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**ENDORSED  
FILED  
ALAMEDA COUNTY**

**SEP 26 2016**

**CLERK OF THE SUPERIOR COURT**  
By *Janine Thomas*  
**JANINE THOMAS, Deputy**

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

LAURENCE VINO CUR,  
  
Plaintiff,  
  
v.  
  
W.C. REDMON CO., INC.; and DOES 1-  
150, inclusive,  
  
Defendants.

Case No. **RG16832669**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff, LAURENCE  
3 VINOCUR, in the public interest of the citizens of the State of California to enforce the  
4 People's right to be informed of the presence of Tris(1,3-dichloro-2-propyl) phosphate  
5 ("TDCPP") a toxic chemical found in tent/shelter fabrics sold in the State of California.

6 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to  
7 warn California citizens about the risk of exposure to TDCPP present in and on tent/shelter  
8 fabrics manufactured, imported, distributed, sold, and/or offered for sale or use to consumers  
9 throughout the State of California.

10 3. Detectable levels of TDCPP are commonly found in and on tent/shelter fabrics  
11 that defendants manufacture, import, distribute, sell, and/or offer for sale or use to consumers  
12 throughout the State of California. Individuals in California, including infants and children, are  
13 exposed to TDCPP in the products through various routes of exposure: (i) through inhalation  
14 when TDCPP is released from tent/shelter fabrics; (ii) through dermal exposure when TDCPP  
15 released from tent/shelter fabrics accumulates in ambient particles that are subsequently touched  
16 by such individuals; and (iii) through ingestion when such particles are brought into contact  
17 with the mouth.

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

23 5. TDCPP has been used in consumer products as an additive flame retardant since  
24 the 1960s. In the late 1970s, based on findings that exposure to TDCPP could have mutagenic  
25 effects, the United States Consumer Product Safety Commission banned the use of TDCPP in  
26 children's pajamas.



1           12. Defendant, W.C. Redmon Co., Inc. ("REDMON") is a person in the course of  
2 doing business within the meaning of California Health and Safety Code sections 25249.6 and  
3 25249.11.

4           13. REDMON manufactures, imports, distributes, sells, and/or offers the PRODUCTS  
5 for sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
6 distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

7           14. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a  
8 person in the course of doing business within the meaning of California Health and Safety Code  
9 sections 25249.6 and 25249.11.

10           15. MANUFACTURER DEFENDANTS engage in the process of researching,  
11 testing, designing, assembling, fabricating, and/or manufacturing, or imply by their conduct that  
12 they engage in the process of researching, testing, designing, assembling, fabricating, and/or  
13 manufacturing, one or more of the PRODUCTS offered for sale or use in the State of California.

14           16. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each a person  
15 in the course of doing business within the meaning of California Health and Safety Code  
16 sections 25249.6 and 25249.11.

17           17. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and/or  
18 transport, or imply by their conduct that they distribute, exchange, transfer, process, and/or  
19 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
20 in the State of California.

21           18. Defendants DOES 101-150 ("RETAILER DEFENDANTS") are each a person in  
22 the course of doing business within the meaning of California Health and Safety Code  
23 sections 25249.6 and 25249.11.

24           19. RETAILER DEFENDANTS offer the PRODUCTS for sale or use to individuals  
25 in the State of California.

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

4 21. REDMON, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
5 DEFENDANTS, and RETAILER DEFENDANTS shall hereinafter, where appropriate, be  
6 referred to collectively as the "DEFENDANTS."

#### 7 VENUE AND JURISDICTION

8 22. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
9 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,  
10 because one or more instances of wrongful conduct occurred, and continue to occur, in the  
11 County of Alameda, and/or because DEFENDANTS conducted, and continue to conduct,  
12 business in Alameda with respect to the PRODUCTS.

13 23. The California Superior Court has jurisdiction over this action pursuant to  
14 California Constitution Article VI, section 10, which grants the Superior Court "original  
15 jurisdiction in all causes except those given by statute to other trial courts." The statute under  
16 which this action is brought does not specify any other basis of subject matter jurisdiction.

17 24. The California Superior Court has jurisdiction over DEFENDANTS based on  
18 plaintiff's information and good faith belief that each defendant is a person, firm, corporation or  
19 association that is a citizen of the State of California, has sufficient minimum contacts in the  
20 State of California, and/or otherwise purposefully avails itself of the California market.  
21 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by  
22 California courts consistent with traditional notions of fair play and substantial justice.

#### 23 FIRST CAUSE OF ACTION

##### 24 (Violation of Proposition 65 - Against All Defendants)

25 25. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
26 Paragraphs 1 through 24, inclusive.

1           26. The citizens of the State of California have expressly stated in the Safe Drinking  
2 Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.6  
3 *et seq.* that they must be informed “about exposures to chemicals that cause cancer, birth defects  
4 and other reproductive harm.” (Cal. Health & Safety Code, § 25249.6.)

