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ENDORSED
FILED
ALAMEDA COUNTY

MAY 22 2017

CLERK OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
UN-LIMITED CIVIL

ALICIA CHIN,
Plaintiff,
vs.

INTERNATIONAL SOURCING
COMPANY, INC.; PREFERRED SAFETY
PRODUCTS, LLC.; and
Does 1-30, inclusive
Defendants

Case No. **RG 17861 156**

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

Cal. Health & Safety Code §25249.6 *et seq*

Plaintiff complains and alleges the following in the public interest of the State of California:

INTRODUCTION

1. This Complaint is a representative action brought by plaintiff ALICIA CHIN in the public interest of the citizens of the State of California to enforce the People's right to be informed about exposures to Di(2-ethylhexyl)phthalate ("DEHP"), a toxic chemical that is found in Cordova Safety Products vinyl sleeves, #RS06B (blue) and #RS06C (clear), sold in California.

2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to warn California citizens about the risks of exposures to DEHP present in Cordova Safety Products vinyl sleeves, #RS06B (blue) and #RS06C (clear), both imported, manufactured, distributed, and offered for sale or use to consumers throughout the State of California.

1 3. Detectable levels of DEHP are commonly found in Cordova Safety Products vinyl
2 sleeves, #RS06B (blue) and #RS06C (clear), that defendants import, manufacture, distribute,
3 ship, sell and offer for sale to consumers throughout the State of California

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

9 5. Pursuant to Proposition 65, on January 1, 1988, California identified and listed
10 DEHP as a chemical known to cause cancer. On October 24, 2003, California identified and
11 listed DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP
12 became subject to the "clear and reasonable warning" requirements of the act one year later on.
13 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

14 6. Defendants manufacture, distribute, import, sell, and offer for sale without warning
15 in California, vinyl sleeves containing DEHP, including, but not limited to, the Cordova Safety
16 Products vinyl sleeves, #RS06B (blue) and #RS06C (clear). All such vinyl sleeves containing
17 DEHP are referred to collectively hereinafter as the ("PRODUCTS").

18 7. Defendants' failure to warn workers, consumers and other individuals in California
19 of the harms associated with exposures to DEHP in conjunction with defendants' sales of the
20 PRODUCTS containing DEHP are violations of Proposition 65, and subject defendants to
21 injunction of such conduct, as well as civil penalties for each violation. Health & Safety Code
22 §25249.7(a) & (b)(1).

23 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary and
24 permanent injunctive relief to compel defendants to provide purchasers or users of the
25 PRODUCTS with the required warning regarding the health hazards associated with exposures
26 to DEHP. Health & Safety Code §25249.7(a).
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1 9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil penalties
2 against defendants, and each of them, for each violation of Proposition 65.

3 **PARTIES**

4 10. Plaintiff ALICIA CHIN is a citizen of the State of California who is dedicated to
5 protecting the health of California citizens through the elimination or reduction of harmful
6 exposures to toxic chemicals from consumer products. She brings this action in the public
7 interest pursuant to Health & Safety Code §25249.7(d).

8 11. Defendant INTERNATIONAL SOURCING COMPANY, INC.
9 (“INTERNATIONAL SOURCING”) is a person in the course of doing business within the
10 meaning of Health & Safety Code §§25249.6 & 25249.11.

11 12. INTERNATIONAL SOURCING manufactures, imports, distributes, sells, and/or
12 offers the PRODUCTS for sale or use in the State of California, or it implies by its conduct that
13 it manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
14 State of California.

15 13. Defendant PREFERRED SAFETY PRODUCTS, LLC (“PREFERRED SAFETY”)
16 is a person in the course of doing business within the meaning of Health & Safety Code
17 §§25249.6 & 25249.11.

18 14. PREFERRED SAFETY manufactures, imports, distributes, sells, and/or offers the
19 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it
20 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
21 State of California.

22 15. Defendants DOES 1-10 (“MANUFACTURER DEFENDANTS”) are each a
23 person in the course of doing business within the meaning of Health & Safety Code §§25249.6
24 & 25249.11.

25 16. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,
26 and manufacture, or imply by their conduct that they research, test, design, assemble, fabricate,
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1 and manufacture one or more of the PRODUCTS offered for sale or use in the State of
2 California.

3 17. Defendants DOES 11-20 ("DISTRIBUTOR DEFENDANTS") are each a person
4 in the course of doing business within the meaning of Health & Safety Code §§25249.6 and
5 25249.11.

6 18. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and
7 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use
8 in the State of California.

9 19. Defendants DOES 21-30 ("RETAILER DEFENDANTS") are each a person in
10 the course of doing business within the meaning of Health & Safety Code §§25249.6 and
11 25249.11.

12 20. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the
13 State of California.

14 21. At this time, the true names of defendants DOES 1 through 30, inclusive, are
15 unknown to plaintiff, who, therefore, sues said defendants by their fictitious names pursuant to
16 Code of Civil Procedure §474. Plaintiff is informed and believes, and on that basis alleges,
17 that each of the fictitiously named defendants is responsible for the acts and occurrences
18 alleged herein. When ascertained, their true names shall be reflected in an amended complaint.

