

1 Clifford A. Chanler, State Bar No. 135534  
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 JOHN MOORE and  
11 ANTHONY E. HELD, PH.D, P.E.

**FILED**

MAR 05 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: J. Chen, Deputy

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF MARIN

14 UNLIMITED CIVIL JURISDICTION

15 JOHN MOORE and ANTHONY E. HELD,  
16 PH.D., P.E.,

17 Plaintiffs,

18 v.

19 UNILEVER UNITED STATES, INC.;  
20 ALBERTO-CULVER LLC; D.W.L.  
21 INTERNATIONAL TRADING, INC.;  
22 OKABASHI BRANDS, INC.; 99 CENTS  
23 ONLY STORES LLC; NAMASTE  
24 LABORATORIES, L.L.C.; MUELLER  
25 SPORTS MEDICINE, INC.; SHOWA BEST  
26 GLOVE, INC.; CARDINAL HEALTH, INC.;  
27 and DOES 1-150,  
28

Defendants.

Case No. Ci 1500844

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.5 *et seq.*)

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiffs JOHN MOORE  
3 and ANTHONY E. HELD, PH.D., P.E. in the public interest of the citizens of the State of  
4 California to enforce the People’s right to be informed of the health hazards caused by  
5 exposures to diisononyl phthalate (“DINP”), a toxic chemical found in vinyl/PVC gloves and  
6 vinyl/PVC footwear sold by defendants in California.

7 2. By this Complaint, plaintiffs seek to remedy defendants’ continuing failure to  
8 warn California citizens and other individuals about the risks of exposure to DINP present in  
9 and on vinyl/PVC gloves and vinyl/PVC footwear manufactured, distributed, and offered for  
10 sale or use by defendants to consumers and other individuals throughout the State of California.

11 3. Detectable levels of DINP are found in and on the vinyl/PVC gloves and  
12 vinyl/PVC footwear that defendants manufacture, distribute, and offer for sale to consumers and  
13 other individuals 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. Pursuant to Proposition 65, on December 20, 2013, California identified and listed  
20 DINP as a chemical known to cause cancer. DINP became subject to the “clear and reasonable  
21 warning” requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
22 § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

23 6. Defendants manufacture, distribute, import, sell, and/or offer for sale products  
24 containing DINP as follows:

25 a. Defendants Unilever United States, Inc. and Alberto-Culver LLC  
26 manufacture, distribute, import, sell, and offer for sale without a health hazard warning in  
27 California vinyl/PVC gloves containing DINP, including but not limited to the *Motions*  
28

1            *Salon Haircare Silkening Shine Relaxer System (Gloves), #126229, UPC # 0 87300*  
2            *60122 9.*

3            b.        Defendant D.W.L. International Trading Inc. manufactures, distributes,  
4            imports, sells, and offers for sale without a health hazard warning in California  
5            vinyl/PVC gloves containing DINP, including but not limited to the *Winco Disposable*  
6            *Vinyl Gloves, Style # GLV-M, #53, UPC # 8 11642 01756 7.*

7            c.        Defendant 99 Cents Only Stores LLC manufactures, distributes, imports,  
8            sells, and offers for sale without a health hazard warning in California vinyl/PVC gloves  
9            containing DINP, including but not limited to the *Pure Cleanse by Spic & Span*  
10           *Disposable Vinyl Gloves, Item #861A, UPC # 8 12751 00861 3.*

11           d.        Defendant Namaste Laboratories, L.L.C. manufactures, distributes,  
12           imports, sells, and offers for sale without a health hazard warning in California  
13           vinyl/PVC gloves containing DINP, including but not limited to the *ORS Olive Oil Built-*  
14           *In Protection No-Lye Hair Relaxer (Gloves), UPC # 6 32169 11099 5.*

15           e.        Defendant Mueller Sports Medicine, Inc. manufactures, distributes,  
16           imports, sells, and offers for sale without a health hazard warning in California  
17           vinyl/PVC gloves containing DINP, including but not limited to the *Mueller LEAGUE*  
18           *First Aid Kit (Gloves), REF 200725, UPC # 0 74676 20725 4.*

19           f.        Defendant Showa Best Glove, Inc. manufactures, distributes, imports,  
20           sells, and offers for sale without a health hazard warning in California vinyl/PVC gloves  
21           containing DINP, including but not limited to the *ATLAS Glove, #620-L, UPC # 7 13740*  
22           *3949 2* and *Black Knight Gloves, #7712R-10.*

23           g.        Defendant Cardinal Health, Inc. manufactures, distributes, imports, sells,  
24           and offers for sale without a health hazard warning in California vinyl/PVC gloves  
25           containing DINP, including but not limited to the *Leader Medical Exam Quality Vinyl*  
26           *Gloves, UPC #0 96295 11696 0.*



