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ENDORSED  
FILED

2015 APR 20 P 3: 12

County of Santa Clara Superior Court  
Case No. 115CV279642  
J. Smith

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA  
UNLIMITED CIVIL JURISDICTION

115CV279642

ANTHONY E. HELD, PH.D., P.E.,  
Plaintiffs,  
v.  
TRADEX INTERNATIONAL, INC.; and DOES  
1-150,  
Defendants.

Case No. \_\_\_\_\_  
**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 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 California citizens and other individuals about the risks of exposure to DINP present in  
8 and on vinyl/PVC gloves manufactured, distributed, and offered for sale or use by defendants to  
9 consumers and other individuals throughout the State of California.

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

22 6. Defendants manufacture, distribute, import, sell, and offer for sale without a  
23 health hazard warning in California, vinyl/PVC gloves containing DINP including, but not  
24 limited to, the *Ambitex Powder Free Vinyl Exam Gloves, VMD200, UPC #6 99320 20203 6*.  
25 All such vinyl/PVC gloves containing DINP, shall be referred to hereinafter as "PRODUCTS."

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

4 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary and  
5 permanent injunctive relief to compel defendants to provide purchasers or users of the  
6 PRODUCTS with the required warning regarding the health hazards associated with exposures  
7 to DINP. Health & Safety Code § 25249.7(a).

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

#### 10 PARTIES

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

15 11. Defendant TRADEX INTERNATIONAL, INC. is a person in the course of doing  
16 business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

17 12. TRADEX INTERNATIONAL, INC. manufactures, imports, distributes, sells,  
18 and/or offers the PRODUCTS for sale or use in the State of California, or implies by its conduct  
19 that it manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in  
20 the State of California.

21 13. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a  
22 person in the course of doing business within the meaning of Health and Safety Code sections  
23 25249.6 and 25249.11.

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

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1 15. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each a person  
2 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
3 and 25249.11.

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

7 17. Defendants DOES 101-150 ("RETAILER DEFENDANTS") are each a person in  
8 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
9 and 25249.11.

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

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

17 20. TRADEX INTERNATIONAL, INC., MANUFACTURER DEFENDANTS,  
18 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate,  
19 collectively be referred to as "DEFENDANTS."

20 **VENUE AND JURISDICTION**

21 21. Venue is proper in Santa Clara County Superior Court, pursuant to Code of Civil  
22 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,  
23 because plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of  
24 wrongful conduct occurred, and continue to occur, in this county, and/or because  
25 DEFENDANTS conducted, and continue to conduct, business in Santa Clara County with  
26 respect to the PRODUCTS.



1 foreseeable use of the PRODUCTS, without the individual purchasers and users first having  
2 been provided with a “clear and reasonable warning” regarding the harms associated with such  
3 exposures, as required by Proposition 65.

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

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

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

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

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

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

26 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
27 the PRODUCTS exposed individuals to DINP through dermal contact and/or ingestion.  
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1 35. DEFENDANTS intended that exposures to DINP from the reasonably foreseeable  
2 use of the PRODUCTS would occur by their deliberate, non-accidental participation in the  
3 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to  
4 consumers and other individuals in California.

5 36. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
6 consumers and other individuals in California who were or who would become exposed to  
7 DINP through dermal contact and/or ingestion resulting from their use of the PRODUCTS.

8 37. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
9 directly by California voters, individuals exposed to DINP through dermal contact and/or  
10 ingestion as a result of their use of the PRODUCTS that DEFENDANTS sold without a “clear  
11 and reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm  
12 for which they have no plain, speedy, or adequate remedy at law.

13 38. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the  
14 above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day  
15 for each violation.

16 39. As a consequence of the above-described acts, Health and Safety Code  
17 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
18 DEFENDANTS.

19 **PRAYER FOR RELIEF**

20 Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

21 1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
22 civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for  
23 each violation;

24 2. That the Court, pursuant to Health and Safety Code section 25249.7(a),  
25 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or  
26 offering the PRODUCTS for sale or use in California without first providing a “clear and  
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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 plaintiff his 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: April 17, 2015

Respectfully Submitted,

11 THE CHANLER GROUP  
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13  
14 By: 

Troy C. Bailey

Attorneys for Plaintiff

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