19 22. INTERNATIONAL SOURCING, PREFERRED SAFETY, MANUFACTURER
20 DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS are
21 hereinafter collectively referred to as "DEFENDANTS."

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23 **VENUE AND JURISDICTION**

24 23. Venue is proper in the County of Alameda, pursuant to Code of Civil Procedure
25 §§393, 395, and 395.5, because this Court is a court of competent jurisdiction, because plaintiff
26 seeks civil penalties against DEFENDANTS, because one or more instances of wrongful
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1 conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS
2 conducted, and continue to conduct, business in Alameda with respect to the PRODUCTS.

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

7 25. The California Superior Court has jurisdiction over DEFENDANTS based on
8 plaintiff's information and good faith belief that each defendant is a person, firm, corporation
9 or association that is a citizen of the State of California, has sufficient minimum contacts in the
10 State of California, and/or otherwise purposefully avails itself of the California market.
11 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by
12 California courts consistent with traditional notions of fair play and substantial justice.
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14 **FIRST CAUSE OF ACTION**

15 **(Violation of Proposition 65 - Against All Defendants)**

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

18 27. In enacting Proposition 65, in the preamble to the Safe Drinking Water and
19 Toxic Enforcement Act of 1986, the People of California expressly declared their right "[t]o be
20 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
21 harm."

22 28. Proposition 65 states, "[n]o person in the course of doing business shall
23 knowingly and intentionally expose any individual to a chemical known to the state to cause
24 cancer or reproductive toxicity without first giving clear and reasonable warning to such
25 individual" Health & Safety Code §25249.6.

26 29. On March 9, 2017, plaintiff's sixty-day notice of violation, together with the
27 requisite certificate of merit, was provided to INTERNATIONAL SOURCING and
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1 PREFERRED SAFETY, and the requisite public enforcement agencies stating that, as a result
2 of DEFENDANTS' sales of the PRODUCTS containing DEHP, workers, consumers and other
3 individuals in the State of California are being exposed to DEHP resulting from their
4 reasonably foreseeable use of the PRODUCTS without the individual purchasers and users first
5 having received a "clear and reasonable warning" regarding such toxic exposures, as required
6 by Proposition 65.

7 30. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,
8 and offering of the PRODUCTS for sale or use in violation of Health & Safety Code §25249.6,
9 and DEFENDANTS' violations have continued to occur beyond their receipt of plaintiff's
10 sixty-day notice of violation. As such, DEFENDANTS' violations are ongoing and continuous
11 in nature, and, unless enjoined, will continue to occur in the future.

12 31. After receiving plaintiff's sixty-day notice of violation, to plaintiff's best
13 information and belief, the appropriate public enforcement agencies have failed to commence
14 and diligently prosecute a cause of action against DEFENDANTS under Proposition 65.

15 32. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale
16 or use in California by DEFENDANTS contain DEHP in such a way that the reasonably
17 foreseeable uses of these products result in exposures that require a "clear and reasonable"
18 warning under Proposition 65.

19 33. DEFENDANTS knew or should have known that the PRODCUTS they
20 manufacture, import, distribute, sell, and offer for sale or use in California contain DEHP.

21 34. DEHP is present in or on the PRODUCTS in such a way as to expose individuals
22 through dermal contact during reasonably foreseeable use.

23 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
24 continues to cause, consumer exposures to DEHP, as such exposures are defined by title 27 of
25 the California Code of Regulations, §25602(b).
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1 36. DEFENDANTS have knowledge that the normal and reasonably foreseeable use
2 of the PRODCUTS exposes individuals to DEHP through dermal contact.

3 37. DEFENDANTS intend for such exposures to DEHP from the reasonably
4 foreseeable use of the PRODUCTS to occur by their deliberate, non-accidental participation in
5 the manufacture, distribution, sale, and offering of the PRODUCTS for sale or use to
6 individuals in the State of California.

7 38. DEFENDANTS failed to provide a "clear and reasonable warning" to those
8 workers, consumers and other individuals in California who have been, or will be, exposed to
9 DEHP.

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

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

18 41. As a consequence of the above-described acts, Health & Safety Code
19 §25249.7(a) also specifically authorizes the Court to grant injunctive relief against
20 DEFENDANTS.

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22 **PRAYER FOR RELIEF**

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

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

26 B. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
27 permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the
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1 PRODUCTS for sale or use in California without first providing a "clear and reasonable
2 warning" as defined by title 27 of the California Code of Regulations, §25601 et seq., as to the
3 harms associated with exposures to DEHP;

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

5 D. That the Court grant such other and further relief as may be just and proper.
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8 Date: May 19, 2017

O'Neil Law Firm

A handwritten signature in black ink, appearing to be "O'Neil Dennis", written over a horizontal line.

By: O'Neil Dennis
Attorney for Alicia Chin