5           27. Proposition 65 states, “[n]o person in the course of doing business shall  
6 knowingly and intentionally expose any individual to a chemical known to the state to cause  
7 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
8 individual...” (*Ibid.*)

9           28. On May 26, 2016, a 60-Day Notice of Violation (“Notice”), together with the  
10 requisite certificate of merit, was provided to REDMON, and certain public enforcement  
11 agencies stating that, as a result of DEFENDANTS’ sales of the PRODUCTS containing  
12 TDCPP, purchasers and users in the State of California were being exposed to TDCPP resulting  
13 from their reasonably foreseeable use of the PRODUCTS, without the individual purchasers and  
14 users first having been provided with a “clear and reasonable warning” regarding such toxic  
15 exposures as required by Proposition 65.

16           29. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
17 and/or offering of the PRODUCTS for sale in violation of California Health and Safety Code  
18 section 25249.6, and DEFENDANTS’ manufacture, importation, distribution, sales, and/or  
19 offering of the PRODUCTS for sale or use in violation of California Health and Safety Code  
20 section 25249.6 has continued to occur beyond DEFENDANTS’ receipt of plaintiff’s 60-Day  
21 Notice of Violation. As such, DEFENDANTS’ violations are ongoing and continuous in  
22 nature, and will continue to occur in the future.

23           30. After receiving plaintiff’s 60-Day Notice of Violation, the appropriate public  
24 enforcement agencies have failed to commence and diligently prosecute a cause of action  
25 against DEFENDANTS under Proposition 65.

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1           31. The PRODUCTS manufactured, imported, distributed, sold, and/or offered for  
2 sale or use in the State of California by DEFENDANTS contain TDCPP such that they require a  
3 “clear and reasonable” warning under Proposition 65.

4           32. DEFENDANTS knew or should have known that the PRODUCTS they  
5 manufacture, import, distribute, sell, and/or offer for sale or use in the State of California  
6 contain TDCPP.

7           33. TDCPP is present in or on the PRODUCTS in such a way as to expose  
8 individuals to TDCPP through dermal contact, ingestion, and/or inhalation during reasonably  
9 foreseeable uses of the PRODUCTS.

10          34. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and  
11 continue to cause, consumer exposures and workplace exposures to TDCPP, as such exposures  
12 are defined by Title 27 CCR section 25602(b).

13          35. DEFENDANTS had knowledge that the normal and reasonably foreseeable uses  
14 of the PRODUCTS expose individuals to TDCPP through dermal contact, ingestion, and/or  
15 inhalation.

16          36. DEFENDANTS intended that such exposures to TDCPP from the reasonably  
17 foreseeable uses of the PRODUCTS would occur by DEFENDANTS’ deliberate, non-  
18 accidental participation in the manufacture, importation, distribution, sale, and/or offering of the  
19 PRODUCTS for sale or use to individuals in the State of California.

20          37. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
21 consumers and/or other individuals in the State of California who were, or who would become  
22 exposed to TDCPP through dermal contact, ingestion, and/or inhalation during the reasonably  
23 foreseeable uses of the PRODUCTS.

24          38. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
25 directly by California voters, individuals exposed to TDCPP through dermal contact, ingestion,  
26 and/or inhalation resulting from the reasonably foreseeable uses of the PRODUCTS sold by  
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1 DEFENDANTS without a “clear and reasonable warning” have suffered, and continue to suffer,  
2 irreparable harm for which they have no plain, speedy, or adequate remedy at law.

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

6 40. As a consequence of the above-described acts, California Health and Safety Code  
7 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
8 DEFENDANTS.

9 **PRAYER FOR RELIEF**

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

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

14 2. That the Court, pursuant to California Health and Safety Code section 25249.7(a),  
15 preliminarily and permanently enjoin DEFENDANTS from manufacturing, importing,  
16 distributing, selling, and/or offering the PRODUCTS for sale or use in the State of California  
17 without first providing a “clear and reasonable warning” as defined by Title 27 of the California  
18 Code of Regulations, section 25601 et seq., as to the harms associated with exposures TDCPP;

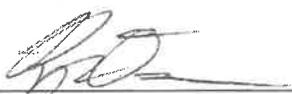
19 3. That the Court, Pursuant to Health and Safety Code section 25249.7(a), issue  
20 preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS  
21 currently in the chain of commerce in California without a “clear and reasonable warning” as  
22 defined by California Code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

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- 4. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and
- 5. That the Court grant such other and further relief as may be just and proper.

Dated: September 26, 2016

THE CHANLER GROUP

By:   
Ryan C. Oca  
Attorneys for Plaintiff  
LAURENCE VINO CUR