

1 Brian C. Johnson, State Bar No. 235965  
2 Josh Voorhees, State Bar No. 241436  
3 THE CHANLER GROUP  
4 2560 Ninth Street  
5 Parker Plaza, Suite 214  
6 Berkeley, CA 94710-2565  
7 Telephone: (510) 848-8880  
8 Facsimile: (510) 848-8118

9 Attorneys for Plaintiffs  
10 WHITNEY R. LEEMAN, and PAUL WOZNIAK

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

14  
15 WHITNEY R. LEEMAN, and PAUL  
16 WOZNIAK

17 Plaintiffs,

18 v.

19 TRACTOR SUPPLY COMPANY, LARIN  
20 CORP.; and DOES 1-150, inclusive,

21 Defendants.

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28  
Case No. **RG14723588**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

ENDORSED  
FILED  
ALAMEDA COUNTY

MAY 01 2014

CLERK OF SUPERIOR COURT

Donnan Pharr

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiffs WHITNEY R.  
3 LEEMAN, and PAUL WOZNIAK in the public interest of the citizens of the State of California  
4 to enforce the People’s right to be informed about exposures to di(2-ethylhexyl)phthalate  
5 (“DEHP”), a toxic chemical that is found in grips and other vinyl/PVC components of tape  
6 measures, hand tools, and spring clamps sold in California.

7 2. By this Complaint, plaintiffs seek to remedy defendants’ continuing failure to  
8 warn California citizens about the risks of exposures to DEHP present in tape measures, hand  
9 tools and spring clamps manufactured, distributed, and offered for sale or use to consumers  
10 throughout the State of California.

11 3. Detectable levels of DEHP are commonly found in and on the hand straps of tape  
12 measures and grips of spring clamps that defendants import, manufacture, distribute, ship, sell  
13 and/or offer for sale to consumers throughout the State of California.

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

19 5. On October 24, 2003, California listed DEHP pursuant to Proposition 65 as a  
20 chemical that is known to cause birth defects or other reproductive harm. DEHP became  
21 subject to the “clear and reasonable warning” requirements of the act one year later on October  
22 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
23 25249.10(b). DEHP is referred to hereinafter as the “LISTED CHEMICAL.”

24 6. Defendants manufacture, distribute, import, sell, and offer for sale without a  
25 warning in California products containing DEHP as follows:

26 a. Defendant Tractor Supply Company (“TRACTOR SUPPLY”)  
27 manufactures, distributes, imports, sells, and offers for sale without a warning in  
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1 California tape measures with vinyl/PVC hand straps containing the LISTED  
2 CHEMICAL, including, but not limited to, the *Tape Measure Set*, #1024425, UPC #7  
3 49394 02963 0; and spring clamps with vinyl grips containing the LISTED CHEMICAL,  
4 including, but not limited to, the *Larin Spring Clamp*, #3843538, *SPRC-2*, UPC #0 08435  
5 12673 9.

6 b. Defendant Larin Corp. (“LARIN”) manufactures, distributes, imports,  
7 and/or offers for sale spring clamps with vinyl/PVC grips containing the LISTED  
8 CHEMICAL, including, but not limited to, the *Larin Spring Clamp*, #3843538, *SPRC-2*,  
9 UPC #0 08435 12673 9.

10 7. All such tape measures with vinyl/PVC hand straps containing the LISTED  
11 CHEMICAL and spring clamps with vinyl/PVC grips containing the LISTED CHEMICAL in  
12 Paragraphs 6(a) and 6(b), above, are referred to collectively as the “PRODUCTS.” As to each  
13 specific named defendant, however, PRODUCTS shall refer only to those categories of  
14 products listed for the individual defendant in Paragraphs 6(a) and 6(b) above.

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

20 9. For defendants’ violations of Proposition 65, plaintiffs seek preliminary and  
21 permanent injunctive relief to compel defendants to provide purchasers or users of the  
22 PRODUCTS with the required warning regarding the health hazards associated with exposures  
23 to the LISTED CHEMICAL. Health & Safety Code § 25249.7(a).

