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ENDORSED
FILED
ALAMEDA COUNTY
JUL 11 2014
CLERK OF THE SUPERIOR COURT
By Anita Dhir Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

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

16 Plaintiff,

17 v.

18 UR 1 INTERNATIONAL USA, INC.; and
19 DOES 1-150, inclusive,

20 Defendants.

RG 14732581

Case No. _____

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

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

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

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

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

PARTIES

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

11. Defendant UR 1 International USA, Inc. (“UR 1”) is a person in the course of doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

12. UR 1 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California, or it implies by its conduct that it manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

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

14. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate, and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,

1 and manufacture one or more of the PRODUCTS offered for sale or use in the State of
2 California.

3 15. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each a person
4 in the course of doing business within the meaning of Health and Safety Code sections 25249.6
5 and 25249.11.

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

9 17. Defendants DOES 101-150 ("RETAILER DEFENDANTS") are each a person in
10 the course of doing business within the meaning of Health and Safety Code sections 25249.6
11 and 25249.11.

12 18. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the
13 State of California.

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

19 20. UR 1, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS,
20 and RETAILER DEFENDANTS are hereinafter collectively referred to as "DEFENDANTS."

21 **VENUE AND JURISDICTION**

22 21. Venue is proper in the County of Alameda, pursuant to Code of Civil Procedure
23 sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because
24 plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of
25 wrongful conduct occurred, and continue to occur, in this county, and/or because
26 DEFENDANTS conducted, and continue to conduct, business in Alameda County with respect
27 to the PRODUCTS.
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22. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10, which grants the Superior Court “original jurisdiction in all causes except those given by statute to other trial courts.” The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

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

FIRST CAUSE OF ACTION

(Violation of Proposition 65 - Against All Defendants)

24. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 23, inclusive.

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

26. Proposition 65 states, “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual” Health & Safety Code § 25249.6.

27. On April 30, 2014, plaintiff's sixty-day notice of violation, together with the requisite certificate of merit, was provided to UR 1 and the requisite public enforcement agencies stating that, as a result of DEFENDANTS' sales of the PRODUCTS containing the LISTED CHEMICAL, workers, consumers, and other individuals in the State of California were being exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use

1 of the PRODUCTS, without the individual purchasers and users first having received a “clear
2 and reasonable warning” regarding such toxic exposures, as required by Proposition 65.

3 28. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,
4 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section
5 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of
6 plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’ violations are ongoing and
7 continuous in nature, and will continue to occur in the future.

8 29. After receiving plaintiff’s sixty-day notice of violation, the appropriate public
9 enforcement agencies have failed to commence and diligently prosecute a cause of action
10 against DEFENDANTS under Proposition 65.

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

15 31. DEFENDANTS knew or should have known that the PRODUCTS they
16 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED
17 CHEMICAL.

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

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

23 34. DEFENDANTS have knowledge that the normal and reasonably foreseeable uses
24 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact
25 and/or ingestion.

26 35. DEFENDANTS intend for such exposures to the LISTED CHEMICAL from the
27 reasonably foreseeable uses of the PRODUCTS to occur by their deliberate, non-accidental
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1 participation in the manufacture, distribution, sale, and offering of the PRODUCTS for sale or
2 use to individuals in the State of California.

3 36. DEFENDANTS failed to provide a “clear and reasonable warning” to those
4 consumers and other individuals in California who have been, or will be, exposed to the
5 LISTED CHEMICAL.

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

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

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

18 **PRAYER FOR RELIEF**

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

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

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

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

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4 Dated: July 11, 2014

Respectfully Submitted,
THE CHANLER GROUP

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7 By: _____
8 Christopher Tuttle
9 Attorneys for Plaintiff
10 ANTHONY E. HELD, PH.D., P.E.