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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

11 ANTHONY FERREIRO,

12 Plaintiff,

13 v.

14 PETEDGE, INC.,

15 Defendant.

Case No.: RB-178708-4

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

(Violation of Health & Safety Code §25249.5
et seq.)

BY FAX

17 Plaintiff Anthony Ferreiro ("Plaintiff" or "Ferreiro"), by and through his attorneys,
18 alleges the following cause of action in the public interest of the citizens of the State of
19 California.

20 **BACKGROUND OF THE CASE**

21 1. Plaintiff brings this representative action on behalf of all California citizens to
22 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified
23 at the Health and Safety Code § 25249.5 *et seq* ("Proposition 65"), which reads, in relevant part,
24 "[n]o person in the course of doing business shall knowingly and intentionally expose any
25 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
26 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.
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1 2. This complaint is a representative action brought by Plaintiff in the public interest
2 of the citizens of the State of California to enforce the People’s right to be informed of the health
3 hazards caused by exposure to chemical Di(2-ethylhexyl) phthalate (DEHP), a toxic chemical
4 found in grooming aprons manufactured, distributed and/or offered for sale by defendant
5 Petedge, Inc. (“Petedge” or “Defendant”) in California.

6 3. DEHP is a harmful chemical known to the State of California to cause cancer and
7 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical
8 known to the State to cause cancer and it has come under the purview of Proposition 65
9 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§
10 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical
11 known to cause reproductive toxicity.

12 4. Proposition 65 requires all businesses with ten (10) or more employees that
13 operate within California or sell products therein to comply with Proposition 65 regulations.
14 Included in such regulations is the requirement that businesses must label any product containing
15 a Proposition 65-listed chemical with a “clear and reasonable” warning before “knowingly and
16 intentionally” exposing any person to it.

17 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
18 to be imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety
19 Code § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin
20 the actions of a defendant which “violate[s] or threaten[s] to violate” the statute. Health &
21 Safety Code § 25249.7.

22 6. Plaintiff alleges that Defendant manufactured, distributed and/or offered for sale
23 in California, without the required warning, grooming aprons, including but not limited to UPC
24 No. 7 21343 11391 1 (“Product” or “Products”) that contain DEHP.

25 7. Defendant’s failure to warn consumers and other individuals in California of the
26 health hazards associated with exposure to DEHP in conjunction with the sale, manufacture,
27 and/or distribution of the Product is a violation of Proposition 65 and subjects Defendant to the
28 injunction and civil penalties described herein.

1 21. Defendant has, at all times mentioned herein, acted as manufacturer, distributor,
2 and/or retailer of the Product.

3 22. The Product contains DEHP, a hazardous chemical found on the Proposition 65
4 list of chemicals known to be hazardous to human health.

5 23. The Product does not comply with the Proposition 65 warning requirements.

6 24. Plaintiff, based on his best information and belief, avers that at all relevant times
7 herein, and at least since January 26, 2017, continuing until the present, that Petedge has
8 continued to knowingly and intentionally expose California users and consumers of the Product
9 to DEHP without providing required warnings under Proposition 65.

10 25. The exposures that are the subject of the Notice result from the purchase,
11 acquisition, handling and recommended use of the product. Consequently, the primary route of
12 exposure to these chemicals is through dermal exposure. Dermal exposure through the user's
13 hands is possible during fitting, removing, and adjusting the apron. The apron may also be in
14 direct contact with exposed skin during its normal expected use and this dermal exposure to
15 DEHP possible. Clothing worn under the apron are likely to absorb DEHP. The contaminated
16 articles will continue to be a source of dermal transfer after the apron is removed. Should the
17 product come into contact with water or humidity, as may be expected during grooming, or the
18 wearer touch the apron with wet, bare hands, aqueous DEHP skin permeation rates have been
19 reported to be faster than neat DEHP permeation. The product can be expected to emit gas phase
20 DEHP into the air over the lifetime of the product. This gas phase DEHP can potentially be
21 inhaled or can be absorbed to hair or dander on the apron that can be resuspended and potentially
22 ingested. If the apron is stored in a drawer or carrier bag with other items, DEHP that leaches
23 from the apron may contaminate other articles contained within the drawer or carrier bag that are
24 subsequently handled, worn, or consumed by people. Finally, while mouthing of the product
25 does not seem likely, some amount of exposure through ingestion can occur by touching the
26 product, with subsequent touching of the user's hand to mouth.

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