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ENDORSED
FILED
Superior Court of California
County of San Francisco

JUN 17 2016

CLERK OF THE COURT
BY: DAVID W. YUEN
Deputy Clerk

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SAN FRANCISCO
9 UNLIMITED CIVIL JURISDICTION

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

11 Plaintiff,

12 v.

13 LEHIGH CONSUMER PRODUCTS LLC;
14 and DOES 1-150, inclusive,

15 Defendants.
16

CGC - 16 - 552602
Case No. _____

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 *et seq.*)

NATURE OF THE ACTION

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2 1. This Complaint is a representative action brought by plaintiff ANTHONY E. HELD,
3 PH.D., P.E. in the public interest of the citizens of the State of California to enforce the People’s
4 right to be informed about exposures to diisononyl phthalate (“DINP”), a toxic chemical that is
5 found in vinyl/PVC gloves that are sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to warn
7 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 et seq.
8 who purchase, use or handle defendants’ products about the risks of exposure to DINP present in
9 and on vinyl/PVC gloves manufactured, distributed, and offered for sale or use throughout the
10 State of California. Individuals not covered by California’s Occupational Safety Health Act, Labor
11 Code § 6300 et seq. who purchase, use or handle defendants’ products are referred to hereinafter as
12 “consumers”.

13 3. Detectable levels of DINP are commonly found in and on components of vinyl/PVC
14 gloves that defendants import, manufacture, distribute, ship, sell and/or offer for sale 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 § 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the course of doing
18 business shall knowingly and intentionally expose any individual to a chemical known to the state
19 to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
20 individual” Health & Safety Code § 25249.6.

21 5. On December 20, 2013, California listed DINP pursuant to Proposition 65 as a
22 chemical that is 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(b); Health & Safety Code §§ 25249.8 & 25249.10(b). DINP is referred to hereinafter as the
25 “LISTED CHEMICAL.”

26 6. Defendants manufacture, distribute, import, sell, and offer for sale without warning
27 in California, vinyl/PVC gloves containing the LISTED CHEMICAL including, but not limited to,
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1 *Spontex ColorBrite Disposable Gloves, UPC #0 21202 76153 7*. All such gloves containing the
2 LISTED CHEMICAL are referred to collectively hereinafter as the “PRODUCTS.”

3 7. Defendants’ failure to warn consumers and other individuals in California of the
4 harms associated with exposures to the LISTED CHEMICAL in conjunction with defendants’
5 sales of the PRODUCTS containing the LISTED CHEMICAL constitute violations of Proposition
6 65, and subject defendants to enjoinder of such conduct, as well as civil penalties for each
7 violation. Health & Safety Code § 25249.7(a) & (b)(1).

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

12 9. Pursuant to Health and Safety Code § 25249.7(b), plaintiff also seeks civil penalties
13 against defendants, and each of them, for each violation 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 reduction
17 of harmful exposures to toxic chemicals from consumer products. He brings this action in the
18 public interest pursuant to Health and Safety Code § 25249.7(d).

19 11. Defendant LEHIGH CONSUMER PRODUCTS LLC (“LEHIGH”) is a person in the
20 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

21 12. LEHIGH manufactures, imports, distributes, sells, and/or offers the PRODUCTS for
22 sale or use in the State of California, or it 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 person
25 in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and
26 25249.11.

1 28. On February 26, 2016, plaintiff's supplemental sixty-day notice of violation,
2 together with the requisite certificate of merit, was provided to LEHIGH, and certain public
3 enforcement agencies stating that, as a result of DEFENDANTS' sales of the PRODUCTS
4 containing the LISTED CHEMICAL, consumers, and other individuals in the State of California
5 were being exposed to the LISTED CHEMICAL resulting from their reasonably foreseeable use of
6 the PRODUCTS, without the individual purchasers and users first having received a "clear and
7 reasonable warning" regarding such toxic exposures, as required by Proposition 65.

8 29. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,
9 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code § 25249.6,
10 and DEFENDANTS' violations have continued to occur beyond their receipt of plaintiff's sixty-
11 day notice of violation. As such, DEFENDANTS' violations are ongoing and continuous in
12 nature, and will continue to occur in the future.

13 30. After receiving plaintiff's sixty-day notices of violation, the appropriate public
14 enforcement agencies have failed to commence and diligently prosecute a cause of action against
15 DEFENDANTS under Proposition 65.

16 31. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale or
17 use in California by DEFENDANTS contain the LISTED CHEMICAL in such a way that the
18 reasonably foreseeable uses of these products result in exposures that require a "clear and
19 reasonable" warning under Proposition 65.

20 32. DEFENDANTS knew or should have known that the PRODUCTS they
21 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED
22 CHEMICAL.

23 33. The LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to
24 expose individuals through dermal contact and/or ingestion during reasonably foreseeable use.

25 34. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and
26 continue to cause, consumer exposures to the LISTED CHEMICAL, as such exposures are defined
27 by title 27 of the California Code of Regulations, section 25602(b).

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

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

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

Dated: June 15, 2016

Respectfully Submitted,
THE CHANLER GROUP



By: _____
Laralei Paras
Attorneys for Plaintiff
ANTHONY E. HELD, PH.D., P.E.