1 CENTS”), Namaste Laboratories, L.L.C. (“NAMASTE”), Mueller Sports Medicine, Inc.  
2 (“MUELLER”), Showa Best Glove, Inc. (“SHOWA”), Cardinal Health, Inc. (“CARDINAL”),  
3 and Okabashi Brands, Inc. (“OKABASHI”), are each a person in the course of doing business  
4 within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

5 13. UNILEVER, ALBERTO, DWL, 99 CENTS, NAMASTE, MUELLER, SHOWA,  
6 CARDINAL, and OKABASHI each manufacture, import, distribute, sell, and/or offer the  
7 PRODUCTS for sale or use in the State of California, or imply by their conduct that they  
8 manufacture, import, distribute, sell, and/or offer the PRODUCTS for sale or use in the State of  
9 California.

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

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

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

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

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

26 19. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
27 State of California.

28



1 **FIRST CAUSE OF ACTION**

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

3 25. Plaintiffs reallege and incorporate by reference, as if fully set forth herein,  
4 Paragraphs 1 through 24, inclusive.

5 26. 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 27. 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 28. On December 22, 2014, JOHN MOORE provided sixty-day notices of violation,  
14 together with the requisite certificates of merit, to DWL, NAMASTE, SHOWA, and certain  
15 public enforcement agencies, alleging that, as a result of DEFENDANTS’ sales of their  
16 respective PRODUCTS containing DINP, purchasers and users in the State of California were  
17 being exposed to DINP resulting from their reasonably foreseeable use of the PRODUCTS,  
18 without the individual purchasers and users first having been provided with a “clear and  
19 reasonable warning” regarding the harms associated with such exposures, as required by  
20 Proposition 65.

21 29. On December 22, 2014, ANTHONY E. HELD, PH.D., P.E. provided sixty-day  
22 notices of violation, together with the requisite certificates of merit, to UNILEVER,  
23 ALBERTO, 99 CENTS, MUELLER, CARDINAL, and OKABASHI, and certain public  
24 enforcement agencies, alleging that, as a result of DEFENDANTS’ sales of their respective  
25 PRODUCTS containing DINP, purchasers and users in the State of California were being  
26 exposed to DINP resulting from their reasonably foreseeable use of the PRODUCTS, without  
27  
28

1 the individual purchasers and users first having been provided with a “clear and reasonable  
2 warning” regarding the harms associated with such exposures, as required by Proposition 65.

3 30. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS  
4 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’  
5 violations have continued beyond their receipt of plaintiffs’ sixty-day notices of violation.  
6 DEFENDANTS’ violations are ongoing and continuous in nature, and, as such, will continue in  
7 the future.

8 31. After receiving plaintiffs’ sixty-day notices of violation, none of the appropriate  
9 public enforcement agencies have commenced and diligently prosecuted a cause of action  
10 against DEFENDANTS under Proposition 65 to enforce the alleged violations that are the  
11 subject of plaintiffs’ notices of violation.

12 32. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and  
13 offer for sale or use in California cause exposures to DINP as a result of the reasonably  
14 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANTS and endured by  
15 consumers and other individuals in California are not exempt from the “clear and reasonable”  
16 warning requirements of Proposition 65, yet DEFENDANTS provide no warning.

17 33. DEFENDANTS knew or should have known that the PRODUCTS they  
18 manufactured, imported, distributed, sold, and offered for sale or use in California contained  
19 DINP.

20 34. DINP is present in or on the PRODUCTS in such a way as to expose individuals  
21 to DINP through dermal contact and/or ingestion during reasonably foreseeable use.

22 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
23 continues to cause, consumer exposures to DINP, as defined by title 27 of the California Code  
24 of Regulations, section 25602(b).

25 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
26 the PRODUCTS exposed individuals to DINP through dermal contact and/or ingestion.

27  
28





1 reasonable warning” in accordance with title 27 of the California Code of Regulations, section  
2 25601 *et seq.*, regarding the harms associated with exposures DINP;

3 3. That the Court, Pursuant to Health and Safety Code section 25249.7(a), issue  
4 preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS  
5 currently in the chain of commerce in California without a “clear and reasonable warning” as  
6 defined by California Code of Regulations title 27, section 25601 *et seq.*;

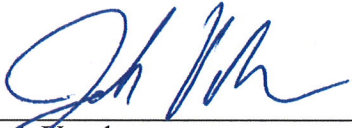
7 4. That the Court grant plaintiffs their reasonable attorneys’ fees and costs of suit; and

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

10 Dated: March 5, 2015

Respectfully Submitted,

11 THE CHANLER GROUP

12  
13  
14 By:   
15 Josh Voorhees  
16 Attorneys for Plaintiffs  
17 JOHN MOORE and  
18 ANTHONY E. HELD, PH.D., P.E.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28