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**ENDORSED
FILED
ALAMEDA COUNTY**
FEB 05 2016
CLERK OF THE SUPERIOR COURT
By D. OLIVER

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 HECTOR VELARDE,
12 Plaintiff,
13 vs.
14 HOMER TLC, INC. T/A CE TECH,
15 Defendant.

CASE NO.: *Rt* 168 02957
JUDGE
DEPT.:
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Violation of Health & Safety Code §25249.5
et seq.)

BY FAX

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19 Plaintiff Hector Velarde, by and through his attorneys, alleges the following cause of
20 action in the public interest of the citizens of the State of California.

21 **BACKGROUND OF THE CASE**

22 1. Plaintiff Hector Velarde (“Plaintiff” or “Velarde”), brings this representative
23 action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water
24 and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 *et seq*
25 (“Proposition 65”), which reads, in relevant part, “[n]o person in the course of doing business
26 shall knowingly and intentionally expose any individual to a chemical known to the state to
27 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
28 individual ...” Health & Safety Code § 25249.6.

1 2. This complaint is a representative action brought by Plaintiff in the public interest
2 of the citizens of the State of California to enforce the People’s right to be informed of the health
3 hazards caused by exposures to Diisononyl phthalate (“DINP”), a toxic chemical found in
4 charging cables, sold, and/or distributed by defendant Homer TLC, Inc. t/a CE TECH. (“Home
5 Depot” or “Defendant”) in California.

6 3. DINP is a harmful chemical, known to cause cancer. DINP has been listed on the
7 Proposition 65 list of chemicals since December 20, 2013 and it has come under the purview of
8 Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety
9 Code §§ 25249.8 & 25249.10(b).

10 4. Proposition 65 requires all businesses with ten (10) or more employees that
11 operate within California or sell products therein to comply with Proposition 65 regulations.
12 Included in such regulations is the requirement that businesses must label any product containing
13 a Proposition 65-listed chemical with a “clear and reasonable” warning before knowingly or
14 intentionally exposing any person to it.

15 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 to be imposed upon defendants in a civil action for violations of Proposition 65. *Health & Safety*
17 *Code* § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin
18 the actions of a defendant which “violate or threaten to violate” the statute. *Health & Safety*
19 *Code* § 25249.7.

20 6. Plaintiff alleges that Defendant distributes, manufactures, produces, imports, sells,
21 and/or offers for sale, without the required warning, charging cables in California containing
22 DINP. These products include, but are not limited to, the *CE TECH Charging Cable USB To*
23 *Lightning, UPC No. 887429000299, SKU No. 1000001705, Model No. SMDP50NH0016* (the
24 “Product”).

25 7. Defendant’s failure to warn consumers, and other individuals in California of the
26 health hazards associated with exposure to DINP in conjunction with the sale, manufacture,
27 and/or distribution of the Product is a violation of Proposition 65 and subjects Defendant to the
28 enjoinder and civil penalties described herein.

