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**FILED**

JUL 16 2015

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

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF MARIN  
10 UNLIMITED CIVIL JURISDICTION

11  
12 ANTHONY E. HELD, PH.D., P.E.

13 Plaintiff,

14 v.

15 AMMEX CORPORATION; and DOES 1-  
16 150, inclusive,

17 Defendants.

Case No. *CIV* 1502595 --

**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 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 vinyl/PVC gloves manufactured, distributed, and offered  
10 for sale or use throughout the State of California. Individuals not covered by California’s  
11 Occupational Safety Health Act, Labor Code section 6300 et seq. who purchase, use or handle  
12 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. On December 20, 2013, California identified and listed DINP pursuant to  
22 Proposition 65 as a chemical known to cause cancer. DINP became subject to the “clear and  
23 reasonable warning” requirements of the act one year later on December 20, 2014. Cal. Code  
24 Regs. tit. 27, § 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 *GlovePlus by AMMEX 100 Vinyl Industrial Gloves Latex Free*, #IV48100, UPC #6 97383  
28 *40164 9*. All vinyl/PVC gloves containing DINP are referred to collectively hereinafter as

1 “PRODUCTS.”

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

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

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

13 **PARTIES**

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

18 11. Defendant AMMEX CORPORATION. (“AMMEX”) is a person in the course of  
19 doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

20 12. AMMEX manufactures, imports, distributes, sells, and/or offers the PRODUCTS  
21 for sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
22 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

23 13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
24 person in the course of doing business within the meaning of Health and Safety Code sections  
25 25249.6 and 25249.11.

26 14. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
27 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,  
28

1 and manufacture one or more of the PRODUCTS offered for sale or use in the State of  
2 California.

3 15. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each persons  
4 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
5 and 25249.11.

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

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

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

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

19 20. AMMEX, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
20 DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate, collectively be  
21 referred to as “DEFENDANTS.”

22 **VENUE AND JURISDICTION**

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



1 reasonable warning” regarding the harms associated with such exposures, as required by  
2 Proposition 65.

3 28. 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 plaintiff’s sixty-day notice of violation.  
6 DEFENDANTS’ violations are ongoing and continuous in nature and, as such, will continue in  
7 the future.

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

12 30. 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 in California are not exempt from the “clear and reasonable” warning requirements  
16 of Proposition 65, yet DEFENDANTS provide no warning.

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 DINP.

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

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

24 34. DEFENDANTS know that the normal and reasonably foreseeable use of the  
25 PRODUCTS exposes consumers to DINP through dermal contact and/or ingestion.

26 35. DEFENDANTS intend that exposures to DINP from the reasonably foreseeable  
27 use of the PRODUCTS will occur by their deliberate, non-accidental participation in the  
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1 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to  
2 consumers in California.

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

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

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

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

17 **PRAYER FOR RELIEF**

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

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

22 2. That the Court, pursuant to Health and Safety Code section 25249.7(a),  
23 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or  
24 offering the PRODUCTS for sale or use in California without first providing a “clear and  
25 reasonable warning” in accordance with title 27 of the California Code of Regulations, section  
26 25601 *et seq.*, regarding the harms associated with exposures to DINP;

27 3. That the Court, Pursuant to Health and Safety Code section 25249.7(a), issue  
28 preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS

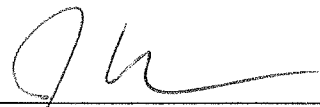
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currently in the chain of commerce in California without a “clear and reasonable warning” as defined by California Code of Regulations title 27, section 25601 et seq.;

- 4. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
- 5. That the Court grant such other and further relief as may be just and proper.

Dated: July 16, 2015

Respectfully Submitted,  
THE CHANLER GROUP

By:   
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Josh Voorhees  
Attorneys for Plaintiff  
ANTHONY E. HELD, PH.D, P.E.