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10 Attorneys for Plaintiff,
11 Consumer Advocacy Group, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 HARBOR FREIGHT TOOLS USA, INC., a
19 Delaware Corporation; and DOES 1-20;

20 Defendants.

CASE NO.

BC 574929

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

21 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against
22 Defendants HARBOR FREIGHT TOOLS USA, INC., and DOES 1-20 as follows:

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**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

MAR 09 2015

Sherri R. Carter, Executive Officer/Clerk
By Myrna Beltran, Deputy

THE PARTIES

- 1
2 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
3 organization qualified to do business in the State of California. CAG is a person
4 within the meaning of Health and Safety Code section 25249.11, subdivision (a).
5 CAG, acting as a private attorney general, brings this action in the public interest as
6 defined under Health and Safety Code section 25249.7, subdivision (d).
- 7 2. Defendant HARBOR FREIGHT TOOLS USA, INC. ("HARBOR FREIGHT") is a
8 Delaware corporation, doing business in the State of California at all relevant times
9 herein.
- 10 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-
11 20, and therefore sues these defendants by such fictitious names. Plaintiff will amend
12 this complaint to allege their true names and capacities when ascertained. Plaintiff is
13 informed, believes, and thereon alleges that each fictitiously named defendant is
14 responsible in some manner for the occurrences herein alleged and the damages caused
15 thereby.
- 16 4. At all times mentioned herein, the term "Defendants" includes HARBOR FREIGHT,
17 and DOES 1-20.
- 18 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at
19 all times mentioned herein have conducted business within the State of California.
- 20 6. Upon information and belief, at all times relevant to this action, each of the
21 Defendants, including DOES 1-20, was an agent, servant, or employee of each of the
22 other Defendants. In conducting the activities alleged in this Complaint, each of the
23 Defendants was acting within the course and scope of this agency, service, or
24 employment, and was acting with the consent, permission, and authorization of each of
25 the other Defendants. All actions of each of the Defendants alleged in this Complaint
26 were ratified and approved by every other Defendant or their officers or managing
27 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated
28 the alleged wrongful conduct of each of the other Defendants.

1 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
2 Defendants was a person doing business within the meaning of Health and Safety
3 Code section 25249.11, subdivision (b), and that each of the Defendants had ten (10)
4 or more employees at all relevant times.

5 **JURISDICTION**

6 8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
7 VI, Section 10, which grants the Superior Court original jurisdiction in all causes
8 except those given by statute to other trial courts. This Court has jurisdiction over this
9 action pursuant to Health and Safety Code section 25249.7, which allows enforcement
10 of violations of Proposition 65 in any Court of competent jurisdiction.

11 9. This Court has jurisdiction over Defendants named herein because Defendants either
12 reside or are located in this State or are foreign corporations authorized to do business
13 in California, are registered with the California Secretary of State, or who do sufficient
14 business in California, have sufficient minimum contacts with California, or otherwise
15 intentionally avail themselves of the markets within California through their
16 manufacture, distribution, promotion, marketing, or sale of their products within
17 California to render the exercise of jurisdiction by the California courts permissible
18 under traditional notions of fair play and substantial justice.

19 10. Venue is proper in the County of Los Angeles because one or more of the instances of
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles
21 and/or because Defendants conducted, and continue to conduct, business in the County
22 of Los Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 11. In 1986, California voters approved an initiative to address growing concerns about
25 exposure to toxic chemicals and declared their right "[t]o be informed about exposures
26 to chemicals that cause cancer, birth defects, or other reproductive harm." Ballot
27 Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe
28 Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety

1 Code sections 25249.5, *et seq.* ("Proposition 65"), helps to protect California's
2 drinking water sources from contamination, to allow consumers to make informed
3 choices about the products they buy, and to enable persons to protect themselves from
4 toxic chemicals as they see fit.

5 12. Proposition 65 requires the Governor of California to publish a list of chemicals
6 known to the state to cause cancer, birth defects, or other reproductive harm. *Health*
7 *& Safety Code* § 25249.8. The list, which the Governor updates at least once a year,
8 contains over 700 chemicals and chemical families. Proposition 65 imposes warning
9 requirements and other controls that apply to Proposition 65-listed chemicals.

10 13. All businesses with ten (10) or more employees that operate or sell products in
11 California must comply with Proposition 65. Under Proposition 65, businesses are:
12 (1) prohibited from knowingly discharging Proposition 65-listed chemicals into
13 sources of drinking water (*Health & Safety Code* § 25249.5), and (2) required to
14 provide "clear and reasonable" warnings before exposing a person, knowingly and
15 intentionally, to a Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

16 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
17 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
18 25249.7. "Threaten to violate" means "to create a condition in which there is a
19 substantial probability that a violation will occur." *Health & Safety Code* §
20 25249.11(e). Defendants are also liable for civil penalties of up to \$2,500.00 per day
21 per violation, recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

22 15. Plaintiff identified certain practices of manufacturers and distributors of Diethyl Hexyl
23 Phthalate ("DEHP")-bearing products of exposing, knowingly and intentionally,
24 persons in California to the Proposition 65-listed chemicals of such products without
25 first providing clear and reasonable warnings of such to the exposed persons prior to
26 the time of exposure. Plaintiff later discerned that Defendants engaged in such
27 practice.

1 16. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
2 known to the State to cause cancer, and on October 24, 2003, the Governor added
3 DEHP to the list of chemicals known to the State to cause developmental male
4 reproductive toxicity. Pursuant to Health and Safety Code sections 25249.9 and
5 25249.10, twenty (20) months after addition of DEHP to the list of chemicals known
6 to the State to cause reproductive toxicity, DEHP became fully subject to Proposition
7 65 warning requirements and discharge prohibitions.

8 **SATISFACTION OF PRIOR NOTICE**

9 17. On or about May 10, 2013, Plaintiff gave notice of alleged violations of Health and
10 Safety Code section 25249.6, concerning consumer products exposures, subject to a
11 private action to HARBOR FREIGHT and to the California Attorney General, County
12 District Attorneys, and City Attorneys for each city containing a population of at least
13 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
14 the product Hand Tools containing DEHP.

15 18. On or about May 20, 2013, Plaintiff gave notice of alleged violations of Health and
16 Safety Code section 25249.6, concerning consumer products exposures, subject to a
17 private action to HARBOR FREIGHT and to the California Attorney General, County
18 District Attorneys, and City Attorneys for each city containing a population of at least
19 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
20 the product Binoculars containing DEHP.

21 19. On or about November 20, 2013, Plaintiff gave notice of alleged violations of Health
22 and Safety Code section 25249.6, concerning consumer products exposures, subject to
23 a private action to HARBOR FREIGHT and to the California Attorney General,
24 County District Attorneys, and City Attorneys for each city containing a population of
25 at least 750,000 people in whose jurisdictions the violations allegedly occurred,
26 concerning the product Pliers containing DEHP.

27 20. On or about December 13, 2013, Plaintiff gave notice of alleged violations of Health
28 and Safety Code section 25249.6, concerning consumer products exposures, subject to

1 a private action to HARBOR FREIGHT and to the California Attorney General,
2 County District Attorneys, and City Attorneys for each city containing a population of
3 at least 750,000 people in whose jurisdictions the violations allegedly occurred,
4 concerning the product Pliers containing DEHP.

5 21. On or about December 31, 2013, Plaintiff gave notice of alleged violations of Health
6 and Safety Code section 25249.6, concerning consumer products exposures, subject to
7 a private action to HARBOR FREIGHT and to the California Attorney General,
8 County District Attorneys, and City Attorneys for each city containing a population of
9 at least 750,000 people in whose jurisdictions the violations allegedly occurred,
10 concerning the product Wire Strippers and Oil Filter Wrenches containing DEHP.

11 22. On or about June 17, 2014, Plaintiff gave notice of alleged violations of Health and
12 Safety Code section 25249.6, concerning consumer products exposures, subject to a
13 private action to HARBOR FREIGHT and to the California Attorney General, County
14 District Attorneys, and City Attorneys for each city containing a population of at least
15 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
16 the product Binoculars containing DEHP.

17 23. On or about June 18, 2014, Plaintiff gave notice of alleged violations of Health and
18 Safety Code section 25249.6, concerning consumer products exposures, subject to a
19 private action to HARBOR FREIGHT and to the California Attorney General, County
20 District Attorneys, and City Attorneys for each city containing a population of at least
21 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
22 the product Pliers containing DEHP.

23 24. On or about July 3, 2014, Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a
25 private action to HARBOR FREIGHT and to the California Attorney General, County
26 District Attorneys, and City Attorneys for each city containing a population of at least
27 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
28

1 the products Wire Cutters, Pliers, Windshield Removers, and Brake Bleeders,
2 containing DEHP.

3 25. On or about August 26, 2014, Plaintiff gave notice of alleged violations of Health and
4 Safety Code section 25249.6, concerning consumer products exposures, subject to a
5 private action to HARBOR FREIGHT and to the California Attorney General, County
6 District Attorneys, and City Attorneys for each city containing a population of at least
7 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
8 the products Crimping Tools, Riveters, Bolt Cutters, and Bicycle Locks containing
9 DEHP.

10 26. On or about December 15, 2014, Plaintiff gave notice of alleged violations of Health
11 and Safety Code section 25249.6, concerning consumer products exposures, subject to
12 a private action to HARBOR FREIGHT and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a population of
14 at least 750,000 people in whose jurisdictions the violations allegedly occurred,
15 concerning the products Seamers, Saws, Hog Ring Pliers, Wire Strippers, Riveters and
16 Piston Pliers containing DEHP.

