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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

20 ANTHONY E. HELD, PhD., P.E.,
21 Plaintiff,
22 v.
23 STEINWAY MUSICAL
24 INSTRUMENTS, INC.; CONN-
25 SELMER, INC.; and DOES 1 -20,
26 inclusive,
27 Defendants.

Case No. CGC - 14 - 538880

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

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

DEMAND FOR JURY TRIAL

BY FAX

NATURE OF THE ACTION

1. This Complaint is a representative action brought by plaintiff ANTHONY E. HELD, PhD., P.E. ("PLAINTIFF") in the public interest of the citizens of the State of California to enforce the People's right to be informed of the presence of Di(2-ethylhexyl)phthalate ("DEHP"), a toxic chemical found in vinyl/PVC padded drum thrones sold in California. DEHP is a toxic chemical used to treat vinyl/PVC, which is used in a variety of products.

1 25249.6, and DEFENDANTS' violations have continued to occur beyond their receipt of
2 PLAINTIFF'S sixty-day notice of violation. As such, DEFENDANTS' violations are ongoing
3 and continuous in nature, and will continue to occur in the future.

4 28. After receiving PLAINTIFF'S sixty-day notice of violation, the appropriate
5 public enforcement agencies have failed to commence and diligently prosecute a cause of
6 action against DEFENDANTS under Proposition 65.

7 29. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale
8 or use in California by DEFENDANTS contain the LISTED CHEMICAL such that they
9 require a "clear and reasonable" warning under Proposition 65.

10 30. DEFENDANTS knew or should have known that the PRODUCTS they
11 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED
12 CHEMICAL.

13 31. The LISTED CHEMICAL is present in or on the PRODUCTS in such a way as
14 to expose individuals to the LISTED CHEMICAL through dermal contact, ingestion, and/or
15 inhalation during reasonably foreseeable use of the PRODUCTS including through workplace
16 exposure to the PRODUCTS.

17 32. The normal and reasonably foreseeable uses of the PRODUCTS have caused,
18 and continue to cause, consumer products exposures to the LISTED CHEMICAL, as such
19 exposures are defined by the California Code of Regulations Title 27, section 25602(b).

20 33. DEFENDANTS had knowledge that the normal and reasonably foreseeable uses
21 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact,
22 ingestion, and/or inhalation.

23 34. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from
24 the reasonably foreseeable uses of the PRODUCTS would occur by DEFENDANTS'
25 deliberate, non-accidental participation in the manufacture, importation, distribution, sale, and
26 offering of the PRODUCTS for sale or use to individuals in the State of California.

27 35. DEFENDANTS failed to provide a "clear and reasonable warning" to those
28 consumers and other individuals in the State of California who were or who would become

1 exposed to the LISTED CHEMICAL through dermal contact, ingestion, and/or inhalation
2 during the reasonably foreseeable uses of the PRODUCTS including through workplace
3 exposure to the PRODUCTS.

4 36. Contrary to the express policy and statutory prohibition of Proposition 65
5 enacted directly by California voters, individuals exposed to the LISTED CHEMICAL through
6 dermal contact, ingestion, and/or inhalation resulting from the reasonably foreseeable uses of
7 the PRODUCTS including through workplace exposure to the PRODUCTS sold by
8 DEFENDANTS without a “clear and reasonable warning,” have suffered, and continue to
9 suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

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

13 38. As a consequence of the above-described acts, Health and Safety Code
14 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
15 DEFENDANTS.

16
17 **PRAYER FOR RELIEF**

18 Wherefore, PLAINTIFF prays for judgment against DEFENDANTS, and each of them,
19 as follows:

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

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

27 3. That the Court, pursuant to Health and Safety Code section 25249.7(a), issue
28 preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS

1 currently in the chain of commerce in California without a "clear and reasonable warning" as
2 defined by California Code of Regulations Title 27, section 25601 *et seq.*,

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

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

7 Dated: April 23, 2014

Respectfully Submitted,

MOSCONE EMBLIDGE SATER & OTIS LLP

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10 By: 
11 Jordan M. Otis
12 Attorneys for Plaintiff
13 ANTHONY E. HELD, Ph.D., P.E.

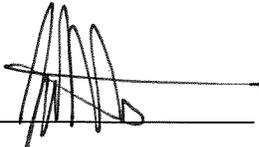
1 **DEMAND FOR JURY TRIAL**

2 Plaintiff Anthony E. Held, Ph.D., P.E., demands a trial by jury in the case.

3
4 Dated: April 23, 2014

Respectfully Submitted,

5 MOSCONE EMBLIDGE SATER & OTIS LLP

6
7 By: 
8 Jordan M. Otis
9 Attorneys for Plaintiff
ANTHONY E. HELD, Ph.D., P.E.