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**FILED**

**SEP 3 - 2015**

**JAMES M. KIM, Court Executive Officer**  
**MARIN COUNTY SUPERIOR COURT**  
*By: E. Chais, Deputy*

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

ANTHONY E. HELD, PH.D., P.E.,

Plaintiff,

v.

THE TRANZONIC COMPANIES; and DOES  
1-150, inclusive,

Defendants.

CIV 15 03 25 1

Case No. \_\_\_\_\_

**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.  
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 health hazards caused by exposures to diisononyl phthalate  
5 (“DINP”), a toxic chemical found in vinyl/PVC gloves sold by defendants in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
7 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code  
8 section 6300 et seq., who purchase, use or handle defendants’ products, about the risks of  
9 exposure to DINP present in and on its vinyl/PVC gloves that are manufactured, distributed, and  
10 offered for sale or use throughout the State of California. Individuals not covered by  
11 California’s Occupational Safety Health Act, Labor Code section 6300 et seq., who purchase,  
12 use or handle defendants’ products, are referred to hereinafter as “consumers.”

13 3. Detectable levels of DINP are found in and on the vinyl/PVC gloves that  
14 defendants manufacture, distribute, and offer for sale without a warning to consumers  
15 throughout the State of California.

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

21 5. Pursuant to Proposition 65, on December 20, 2013, California identified and listed  
22 DINP as a chemical known to cause cancer. DINP became subject to the “clear and reasonable  
23 warning” requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
24 § 27001(b); Health & Safety Code §§ 25249.8 & 25249.10(b).

25 6. Defendants manufacture, distribute, import, sell, and offer for sale without health  
26 hazard warnings in California, vinyl/PVC gloves containing DINP including, but not limited to,  
27 the *ProWorks Protective Wear Powdered Vinyl Disposable Gloves, GL-V103PL, UPC No. 0*  
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1 75289 23114 8. All vinyl/PVC gloves containing DINP are referred to collectively hereinafter  
2 as “PRODUCTS.”

3 7. Defendants’ failure to warn consumers in the State of California of the health  
4 hazards associated with exposures to DINP in conjunction with defendants’ sales of the  
5 PRODUCTS are violations of Proposition 65, and subject defendants, and each of them, to  
6 enjoinder of such conduct as well as civil penalties for each violation. Health & Safety Code  
7 § 25249.7(a) & (b)(1).

8 8. For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
9 permanent injunctive relief to compel defendants to provide consumers of the PRODUCTS with  
10 the required warning regarding the health hazards associated with exposures to DINP. Health &  
11 Safety Code § 25249.7(a).

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

14 **PARTIES**

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

19 11. Defendant THE TRANZONIC COMPANIES (“TRANZONIC”) is a person in  
20 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
21 and 25249.11.

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

1           13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
2 person in the course of doing business within the meaning of Health and Safety Code sections  
3 25249.6 and 25249.11.

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

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

11           16. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and  
12 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
13 in the State of California.

14           17. Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each a person in  
15 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
16 and 25249.11.

17           18. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
18 State of California.

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

24           20. TRANZONIC, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
25 DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate, collectively be  
26 referred to as “DEFENDANTS.”  
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1 VENUE AND JURISDICTION

2 21. Venue is proper in Marin County Superior Court, pursuant to Code of Civil  
3 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,  
4 because plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of  
5 wrongful conduct occurred, and continue to occur, in this county, and/or because  
6 DEFENDANTS conducted, and continue to conduct, business in Marin County with respect to  
7 the PRODUCTS.

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

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

18 FIRST CAUSE OF ACTION

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

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

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

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

3 27. On January 30, 2015, plaintiff served a sixty-day notice of violation, together with  
4 the requisite certificate of merit, on TRANZONIC and the requisite public enforcement  
5 agencies alleging that, as a result of DEFENDANTS’ sales of the PRODUCTS containing  
6 DINP, consumers in the State of California were being exposed to DINP resulting from their  
7 reasonably foreseeable use of the PRODUCTS, without the consumers first having been  
8 provided with a “clear and reasonable warning” regarding the harms associated with such  
9 exposures, as required by Proposition 65.

10 28. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS  
11 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’  
12 violations have continued beyond their receipt of plaintiff’s sixty-day notice of violation.  
13 DEFENDANTS’ violations are ongoing and continuous in nature and, as such, will continue in  
14 the future.

15 29. After receiving plaintiff’s sixty-day notice of violation, no public enforcement  
16 agency has commenced and diligently prosecuted a cause of action against DEFENDANTS  
17 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s sixty-day  
18 notice.

19 30. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and  
20 offer for sale or use in California expose consumers to DINP as a result of the reasonably  
21 foreseeable use of the PRODUCTS. Such exposures are not exempt from the “clear and  
22 reasonable” warning requirements of Proposition 65, yet DEFENDANTS provide no warning.

23 31. DEFENDANTS knew or should have known that the PRODUCTS they  
24 manufacture, import, distribute, sell, and offer for sale or use in California contain DINP.

25 32. DINP is present in or on the PRODUCTS in such a way as to expose consumers  
26 to DINP through dermal contact and/or ingestion during reasonably foreseeable use.  
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1           1.     That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
2 civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for  
3 each violation;

4           2.     That the Court, pursuant to Health and Safety Code section 25249.7(a),  
5 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or  
6 offering the PRODUCTS for sale or use in California without first providing a “clear and  
7 reasonable warning” in accordance with title 27 of the California Code of Regulations, section  
8 25601 *et seq.*, regarding the harms associated with exposures to DINP;

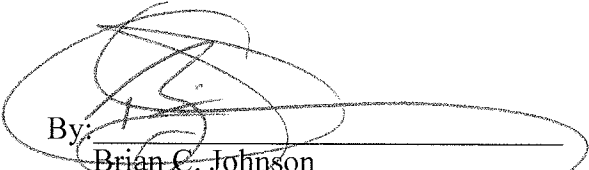
9           3.     That the Court, Pursuant to Health and Safety Code section 25249.7(a), issue  
10 preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS  
11 currently in the chain of commerce in California without a “clear and reasonable warning” as  
12 defined by California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

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

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

15  
16 Dated: September 2, 2015

Respectfully Submitted,  
THE CHANLER GROUP

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19 By:   
20 Brian C. Johnson  
21 Attorneys for Plaintiff  
22 ANTHONY E. HELD, PH.D., P.E.  
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