17 27. Before sending the notice of alleged violations, Plaintiff investigated the consumer
18 products involved, the likelihood that such products would cause users to suffer
19 significant exposures to DEHP, and the corporate structure of each of the Defendants.

20 28. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
21 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney
22 for Plaintiff who executed the certificate had consulted with at least one person with
23 relevant and appropriate expertise who reviewed data regarding the exposures to
24 DEHP, the subject Proposition 65-listed chemicals of this action. Based on that
25 information, the attorney for Plaintiff who executed the Certificate of Merit believed
26 there was a reasonable and meritorious case for this private action. The attorney for
27 Plaintiff attached to the Certificate of Merit served on the Attorney General the
28

1 confidential factual information sufficient to establish the basis of the Certificate of
2 Merit.

3 29. Plaintiff's notices of alleged violations also included a Certificate of Service and a
4 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
5 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

6 30. Plaintiff is commencing this action more than sixty (60) days from the dates that
7 Plaintiff gave notices of the alleged violation to HARBOR FREIGHT and the public
8 prosecutors referenced in Paragraph 17-24.

9 31. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General,
10 nor any applicable district attorney or city attorney has commenced and is diligently
11 prosecuting an action against the Defendants.

12 **FIRST CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT TOOLS**
14 **USA and DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

16 **Hand Tools**

17 32. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
18 reference paragraphs 1 through 31 of this complaint as though fully set forth herein. Each
19 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
20 promoter, or retailer of Hand Tools, which includes but is not limited to,
21 "PITTSBURGH® Automotive 5/16" Side-Terminal Battery Ratchet Wrench, "For use on
22 5/16" battery terminal bolts found on GM and most other domestic vehicles",
23 "Reversible, ratcheting box wrench; Insulated vinyl grip handle to prevent electrical
24 shock", "Satin chrome-plated finish to resist corrosion", "Overall dimensions: 5-5/8"L x
25 3/4"W", "Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com,
26 Item 97261, Made in China, circular sticker placed to package with numbers: 36972
27 492011, barcode: 7 92363 97261 1; Mosaic Tile Cutter/Nipper with plastic coated grips,
28 "Precision cutting of glass & porcelain mosaic tile", "Cuts seashells & high-fired

1 ceramics up to ¼” thick”, “Includes long lasting carbide cutting wheels & allen wrench”,
2 8” long, “Distributed Exclusively by Harbor Freight Tools, www.HarborFreight.com,
3 Item 97377, Made in China, circular sticker placed to package with numbers 36513
4 282012, barcode: 7 92363 97377 9; PITTSBURGH® Automotive 3 ¾” Swivel Handle
5 Oil Filter Wrench, “Fits filters 3 ¼” to 3 ¾”, “Nonslip rubber gripper even works on
6 dented or oily filters”, “Distributed by Harbor Freight Tools, Camarillo, CA,
7 www.HarborFreight.com, Item 68963, Made in China, circular sticker placed to package
8 with numbers 36239 422012, barcode: 7 92363 68963 2” (“HAND TOOLS”).

9 33. HAND TOOLS contain DEHP.

10 34. Defendants knew or should have known that DEHP has been identified by the State of
11 California as a chemical known to cause cancer and reproductive toxicity and therefore
12 was subject to Proposition 65 warning requirements. Defendants were also informed of
13 the presence of lead in HAND TOOLS within Plaintiff's notice of alleged violations
14 further discussed above at Paragraph 17.

15 35. Plaintiff's allegations regarding HAND TOOLS concerns “[c]onsumer products
16 exposure[s],” which “is an exposure that results from a person's acquisition, purchase,
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
18 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
19 *25602(b)*. HAND TOOLS are consumer products, and, as mentioned herein, exposures
20 to lead took place as a result of such normal and foreseeable consumption and use.

21 36. Plaintiff is informed, believes, and thereon alleges that between May 10, 2010 and the
22 present, each of the Defendants knowingly and intentionally exposed their California
23 consumers and users of HAND TOOLS, which Defendants manufactured, distributed, or
24 sold as mentioned above, to DEHP, without first providing any type of clear and
25 reasonable warning of such to the exposed persons before the time of exposure.
26 Defendants have distributed and sold HAND TOOLS in California. Defendants know
27 and intend that California consumers will use and consume HAND TOOLS, thereby
28 exposing them to lead. Defendants thereby violated Proposition 65.

1 37. The principal routes of exposure are through dermal contact, ingestion and inhalation.
2 Persons sustain exposures by handling HAND TOOLS without wearing gloves or any
3 other personal protective equipment, or by touching bare skin or mucous membranes with
4 gloves after handling HAND TOOLS, as well as through direct and indirect hand to
5 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
6 from HAND TOOLS.

7 38. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
8 Proposition 65 as to HAND TOOLS have been ongoing and continuous to the date of the
9 signing of this complaint, as Defendants engaged and continue to engage in conduct
10 which violates Health and Safety Code section 25249.6, including the manufacture,
11 distribution, promotion, and sale of HAND TOOLS, so that a separate and distinct
12 violation of Proposition 65 occurred each and every time a person was exposed to DEHP
13 by HAND TOOLS as mentioned herein.

14 39. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
15 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
16 violations alleged herein will continue to occur into the future.

17 40. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to lead from HAND TOOLS, pursuant to
19 Health and Safety Code section 25249.7(b).

20 41. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
21 filing this Complaint.

22 **SECOND CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT TOOLS**
24 **USA and DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
25 **Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

26 **Binoculars**

27 42. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
28 reference paragraphs 1 through 41 of this complaint as though fully set forth herein.

Each of the Defendants is, and at all times mentioned herein was, a manufacturer,

1 distributor, promoter, or retailer of Binoculars, which includes but is not limited to
2 "GORDON® 10 x 25mm Objective Lens, Compact Binoculars, Field of View: 288 FT.
3 @ 1000 YD., Item 92442, Overall dimensions: 4- 3/4" Wx 4- 5/8" Lx 1- 1/2" H (unfolded),
4 Made in China, Distributed by Harbor Freight Tools, Camarillo CA, barcode: 7 92363
5 92442 9." ("BINOCULARS").

6 43. BINOCULARS contain DEHP.

7 44. Defendants knew or should have known that DEHP has been identified by the State of
8 California as chemicals known to cause cancer and reproductive toxicity and therefore
9 was subject to Proposition 65 warning requirements. Defendants were also informed of
10 the presence of DEHP in BINOCULARS within Plaintiff's notice of alleged violations
11 further discussed above at Paragraph 18 and 22.

12 45. Plaintiff's allegations regarding BINOCULARS concerns "[c]onsumer products
13 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
14 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
15 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
16 *25602(b)*. BINOCULARS are consumer products, and, as mentioned herein, exposures
17 to DEHP took place as a result of such normal and foreseeable consumption and use.

18 46. Plaintiff is informed, believes, and thereon alleges that between May 20, 2010 and the
19 present, each of the Defendants knowingly and intentionally exposed their employees and
20 California consumers and users of BINOCULARS, which Defendants manufactured,
21 distributed, or sold as mentioned above, to DEHP, without first providing any type of
22 clear and reasonable warning of such to the exposed persons before the time of exposure.
23 Defendants have distributed and sold BINOCULARS in California. Defendants know
24 and intend that California consumers will use and consume BINOCULARS, thereby
25 exposing them to DEHP. Defendants thereby violated Proposition 65.

26 47. The principal routes of exposure are through dermal contact, ingestion and inhalation.
27 Persons sustain exposures by handling BINOCULARS without wearing gloves or any
28 other personal protective equipment, or by touching bare skin or mucous membranes with

1 gloves after handling BINOCULARS, as well as through direct and indirect hand to
2 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
3 from BINOCULARS.

4 48. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
5 Proposition 65 as to BINOCULARS have been ongoing and continuous to the date of the
6 signing of this complaint, as Defendants engaged and continue to engage in conduct
7 which violates Health and Safety Code section 25249.6, including the manufacture,
8 distribution, promotion, and sale of BINOCULARS, so that a separate and distinct
9 violation of Proposition 65 occurred each and every time a person was exposed to DEHP
10 by BINOCULARS as mentioned herein.

11 49. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
12 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
13 violations alleged herein will continue to occur into the future.

14 50. Based on the allegations herein, Defendants are liable for civil penalties of up to
15 \$2,500.00 per day per individual exposure to DEHP from BINOCULARS, pursuant to
16 Health and Safety Code section 25249.7(b).

17 51. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
18 filing this Complaint.

19 **THIRD CAUSE OF ACTION**

20 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
21 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
22 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

23 **Pliers**

24 52. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
25 reference paragraphs 1 through 51 of this complaint as though fully set forth herein.

26 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Pliers, which includes but is not limited to:
28

1 PITTSBURGH® 3 PC. SLIP JOINT PLIER SET, ITEM 9498, Distributed by Harbor
2 Freight Tools, Camarillo, CA UPC Code: 7 92363 09498 6 (“PLIERS I”)

3 54. PLIERS I contain DEHP.

4 55. Defendants knew or should have known that DEHP has been identified by the State of
5 California as a chemical known to cause cancer and reproductive toxicity and therefore
6 is subject to Proposition 65 warning requirements. Defendants were also informed of
7 the presence of DEHP in PLIERS I within Plaintiff's notice of alleged violations
8 further discussed above at Paragraph 17.

