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**JOHN MOORE**

**FILED**  
San Francisco County Superior Court

APR 07 2017

CLERK OF THE COURT  
By: *Chalene Johnson*  
Deputy Clerk

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

**JOHN MOORE,**

Plaintiff,

v.

**GREEN LEAF INC.; and DOES 1-150,  
inclusive,**

Defendants.

Case No.

**CGC-17-558078**

**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 John Moore in the  
3 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 toxic  
5 chemical found in vinyl/PVC wires and vinyl/PVC ball valve grips sold by defendants in  
6 California.

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

15 3. Detectable levels of DEHP are found in and on the vinyl/PVC wires and  
16 vinyl/PVC ball valve grips that defendants manufacture, distribute, and offer for sale without a  
17 warning to consumers throughout the State of California.

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

23 5. On October 24, 2003, California listed DEHP pursuant to Proposition 65 as a  
24 chemical that is known to cause birth defects and other reproductive harm. DEHP became  
25 subject to the “clear and reasonable warning” requirements of the act one year later on October  
26 24, 2004. Cal. Code Regs. tit. 27, § 27001(b); Health & Safety Code §§ 25249.8 &  
27 25249.10(b).



1 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
2 State of California.

3 13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
4 person in the course of doing business within the meaning of Health and Safety Code sections  
5 25249.6 and 25249.11.

6 14. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
7 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,  
8 and manufacture one or more of the PRODUCTS offered for sale or use in the State of  
9 California.

10 15. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each persons  
11 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
12 and 25249.11.

13 16. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and  
14 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
15 in the State of California.

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

19 18. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
20 State of California.

21 19. At this time, the true names of defendants DOES 1 through 150, inclusive, are  
22 unknown to plaintiff, who, therefore, sues said defendants by their fictitious names pursuant to  
23 Code of Civil Procedure section 474. Plaintiff is informed and believes, and on that basis  
24 alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences  
25 alleged herein. When ascertained, their true names shall be reflected in an amended complaint.  
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1 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
2 harm.”

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

7 27. On December 6, 2016, plaintiff served a sixty-day notice of violation, together  
8 with the requisite certificate of merit, on GREEN LEAF and certain public enforcement  
9 agencies alleging that, as a result of DEFENDANTS’ sales of the PRODUCTS containing  
10 DEHP, consumers in the State of California were being exposed to DEHP resulting from their  
11 reasonably foreseeable use of the PRODUCTS, without the consumers first having been  
12 provided with a “clear and reasonable warning” regarding the harms associated with such  
13 exposures, as required by Proposition 65.

14 28. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS  
15 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’  
16 violations have continued beyond their receipt of Plaintiff’s sixty-day notice of violation.  
17 DEFENDANTS’ violations are ongoing and continuous in nature and, as such, will continue in  
18 the future.

19 29. After receiving plaintiff’s sixty-day notice of violation, no public enforcement  
20 agency has commenced and diligently prosecuted a cause of action against DEFENDANTS  
21 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s notice of  
22 violation.

23 30. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and  
24 offer for sale or use in California cause exposures to DEHP as a result of the reasonably  
25 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANTS and endured by  
26 consumers in California are not exempt from the “clear and reasonable” warning requirements  
27 of Proposition 65, yet DEFENDANTS provide no warning.

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

3           32. DEHP is present in or on the PRODUCTS in such a way as to expose consumers  
4 to DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

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

8           34. DEFENDANTS know that the normal and reasonably foreseeable use of the  
9 PRODUCTS exposes consumers to DEHP through dermal contact and/or ingestion.

10          35. DEFENDANTS intend that exposures to DEHP from the reasonably foreseeable  
11 use of the PRODUCTS will occur by their deliberate, non-accidental participation in the  
12 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to  
13 consumers in California.

14          36. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
15 consumers in California who were or who would become exposed to DEHP through dermal  
16 contact and/or ingestion resulting from their use of the PRODUCTS.

17          37. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
18 directly by California voters, consumers exposed to DEHP through dermal contact and/or  
19 ingestion as a result of their use of the PRODUCTS that DEFENDANTS sell without a “clear  
20 and reasonable” health hazard warning, have suffered, and continue to suffer, irreparable harm  
21 for which they have no plain, speedy, or adequate remedy at law.

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

25          39. As a consequence of the above-described acts, Health and Safety Code  
26 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
27 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” in accordance with title 27 of the California Code of Regulations, section  
10 25601 *et seq.*, regarding the harms associated with exposures to DEHP;


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.

17  
18 Dated: April 7, 2017

19 Respectfully Submitted,  
20 THE CHANLER GROUP

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22 By:   
23 Christopher Tuttle  
24 Attorneys for Plaintiff  
25 JOHN MOORE  
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