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FILED

JUN 5 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
Her Honor's Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

UNLIMITED CIVIL JURISDICTION

LAURENCE VINO CUR,

Plaintiff,

v.

FASHION ACCESSORY BAZAAR LLC;  
and DOES 1-150, inclusive,

Defendants.

Case No. CW 1502070

**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 LAURENCE  
3 VINOCUR (“Plaintiff” or “Vinocur”) in the public interest of the citizens of California to enforce  
4 the People’s right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), a toxic  
5 chemical found in badge holders sold in 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 the badge holders  
8 manufactured, distributed, and offered for sale or use to consumers throughout California.

9 3. Detectable levels of DEHP are commonly found in and on the badge holders that  
10 defendants manufacture, import, distribute, sell and/or offer for sale to consumers throughout  
11 California.

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

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

22 6. Defendants manufacture, distribute, import, sell, and/or offer for sale badge holders  
23 containing DEHP as follows:

24 a. Defendants manufacture, distribute, import, sell, and/or offer for sale badge  
25 holders containing DEHP without a warning including, but not limited to, the *1 Rectangle Lanyard*  
26 *Badge Holder Non-leather, F54112-FPP-030113, ADX437049, UPC #6 88955 68947 3.*

27 7. All such badge holders containing DEHP, described above in paragraph 6(a), shall  
28 hereinafter be referred to as the “PRODUCTS.”





1 of California, and/or otherwise purposefully avails itself of the California market. DEFENDANTS'  
2 purposeful availing renders the exercise of personal jurisdiction by California courts consistent with  
3 traditional notions of fair play and substantial justice.

4 **FIRST CAUSE OF ACTION**

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

6 25. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,  
7 Paragraphs 1 through 24, inclusive.

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

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

15 28. On March 13, 2015, plaintiff’s sixty-day notice of violation, together with the  
16 requisite certificate of merit, was provided to Fashion Accessory Bazaar LLC and certain public  
17 enforcement agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS  
18 containing the LISTED CHEMICAL, purchasers and users in the State of California were being  
19 exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use of the  
20 PRODUCTS, without the individual purchasers and users first having been provided with a “clear  
21 and reasonable warning” regarding such toxic exposures, as required by Proposition 65.

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

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28 ///

1           30. After receiving plaintiff's sixty-day notice of violation, the appropriate public  
2 enforcement agencies have failed to commence and diligently prosecute a cause of action against  
3 DEFENDANTS under Proposition 65.

4           31. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale or  
5 use in California by DEFENDANTS contain the LISTED CHEMICAL such that they require a  
6 "clear and reasonable" warning under Proposition 65.

7           32. DEFENDANTS knew or should have known that the PRODUCTS they manufacture,  
8 import, distribute, sell, and offer for sale or use in California contain the LISTED CHEMICAL.

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

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

15           35. DEFENDANTS had knowledge that the normal and reasonably foreseeable uses of  
16 the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact and/or  
17 ingestion.

18           36. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from the  
19 reasonably foreseeable uses of the PRODUCTS would occur by their deliberate, non-accidental  
20 participation in the manufacture, importation, distribution, sale, and offering of the PRODUCTS for  
21 sale or use to individuals in California.

22           37. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
23 consumers and other individuals in California who were or who would become exposed to the  
24 LISTED CHEMICAL through dermal contact and/or ingestion during the reasonably foreseeable  
25 uses of the PRODUCTS.

26           38. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
27 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
28 contact and/or ingestion resulting from the reasonably foreseeable use of the PRODUCTS sold by

1 DEFENDANTS without a “clear and reasonable warning,” have suffered, and continue to suffer,  
2 irreparable harm for which they have no plain, speedy, or adequate remedy at law.

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

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

8 **PRAYER FOR RELIEF**

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

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

12 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
13 permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the PRODUCTS  
14 for sale or use in California without first providing a “clear and reasonable warning” as defined by  
15 title 27 of the California Code of Regulations, section 25601 *et seq.*, as to the harms associated with  
16 exposures the LISTED CHEMICAL;

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

18 4. That the Court grant such other and further relief as may be just and proper.

19 Dated: June 3, 2015

Respectfully Submitted,

20 THE CHANLER GROUP

21  
22 By: 

Jonathan A. Bornstein  
Attorneys for Plaintiff  
LAURENCE VINOCUR