9 56. Plaintiff's allegations regarding PLIERS I concern “[c]onsumer products exposure[s],”
10 which “is an exposure that results from a person's acquisition, purchase, storage,
11 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
12 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
13 PLIERS I are consumer products, and, as mentioned herein, exposures to DEHP took
14 place as a result of such normal and foreseeable consumption and use.

15 57. Plaintiff is informed, believes, and thereon alleges that between November 20, 2010
16 and the present, each of the Defendants knowingly and intentionally exposed
17 California consumers and users of PLIERS I, which Defendants manufactured,
18 distributed, or sold as mentioned above, to DEHP, without first providing any type of
19 clear and reasonable warning of such to the exposed persons before the time of
20 exposure. Defendants have distributed and sold DEHP in California. Defendants
21 know and intend that California consumers will use and consume PLIERS I thereby
22 exposing them to DEHP. Defendants thereby violated Proposition 65.

23 58. The principal routes of exposure are through dermal contact, ingestion and inhalation.
24 Persons sustain exposures by handling PLIERS I without wearing gloves or any other
25 personal protective equipment, or by touching bare skin or mucous membranes with
26 gloves after handling PLIERS I, as well as through direct and indirect hand to mouth
27 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
28 PLIERS I.

1 59. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
2 of Proposition 65 as to PLIERS I have been ongoing and continuous to the date of the
3 signing of this complaint, as Defendants engaged and continue to engage in conduct
4 which violates Health and Safety Code section 25249.6, including the manufacture,
5 distribution, promotion, and sale of PLIERS I, so that a separate and distinct violation
6 of Proposition 65 occurred each and every time a person was exposed to DEHP by
7 PLIERS I as mentioned herein.

8 60. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
9 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
10 violations alleged herein will continue to occur into the future.

11 61. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DEHP from PLIERS I, pursuant to
13 Health and Safety Code section 25249.7(b).

14 62. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
15 filing this Complaint.

16 **FOURTH CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
18 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
19 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

20 **Pliers**

21 63. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 40 of this complaint as though fully set forth herein.

23 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Pliers, which includes but is not limited to:
25 Pittsburgh® 2" GROMMET PLIERS WITH 100 GROMMETS, ITEM 66707,
26 "GROMMET SET: 5-3/4" Long, 3/4" JAW OPENING", Barcode: 7 92363 66707 4
27 ("PLIERS II")

28 65. PLIERS II contain DEHP.

1 66. Defendants knew or should have known that DEHP has been identified by the State of
2 California as a chemical known to cause cancer and reproductive toxicity and therefore
3 is subject to Proposition 65 warning requirements. Defendants were also informed of
4 the presence of DEHP in PLIERS II within Plaintiff's notice of alleged violations
5 further discussed above at Paragraph 20.

6 67. Plaintiff's allegations regarding PLIERS II concern "[c]onsumer products
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
9 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
10 *25602(b)*. PLIERS II are consumer products, and, as mentioned herein, exposures to
11 DEHP took place as a result of such normal and foreseeable consumption and use.

12 68. Plaintiff is informed, believes, and thereon alleges that between December 13, 2010
13 and the present, each of the Defendants knowingly and intentionally exposed
14 California consumers and users of PLIERS II, which Defendants manufactured,
15 distributed, or sold as mentioned above, to DEHP, without first providing any type of
16 clear and reasonable warning of such to the exposed persons before the time of
17 exposure. Defendants have distributed and sold DEHP in California. Defendants
18 know and intend that California consumers will use and consume PLIERS thereby
19 exposing them to DEHP. Defendants thereby violated Proposition 65.

20 69. The principal routes of exposure are through dermal contact, ingestion and inhalation.
21 Persons sustain exposures by handling PLIERS II without wearing gloves or any other
22 personal protective equipment, or by touching bare skin or mucous membranes with
23 gloves after handling PLIERS II, as well as through direct and indirect hand to mouth
24 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
25 PLIERS II.

26 70. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
27 of Proposition 65 as to PLIERS have been ongoing and continuous to the date of the
28 signing of this complaint, as Defendants engaged and continue to engage in conduct

1 which violates Health and Safety Code section 25249.6, including the manufacture,
2 distribution, promotion, and sale of PLIERS, so that a separate and distinct violation of
3 Proposition 65 occurred each and every time a person was exposed to DEHP by
4 PLIERS as mentioned herein.

5 71. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
6 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
7 violations alleged herein will continue to occur into the future.

8 72. Based on the allegations herein, Defendants are liable for civil penalties of up to
9 \$2,500.00 per day per individual exposure to DEHP from PLIERS, pursuant to Health
10 and Safety Code section 25249.7(b).

11 73. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
12 filing this Complaint.

13 **FIFTH CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
15 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
16 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

17 **Wire Strippers**

18 74. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
19 reference paragraphs 1 through 73 of this complaint as though fully set forth herein.

20 75. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
21 distributor, promoter, or retailer of Wire Strippers, which includes but is not limited to:
22 PITTSBURGH® 7” “WIRE STRIPPER/CUTTER” with red PVC coated grips,
23 “LIMITED LIFETIME WARRANTY”, “Quickly Strips 10-20 AWG Wire”, “Cuts
24 and Threads Popular Bolt Sizes”, “Distributed by Harbor Freight Tools, Camarillo,
25 CA, www.HarborFreight.com, Item 98410, Made in China, barcode: 7 92363 98410 2
26 (“WIRE STRIPPERS I”)

27 76. WIRRE STRIPPERS I contain DEHP.
28

1 77. Defendants knew or should have known that DEHP has been identified by the State of
2 California as a chemical known to cause cancer and reproductive toxicity and therefore
3 is subject to Proposition 65 warning requirements. Defendants were also informed of
4 the presence of DEHP in WIRE STRIPPERS I within Plaintiff's notice of alleged
5 violations further discussed above at Paragraph 21.

6 78. Plaintiff's allegations regarding WIRE STRIPPERS I concern "[c]onsumer products
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
9 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
10 *25602(b)*. WIRE STRIPPERS I are consumer products, and, as mentioned herein,
11 exposures to DEHP took place as a result of such normal and foreseeable consumption
12 and use.

13 79. Plaintiff's allegations regarding WIRE STRIPPERS I also concern occupational
14 exposures, which means "an exposure to any employee in his or her employer's
15 workplace." *Cal. Code Regs. tit. 27, § 25602(f)*. Exposures of DEHP to Defendants'
16 employees occurred through the course of their employment in their employers'
17 workplaces.

18 80. Plaintiff is informed, believes, and thereon alleges that between December 31, 2010
19 and the present, each of the Defendants knowingly and intentionally exposed their
20 employees and California consumers and users of WIRE STRIPPERS I, which
21 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
22 first providing any type of clear and reasonable warning of such to the exposed
23 persons before the time of exposure. Defendants have distributed and sold DEHP in
24 California. Defendants know and intend that California consumers will use and
25 consume WIRE STRIPPERS I thereby exposing them to DEHP. Defendants thereby
26 violated Proposition 65.

27 81. The principal routes of exposure are through dermal contact, ingestion and inhalation.
28 Persons sustain exposures by handling WIRE STRIPPERS I without wearing gloves or

1 any other personal protective equipment, or by touching bare skin or mucous
2 membranes with gloves after handling WIRE STRIPPERS I, as well as through direct
3 and indirect hand to mouth contact, hand to mucous membrane, or breathing in
4 particulate matter dispersed from WIRE STRIPPERS I. And as to Defendants'
5 employees, employees may be exposed to DEHP in the course of their employment by
6 handling, distributing, and selling WIRE STRIPPERS I.

7 82. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
8 of Proposition 65 as to WIRE STRIPPERS I have been ongoing and continuous to the
9 date of the signing of this complaint, as Defendants engaged and continue to engage in
10 conduct which violates Health and Safety Code section 25249.6, including the
11 manufacture, distribution, promotion, and sale of WIRE STRIPPERS I, so that a
12 separate and distinct violation of Proposition 65 occurred each and every time a person
13 was exposed to DEHP by WIRE STRIPPERS I as mentioned herein.

14 83. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
15 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
16 violations alleged herein will continue to occur into the future.

17 84. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to DEHP from WIRE STRIPPERS I,
19 pursuant to Health and Safety Code section 25249.7(b).

20 85. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
21 filing this Complaint.

22 **SIXTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
24 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
25 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

26 **Oil Filter Wrenches**

27 86. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
28 reference paragraphs 1 through 85 of this complaint as though fully set forth herein.

1 87. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Oil Filter Wrenches, which includes but is not
3 limited to: PITTSBURGH® Automotive 2” to 4 ¼” Oil Filter Wrench with thick black
4 polymer grips, “LUBE” Item 36778 “Bite into the filter for a non-slip grip”, “12 ¼”
5 handle gives you the extra reach and torque you need”, “Handles 2” to 4 ¼” diameter
6 oil filters”, “Capacity: 2” to 4 ¼” Handle length: 12 ¼” “Distributed by Harbor Freight
7 Tools, Camarillo, CA, www.HarborFreight.com, Made in China, circular sticker
8 placed to package with numbers 36239 262013, barcode: 7 92363 36778 3” (“OIL
9 FILTER WRENCHES”)

10 88. Defendants knew or should have known that DEHP has been identified by the State of
11 California as a chemical known to cause cancer and reproductive toxicity and therefore
12 is subject to Proposition 65 warning requirements. Defendants were also informed of
13 the presence of DEHP in OIL FILTER WRENCHES within Plaintiff's notice of
14 alleged violations further discussed above at Paragraph 21.

