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ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 26 2015

CLERK OF THE SUPERIOR COURT  
By Louis Staley, Jr.

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

ANTHONY E. HELD, Ph.D., P.E.,  
Plaintiff,  
v.  
THE C. H. HANSON COMPANY, and DOES  
1-150, inclusive,  
Defendants.

Case No. **RG 15763952**

**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 Anthony E. Held, Ph.D.,  
3 P.E., in the public interest of the citizens of the State of California to enforce the People’s right to be  
4 informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical found in  
5 consumer products such as safety vests with vinyl/PVC components sold in the State of California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to warn  
7 California citizens about the risk of exposure to DEHP present in and on safety vests with vinyl/PVC  
8 components manufactured, distributed, sold and offered for sale or use to consumers throughout the  
9 State of California.

10 3. Detectable levels of DEHP are commonly found in and on safety vests with vinyl/PVC  
11 components that defendants manufacture, sell, distribute and offer for sale to consumers throughout  
12 the State of California.

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

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

23 6. Significant levels of the LISTED CHEMICAL have been discovered in or on safety  
24 vests with vinyl/PVC components that are manufactured, imported, distributed and/or sold by  
25 defendants.

26 7. Examples of safety vests with vinyl/PVC components containing the LISTED  
27 CHEMICAL that are manufactured, imported, distributed and/or sold by defendants are the *C.H.*  
28 *Hanson Lime Green with Red Reflective Stripes Safety Vest, #55115, UPC #0 81834 55115 9.*

1 8. All such safety vests with vinyl/PVC components identified in paragraphs 6 and 7  
2 above, shall hereinafter be collectively referred to as the “PRODUCTS.”

3 9. Defendants’ failure to warn consumers and other individuals in the State of California  
4 about their exposure to the LISTED CHEMICAL in conjunction with defendants’ sales of the  
5 PRODUCTS is a violation of Proposition 65, and subjects defendants to enjoinder of such conduct  
6 as well as civil penalties for each violation. Health & Safety Code § 25249.7(a) & (b)(1).

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

11 11. Pursuant to Health and Safety Code § 25249.7(b), plaintiff also seeks civil penalties  
12 against defendants for their violations of Proposition 65.

13 **PARTIES**

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

18 13. Defendant THE C. H. HANSON COMPANY (“C. H. HANSON”) is a person in the  
19 course of doing business within the meaning of Health and Safety Code § 25249.11.

20 14. C. H. HANSON manufactures, imports, sells and/or distributes the PRODUCTS for  
21 sale or use in the State of California, or implies by its conduct that it manufactures, imports, sells  
22 and/or distributes the PRODUCTS for sale or use in the State of California.

23 15. Defendants DOES 1-150 are each persons in the course of doing business within the  
24 meaning of Health and Safety Code § 25249.11(b), who manufacture, distribute, sell and/or offer the  
25 PRODUCTS for sale in the State of California. At this time, the true names and capacities of  
26 defendants DOES 1 through 150, inclusive, are unknown to plaintiffs, who, therefore, sue said  
27 defendants by their fictitious names pursuant to Code of Civil Procedure § 474. Plaintiff is informed  
28 and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible

1 for the acts and occurrences alleged herein. When ascertained, their true names and capacities shall  
2 be reflected in an amended complaint.

3 16. C. H. HANSON and DOES 1 through 150 shall, where appropriate, collectively be  
4 referred to as "DEFENDANTS."

5 **VENUE AND JURISDICTION**

6 17. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
7 Procedure §§ 393, 395, and 395.5, because this Court is a court of competent jurisdiction, because  
8 plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of wrongful  
9 conduct occurred, and continue to occur, in Alameda County, and/or because DEFENDANTS  
10 conducted, and continue to conduct, business in this county with respect to the PRODUCTS.

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

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

21 **FIRST CAUSE OF ACTION**

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

23 20. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs  
24 1 through 19, inclusive.

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

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

5           23. On or about November 25, 2014, plaintiff’s sixty-day notice of violation, together with  
6 the requisite certificate of merit, was provided to The C. H. Hanson Company and certain public  
7 enforcement agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS  
8 containing the LISTED CHEMICAL, purchasers and users in the State of California were being  
9 exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use of the  
10 PRODUCTS, without the individual purchasers and users first having been provided with a “clear  
11 and reasonable warning” regarding such toxic exposures, as required by Proposition 65.

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

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

20           26. The PRODUCTS manufactured, imported, sold, and/or distributed for sale or use in  
21 the State of California by DEFENDANTS contain the LISTED CHEMICAL such that they require a  
22 “clear and reasonable” warning under Proposition 65.

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

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

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

4           30.    DEFENDANTS had knowledge that the normal and reasonably foreseeable uses of the  
5 PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact and/or  
6 ingestion.

7           31.    DEFENDANTS intended that such exposures to the LISTED CHEMICAL from the  
8 reasonably foreseeable uses of the PRODUCTS would occur by their deliberate, non-accidental  
9 participation in the manufacture, importation, distribution, sale, and/or offering of the PRODUCTS  
10 for sale or use to individuals in the State of California.

11          32.    DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers  
12 and other individuals in the State of California who were or who would become exposed to the  
13 LISTED CHEMICAL through dermal contact and/or ingestion during the reasonably foreseeable  
14 uses of the PRODUCTS.

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

20          34.    Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-  
21 described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day for each  
22 violation.

23          35.    As a consequence of the above-described acts, Health and Safety Code § 25249.7(a)  
24 also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

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**PRAYER FOR RELIEF**

Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

1. That the Court, pursuant to Health and Safety Code § 25249.7(b), assess civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation;
2. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the PRODUCTS for sale or use in the State of California without first providing a “clear and reasonable warning” as defined by title 27 of the California Code of Regulations, section 25601 *et seq.*, as to the harms associated with exposures the LISTED CHEMICAL;
3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
4. That the Court grant such other and further relief as may be just and proper.

Dated: March 25, 2015

Respectfully Submitted,  
THE CHANLER GROUP

By:   
Icarafel S. Paras  
Attorneys for Plaintiff  
ANTHONY E. HELD, Ph.D., P.E.