24 10. Pursuant to Health and Safety Code section 25249.7(b), plaintiffs also seek civil  
25 penalties against defendants, and each of them, for each violation of Proposition 65.

**PARTIES**

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2           11. Plaintiff WHITNEY R. LEEMAN is a citizen of the State of California who is  
3 dedicated to protecting the health of California citizens through the elimination or reduction of  
4 harmful exposures to toxic chemicals from consumer products. She brings this action in the  
5 public interest pursuant to Health and Safety Code section 25249.7(d).

6           12. Plaintiff PAUL WOZNIAK is a citizen of the State of California who is dedicated  
7 to protecting the health of California citizens through the elimination or reduction of harmful  
8 exposures to toxic chemicals from consumer products. He brings this action in the public  
9 interest pursuant to Health and Safety Code section 25249.7(d).

10           13. Defendant TRACTOR SUPPLY is a person in the course of doing business within  
11 the meaning of Health and Safety Code sections 25249.6 and 25249.11.

12           14. TRACTOR SUPPLY manufactures, imports, distributes, sells, and/or offers the  
13 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it  
14 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
15 State of California.

16           15. Defendant LARIN is a person in the course of doing business within the meaning  
17 of Health and Safety Code sections 25249.6 and 25249.11.

18           16. LARIN manufactures, imports, distributes, sells, and/or offers the PRODUCTS for  
19 sale or use in the State of California, or it implies by its conduct that it manufactures, imports,  
20 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

21           17. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
22 person in the course of doing business within the meaning of Health and Safety Code sections  
23 25249.6 and 25249.11.

24           18. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
25 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,  
26 and manufacture one or more of the PRODUCTS offered for sale or use in the State of  
27 California.





1 resulting from their reasonably foreseeable use of the PRODUCTS, without the individual  
2 purchasers and users first having received a “clear and reasonable warning” regarding the health  
3 hazards associated with such toxic exposures, as required by Proposition 65.

4 32. On February 7, 2013, plaintiff WOZNIAK served a sixty-day notice of violation,  
5 together with the requisite certificate of merit, on LARIN CORP., TRACTOR SUPPLY and  
6 certain requisite public enforcement agencies stating that, as a result of DEFENDANTS’ sales  
7 of the PRODUCTS containing the LISTED CHEMICAL, workers, consumers, and other  
8 individuals in the State of California were being exposed to the LISTED CHEMICAL resulting  
9 from their reasonably foreseeable use of the PRODUCTS, without the individual purchasers and  
10 users first having received a “clear and reasonable warning” regarding such toxic exposures, as  
11 required by Proposition 65.

12 33. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
13 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
14 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of  
15 plaintiffs’ sixty-day notices of violation. As such, DEFENDANTS’ violations are ongoing and  
16 continuous in nature, and will continue to occur in the future.

17 34. After receiving plaintiffs’ sixty-day notices of violation, the appropriate public  
18 enforcement agencies have failed to commence and diligently prosecute a cause of action  
19 against DEFENDANTS under Proposition 65.

20 35. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
21 or use in California by DEFENDANTS contain the LISTED CHEMICAL in such a way that the  
22 reasonably foreseeable uses of these products result in exposures that require a “clear and  
23 reasonable” warning under Proposition 65.

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

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

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

6           39.    DEFENDANTS have knowledge that the normal and reasonably foreseeable uses  
7 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact  
8 and/or ingestion.

9           40.    DEFENDANTS intend for such exposures to the LISTED CHEMICAL from the  
10 reasonably foreseeable uses of the PRODUCTS to occur by their deliberate, non-accidental  
11 participation in the manufacture, distribution, sale, and offering of the PRODUCTS for sale or  
12 use to individuals in the State of California.

13          41.    DEFENDANTS failed to provide a “clear and reasonable warning” to those  
14 workers, consumers and other individuals in California not covered by California’s  
15 Occupational Safety Health Act, Labor Code section 6300 et seq. who have been, or will be,  
16 exposed to the LISTED CHEMICAL.

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

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

