

FILED

APR 13 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: C. Lucchesi, Deputy

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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF MARIN  
15 UNLIMITED CIVIL JURISDICTION  
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19 WHITNEY R. LEEMAN, PH.D.

20 Plaintiff,

21 v.

22 JINNY BEAUTY SUPPLY CO., INC.; and  
23 DOES 1-150, inclusive,

24 Defendants.  
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Case No. CIV 15 01355

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 WHITNEY R.  
3 LEEMAN, PH.D. in the public interest of the citizens of the State of California to enforce the  
4 People’s right to be informed about exposures di(2-ethylhexyl)phthalate (“DEHP”), a toxic  
5 chemical that is found in and on vinyl/PVC toiletry cases sold by defendants 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 DEHP present in and on vinyl/PVC  
8 toiletry cases manufactured, distributed, 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 vinyl/PVC toiletry  
11 cases that defendants import, manufacture, distribute, ship, sell and offer for sale to consumers  
12 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 October 24, 2003, pursuant to Proposition 65, California identified and listed  
19 DEHP as a chemical known to cause birth defects or other reproductive harm. DEHP became  
20 subject to the “clear and reasonable warning” requirements of the act one year later on October  
21 24, 2004. (Cal. Code Regs., Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
22 25249.10(b).) DEHP is referred to hereinafter as the (“LISTED CHEMICAL”).

23 6. Defendants manufacture, distribute, import, sell, and offer for sale without  
24 warning in California, vinyl/PVC toiletry cases containing the LISTED CHEMICAL, including,  
25 but not limited to, the *Brittney Professional Comb Set, BR33012, UPC #6 93525 33012 9*. All  
26 such vinyl/PVC toiletry cases containing the LISTED CHEMICAL are referred to collectively  
27 hereinafter as the (“PRODUCTS”).  
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1 conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS  
2 conducted, and continue to conduct, business in Marin with respect to the PRODUCTS.

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

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

13 **FIRST CAUSE OF ACTION**

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

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

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

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

25 27. On January 23, 2015, plaintiff served JINNY BEAUTY SUPPLY, and the  
26 requisite public enforcement agencies with a sixty-day notice of violation, and accompanying  
27 certificate of merit, alleging that, as a result of DEFENDANTS’ sales of the PRODUCTS  
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1 containing the LISTED CHEMICAL, consumers and other individuals in the State of California  
2 are being exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use  
3 of the PRODUCTS, without the individual purchasers and users first having received a “clear  
4 and reasonable warning” regarding such toxic exposures, as required by Proposition 65.

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

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

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

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

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

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

25 34. DEFENDANTS know that the normal and reasonably foreseeable use of the  
26 PRODUCTS exposes individuals to the LISTED CHEMICAL through dermal contact and/or  
27 ingestion.

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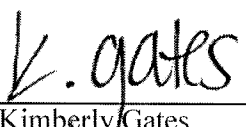
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reasonable warning” as defined by title 27 of the California Code of Regulations, section 25601  
*et seq.*, as to the harms associated with exposures to the LISTED CHEMICAL;

- 3. That the Court grant plaintiff her 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: April 13, 2015

Respectfully Submitted,  
THE CHANLER GROUP

By:   
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Kimberly Gates  
Attorneys for Plaintiff  
DR. WHITNEY R. LEEMAN