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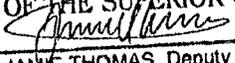
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA  
UNLIMITED CIVIL JURISDICTION

WHITNEY R. LEEMAN, PH.D.  
Plaintiff,  
v.  
MURRAY CORPORATION; and DOES 1-  
150, inclusive,  
Defendants.

Case No. RG16803504  
**FIRST AMENDED COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**  
(Health & Safety Code § 25249.6 *et seq.*)

**ENDORSED  
FILED  
ALAMEDA COUNTY**

**JUN 27 2016**

CLERK OF THE SUPERIOR COURT  
By   
JANVE THOMAS, Deputy

1 NATURE OF THE ACTION

2 1. This First Amended Complaint is a representative action brought by plaintiff  
3 WHITNEY R. LEEMAN, PH.D. in the public interest of the citizens of the State of California  
4 to enforce the People's right to be informed about exposures to Di(2-ethylhexyl)phthalate  
5 ("DEHP"), Diisononyl phthalate ("DINP") and Di-n-butyl phthalate ("DBP"), toxic chemicals  
6 that are found in vinyl/PVC tool grips that are sold in California.

7 2. By this First Amended Complaint, plaintiff seeks to remedy defendants'  
8 continuing failure to warn individuals not covered by California's Occupational Safety Health  
9 Act, Labor Code section 6300 et seq., who purchase, use or handle defendants' products, about  
10 the risks of exposure to DEHP, DINP, and DBP present in and on vinyl/PVC tool grips  
11 manufactured, distributed, and offered for sale or use throughout the State of California.  
12 Individuals not covered by California's Occupational Safety Health Act, Labor Code section  
13 6300 et seq. who purchase, use or handle defendants' products are referred to hereinafter as  
14 "consumers".

15 3. Detectable levels of DEHP, DINP and DBP are commonly found in and on  
16 components of vinyl/PVC tool grips that defendants import, manufacture, distribute, ship, sell  
17 and/or offer for sale to consumers throughout the State of California.

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

23 5. On October 24, 2003, California listed DEHP pursuant to Proposition 65 as a  
24 chemical that is known to cause birth defects and other reproductive harm. DEHP became  
25 subject to the "clear and reasonable warning" requirements of the act one year later on October  
26 24, 2004. Cal. Code Regs. tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 &  
27 25249.10(b).

1           6.     On December 20, 2013, California listed DINP pursuant to Proposition 65 as a  
2 chemical that is known to cause cancer. DINP became subject to the “clear and reasonable  
3 warning” requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
4 § 27001(b); Health & Safety Code §§ 25249.8 & 25249.10(b).

5           7.     On December 2, 2005, California identified and listed DBP as a chemical known  
6 to cause birth defects and other reproductive harm. DBP became subject to the warning  
7 requirement one year later and was, therefore, subject to the “clear and reasonable warning”  
8 requirements of Proposition 65, beginning on December 2, 2006. (Cal. Code Regs. tit. 27 §  
9 27001 (c); Health & Safety Code §§ 25249.8 & 25249.10(b). DEHP, DINP, and DBP are  
10 collectively referred to hereinafter as the “LISTED CHEMICALS.”

11           8.     Defendants manufacture, distribute, import, sell, and offer for sale without  
12 warning in California, vinyl/PVC tool grips containing the LISTED CHEMICALS, including,  
13 but not limited to, the *Murray Keystone Installation Tool, A20000P10, UPC #0 35119 09023 9*  
14 All such vinyl/PVC tool grips containing the LISTED CHEMICALS are referred to collectively  
15 hereinafter as the “PRODUCTS.”

16           9.     Defendants’ failure to warn consumers and other individuals in California of the  
17 harms associated with exposures to the LISTED CHEMICALS, in conjunction with defendants’  
18 sales of the PRODUCTS containing the LISTED CHEMICALS constitute violations of  
19 Proposition 65, and subject defendants to enjoinder of such conduct, as well as civil penalties  
20 for each violation. Health & Safety Code § 25249.7(a) & (b)(1).

21           10.    For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
22 permanent injunctive relief to compel defendants to provide purchasers or users of the  
23 PRODUCTS with the required warning regarding the health hazards associated with exposures  
24 to the LISTED CHEMICALS. Health & Safety Code § 25249.7(a).

