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ENDORSED
FILED
ALAMEDA COUNTY

OCT 10 2014

CLERK OF THE SUPERIOR COURT
By S. IYAMU Deputy

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA
10 UNLIMITED CIVIL JURISDICTION
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14 PAUL WOZNIAK

15 Plaintiff,

16 v.

17 THE REGENT GROUP, INC.; REGENT
18 PRODUCTS CORP.; INVENTORY
19 LIQUIDATORS CORP.; and DOES 1-150,
inclusive,

20 Defendants.
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Case No.

RG-14744068

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

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

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff PAUL WOZNIAK
3 in the public interest of the citizens of the State of California to enforce the People’s right to be
4 informed about exposures to 4,4’-Methylenedianiline, a toxic chemical that is found in nylon
5 cooking utensils that are sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to
7 warn California citizens about the risks of exposures to 4,4’-Methylenedianiline present in and
8 on the nylon cooking utensils manufactured, distributed, and offered for sale or use to
9 consumers throughout the State of California.

10 3. Detectable levels of 4,4’-Methylenedianiline are commonly found in and on
11 components of nylon cooking utensils that defendants import, manufacture, distribute, ship, sell
12 and/or offer for sale to consumers throughout the State of California.

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

18 5. On January 1, 1988, California listed 4,4’-Methylenedianiline pursuant to
19 Proposition 65 as a chemical that is known to cause cancer. 4,4’-Methylenedianiline became
20 subject to the “clear and reasonable warning” requirements of the act one year later on January
21 1, 1989. Cal. Code Regs. tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 & 25249.10(b).
22 4,4’-Methylenedianiline is referred to hereinafter as the “LISTED CHEMICAL.”

23 6. Defendants manufacture, distribute, import, sell, and offer for sale without
24 warning in California, nylon cooking utensils containing the LISTED CHEMICAL, including,
25 but not limited to, the *Good Old Values Solid Spoon, G25423, (UPC No. #7 21003 25423 7)*.
26 All such nylon cooking utensils containing the LISTED CHEMICAL are referred to collectively
27 hereinafter as the “PRODUCTS.”
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1 7. Defendants’ failure to warn consumers and other individuals in California of the
2 harms associated with exposures to the LISTED CHEMICAL in conjunction with defendants’
3 sales of the PRODUCTS containing the LISTED CHEMICAL constitute violations of
4 Proposition 65, and subject defendants to enjoinder of such conduct, as well as civil penalties
5 for each violation. Health & Safety Code § 25249.7(a) & (b)(1).

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

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

12 **PARTIES**

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

17 11. Defendant THE REGENT GROUP, INC (“REGENT GROUP”) is a person in the
18 course of doing business within the meaning of Health and Safety Code sections 25249.6 and
19 25249.11.

20 12. REGENT GROUP manufactures, imports, distributes, sells, and/or offers the
21 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it
22 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
23 State of California.

24 13. REGENT PRODUCTS CORP. (“REGENT PRODUCTS”) is a person in the
25 course of doing business within the meaning of Health and Safety Code sections 25249.6 and
26 25249.11.

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1 14. REGENT PRODUCTS manufactures, imports, distributes, sells, and/or offers the
2 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it
3 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
4 State of California.

5 15. INVENTORY LIQUIDATORS CORP. (“INVENTORY LIQUIDATORS”) is a
6 person in the course of doing business within the meaning of Health and Safety Code sections
7 25249.6 and 25249.11.

8 16. INVENTORY LIQUIDATORS manufactures, imports, distributes, sells, and/or
9 offers the PRODUCTS for sale or use in the State of California, or it implies by its conduct that
10 it

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

14 18. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,
15 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,
16 and manufacture one or more of the PRODUCTS offered for sale or use in the State of
17 California.

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

21 20. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and
22 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use
23 in the State of California.

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

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1 22. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the
2 State of California.

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

8 24. REGENT GROUP, REGENT PRODUCTS, INVENTORY LIQUIDATORS,
9 MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER
10 DEFENDANTS are hereinafter collectively referred to as “DEFENDANTS.”

11 **VENUE AND JURISDICTION**

12 25. Venue is proper in the County of Alameda, pursuant to Code of Civil Procedure
13 sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because
14 plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of
15 wrongful conduct occurred, and continue to occur, in this county, and/or because
16 DEFENDANTS conducted, and continue to conduct, business in Alameda county with respect
17 to the PRODUCTS.

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

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

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

3 28. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
4 Paragraphs 1 through 27, inclusive.

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

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

13 31. On July 30, 2014, plaintiff’s sixty-day notice of violation, together with the
14 requisite certificate of merit, was provided to REGENT GROUP, REGENT PRODUCTS ,
15 INVENTORY LIQUIDATORS, and certain public enforcement agencies stating that, as a result
16 of DEFENDANTS’ sales of the PRODUCTS containing the LISTED CHEMICAL, consumers,
17 and other individuals in the State of California were being exposed to the LISTED CHEMICAL
18 resulting from their reasonably foreseeable use of the PRODUCTS, without the individual
19 purchasers and users first having received a “clear and reasonable warning” regarding such
20 toxic exposures, as required by Proposition 65.

21 32. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,
22 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section
23 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of
24 plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’ violations are ongoing and
25 continuous in nature, and will continue to occur in the future.

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

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

6 35. DEFENDANTS knew or should have known that the PRODUCTS they
7 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED
8 CHEMICAL.

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

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

14 38. DEFENDANTS have knowledge that the normal and reasonably foreseeable uses
15 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact
16 and/or ingestion.

17 39. DEFENDANTS intend for such exposures to the LISTED CHEMICAL from the
18 reasonably foreseeable uses of the PRODUCTS to occur by their deliberate, non-accidental
19 participation in the manufacture, distribution, sale, and offering of the PRODUCTS for sale or
20 use to individuals in the State of California.

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

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

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

7 43. As a consequence of the above-described acts, Health and Safety Code
8 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
9 DEFENDANTS.

10 **PRAYER FOR RELIEF**

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

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

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

20 3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and


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

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Dated: October 10, 2014

Respectfully Submitted,
THE CHANLER GROUP

By: 

Josh Voorhees
Attorneys for Plaintiff
PAUL WOZNIAK