15 89. Plaintiff's allegations regarding OIL FILTER WRENCHES concern “[c]onsumer
16 products exposure[s],” which “is an exposure that results from a person's acquisition,
17 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
18 good, or any exposure that results from receiving a consumer service.” *Cal. Code*
19 *Regs. tit. 27, § 25602(b)*. OIL FILTER WRENCHES are consumer products, and, as
20 mentioned herein, exposures to DEHP took place as a result of such normal and
21 foreseeable consumption and use.

22 90. Plaintiff is informed, believes, and thereon alleges that between December 31, 2010
23 and the present, each of the Defendants knowingly and intentionally exposed
24 California consumers and users of OIL FILTER WRENCHES, which Defendants
25 manufactured, distributed, or sold as mentioned above, to DEHP, without first
26 providing any type of clear and reasonable warning of such to the exposed persons
27 before the time of exposure. Defendants have distributed and sold DEHP in
28 California. Defendants know and intend that California consumers will use and

1 consume OIL FILTER WRENCHES thereby exposing them to DEHP. Defendants
2 thereby violated Proposition 65.

3 91. The principal routes of exposure are through dermal contact, ingestion and inhalation.
4 Persons sustain exposures by handling OIL FILTER WRENCHES without wearing
5 gloves or any other personal protective equipment, or by touching bare skin or mucous
6 membranes with gloves after handling OIL FILTER WRENCHES, as well as through
7 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
8 particulate matter dispersed from OIL FILTER WRENCHES.

9 92. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
10 of Proposition 65 as to OIL FILTER WRENCHES have been ongoing and continuous
11 to the date of the signing of this complaint, as Defendants engaged and continue to
12 engage in conduct which violates Health and Safety Code section 25249.6, including
13 the manufacture, distribution, promotion, and sale of OIL FILTER WRENCHES, so
14 that a separate and distinct violation of Proposition 65 occurred each and every time a
15 person was exposed to DEHP by OIL FILTER WRENCHES as mentioned herein.

16 93. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition
17 65 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
18 violations alleged herein will continue to occur into the future.

19 94. Based on the allegations herein, Defendants are liable for civil penalties of up to
20 \$2,500.00 per day per individual exposure to DEHP from OIL FILTER WRENCHES,
21 pursuant to Health and Safety Code section 25249.7(b).

22 95. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
23 filing this Complaint.

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1 Defendants have distributed and sold DEHP in California. Defendants know and
2 intend that California consumers will use and consume PLIERS III thereby exposing
3 them to DEHP. Defendants thereby violated Proposition 65.

4 102. The principal routes of exposure are through dermal contact, ingestion and
5 inhalation. Persons sustain exposures by handling PLIERS III without wearing gloves
6 or any other personal protective equipment, or by touching bare skin or mucous
7 membranes with gloves after handling PLIERS III, as well as through direct and
8 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
9 matter dispersed from PLIERS III.

10 103. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
11 violations of Proposition 65 as to PLIERS III have been ongoing and continuous to the
12 date of the signing of this complaint, as Defendants engaged and continue to engage in
13 conduct which violates Health and Safety Code section 25249.6, including the
14 manufacture, distribution, promotion, and sale of PLIERS III, so that a separate and
15 distinct violation of Proposition 65 occurred each and every time a person was
16 exposed to DEHP by PLIERS III as mentioned herein.

17 104. Plaintiff is informed, believes, and thereon alleges that each violation of
18 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
19 believes that the violations alleged herein will continue to occur into the future.

20 105. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to DEHP from PLIERS III, pursuant to
22 Health and Safety Code section 25249.7(b).

23 106. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
24 prior to filing this Complaint.

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1 EIGHTH CAUSE OF ACTION

2 (By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and
3 DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic
4 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

4 Wire Cutters

5 107. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
6 reference paragraphs 1 through 106 of this complaint as though fully set forth herein.

7 108. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
8 distributor, promoter, or retailer of Wire Cutters, which includes but is not limited to:
9 PITTSBURGH® 7" WIRE STRIPPER/ CUTTER, Lifetime Warranty; ITEM 61158;
10 Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 61158 9
11 ("WIRE CUTTER")

12 109. WIRE CUTTERS contain DEHP.

13 110. Defendants knew or should have known that DEHP has been identified by the
14 State of California as a chemical known to cause cancer and reproductive toxicity and
15 therefore is subject to Proposition 65 warning requirements. Defendants were also
16 informed of the presence of DEHP in WIRE CUTTERS within Plaintiff's notice of
17 alleged violations further discussed above at Paragraph 24.

18 111. Plaintiff's allegations regarding WIRE CUTTERS concern "[c]onsumer products
19 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
20 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
21 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
22 25602(b). WIRE CUTTERS are consumer products, and, as mentioned herein,
23 exposures to DEHP took place as a result of such normal and foreseeable consumption
24 and use.

25 112. Plaintiff's allegations regarding WIRE CUTTERS also concern occupational
26 exposures, which means "an exposure to any employee in his or her employer's
27 workplace." *Cal. Code Regs.* tit. 27, § 25602(f). Exposures of DEHP to Defendants'
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1 employees occurred through the course of their employment in their employers'
2 workplaces.

3 113. Plaintiff is informed, believes, and thereon alleges that between July 3, 2011 and
4 the present, each of the Defendants knowingly and intentionally exposed their
5 employees and California consumers and users of WIRE CUTTERS, which
6 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
7 first providing any type of clear and reasonable warning of such to the exposed
8 persons before the time of exposure. Defendants have distributed and sold DEHP in
9 California. Defendants know and intend that California consumers will use and
10 consume WIRE CUTTERS thereby exposing them to DEHP. Defendants thereby
11 violated Proposition 65.

12 114. The principal routes of exposure are through dermal contact, ingestion and
13 inhalation. Persons sustain exposures by handling WIRE CUTTERS without wearing
14 gloves or any other personal protective equipment, or by touching bare skin or mucous
15 membranes with gloves after handling WIRE CUTTERS, as well as through direct and
16 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
17 matter dispersed from WIRE CUTTERS. And as to Defendants' employees,
18 employees may be exposed to DEHP in the course of their employment by handling,
19 distributing, and selling WIRE CUTTERS.

20 115. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
21 violations of Proposition 65 as to WIRE CUTTERS have been ongoing and
22 continuous to the date of the signing of this complaint, as Defendants engaged and
23 continue to engage in conduct which violates Health and Safety Code section 25249.6,
24 including the manufacture, distribution, promotion, and sale of WIRE CUTTERS, so
25 that a separate and distinct violation of Proposition 65 occurred each and every time a
26 person was exposed to DEHP by WIRE CUTTERS as mentioned herein.

1 116. Plaintiff is informed, believes, and thereon alleges that each violation of
2 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
3 believes that the violations alleged herein will continue to occur into the future.

4 117. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from WIRE CUTTERS, pursuant
6 to Health and Safety Code section 25249.7(b).

7 118. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
8 prior to filing this Complaint.

9 **NINTH CAUSE OF ACTION**

10 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
11 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
12 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

13 **Pliers**

14 119. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
15 reference paragraphs 1 through 118 of this complaint as though fully set forth herein.

16 120. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Pliers, which includes but is not limited to:
18 PITTSBURGH® LONG NOSE HIGH VOLTAGE INSULATED PLIERS, 8",
19 ELECTRICALLY INSULATED HIGH VOLTAGE GRIPS CAN HANDLE UP to
20 1000 VOLTS; ITEM 96906; LIMITED LIFETIME WARRANTY; JAW DEPTH: 2";
21 JAW OPENING: 1-1/2" MAXIMUM; OVERALL DIMENSIONS: 8" L X 2-3/8" W
22 X 2-1/2" H.; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363
23 96906 2 ("PLIERS IV")

24 121. PLIERS IV contain DEHP.

25 122. Defendants knew or should have known that DEHP has been identified by the
26 State of California as a chemical known to cause cancer and reproductive toxicity and
27 therefore is subject to Proposition 65 warning requirements. Defendants were also
28

1 informed of the presence of DEHP in PLIERS IV within Plaintiff's notice of alleged
2 violations further discussed above at Paragraph 24.

3 123. Plaintiff's allegations regarding PLIERS IV concern "[c]onsumer products
4 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
5 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
6 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
7 25602(b). PLIERS IV are consumer products, and, as mentioned herein, exposures to
8 DEHP took place as a result of such normal and foreseeable consumption and use.

9 124. Plaintiff is informed, believes, and thereon alleges that between July 3, 2011 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of PLIERS IV, which Defendants manufactured, distributed, or
12 sold as mentioned above, to DEHP, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.
14 Defendants have distributed and sold DEHP in California. Defendants know and
15 intend that California consumers will use and consume PLIERS IV thereby exposing
16 them to DEHP. Defendants thereby violated Proposition 65.

17 125. The principal routes of exposure are through dermal contact, ingestion and
18 inhalation. Persons sustain exposures by handling PLIERS IV without wearing gloves
19 or any other personal protective equipment, or by touching bare skin or mucous
20 membranes with gloves after handling PLIERS IV, as well as through direct and
21 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
22 matter dispersed from PLIERS IV.

23 126. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
24 violations of Proposition 65 as to PLIERS IV have been ongoing and continuous to the
25 date of the signing of this complaint, as Defendants engaged and continue to engage in
26 conduct which violates Health and Safety Code section 25249.6, including the
27 manufacture, distribution, promotion, and sale of PLIERS IV, so that a separate and
28

1 distinct violation of Proposition 65 occurred each and every time a person was
2 exposed to DEHP by PLIERS IV as mentioned herein.

