

ENDORSED  
FILED  
ALAMEDA COUNTY

JUL 28 2013

CLERK OF THE SUPERIOR COURT  
By Xian-Xii Bowie

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11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF ALAMEDA

14 UNLIMITED CIVIL JURISDICTION

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

16 Plaintiffs,

17 v.

18 THE GORILLA GLUE COMPANY; and DOES  
19 1-150, inclusive,

20 Defendants.

Case No. RG 16825055

**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. ("Dr. Held") in the public interest of the citizens of the State of California  
4 to enforce the People's right to be informed of the health hazards caused by exposures to  
5 diisononyl phthalate ("DINP"), a toxic chemical found in vinyl/PVC tool grips sold by  
6 defendants in California.

7 2. By this Complaint, Dr. Held seeks to remedy defendants' continuing failure to  
8 warn California citizens about the risks of exposure to DINP present in and on vinyl/PVC tool  
9 grips manufactured, distributed, and offered for sale or use by defendants to consumers and  
10 other individuals throughout the State of California.

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

16 4. Pursuant to Proposition 65, on December 20, 2013, California identified and listed  
17 DINP as a chemical known to cause cancer. DINP became subject to the "clear and reasonable  
18 warning" requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
19 § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

20 5. Defendants manufacture, distribute, import, sell, and offer for sale without a  
21 health hazard warning in California, vinyl/PVC tool grips containing DINP including, but not  
22 limited to, the *Chu Supply Screwdriver, UPC #0 52427 26021 5*. All such vinyl/PVC tool grips  
23 containing DINP, shall be referred to hereinafter as "PRODUCTS."

24 6. Defendants' failure to warn consumers and other individuals in the State of  
25 California of the health hazards associated with exposures to DINP in conjunction with  
26 defendants' sales of the PRODUCTS are violations of Proposition 65, and subject defendants,  
27  
28

1 and each of them, to enjoinder of such conduct as well as civil penalties for each violation.  
2 Health & Safety Code § 25249.7(a) & (b)(1).

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

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

9 **PARTIES**

10 9. Dr. Held is a citizen of the State of California who is dedicated to protecting the  
11 health of California citizens through the elimination or reduction of toxic exposures from  
12 consumer products; and he brings this action in the public interest pursuant to Health and Safety  
13 Code Section 25249.7(d).

14 10. Defendant THE GORILLA GLUE COMPANY ("GORILLA GLUE") is a person  
15 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
16 and 25249.11.

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

21 12. 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 13. 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 been provided with a "clear and reasonable warning" regarding the harms associated with such  
2 exposures, as required by Proposition 65.

3 27. DEFENDANTS have engaged in the manufacture, distribution, and offering of  
4 the PRODUCTS for sale or use in violation of Health and Safety Code section 25249.6, and  
5 such violations have continued to occur beyond DEFENDANTS' receipt of Dr. Held's Notice.  
6 As such, DEFENDANTS' violations are ongoing and continuous in nature, and will continue to  
7 occur in the future.

8 28. After receiving the claims asserted in the Notice, the appropriate public  
9 enforcement agencies have failed to commence and diligently prosecute a cause of action  
10 against DEFENDANTS under Proposition 65.

11 29. The PRODUCTS manufactured, distributed, and offered for sale or use in  
12 California by DEFENDANTS contain DINP in amounts above the allowable state limits, such  
13 that they require a "clear and reasonable" warning under Proposition 65.

14 30. DEFENDANTS knew or should have known that the PRODUCTS they  
15 manufactured, imported, distributed, sold, and offered for sale or use in California contained  
16 DINP.

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

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

22 33. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
23 the PRODUCTS exposed individuals to DINP through dermal contact and/or ingestion.

24 34. DEFENDANTS intended that exposures to DINP from the reasonably foreseeable  
25 use of the PRODUCTS would occur by their deliberate, non-accidental participation in the  
26 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to  
27 consumers and other individuals in California.  
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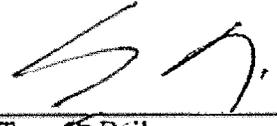
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currently in the chain of commerce in California without a "clear and reasonable warning" as defined by California Code of Regulations title 27, section 25601 et seq.;

- 4. That the Court grant Dr. Held 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 27, 2016

Respectfully Submitted,  
THE CHANLER GROUP

By:   
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Troy C. Bailey  
Attorneys for Plaintiff  
ANTHONY E. HELD, PH.D., P.E.