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ENDORSED  
FILED  
ALAMEDA COUNTY  
NOV 23 2016  
CLERK OF THE SUPERIOR COURT  
By: D. OLIVER, Deputy

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

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

Plaintiff,

v.

AMERICAN HEALTHCARE PRODUCTS,  
INC.; and DOES 1-150, inclusive,

Defendants.

Case No. Pl 1684003

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

1 NATURE OF THE ACTION

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 about exposures to diisononyl phthalate (“DINP”), a toxic  
5 chemical that is found in vinyl/PVC gloves that are sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
7 warn individuals who purchase, use or handle defendants’ products about the risks of exposure  
8 to DINP present in vinyl/PVC gloves that are manufactured, distributed, and offered for sale or  
9 use throughout the State of California.

10 3. Detectable levels of DINP are commonly found in vinyl/PVC gloves that  
11 defendants import, manufacture, distribute, ship, sell and/or offer for sale to consumers  
12 throughout the State of California.

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

18 5. On December 20, 2013, California listed DINP pursuant to Proposition 65 as a  
19 chemical that is known to cause cancer. DINP became subject to the “clear and reasonable  
20 warning” requirements of the act one year later on December 20, 2014. Cal. Code Regs. tit. 27,  
21 § 27001(b); Health & Safety Code §§ 25249.8 & 25249.10(b).

22 6. Defendants manufacture, distribute, import, sell, and offer for sale without  
23 warning in California, vinyl/PVC gloves containing DINP, including, but not limited to, the  
24 *UniSeal Vinyl Powder-Free 100 Exam Gloves, #017-6, UPC #7 44514 00176 3*. All such  
25 vinyl/PVC gloves containing DINP are referred to collectively hereinafter as the  
26 “PRODUCTS.”



1           14.   MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
2 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,  
3 and manufacture one or more of the PRODUCTS offered for sale or use in the State of  
4 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 distribute, exchange, transfer, process, and  
9 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
10 in the State of California.

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

14          18.   RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
15 State of California.

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

21          20.   AMERICAN HEALTHCARE, MANUFACTURER DEFENDANTS,  
22 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS are hereinafter collectively  
23 referred to as “DEFENDANTS.”

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

5           27. On March 23, 2016, and on June 14, 2016, plaintiff served sixty-day notices of  
6 violation, together with the requisite certificates of merit on AMERICAN HEALTHCARE, and  
7 certain public enforcement agencies stating that, as a result of DEFENDANTS’ sales of the  
8 PRODUCTS containing DINP, consumers, and other individuals in the State of California were  
9 being exposed to DINP resulting from their reasonably foreseeable use of the PRODUCTS,  
10 without the individual purchasers and users first having received a “clear and reasonable  
11 warning” regarding such toxic exposures, as required by Proposition 65.

12           28. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
13 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
14 25249.6, and DEFENDANTS’ violations have continued to occur beyond their receipt of  
15 plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’ violations are ongoing and  
16 continuous in nature, and will continue to occur in the future.

17           29. After receiving plaintiff’s sixty-day notice of violation, the appropriate public  
18 enforcement agencies have failed to commence and diligently prosecute a cause of action  
19 against DEFENDANTS under Proposition 65.

20           30. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
21 or use in California by DEFENDANTS contain DINP in such a way that the reasonably  
22 foreseeable uses of these products result in exposures that require a “clear and reasonable”  
23 warning under Proposition 65.

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

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

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1           33. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and  
2 continue to cause, consumer exposures to DINP, as such exposures are defined by title 27 of the  
3 California Code of Regulations, section 25602(b).

4           34. DEFENDANTS have knowledge that the normal and reasonably foreseeable uses  
5 of the PRODUCTS expose individuals to DINP through dermal contact and/or ingestion.

6           35. DEFENDANTS intend for such exposures to DINP from the reasonably  
7 foreseeable uses of the PRODUCTS to occur by their deliberate, non-accidental participation in  
8 the manufacture, distribution, sale, and offering of the PRODUCTS for sale or use to  
9 individuals in the State of California.

10          36. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
11 consumers and other individuals in California who have been, or will be, exposed to DINP.

12          37. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
13 directly by California voters consumers and other individuals exposed to DINP through dermal  
14 contact and/or ingestion, resulting from the reasonably foreseeable uses of the PRODUCTS sold  
15 by DEFENDANTS without a "clear and reasonable warning," have suffered, and continue to  
16 suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

17          38. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the  
18 above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day  
19 for each violation.

20          39. As a consequence of the above-described acts, Health and Safety Code  
21 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
22 DEFENDANTS.

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1 **PRAYER FOR RELIEF**

2 Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

3 1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
4 civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for  
5 each violation;

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


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

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

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

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19 Dated: November 23, 2016

Respectfully Submitted,  
THE CHANLER GROUP

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22 By:   
23 Ryan C. Oca  
24 Attorneys for Plaintiff  
25 ANTHONY E. HELD, PH.D., P.E.  
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