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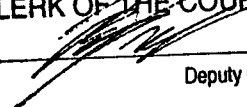
Attorneys for Plaintiff
PETER ENGLANDER

FILED

San Francisco County Superior Court

JUL 11 2017

CLERK OF THE COURT

BY:  Deputy Clerk

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

PETER ENGLANDER,

Plaintiff,

v.

ARCTIC CAT INC., and DOES 1-150,
inclusive,

Defendants.

Case No. **CGC-17-560070**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.5 *et seq.*)

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff PETER ENGLANDER
3 in the public interest of the citizens of the State of California to enforce the People's right to be
4 informed of the health hazards caused by exposures to di(2-ethylhexyl)phthalate ("DEHP"), a
5 phthalate chemical found in gloves with vinyl/PVC components manufactured, distributed, shipped,
6 sold and offered for sale in California by defendants.

7 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to warn
8 California citizens and other individuals about the risks of exposure to DEHP present in and on
9 gloves with vinyl/PVC components manufactured, distributed, shipped, sold and offered for sale or
10 use to consumers and other individuals throughout the State of California.

11 3. Detectable levels of DEHP are found in and on gloves with vinyl/PVC components
12 that defendants manufacture, distribute, ship and offer for sale to consumers and other individuals
13 throughout the State of California.

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

19 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed
20 DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP became
21 subject to the "clear and reasonable warning" requirements of the act one year later on October 24,
22 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

23 6. Significant levels of DEHP have been discovered in or on gloves with vinyl/PVC
24 components that are manufactured, distributed, shipped and/or sold by defendants.

25 7. Examples of gloves with vinyl/PVC components containing DEHP that are
26 manufactured, distributed, shipped and/or sold by defendants are the *Arctic Cat Genuine Parts &*
27 *Accessories Performance Gloves, #5252-260, UPC #8 84646 35961 2.*

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1 31. After receiving plaintiff's Notice, none of the appropriate public enforcement agencies
2 have commenced and diligently prosecuted a cause of action against DEFENDANTS under
3 Proposition 65 to enforce the alleged violations that are the subject of plaintiff's Notice.

4 32. The PRODUCTS that DEFENDANTS manufacture, distribute, ship, sell, and offer for
5 sale or use in California cause exposures to DEHP as a result of the reasonably foreseeable use of the
6 PRODUCTS. Such exposures caused by DEFENDANTS and endured by consumers and other
7 individuals in California are not exempt from the "clear and reasonable" warning requirements of
8 Proposition 65, yet DEFENDANTS' PRODUCTS continued to be sold without the requisite warning.

9 33. DEFENDANTS knew or should have known that the PRODUCTS they manufactured,
10 distributed, shipped, sold and offered for sale or use in California contained DEHP.

11 34. DEHP is present in or on the PRODUCTS in such a way as to expose individuals to
12 DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

13 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
14 continues to cause, consumer exposures to DEHP, as defined by title 27 of the California Code of
15 Regulations, section 25602(b).

16 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of the
17 PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.

18 37. DEFENDANTS intended that exposures to DEHP from the reasonably foreseeable use
19 of the PRODUCTS would occur, by their deliberate, non-accidental participation in the manufacture,
20 distribution, shipment, sale and offering of the PRODUCTS for sale or use to consumers and other
21 individuals in California.

22 38. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers
23 and other individuals in California who were or who would become exposed to DEHP through
24 dermal contact and/or ingestion resulting from their use of the PRODUCTS.

25 39. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
26 directly by California voters, individuals exposed to DEHP through dermal contact and/or ingestion
27 as a result of their use of the PRODUCTS that DEFENDANTS manufactured, distributed, shipped,
28 sold and offered for sale or use without a "clear and reasonable" health hazard warning, have

1 suffered, and continue to suffer, irreparable harm for which they have no plain, speedy, or adequate
2 remedy at law.

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

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

8 **PRAYER FOR RELIEF**

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

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

12 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and
13 permanently enjoin DEFENDANTS, and each of them, from manufacturing, distributing, or offering
14 the PRODUCTS for sale or use in California without first providing a "clear and reasonable
15 warning" in accordance with title 27 of the California Code of Regulations, section 25601 *et seq.*,
16 regarding the harms associated with exposures DEHP;

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

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

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

23 Dated: July 10, 2017

24 Respectfully Submitted,
25 THE CHANLER GROUP

26 By: 

27 Laralei Paras
28 Attorneys for Plaintiff
PETER ENGLANDER