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ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

JAN 10 2014

CLERK OF THE COURT  
BY: MEREDITH GRIER  
Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO  
13 UNLIMITED CIVIL JURISDICTION

14 ANTHONY E. HELD, PH.D., P.E.,

15 Plaintiff,

16 v.

17 GSI OUTDOORS, INC.; ~~et al.~~ Does' 1-150

18 Defendants.

Case No. GGC-14-536716

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code, § 25249.5 *et seq.*)

VIA FAX

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff ANTHONY E.  
3 HELD, PH.D., P.E., (“Plaintiff”) in the public interest of the citizens of the State of California  
4 to enforce the People’s right to be informed about exposures to di(2-ethylhexyl)phthalate  
5 (“DEHP”) and Lead, toxic chemicals that are found in the camping cookware with vinyl/PVC  
6 coated handles and flasks with leather wrapping sold in California.

7 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
8 warn California citizens about the risks of exposures to DEHP present in and on the vinyl/PVC  
9 handles of camping cookware and Lead present in and on the leather wrapping of flasks  
10 manufactured, distributed, and offered for sale or use to consumers throughout the State of  
11 California.

12 3. Detectable levels of DEHP are commonly found in and on the vinyl/PVC handles  
13 of camping cookware, and detectable levels of Lead are commonly found in and on the leather  
14 wrapping of flasks that defendants manufacture, distribute, and offer for sale to consumers  
15 throughout the State of California.

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

21 5. On February 27, 1987, California listed Lead pursuant to Proposition 65 as a  
22 chemical that is known to cause birth defects or other reproductive harm. Lead became subject  
23 to the “clear and reasonable warning” requirements of the act one year later on February 27,  
24 1988. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

25 6. On October 24, 2003, California listed DEHP pursuant to Proposition 65 as a  
26 chemical that is known to cause birth defects or other reproductive harm. DEHP became  
27 subject to the “clear and reasonable warning” requirements of the act one year later on October  
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1 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
2 25249.10(b).

3 7. Defendants manufacture, distribute, import, sell, and offer for sale without  
4 warning in California, camping cookware with vinyl/PVC coated handles containing DEHP,  
5 including, but not limited to, the *Bugaboo 8" Frypan*, #60108 (UPC No. 0 90497 60108 8), and  
6 flasks with leather wrapping containing Lead, including but not limited to, the *Glacier Stainless*  
7 *Leather Wrapped Flask*, #66016 (UPC No. 0 90497 66016 0). All such camping cookware with  
8 vinyl/PVC handles containing DEHP and flasks with leather wrapping containing Lead are  
9 referred to collectively hereinafter as "PRODUCTS." DEHP and Lead are referred to  
10 collectively hereinafter as the "LISTED CHEMICALS."

11 8. Defendants' failure to warn workers, consumers and other individuals in  
12 California of the harms associated with exposures to the LISTED CHEMICALS in conjunction  
13 with defendants' sales of the PRODUCTS containing the LISTED CHEMICALS are violations  
14 of Proposition 65, and subject defendants to enjoinder of such conduct, as well as civil  
15 penalties for each violation. Health & Safety Code § 25249.7(a) & (b)(1).

16 9. For defendants' violations of Proposition 65, plaintiff seeks preliminary and  
17 permanent injunctive relief to compel defendants to provide purchasers or users of the  
18 PRODUCTS with the required warning regarding the health hazards associated with exposures  
19 to the LISTED CHEMICALS. Health & Safety Code § 25249.7(a).

20 10. Pursuant to Health and Safety Code section 25249.7(b), plaintiff also seeks civil  
21 penalties against defendants, and each of them, for each violation of Proposition 65.

### 22 **PARTIES**

23 11. Plaintiff ANTHONY E. HELD, PH.D., P.E. is a citizen of the State of California  
24 who is dedicated to protecting the health of California citizens through the elimination or  
25 reduction of toxic exposures from consumer products. He brings this action in the public  
26 interest pursuant to Health and Safety Code section 25249.7(d).

1           12. Defendant GSI Outdoors, Inc. (“GSI”) is a person in the course of doing business  
2 within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

3           13. GSI manufactures, imports, distributes, sells, and/or offers the PRODUCTS for  
4 sale or use in the State of California, or it implies by its conduct that it manufactures, imports,  
5 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

6           14. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
7 person in the course of doing business within the meaning of Health and Safety Codes sections  
8 25249.6 and 25249.11.

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

13           16. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each a person  
14 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
15 and 25249.11.

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

19           18. Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each a person in  
20 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
21 and 25249.11.

22           19. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
23 State of California.

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

3 21. **GSL, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS,**  
4 **and RETAILER DEFENDANTS** are hereinafter collectively referred to as the  
5 “DEFENDANTS.”

6 **VENUE AND JURISDICTION**

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

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

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

23 **FIRST CAUSE OF ACTION**

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

25 25. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
26 Paragraphs 1 through 24, inclusive.

1           26. 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           27. 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           28. On July 24, 2013, plaintiff’s sixty-day notice of violation, together with the  
10 requisite certificate of merit, was provided to GSI and certain public enforcement agencies  
11 stating that, as a result of DEFENDANTS’ sales of the PRODUCTS containing the LISTED  
12 CHEMICALS, workers, consumers, and other individuals in the State of California were being  
13 exposed to the LISTED CHEMICALS 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           29. 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           30. 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           31. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
25 or use in California by DEFENDANTS contain the LISTED CHEMICALS such that they  
26 require a “clear and reasonable” warning under Proposition 65.

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1           32. 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 CHEMICALS.

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

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

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

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

17          37. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
18 workers, consumers and other individuals in California not covered by California’s  
19 Occupational Safety Health Act, Labor Code section 6300 et seq. who have been, or will be,  
20 exposed to the LISTED CHEMICALS as a result of their reasonably foreseeable uses of the  
21 PRODUCTS.

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

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