25           11.    Pursuant to Health and Safety Code section 25249.7(b), plaintiff also seeks civil  
26 penalties against defendants, and each of them, for each violation of Proposition 65.  
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1 **FIRST CAUSE OF ACTION**

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

3 26. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
4 Paragraphs 1 through 25, inclusive.

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

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

13 29. On October 28, 2015, plaintiff’s sixty-day notice of violation, together with the  
14 requisite certificate of merit, was provided to MURRAY and certain public enforcement  
15 agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS containing DEHP,  
16 consumers, and other individuals in the State of California were being exposed to DEHP  
17 resulting from their reasonably foreseeable use of the PRODUCTS, without the individual  
18 purchasers and users first having received a “clear and reasonable warning” regarding such  
19 toxic exposures, as required by Proposition 65.

20 30. On April 27, 2016, plaintiff’s supplemental sixty-day notice of violation, together  
21 with the requisite certificate of merit, was provided to MURRAY and certain public  
22 enforcement agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS  
23 containing DINP and DBP, consumers, and other individuals in the State of California were  
24 being exposed to DINP and DBP resulting from their reasonably foreseeable use of the  
25 PRODUCTS, without the individual purchasers and users first having received a “clear and  
26 reasonable warning” regarding such toxic exposures, as required by Proposition 65

1           31. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
2 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
3 25249.6, and DEFENDANTS' violations have continued to occur beyond their receipt of  
4 plaintiff's sixty-day notice of violation. As such, DEFENDANTS' violations are ongoing and  
5 continuous in nature, and will continue to occur in the future.

6           32. After receiving plaintiff's sixty-day notice of violation and supplemental sixty-  
7 day notice of violation, the appropriate public enforcement agencies have failed to commence  
8 and diligently prosecute a cause of action against DEFENDANTS under Proposition 65.

9           33. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
10 or use in California by DEFENDANTS contain the LISTED CHEMICALS in such a way that  
11 the reasonably foreseeable uses of these products result in exposures that require a "clear and  
12 reasonable" warning under Proposition 65.

13           34. DEFENDANTS knew or should have known that the PRODUCTS they  
14 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED  
15 CHEMICALS.

16           35. The LISTED CHEMICALS are present in or on the PRODUCTS in such a way as  
17 to expose individuals through dermal contact and/or ingestion during reasonably foreseeable  
18 use.

19           36. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and  
20 continue to cause, consumer exposures to the LISTED CHEMICALS, as such exposures are  
21 defined by title 27 of the California Code of Regulations, section 25602(b).

22           37. DEFENDANTS have knowledge that the normal and reasonably foreseeable uses  
23 of the PRODUCTS expose individuals to the LISTED CHEMICALS through dermal contact  
24 and/or ingestion.

25           38. DEFENDANTS intend for such exposures to the LISTED CHEMICALS from the  
26 reasonably foreseeable uses of the PRODUCTS to occur by their deliberate, non-accidental  
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1 participation in the manufacture, distribution, sale, and offering of the PRODUCTS for sale or  
2 use to individuals in the State of California.

3 39. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
4 workers, consumers and other individuals in California not covered by California's  
5 Occupational Safety Health Act, Labor Code section 6300 et seq. who have been, or will be  
6 exposed to the LISTED CHEMICALS.

7 40. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
8 directly by California voters, workers, consumers, and other individuals exposed to the LISTED  
9 CHEMICALS through dermal contact and/or ingestion, resulting from the reasonably  
10 foreseeable uses of the PRODUCTS sold by DEFENDANTS without a "clear and reasonable  
11 warning," have suffered, and continue to suffer, irreparable harm for which they have no plain,  
12 speedy, or adequate remedy at law.

13 41. 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 42. 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” as defined by title 27 of the California Code of Regulations, section 25601  
2 *et seq.*, as to the harms associated with exposures the LISTED CHEMICALS;

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

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

5 Dated: June 26, 2016

Respectfully Submitted,  
THE CHANLER GROUP

8 By:   
9 Josh Voorhees  
10 Attorneys for Plaintiff  
11 WHITNEY R. LEEMAN, PH.D.

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