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

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

Plaintiff,

v.

H & H LABORATORIES INC.; and DOES  
1-150, inclusive,

Defendants.

Case No. **15CV288860**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.5 *et seq.*)

**NATURE OF THE ACTION**

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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 the vinyl/PVC gloves 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 to consumers throughout the State of  
15 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(c); 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 such as, but not limited to,  
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1 the *Sterex 100 Count X-Large Vinyl Powder Free Exam Gloves, VECPFGXL, UPC #8 524720*  
2 *020442*, collectively hereinafter 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 subjects defendants to enjoinder of such  
6 conduct as well as civil penalties for each violation. Health & Safety Code § 25249.7(a) &  
7 (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 H & H LABORATORIES INC. (“H & H”) is a person in the course of  
20 doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

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

24 13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
25 person in the course of doing business within the meaning of Health and Safety Code sections  
26 25249.6 and 25249.11.

1           14.    MANUFACTURER DEFENDANTS, and each of them, research, test, design,  
2 assemble, fabricate, and manufacture, or each implies by its conduct that it researches, tests,  
3 designs, assembles, fabricates, and manufactures one or more of the PRODUCTS offered for  
4 sale or use in California.

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

8           16.    DISTRIBUTOR DEFENDANTS, and each of them, distribute, exchange,  
9 transfer, process, and transport one or more of the PRODUCTS to individuals, businesses, or  
10 retailers for sale or use in the State of California, or each implies by its conduct that it  
11 distributes, exchanges, transfers, processes, and transports one or more of the PRODUCTS to  
12 individuals, businesses, or retailers for sale or use in the State of California.

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

16           18.    RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to  
17 individuals in the State of California.

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

23           20.    H & H, MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS,  
24 and RETAILER DEFENDANTS shall hereinafter, where appropriate, be referred to collectively  
25 as the “DEFENDANTS.”  
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1 VENUE AND JURISDICTION

2 21. Venue is proper in Santa Clara 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 conduct business in Santa Clara County with respect to the PRODUCTS.

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

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

17 FIRST CAUSE OF ACTION

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

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

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

25 26. Proposition 65 states, “[n]o person in the course of doing business shall  
26 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 September 24, 2015, plaintiff served a sixty-day notice of violation, together  
4 with the accompanying certificate of merit, on H & H, the California Attorney General’s Office,  
5 and the requisite public enforcement agencies alleging that, as a result of DEFENDANTS’ sales  
6 of the PRODUCTS, consumers in the State of California are being exposed to DINP resulting  
7 from their reasonably foreseeable use of the PRODUCTS, without the consumers first receiving  
8 a “clear and reasonable warning” regarding the harms associated with exposures to DINP, as  
9 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, unless enjoined will continue in the future.

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

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

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

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

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

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

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

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

12 Dated: December 9, 2015

13 Respectfully submitted,  
14 THE CHANLER GROUP

15 By: 

16 Brian C. Johnson  
17 Attorneys for Plaintiff  
18 ANTHONY E. HELD, PH.D., P.E.