3 127. Plaintiff is informed, believes, and thereon alleges that each violation of
4 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
5 believes that the violations alleged herein will continue to occur into the future.

6 128. Based on the allegations herein, Defendants are liable for civil penalties of up to
7 \$2,500.00 per day per individual exposure to DEHP from PLIERS IV, pursuant to
8 Health and Safety Code section 25249.7(b).

9 129. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
10 prior to filing this Complaint.

11 **TENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
13 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Windshield Removers**

16 130. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
17 reference paragraphs 1 through 129 of this complaint as though fully set forth herein.

18 131. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Windshield Removers, which includes but is not
20 limited to: PITTSBURGH® AUTOMOTIVE Windshield Removing Tool; BODY;
21 Use to remove caulking compound around windshields; Tempered steel blade; Pull
22 handle provides additional leverage; Distributed by Harbor Freight Tools, Camarillo,
23 CA; Bar Code: 7 92363 60298 3 (“WINDSHIELD REMOVERS”)

24 132. WINDSHIELD REMOVERS contain DEHP.

25 133. Defendants knew or should have known that DEHP has been identified by the
26 State of California as a chemical known to cause cancer and reproductive toxicity and
27 therefore is subject to Proposition 65 warning requirements. Defendants were also
28

1 informed of the presence of DEHP in WINDSHIELD REMOVERS within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 24.

3 134. Plaintiff's allegations regarding WINDSHIELD REMOVERS concern
4 "[c]onsumer products exposure[s]," which "is an exposure that results from a person's
5 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
6 consumer good, or any exposure that results from receiving a consumer service." *Cal.*
7 *Code Regs.* tit. 27, § 25602(b). WINDSHIELD REMOVERS are consumer products,
8 and, as mentioned herein, exposures to DEHP took place as a result of such normal
9 and foreseeable consumption and use.

10 135. Plaintiff is informed, believes, and thereon alleges that between July 3, 2011 and
11 the present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of WINDSHIELD REMOVERS, which Defendants
13 manufactured, distributed, or sold as mentioned above, to DEHP, without first
14 providing any type of clear and reasonable warning of such to the exposed persons
15 before the time of exposure. Defendants have distributed and sold DEHP in
16 California. Defendants know and intend that California consumers will use and
17 consume WINDSHIELD REMOVERS thereby exposing them to DEHP. Defendants
18 thereby violated Proposition 65.

19 136. The principal routes of exposure are through dermal contact, ingestion and
20 inhalation. Persons sustain exposures by handling WINDSHIELD REMOVERS
21 without wearing gloves or any other personal protective equipment, or by touching
22 bare skin or mucous membranes with gloves after handling WINDSHIELD
23 REMOVERS, as well as through direct and indirect hand to mouth contact, hand to
24 mucous membrane, or breathing in particulate matter dispersed from WINDSHIELD
25 REMOVERS.

26 137. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
27 violations of Proposition 65 as to WINDSHIELD REMOVERS have been ongoing
28 and continuous to the date of the signing of this complaint, as Defendants engaged and

1 continue to engage in conduct which violates Health and Safety Code section 25249.6,
2 including the manufacture, distribution, promotion, and sale of WINDSHIELD
3 REMOVERS, so that a separate and distinct violation of Proposition 65 occurred each
4 and every time a person was exposed to DEHP by WINDSHIELD REMOVERS as
5 mentioned herein.

6 138. Plaintiff is informed, believes, and thereon alleges that each violation of
7 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
8 believes that the violations alleged herein will continue to occur into the future.

9 139. Based on the allegations herein, Defendants are liable for civil penalties of up to
10 \$2,500.00 per day per individual exposure to DEHP from WINDSHIELD
11 REMOVERS, pursuant to Health and Safety Code section 25249.7(b).

12 140. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
13 prior to filing this Complaint.

14
15 **ELEVENTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
17 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
18 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

19 **Brake Bleeders**

20 141. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
21 reference paragraphs 1 through 140 of this complaint as though fully set forth herein.

22 142. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of BRAKE BLEEDERS, which includes but is not
24 limited to: PITTSBURGH® AUTOMOTIVE Brake Bleeder and Vacuum Pump Kit;
25 BRAKE; 14 PIECE; ITEM 60770; Distributed by Harbor Freight Tools, Camarillo,
26 CA; Bar Code: 7 92363 60770 4

27 143. BRAKE BLEEDERS contain DEHP.

28 144. Defendants knew or should have known that DEHP has been identified by the
State of California as a chemical known to cause cancer and reproductive toxicity and

1 therefore is subject to Proposition 65 warning requirements. Defendants were also
2 informed of the presence of DEHP in BRAKE BLEEDERS within Plaintiff's notice of
3 alleged violations further discussed above at Paragraph 24.

4 145. Plaintiff's allegations regarding BRAKE BLEEDERS concern "[c]onsumer
5 products exposure[s]," which "is an exposure that results from a person's acquisition,
6 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
7 good, or any exposure that results from receiving a consumer service." *Cal. Code*
8 *Regs. tit. 27, § 25602(b)*. BRAKE BLEEDERS are consumer products, and, as
9 mentioned herein, exposures to DEHP took place as a result of such normal and
10 foreseeable consumption and use.

11 146. Plaintiff is informed, believes, and thereon alleges that between July 3, 2011 and
12 the present, each of the Defendants knowingly and intentionally exposed California
13 consumers and users of BRAKE BLEEDERS, which Defendants manufactured,
14 distributed, or sold as mentioned above, to DEHP, without first providing any type of
15 clear and reasonable warning of such to the exposed persons before the time of
16 exposure. Defendants have distributed and sold DEHP in California. Defendants
17 know and intend that California consumers will use and consume BRAKE
18 BLEEDERS thereby exposing them to DEHP. Defendants thereby violated
19 Proposition 65.

20 147. The principal routes of exposure are through dermal contact, ingestion and
21 inhalation. Persons sustain exposures by handling BRAKE BLEEDERS without
22 wearing gloves or any other personal protective equipment, or by touching bare skin or
23 mucous membranes with gloves after handling BRAKE BLEEDERS, as well as
24 through direct and indirect hand to mouth contact, hand to mucous membrane, or
25 breathing in particulate matter dispersed from BRAKE BLEEDERS.

26 148. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
27 violations of Proposition 65 as to BRAKE BLEEDERS have been ongoing and
28 continuous to the date of the signing of this complaint, as Defendants engaged and

1 continue to engage in conduct which violates Health and Safety Code section 25249.6,
2 including the manufacture, distribution, promotion, and sale of BRAKE BLEEDERS
3 so that a separate and distinct violation of Proposition 65 occurred each and every time
4 a person was exposed to DEHP by BRAKE BLEEDERS as mentioned herein.

5 149. Plaintiff is informed, believes, and thereon alleges that each violation of
6 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
7 believes that the violations alleged herein will continue to occur into the future.

8 150. Based on the allegations herein, Defendants are liable for civil penalties of up to
9 \$2,500.00 per day per individual exposure to DEHP from BRAKE BLEEDERS,
10 pursuant to Health and Safety Code section 25249.7(b).

11 151. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
12 prior to filing this Complaint.

13 **TWELFTH CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
15 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
16 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

17 **Crimping Tools**

18 152. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
19 reference paragraphs 1 through 151 of this complaint as though fully set forth herein.

20 153. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
21 distributor, promoter, or retailer of Crimping Tool, which includes but is not limited
22 to: PITTSBURGH® 9 ½” WIRE CRIMPING TOOL, Lifetime Warranty; ITEM
23 36411; Carbon steel construction, Oil resistant grip, Meets or exceed ANSI standards;
24 Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 36411 9
25 (“CRIMPING TOOL”)

26 154. CRIMPING TOOL contain DEHP.

27 155. Defendants knew or should have known that DEHP has been identified by the
28 State of California as a chemical known to cause cancer and reproductive toxicity and

1 therefore is subject to Proposition 65 warning requirements. Defendants were also
2 informed of the presence of DEHP in CRIMPING TOOL within Plaintiff's notice of
3 alleged violations further discussed above at Paragraph 25.

4 156. Plaintiff's allegations regarding CRIMPING TOOL concern "[c]onsumer
5 products exposure[s]," which "is an exposure that results from a person's acquisition,
6 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
7 good, or any exposure that results from receiving a consumer service." *Cal. Code*
8 *Regs. tit. 27, § 25602(b)*. CRIMPING TOOL are consumer products, and, as
9 mentioned herein, exposures to DEHP took place as a result of such normal and
10 foreseeable consumption and use.

11 157. Plaintiff's allegations regarding CRIMPING TOOL also concern occupational
12 exposures, which means "an exposure to any employee in his or her employer's
13 workplace." *Cal. Code Regs. tit. 27, § 25602(f)*. Exposures of DEHP to Defendants'
14 employees occurred through the course of their employment in their employers'
15 workplaces.

16 158. Plaintiff is informed, believes, and thereon alleges that between August 26, 2011
17 and the present, each of the Defendants knowingly and intentionally exposed their
18 employees and California consumers and users of CRIMPING TOOL, which
19 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
20 first providing any type of clear and reasonable warning of such to the exposed
21 persons before the time of exposure. Defendants have distributed and sold DEHP in
22 California. Defendants know and intend that California consumers will use and
23 consume CRIMPING TOOL thereby exposing them to DEHP. Defendants thereby
24 violated Proposition 65.

