



1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff, PETER  
3 ENGLANDER, 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”), di-n-butyl  
5 phthalate (“DBP”), and/or lead, toxic chemicals found in the vinyl/PVC grips of hose bibbs sold  
6 in California.

7 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
8 warn California citizens about reproductive harms associated with their exposure to the DEHP,  
9 DBP, and/or lead present in or on the vinyl/PVC grips of certain hose bibbs that defendants  
10 manufacture, import, distribute, and/or offer for sale to consumers throughout the State of  
11 California.

12 3. Detectable levels of DEHP, DBP, and/or lead are commonly found in and on the  
13 vinyl/PVC grips of hose bibbs that Defendants manufacture, distribute, and/or offer for sale to  
14 consumers throughout the State of California.

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

20 5. On February 27, 1987, California identified and listed lead as a chemical known  
21 to cause birth defects or other reproductive harm. Lead became subject to the “clear and  
22 reasonable warning” requirements of the Act one year later on February 27, 1988. Cal. Code  
23 Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24 6. On October 24, 2003, California identified and listed DEHP as a chemical known  
25 to cause birth defects or other reproductive harm. DEHP became subject to the “clear and  
26 reasonable warning” requirements of Proposition 65 one year later on October 24, 2004. Cal.  
27 Code Regs. tit. 27, § 27001(c); Health & Saf. Code, §§ 25249.8 & 25249.10(b).



1           14. LDR manufactures, distributes, and/or offers the PRODUCTS for sale or use in  
2 the State of California, or implies by its conduct that it manufactures, distributes, and/or offers  
3 the PRODUCTS for sale or use in the State of California.

4           15. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
5 person in the course of doing business within the meaning of Health and Safety Code section  
6 25249.11.

7           16. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
8 and/or manufacture, or imply by their conduct that they research, test, design, assemble,  
9 fabricate, and/or manufacture, one or more of the PRODUCTS offered for sale or use in the  
10 State of California.

11           17. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each a person  
12 in the course of doing business within the meaning of Health and Safety Code section 25249.11.

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

16           19. Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each a person in  
17 the course of doing business within the meaning of Health and Safety Code section 25249.11.

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

20           21. At this time, the true names of defendants DOES 1 through 150, inclusive, are  
21 unknown to plaintiff, who therefore sues said defendants by their fictitious names pursuant to  
22 Code of Civil Procedure section 474. Plaintiff is informed and believes, and on that basis  
23 alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences  
24 alleged herein. When ascertained, their true names shall be reflected in an amended complaint.

25           22. LDR, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS,  
26 and RETAILER DEFENDANTS shall, where appropriate, collectively be referred to as  
27 “DEFENDANTS.”  
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1 VENUE AND JURISDICTION

2 23. Venue is proper in the Alameda County Superior Court pursuant to Code of Civil  
3 Procedure sections 393, 395 and 395.5, because this Court is a court of competent jurisdiction,  
4 because one or more instances of wrongful conduct occurred, and continue to occur, in Alameda  
5 County, and/or because DEFENDANTS conducted, and continue to conduct, business in this  
6 county with respect to the PRODUCTS.

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

11 25. The California Superior Court has jurisdiction over DEFENDANTS based on  
12 Plaintiff’s information and good faith belief that each Defendant is a person, firm, corporation,  
13 or association that is a citizen of the State of California, has sufficient minimum contacts in the  
14 State of California, or otherwise purposefully avails itself of the California market.  
15 DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by  
16 California courts consistent with traditional notions of fair play and substantial justice.

17 FIRST CAUSE OF ACTION

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

19 26. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
20 Paragraphs 1 through 25, inclusive.

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

25 28. Proposition 65 states, “[n]o person in the course of doing business shall  
26 knowingly and intentionally expose any individual to a chemical known to the State to cause  
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1 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
2 individual....” *Id.*

3 29. On or about November 21, 2012, a sixty-day notice of violation, together with the  
4 requisite certificate of merit, was provided to LDR and various public enforcement agencies  
5 stating that, as a result of the DEFENDANTS’ sales of the PRODUCTS, purchasers and users in  
6 the State of California were exposed to the LISTED CHEMICALS resulting from their  
7 reasonably foreseeable use of the PRODUCTS, without the individual purchasers and users first  
8 having received a “clear and reasonable warning” regarding such toxic exposures.

9 30. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of  
10 the PRODUCTS for sale or use in violation of Health and Safety Code section 25249.6, and  
11 DEFENDANTS’ manufacture, distribution, and/or offering of the PRODUCTS for sale or use  
12 in violation of Health and Safety Code section 25249.6 has continued to occur beyond  
13 DEFENDANTS’ receipt of plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’  
14 violations are ongoing and continuous in nature and will continue to occur into the future.

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

18 32. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
19 California by DEFENDANTS contain the LISTED CHEMICALS in amounts that require a  
20 warning under Proposition 65.

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

23 34. The LISTED CHEMICALS were present in or on the PRODUCTS in such a way  
24 as to expose individuals to the LISTED CHEMICALS through dermal contact and/or ingestion  
25 during the reasonably foreseeable use of the PRODUCTS.  
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1           35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
2 continues to cause, consumer exposures to the LISTED CHEMICALS, as such exposure is  
3 defined by California Code of Regulations title 27, section 25602(b).

4           36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
5 the PRODUCTS would expose individuals to the LISTED CHEMICALS through dermal  
6 contact and/or ingestion.

7           37. DEFENDANTS intended that such exposures to the LISTED CHEMICALS from  
8 the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-  
9 accidental participation in the manufacture, distribution, and/or offering of the PRODUCTS for  
10 sale or use to individuals in the State of California.

11           38. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
12 consumers and/or other individuals in the State of California who were, or who could become,  
13 exposed to the LISTED CHEMICALS through dermal contact and/or ingestion during the  
14 reasonably foreseeable use of the PRODUCTS.

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

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

23           41. As a consequence of the above-described acts, Health and Safety Code  
24 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
25 DEFENDANTS.

1 **PRAYER FOR RELIEF**

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

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

6 2. That the Court, pursuant to Health and Safety Code section 25249.7(a),  
7 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, and/or  
8 offering the PRODUCTS for sale or use in California, without providing "clear and reasonable  
9 warnings" as defined by California Code of Regulations title 27, section 25601 as to the harms  
10 associated with exposures to the LISTED CHEMICALS;

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

12 4. That the Court grants such other and further relief as may be just and proper.

13 Dated: March 15, 2012

14 Respectfully Submitted,  
15 THE CHANLER GROUP

16 By: 

17 John C. Mayo  
18 Attorneys for Plaintiff  
19 PETER ENGLANDER  
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