in the State of California.

17          30.    DEFENDANTS failed to provide a “clear and reasonable warning” to those  
18 consumers and other individuals in the State of California who were or who would become  
19 exposed to the LISTED CHEMICAL through dermal contact and/or ingestion during the  
20 reasonably foreseeable uses of the PRODUCTS.

21          31.    Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
22 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
23 contact and/or ingestion resulting from the reasonably foreseeable use of the PRODUCTS sold  
24 by DEFENDANTS without a “clear and reasonable warning,” have suffered, and continue to  
25 suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

1 32. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the  
2 above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day  
3 for each violation.

4 33. As a consequence of the above-described acts, Health and Safety Code  
5 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
6 DEFENDANTS.

7 **PRAYER FOR RELIEF**

8 Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

9 1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
10 civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation;

11 2. That the Court, pursuant to Health and Safety Code section 25249.7(a),  
12 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or  
13 offering the PRODUCTS for sale or use in California without first providing a “clear and  
14 reasonable warning” as defined by the California Code of Regulations title 27, section 25601 *et*  
15 *seq.*, as to the harms associated with exposures to the LISTED CHEMICAL;

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

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

18 Dated: June 6, 2013

19 Respectfully Submitted,  
20 THE CHANLER GROUP

21 By: \_\_\_\_\_

22 John C. Mayo  
23 Attorneys for Plaintiff  
24 LAURENCE VINOUCUR  
25  
26  
27  
28