25 159. The principal routes of exposure are through dermal contact, ingestion and
26 inhalation. Persons sustain exposures by handling CRIMPING TOOL without
27 wearing gloves or any other personal protective equipment, or by touching bare skin or
28 mucous membranes with gloves after handling CRIMPING TOOL, as well as through

1 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
2 particulate matter dispersed from CRIMPING TOOL. And as to Defendants'
3 employees, employees may be exposed to DEHP in the course of their employment by
4 handling, distributing, and selling CRIMPING TOOL.

5 160. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
6 violations of Proposition 65 as to CRIMPING TOOL have been ongoing and
7 continuous to the date of the signing of this complaint, as Defendants engaged and
8 continue to engage in conduct which violates Health and Safety Code section 25249.6,
9 including the manufacture, distribution, promotion, and sale of CRIMPING TOOL, so
10 that a separate and distinct violation of Proposition 65 occurred each and every time a
11 person was exposed to DEHP by CRIMPING TOOL as mentioned herein.

12 161. Plaintiff is informed, believes, and thereon alleges that each violation of
13 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
14 believes that the violations alleged herein will continue to occur into the future.

15 162. Based on the allegations herein, Defendants are liable for civil penalties of up to
16 \$2,500.00 per day per individual exposure to DEHP from CRIMPING TOOL,
17 pursuant to Health and Safety Code section 25249.7(b).

18 163. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
19 prior to filing this Complaint.

20 **THIRTEENTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
22 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
23 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

24 **Riveters**

25 164. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
26 reference paragraphs 1 through 163 of this complaint as though fully set forth herein.

27 165. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Riveters, which includes but is not limited to: (1)

1 PITTSBURGH® 45 PC. THREADED INSERT RIVETER; ITEM 1210; LIFETIME
2 WARRANTY; Maximum rivet capacity: 1/4", Kit Contains Heavy Duty Setting Tool,
3 Four Nosepieces, 6-32, 8-32, 10-24 and 1/4-20 Inserts (10 Each); Distributed by
4 Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 01210 2 (2) PITTSBURGH®
5 45 PC. THREADED INSERT RIVETER; "ITEM 1210"; "LIFETIME
6 WARRANTY"; "Maximum rivet capacity: 1/4", Kit Contains Heavy Duty Setting
7 Tool, Four Nosepieces, 6-32, 8-32, 10-24 and 1/4-20 Inserts (10 Each)"; "Distributed
8 by Harbor Freight Tools, Camarillo, CA"; Barcode: 7 92363 01210 2 ("RIVETERS")

9 166. RIVETERS contain DEHP.

10 167. Defendants knew or should have known that DEHP has been identified by the
11 State of California as a chemical known to cause cancer and reproductive toxicity and
12 therefore is subject to Proposition 65 warning requirements. Defendants were also
13 informed of the presence of DEHP in RIVETERS within Plaintiff's notice of alleged
14 violations further discussed above at Paragraph 25 and 26.

15 168. Plaintiff's allegations regarding RIVETERS concern "[c]onsumer products
16 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
18 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
19 *25602(b)*. RIVETERS are consumer products, and, as mentioned herein, exposures to
20 DEHP took place as a result of such normal and foreseeable consumption and use.

21 169. Plaintiff is informed, believes, and thereon alleges that between August 26, 2011
22 and the present, each of the Defendants knowingly and intentionally exposed
23 California consumers and users of RIVETERS, which Defendants manufactured,
24 distributed, or sold as mentioned above, to DEHP, without first providing any type of
25 clear and reasonable warning of such to the exposed persons before the time of
26 exposure. Defendants have distributed and sold DEHP in California. Defendants
27 know and intend that California consumers will use and consume RIVETERS thereby
28 exposing them to DEHP. Defendants thereby violated Proposition 65.

1 170. The principal routes of exposure are through dermal contact, ingestion and
2 inhalation. Persons sustain exposures by handling RIVETERS without wearing gloves
3 or any other personal protective equipment, or by touching bare skin or mucous
4 membranes with gloves after handling RIVETERS, as well as through direct and
5 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
6 matter dispersed from RIVETERS.

7 171. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
8 violations of Proposition 65 as to RIVETERS have been ongoing and continuous to
9 the date of the signing of this complaint, as Defendants engaged and continue to
10 engage in conduct which violates Health and Safety Code section 25249.6, including
11 the manufacture, distribution, promotion, and sale of RIVETERS, so that a separate
12 and distinct violation of Proposition 65 occurred each and every time a person was
13 exposed to DEHP by RIVETERS as mentioned herein.

14 172. Plaintiff is informed, believes, and thereon alleges that each violation of
15 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
16 believes that the violations alleged herein will continue to occur into the future.

17 173. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to DEHP from RIVETERS, pursuant to
19 Health and Safety Code section 25249.7(b).

20 174. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
21 prior to filing this Complaint.

22 **FOURTEENTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
24 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
25 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

26 **Bolt Cutters**

27 175. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
28 reference paragraphs 1 through 174 of this complaint as though fully set forth herein.

1 176. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Bolt Cutters, which includes but is not limited to:
3 PITTSBURGH® 14" ALUMINUM BOLT CUTTER; ITEM 60721; Lifetime
4 Warranty; 350MM, ALUMINUM; Heavy duty chrome vanadium steel blades,
5 Aluminum alloy handles, Cuts chain and bolts up to 1/4" thick, Maximum jaw
6 opening: 1/2"; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363
7 60721 6 ("BOLT CUTTERS")

8 177. BOLT CUTTERS contain DEHP.

9 178. Defendants knew or should have known that DEHP has been identified by the
10 State of California as a chemical known to cause cancer and reproductive toxicity and
11 therefore is subject to Proposition 65 warning requirements. Defendants were also
12 informed of the presence of DEHP in BOLT CUTTERS within Plaintiff's notice of
13 alleged violations further discussed above at Paragraph 25.

14 179. Plaintiff's allegations regarding BOLT CUTTERS concern "[c]onsumer products
15 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
16 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
17 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
18 *25602(b)*. BOLT CUTTERS are consumer products, and, as mentioned herein,
19 exposures to DEHP took place as a result of such normal and foreseeable consumption
20 and use.

21 180. Plaintiff's allegations regarding BOLT CUTTERS also concern occupational
22 exposures, which means "an exposure to any employee in his or her employer's
23 workplace." *Cal. Code Regs. tit. 27, § 25602(f)*. Exposures of DEHP to Defendants'
24 employees occurred through the course of their employment in their employers'
25 workplaces.

26 181. Plaintiff is informed, believes, and thereon alleges that between August 26, 2011
27 and the present, each of the Defendants knowingly and intentionally exposed their
28 employees and California consumers and users of BOLT CUTTERS, which

1 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
2 first providing any type of clear and reasonable warning of such to the exposed
3 persons before the time of exposure. Defendants have distributed and sold DEHP in
4 California. Defendants know and intend that California consumers will use and
5 consume BOLT CUTTERS thereby exposing them to DEHP. Defendants thereby
6 violated Proposition 65.

7 182. The principal routes of exposure are through dermal contact, ingestion and
8 inhalation. Persons sustain exposures by handling BOLT CUTTERS without wearing
9 gloves or any other personal protective equipment, or by touching bare skin or mucous
10 membranes with gloves after handling BOLT CUTTERS, as well as through direct and
11 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
12 matter dispersed from BOLT CUTTERS. And as to Defendants' employees,
13 employees may be exposed to DEHP in the course of their employment by handling,
14 distributing, and selling BOLT CUTTERS.

15 183. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
16 violations of Proposition 65 as to BOLT CUTTERS have been ongoing and
17 continuous to the date of the signing of this complaint, as Defendants engaged and
18 continue to engage in conduct which violates Health and Safety Code section 25249.6,
19 including the manufacture, distribution, promotion, and sale of BOLT CUTTERS, so
20 that a separate and distinct violation of Proposition 65 occurred each and every time a
21 person was exposed to DEHP by BOLT CUTTERS as mentioned herein.

22 184. Plaintiff is informed, believes, and thereon alleges that each violation of
23 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
24 believes that the violations alleged herein will continue to occur into the future.

25 185. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DEHP from BOLT CUTTERS, pursuant
27 to Health and Safety Code section 25249.7(b).

28

1 186. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
2 prior to filing this Complaint.

3 **FIFTEENTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
5 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
6 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

7 **Bicycle Locks**

8 187. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
9 reference paragraphs 1 through 186 of this complaint as though fully set forth herein.

10 188. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Bicycle Locks, which includes but is not limited to:
12 Armored Steel Segmented Cable Key Lock with blue vinyl coating, ITEM: 65232
13 (“BICYCLE LOCKS”)

14 189. BICYCLE LOCKS contain DEHP.

15 190. Defendants knew or should have known that DEHP has been identified by the
16 State of California as a chemical known to cause cancer and reproductive toxicity and
17 therefore is subject to Proposition 65 warning requirements. Defendants were also
18 informed of the presence of DEHP in BICYCLE LOCKS within Plaintiff's notice of
19 alleged violations further discussed above at Paragraph 25.

20 191. Plaintiff's allegations regarding BICYCLE LOCKS concern “[c]onsumer
21 products exposure[s],” which “is an exposure that results from a person's acquisition,
22 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
23 good, or any exposure that results from receiving a consumer service.” *Cal. Code*
24 *Regs. tit. 27, § 25602(b)*. BICYCLE LOCKS are consumer products, and, as
25 mentioned herein, exposures to DEHP took place as a result of such normal and
26 foreseeable consumption and use.

