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ENDORSED
FILED
San Francisco County Superior Court
MAR 09 2018
CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

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

15 ANTHONY E. HELD, PH.D., P.E.,

16 Plaintiff,

17 v.

18 MAPED HELIX USA, INC.; and DOES 1 –
19 150, inclusive,

20 Defendants.

Case No. CGC-18-56490/

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 ANTHONY E.
3 HELD, PH.D., P.E. in the public interest of the citizens of the State of California to enforce the
4 People's right to be informed of the health hazards caused by exposures to di(2-ethylhexyl)
5 phthalate ("DEHP"), a toxic chemical found in and on the cutting mats 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 the cutting mats manufactured, distributed, and offered for
11 sale or use throughout the State of California. Individuals not covered by California's
12 Occupational Safety Health Act, Labor Code section 6300 et seq., who purchase, use or handle
13 Defendants' products, are referred to hereinafter as "consumers."

14 3. Detectable levels of DEHP are found in and on the cutting mats that Defendants
15 manufacture, distribute, and offer for sale to consumers throughout the State of California.

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

21 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed
22 DEHP as a chemical known to cause birth defects (and reproductive harm). DEHP became
23 subject to the "clear and reasonable warning" requirements of the act one year later on October
24 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
25 25249.10(b).

26 6. Defendants manufacture, distribute, import, sell, and offer for sale without health
27 hazard warnings in California, cutting mats that contain DEHP including, but not limited to, the
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1 *Helix Translucent Cutting Mat, #25018, UPC #079252 25018 1.* All such cutting mats
2 containing DEHP are referred to collectively hereinafter as "PRODUCTS."

3 7. Defendants' failure to warn consumers in the State of California of the health
4 hazards associated with exposures to DEHP in conjunction with Defendants' sales of the
5 PRODUCTS are violations of Proposition 65, and subject Defendants, and each of them, to
6 enjoinder of such conduct as well as civil penalties for each violation. Health & Safety Code
7 § 25249.7(a) & (b)(1).

8 8. For Defendants' violations of Proposition 65, plaintiff seeks preliminary and
9 permanent injunctive relief to compel Defendants to provide consumers of the PRODUCTS
10 with the required warning regarding the health hazards associated with exposures to DEHP.
11 Health & Safety Code § 25249.7(a).

12 9. Pursuant to Health and Safety Code section 25249.7(b), Plaintiff also seeks civil
13 penalties against defendants for their violations of Proposition 65.

14 **PARTIES**

15 10. Plaintiff ANTHONY E. HELD, PH.D., P.E. is a citizen of the State of California
16 who is dedicated to protecting the health of California citizens through the elimination or
17 reduction of toxic exposures from consumer products; and he brings this action in the public
18 interest pursuant to Health and Safety Code section 25249.7(d).

19 11. Defendant MAPED HELIX USA, INC. ("MAPED HELIX") is a person in the
20 course of doing business within the meaning of Health and Safety Code sections 25249.6 and
21 25249.11.

22 12. MAPED HELIX manufactures, imports, distributes, sells, and/or offers the
23 PRODUCTS for sale or use in the State of California, or implies by its conduct that it
24 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the
25 State of California.

26 13. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a
27 person in the course of doing business within the meaning of Health and Safety Code sections
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1 25249.6 and 25249.11.

2 14. MANUFACTURER DEFENDANTS, and each of them, research, test, design,
3 assemble, fabricate, and manufacture, or each implies by its conduct that it researches, tests,
4 designs, assembles, fabricates, and manufactures one or more of the PRODUCTS offered for
5 sale or use in California.

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

9 16. DISTRIBUTOR DEFENDANTS, and each of them, distribute, exchange,
10 transfer, process, and transport one or more of the PRODUCTS to individuals, businesses, or
11 retailers for sale or use in the State of California, or each implies by its conduct that it
12 distributes, exchanges, transfers, processes, and transports one or more of the PRODUCTS to
13 individuals, businesses, or retailers for sale or use in the State of California.

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

17 18. RETAILER DEFENDANTS, and each of them, offer the PRODUCTS for sale to
18 individuals in the State of California.

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

24 20. MAPED HELIX, MANUFACTURER DEFENDANTS, DISTRIBUTOR
25 DEFENDANTS, and RETAILER DEFENDANTS shall hereinafter, where appropriate, be
26 referred to collectively as the "DEFENDANTS."
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1 cancer or reproductive toxicity without first giving clear and reasonable warning to such
2 individual” Health & Safety Code § 25249.6.

3 27. On October 24, 2017, Plaintiff served a sixty-day notice of violation, together
4 with the accompanying certificate of merit, on MAPED HELIX , the California Attorney
5 General’s Office, and the requisite public enforcement agencies alleging that, as a result of
6 DEFENDANTS’ sales of the PRODUCTS, consumers in the State of California are being
7 exposed to DEHP resulting from their reasonably foreseeable use of the PRODUCTS, without
8 the consumers first receiving a “clear and reasonable warning” regarding the harms associated
9 with exposures to DEHP, as required by Proposition 65.

10 28. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS
11 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’
12 violations have continued beyond their receipt of plaintiff’s sixty-day notice of violation. As
13 such, DEFENDANTS’ violations are ongoing and continuous in nature and, unless enjoined
14 will continue in the future.

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

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

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

26 32. DEHP is present in or on the PRODUCTS in such a way as to expose consumers
27 through dermal contact and/or ingestion during reasonably foreseeable use.
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1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess civil penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each violation;

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

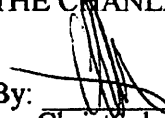
3. That the Court, Pursuant to Health and Safety Code section 25249.7(a), issue preliminary and permanent injunctions mandating that DEFENDANTS recall all PRODUCTS currently in the chain of commerce in California without a "clear and reasonable warning" as defined by California Code of Regulations title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

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: March 7, 2018

Respectfully submitted,
THE CHANLER GROUP

By: 

Christopher Tuttle
Attorneys for Plaintiff
ANTHONY E. HELD, PH.D., P.E.