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

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

17 v.

18 THE FAUCET-QUEENS, INC. and DOES 1-  
19 150, inclusive,  
20 Defendants.

Case No. RG 15756961

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

ENDORSED  
FILED  
ALAMEDA COUNTY  
FEB -2 2015  
CLERK OF THE SUPERIOR COURT  
By Maria Carrera  
Deputy

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff, ANTHONY E.  
3 HELD, PH.D., P.E., in the public interest of the citizens of the State of California, to enforce the  
4 People’s right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic  
5 chemical found in luggage tags with vinyl/PVC straps sold in the State of California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
7 warn California citizens about reproductive toxicity associated with their exposure to DEHP  
8 present in or on luggage tags with vinyl/PVC straps that defendants manufacture, import,  
9 distribute, sell and/or offer for sale to consumers throughout the State of California.

10 3. High levels of DEHP are commonly found in and on luggage tags with vinyl/PVC  
11 straps that defendants manufacture, import, distribute, sell and/or offer for sale to consumers  
12 throughout the State of California.

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

18 5. On October 24, 2003, California identified and listed DEHP as a chemical known  
19 to cause birth defects and other reproductive harm. DEHP became subject to the warning  
20 requirement one year later and was therefore subject to the “clear and reasonable warning”  
21 requirements of Proposition 65 beginning on October 24, 2004. (27 CCR § 27001 (c); *Cal.*  
22 *Health & Safety Code* § 25249.8.) DEHP is hereinafter referred to as the (“LISTED  
23 CHEMICAL”).

24 6. Defendants manufacture, import, distribute, sell and/or offer for sale luggage tags  
25 with vinyl/PVC straps containing excessive levels of the LISTED CHEMICAL including, but  
26 not limited to, the *Helping Hand Travel Luggage Tag Sewing Kit 2-Pack*, UPC #0 70792 49520  
27  
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1 9. All such luggage tags with vinyl/PVC straps containing the LISTED CHEMICAL shall  
2 hereinafter be referred to as the (“PRODUCTS”).

3 7. Defendants’ failure to warn consumers and/or other individuals in the State of  
4 California not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et*  
5 *seq.*, about their exposure to the LISTED CHEMICAL and its potential to cause birth defects  
6 and other reproductive harm in conjunction with defendants’ manufacture, importation,  
7 distribution, sale, and/or offering for sale of the PRODUCTS is a violation of Proposition 65  
8 and subjects defendants to enjoinder of such conduct as well as civil penalties for each such  
9 violation.

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

14 9. Plaintiff also seeks civil penalties against defendants for their violations of  
15 Proposition 65, as provided by California Health & Safety Code § 25249.7(b).

16 **PARTIES**

17 10. Plaintiff, ANTHONY E. HELD, PH.D., P.E., is a citizen of the State of California  
18 who is dedicated to protecting the health of California citizens through the elimination or  
19 reduction of toxic exposures from consumer products; he brings this action in the public interest  
20 pursuant to California Health & Safety Code § 25249.7(d).

21 11. Defendant THE FAUCET-QUEENS, INC. (“FAUCET-QUEENS”) is a person in  
22 the course of doing business within the meaning of California Health & Safety Code §  
23 25249.11(b).

24 12. FAUCET-QUEENS manufactures, imports, distributes, sells and/or offers the  
25 PRODUCTS for sale or use in the State of California, or implies by its conduct that it  
26 manufactures, imports, distributes, sells and/or offers the PRODUCTS for sale or use in the  
27 State of California.

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1           27. On or about August 28, 2014, a sixty-day notice of violation, together with the  
2 requisite certificate of merit required by Health & Safety Code § 25249.7 (d) (1), was served on  
3 FAUCET-QUEENS and various public enforcement agencies stating that, as a result of the  
4 DEFENDANTS' sales of the PRODUCTS, purchasers and users in the State of California were  
5 being exposed to the LISTED CHEMICAL resulting from the reasonably foreseeable use of the  
6 PRODUCTS, without the individual purchasers and users first having been provided with a  
7 "clear and reasonable warning" regarding such toxic exposures, as required by Proposition 65.

8           28. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
9 and/or offering of the PRODUCTS for sale or use in violation of California Health & Safety  
10 Code § 25249.6, and DEFENDANTS' manufacture, importation, distribution, sales, and/or  
11 offering of the PRODUCTS for sale or use in violation of California Health & Safety Code §  
12 25249.6 has continued to occur beyond DEFENDANTS' receipt of plaintiff's sixty-day notice  
13 of violation. As such, DEFENDANTS' violations are ongoing and continuous in nature, and  
14 will continue to occur in the future.

15           29. After receipt of the claims asserted in the sixty-day notice of violation, the  
16 appropriate public enforcement agencies have failed to commence and diligently prosecute a  
17 cause of action against DEFENDANTS under Proposition 65.

18           30. The PRODUCTS manufactured, imported, distributed, sold, and/or offered for  
19 sale or use in California by DEFENDANTS contained the LISTED CHEMICAL in an amount  
20 above the allowable State limits.

21           31. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
22 imported, distributed, sold, and/or offered for sale or use in California contained the LISTED  
23 CHEMICAL.

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

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

3           2.     That the Court, pursuant to California Health & Safety Code § 25249.7(a),  
4 preliminarily and permanently enjoin DEFENDANTS from manufacturing, importing,  
5 distributing, selling, and/or offering the PRODUCTS for sale or use in California, without  
6 providing “clear and reasonable warnings” as defined by California Code of Regulations title  
7 27, § 25601 et. seq., as to the harms associated with exposure to the LISTED CHEMICAL;

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

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

10 Dated: February 2, 2015

Respectfully Submitted,

11 THE CHANLER GROUP

12  
13 By: 

14 Stephen E. Cohen  
15 Attorneys for Plaintiff  
16 ANTHONY E. HELD, PH.D., P.E.

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