27 192. Plaintiff's allegations regarding BICYCLE LOCKS also concern occupational
28 exposures, which means “an exposure to any employee in his or her employer's

1 workplace.” *Cal. Code Regs.* tit. 27, § 25602(f). Exposures of DEHP to Defendants’
2 employees occurred through the course of their employment in their employers’
3 workplaces.

4 193. Plaintiff is informed, believes, and thereon alleges that between August 26, 2011
5 and the present, each of the Defendants knowingly and intentionally exposed their
6 employees and California consumers and users of BICYCLE LOCKS, which
7 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
8 first providing any type of clear and reasonable warning of such to the exposed
9 persons before the time of exposure. Defendants have distributed and sold DEHP in
10 California. Defendants know and intend that California consumers will use and
11 consume BICYCLE LOCKS thereby exposing them to DEHP. Defendants thereby
12 violated Proposition 65.

13 194. The principal routes of exposure are through dermal contact, ingestion and
14 inhalation. Persons sustain exposures by handling BICYCLE LOCKS without
15 wearing gloves or any other personal protective equipment, or by touching bare skin or
16 mucous membranes with gloves after handling BICYCLE LOCKS, as well as through
17 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
18 particulate matter dispersed from BICYCLE LOCKS. And as to Defendants’
19 employees, employees may be exposed to DEHP in the course of their employment by
20 handling, distributing, and selling BICYCLE LOCKS.

21 195. Plaintiff is informed, believes, and thereon alleges that each of Defendants’
22 violations of Proposition 65 as to BICYCLE LOCKS have been ongoing and
23 continuous to the date of the signing of this complaint, as Defendants engaged and
24 continue to engage in conduct which violates Health and Safety Code section 25249.6,
25 including the manufacture, distribution, promotion, and sale of BICYCLE LOCKS, so
26 that a separate and distinct violation of Proposition 65 occurred each and every time a
27 person was exposed to DEHP by BICYCLE LOCKS as mentioned herein.

28

1 196. Plaintiff is informed, believes, and thereon alleges that each violation of
2 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
3 believes that the violations alleged herein will continue to occur into the future.

4 197. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from BICYCLE LOCKS,
6 pursuant to Health and Safety Code section 25249.7(b).

7 198. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
8 prior to filing this Complaint.

9 **SIXTEENTH CAUSE OF ACTION**

10 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
11 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
12 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

13 **Seamers**

14 199. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
15 reference paragraphs 1 through 198 of this complaint as though fully set forth herein.

16 200. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Seamers, which includes but is not limited to:
18 PITTSBURGH® 6" STRAIGHT JAW SHEET METAL SEAMER; "Lifetime
19 Warranty"; "ITEM 98728"; "Double-dipped grip handle"; "Distributed by Harbor
20 Freight Tools, Camarillo, CA, www.HarborFreight.com", barcode: 7 92363 98728 8
21 ("SEAMERS")

22 201. SEAMERS contain DEHP.

23 202. Defendants knew or should have known that DEHP has been identified by the
24 State of California as a chemical known to cause cancer and reproductive toxicity and
25 therefore is subject to Proposition 65 warning requirements. Defendants were also
26 informed of the presence of DEHP in SEAMERS within Plaintiff's notice of alleged
27 violations further discussed above at Paragraph 26.
28

1 203. Plaintiff's allegations regarding SEAMERS concern "[c]onsumer products
2 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
3 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
4 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
5 25602(b). SEAMERS are consumer products, and, as mentioned herein, exposures to
6 DEHP took place as a result of such normal and foreseeable consumption and use.

7 204. Plaintiff is informed, believes, and thereon alleges that between December 15,
8 2011 and the present, each of the Defendants knowingly and intentionally exposed
9 California consumers and users of SEAMERS, which Defendants manufactured,
10 distributed, or sold as mentioned above, to DEHP, without first providing any type of
11 clear and reasonable warning of such to the exposed persons before the time of
12 exposure. Defendants have distributed and sold DEHP in California. Defendants
13 know and intend that California consumers will use and consume SEAMERS thereby
14 exposing them to DEHP. Defendants thereby violated Proposition 65.

15 205. The principal routes of exposure are through dermal contact, ingestion and
16 inhalation. Persons sustain exposures by handling SEAMERS without wearing gloves
17 or any other personal protective equipment, or by touching bare skin or mucous
18 membranes with gloves after handling SEAMERS, as well as through direct and
19 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
20 matter dispersed from SEAMERS.

21 206. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
22 violations of Proposition 65 as to SEAMERS have been ongoing and continuous to the
23 date of the signing of this complaint, as Defendants engaged and continue to engage in
24 conduct which violates Health and Safety Code section 25249.6, including the
25 manufacture, distribution, promotion, and sale of SEAMERS, so that a separate and
26 distinct violation of Proposition 65 occurred each and every time a person was
27 exposed to DEHP by SEAMERS as mentioned herein.

28

1 207. Plaintiff is informed, believes, and thereon alleges that each violation of
2 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
3 believes that the violations alleged herein will continue to occur into the future.

4 208. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from SEAMERS, pursuant to
6 Health and Safety Code section 25249.7(b).

7 209. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
8 prior to filing this Complaint.

9 **SEVENTEENTH CAUSE OF ACTION**

10 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
11 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
12 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

13 **Saws**

14 210. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
15 reference paragraphs 1 through 209 of this complaint as though fully set forth herein.

16 211. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Saws which includes but is not limited to: one stop
18 gardens® 21" Bow Saw; "ITEM 66545"; White Circle Sticker: 36672 322014;
19 "Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com";
20 "Made in China"; Barcode: 7 92363 66545 2 ("SAWS")

21 212. SAWS contain DEHP.

22 213. Defendants knew or should have known that DEHP has been identified by the
23 State of California as a chemical known to cause cancer and reproductive toxicity and
24 therefore is subject to Proposition 65 warning requirements. Defendants were also
25 informed of the presence of DEHP in SAWS within Plaintiff's notice of alleged
26 violations further discussed above at Paragraph 26.

27 214. Plaintiff's allegations regarding SAWS concern "[c]onsumer products
28 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
3 *25602(b)*. SAWS are consumer products, and, as mentioned herein, exposures to
4 DEHP took place as a result of such normal and foreseeable consumption and use.

5 215. Plaintiff is informed, believes, and thereon alleges that between December 15,
6 2011 and the present, each of the Defendants knowingly and intentionally exposed
7 California consumers and users of SAWS, which Defendants manufactured,
8 distributed, or sold as mentioned above, to DEHP, without first providing any type of
9 clear and reasonable warning of such to the exposed persons before the time of
10 exposure. Defendants have distributed and sold DEHP in California. Defendants
11 know and intend that California consumers will use and consume SAWS thereby
12 exposing them to DEHP. Defendants thereby violated Proposition 65.

13 216. The principal routes of exposure are through dermal contact, ingestion and
14 inhalation. Persons sustain exposures by handling SAWS without wearing gloves or
15 any other personal protective equipment, or by touching bare skin or mucous
16 membranes with gloves after handling SAWS as well as through direct and indirect
17 hand to mouth contact, hand to mucous membrane, or breathing in particulate matter
18 dispersed from SAWS.

19 217. Plaintiff is informed, believes, and thereon alleges that each of Defendants’
20 violations of Proposition 65 as to SAWS have been ongoing and continuous to the date
21 of the signing of this complaint, as Defendants engaged and continue to engage in
22 conduct which violates Health and Safety Code section 25249.6, including the
23 manufacture, distribution, promotion, and sale of SAWS, so that a separate and
24 distinct violation of Proposition 65 occurred each and every time a person was
25 exposed to DEHP by SAWS as mentioned herein.

26 218. Plaintiff is informed, believes, and thereon alleges that each violation of
27 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
28 believes that the violations alleged herein will continue to occur into the future.

1 219. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to DEHP from SAWS, pursuant to Health
3 and Safety Code section 25249.7(b).

4 220. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
5 prior to filing this Complaint.

6 **EIGHTEENTH CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
8 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
9 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

10 **Hog Ring Pliers**

11 221. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 220 of this complaint as though fully set forth herein.

13 222. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Hog Ring Pliers which includes but is not limited
15 to: PITTSBURGH® STRAIGHT HOG RING PLIERS; “Lifetime Warranty”; “ITEM
16 3102”; “Vinyl Comfort grips”; “Machined and hardened forged steel”; “7-1/2” long”;
17 “Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com”;
18 Barcode: 7 92363 03102 8 (“HOG RING PLIERS”)

19 223. HOG RING PLIERS contain DEHP.

20 224. Defendants knew or should have known that DEHP has been identified by the
21 State of California as a chemical known to cause cancer and reproductive toxicity and
22 therefore is subject to Proposition 65 warning requirements. Defendants were also
23 informed of the presence of DEHP in HOG RING PLIERS within Plaintiff’s notice of
24 alleged violations further discussed above at Paragraph 26.

25 225. Plaintiff’s allegations regarding HOG RING PLIERS concern “[c]onsumer
26 products exposure[s],” which “is an exposure that results from a person’s acquisition,
27 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
28 good, or any exposure that results from receiving a consumer service.” *Cal. Code*

1 *Regs. tit. 27, § 25602(b)*. HOG RING PLIERS are consumer products, and, as
2 mentioned herein, exposures to DEHP took place as a result of such normal and
3 foreseeable consumption and use.

4 226. Plaintiff is informed, believes, and thereon alleges that between December 15,
5 2011 and the present, each of the Defendants knowingly and intentionally exposed
6 California consumers and users of HOG RING PLIERS, which Defendants
7 manufactured, distributed, or sold as mentioned above, to DEHP, without first
8 providing any type of clear and reasonable warning of such to the exposed persons
9 before the time of exposure. Defendants have distributed and sold DEHP in
10 California. Defendants know and intend that California consumers will use and
11 consume HOG RING PLIERS thereby exposing them to DEHP. Defendants thereby
12 violated Proposition 65.

13 227. The principal routes of exposure are through dermal contact, ingestion and
14 inhalation. Persons sustain exposures by handling HOG RING PLIERS without
15 wearing gloves or any other personal protective equipment, or by touching bare skin or
16 mucous membranes with gloves after handling HOG RING PLIERS as well as
17 through direct and indirect hand to mouth contact, hand to mucous membrane, or
18 breathing in particulate matter dispersed from HOG RING PLIERS.

19 228. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
20 violations of Proposition 65 as to HOG RING PLIERS have been ongoing and
21 continuous to the date of the signing of this complaint, as Defendants engaged and
22 continue to engage in conduct which violates Health and Safety Code section 25249.6,
23 including the manufacture, distribution, promotion, and sale of HOG RING PLIERS,
24 so that a separate and distinct violation of Proposition 65 occurred each and every time
25 a person was exposed to DEHP by HOG RING PLIERS as mentioned herein.

26 229. Plaintiff is informed, believes, and thereon alleges that each violation of
27 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
28 believes that the violations alleged herein will continue to occur into the future.

1 230. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to DEHP from HOG RING PLIERS,
3 pursuant to Health and Safety Code section 25249.7(b).

4 231. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
5 prior to filing this Complaint.

6 **NINETEENTH CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
8 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
9 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

10 **Wire Strippers**

11 232. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 231 of this complaint as though fully set forth herein.

13 233. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Wire Strippers which includes but is not limited to:
15 PITTSBURGH® 7” “WIRE STRIPPER/CUTTER” with red PVC coated grips;
16 “Lifetime Warranty”; “Quickly Strips 10-20 AWG Wire”; “Shears popular 8-32 and
17 10-32 gauge copper screws”; “Distributed by Harbor Freight Tools, Camarillo, CA,
18 www.HarborFreight.com”; ITEM 61586; Barcode: 7 92363 61586 0 (“WIRE
19 STRIPPERS II”)

20 234. WIRE STRIPPERS II contain DEHP.

21 235. Defendants knew or should have known that DEHP has been identified by the
22 State of California as a chemical known to cause cancer and reproductive toxicity and
23 therefore is subject to Proposition 65 warning requirements. Defendants were also
24 informed of the presence of DEHP in WIRE STRIPPERS II within Plaintiff’s notice of
25 alleged violations further discussed above at Paragraph 26.

26 236. Plaintiff’s allegations regarding WIRE STRIPPERS II concern “[c]onsumer
27 products exposure[s],” which “is an exposure that results from a person’s acquisition,
28 purchase, storage, consumption, or other reasonably foreseeable use of a consumer

1 good, or any exposure that results from receiving a consumer service.” *Cal. Code*
2 *Regs.* tit. 27, § 25602(b). WIRE STRIPPERS II are consumer products, and, as
3 mentioned herein, exposures to DEHP took place as a result of such normal and
4 foreseeable consumption and use.

5 237. Plaintiff’s allegations regarding WIRE STRIPPERS II also concern occupational
6 exposures, which means “an exposure to any employee in his or her employer’s
7 workplace.” *Cal. Code Regs.* tit. 27, § 25602(f). Exposures of DEHP to Defendants’
8 employees occurred through the course of their employment in their employers’
9 workplaces.

10 238. Plaintiff is informed, believes, and thereon alleges that between December 15,
11 2011 and the present, each of the Defendants knowingly and intentionally exposed
12 their employees and California consumers and users of WIRE STRIPPERS II, which
13 Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without
14 first providing any type of clear and reasonable warning of such to the exposed
15 persons before the time of exposure. Defendants have distributed and sold DEHP in
16 California. Defendants know and intend that California consumers will use and
17 consume WIRE STRIPPERS II thereby exposing them to DEHP. Defendants thereby
18 violated Proposition 65.

19 239. The principal routes of exposure are through dermal contact, ingestion and
20 inhalation. Persons sustain exposures by handling WIRE STRIPPERS II without
21 wearing gloves or any other personal protective equipment, or by touching bare skin or
22 mucous membranes with gloves after handling WIRE STRIPPERS II as well as
23 through direct and indirect hand to mouth contact, hand to mucous membrane, or
24 breathing in particulate matter dispersed from WIRE STRIPPERS. II And as to
25 Defendants’ employees, employees may be exposed to DEHP in the course of their
26 employment by handling, distributing, and selling WIRE STRIPPERS II.

27 240. Plaintiff is informed, believes, and thereon alleges that each of Defendants’
28 violations of Proposition 65 as to WIRE STRIPPERS II have been ongoing and

1 continuous to the date of the signing of this complaint, as Defendants engaged and
2 continue to engage in conduct which violates Health and Safety Code section 25249.6,
3 including the manufacture, distribution, promotion, and sale of WIRE STRIPPERS II,
4 so that a separate and distinct violation of Proposition 65 occurred each and every time
5 a person was exposed to DEHP by WIRE STRIPPERS II as mentioned herein.

6 241. Plaintiff is informed, believes, and thereon alleges that each violation of
7 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
8 believes that the violations alleged herein will continue to occur into the future.

9 242. Based on the allegations herein, Defendants are liable for civil penalties of up to
10 \$2,500.00 per day per individual exposure to DEHP from WIRE STRIPPERS II,
11 pursuant to Health and Safety Code section 25249.7(b).

12 243. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
13 prior to filing this Complaint.

14 **TWENTIETH CAUSE OF ACTION**

15 **(By CONSUMER ADVOCACY GROUP, INC. and against HARBOR FREIGHT and**
16 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
17 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

18 **Piston Pliers**

19 244. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
20 reference paragraphs 1 through 243 of this complaint as though fully set forth herein.

21 245. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
22 distributor, promoter, or retailer of Piston Pliers which includes but is not limited to:
23 PITTSBURGH® AUTOMOTIVE Piston Ring Pliers; “Universal design can be used
24 on most vehicles”; “ENGINE”; “ITEM 69663”; “Distributed by Harbor Freight Tools,
25 Camarillo, CA”; White circle sticker: 36239 102014; Barcode: 7 92363 69663 0
26 (“PISTON PLIERS”)

27 246. PISTON PLIERS contain DEHP.
28

1 247. Defendants knew or should have known that DEHP has been identified by the
2 State of California as a chemical known to cause cancer and reproductive toxicity and
3 therefore is subject to Proposition 65 warning requirements. Defendants were also
4 informed of the presence of DEHP in PISTON PLIERS within Plaintiff's notice of
5 alleged violations further discussed above at Paragraph 26.

6 248. Plaintiff's allegations regarding PISTON PLIERS concern "[c]onsumer products
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
9 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
10 25602(b). PISTON PLIERS are consumer products, and, as mentioned herein,
11 exposures to DEHP took place as a result of such normal and foreseeable consumption
12 and use.

13 249. Plaintiff is informed, believes, and thereon alleges that between December 15,
14 2011 and the present, each of the Defendants knowingly and intentionally exposed
15 California consumers and users of PISTON PLIERS, which Defendants manufactured,
16 distributed, or sold as mentioned above, to DEHP, without first providing any type of
17 clear and reasonable warning of such to the exposed persons before the time of
18 exposure. Defendants have distributed and sold DEHP in California. Defendants
19 know and intend that California consumers will use and consume PISTON PLIERS
20 thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

21 250. The principal routes of exposure are through dermal contact, ingestion and
22 inhalation. Persons sustain exposures by handling PISTON PLIERS without wearing
23 gloves or any other personal protective equipment, or by touching bare skin or mucous
24 membranes with gloves after handling PISTON PLIERS as well as through direct and
25 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
26 matter dispersed from PISTON PLIERS.

27 251. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
28 violations of Proposition 65 as to PISTON PLIERS have been ongoing and continuous

1 to the date of the signing of this complaint, as Defendants engaged and continue to
2 engage in conduct which violates Health and Safety Code section 25249.6, including
3 the manufacture, distribution, promotion, and sale of PISTON PLIERS, so that a
4 separate and distinct violation of Proposition 65 occurred each and every time a person
5 was exposed to DEHP by PISTON PLIERS as mentioned herein.

6 252. Plaintiff is informed, believes, and thereon alleges that each violation of
7 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and
8 believes that the violations alleged herein will continue to occur into the future.

9 253. Based on the allegations herein, Defendants are liable for civil penalties of up to
10 \$2,500.00 per day per individual exposure to DEHP from PISTON PLIERS, pursuant
11 to Health and Safety Code section 25249.7(b).

12 254. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
13 prior to filing this Complaint.

14
15 **PRAYER FOR RELIEF**

16 Plaintiff demands against each of the Defendants as follows:

- 17 1. A permanent injunction mandating Proposition 65-compliant warnings;
18 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
19 3. Costs of suit;
20 4. Reasonable attorney fees and costs; and
21 5. Any further relief that the court may deem just and equitable.

22
23 Dated: March 9, 2015

YEROUSHALMI & YEROUSHALMI

24
25
26 BY: _____
27 Reuben Yeroushalmi
28 Attorneys for Plaintiff,
Consumer Advocacy Group, Inc.