

1 **NICHOLAS & TOMASEVIC, LLP**
Craig M. Nicholas (SBN 178444)
2 Shaun Markley (SBN 291785)
225 Broadway, 19th Floor
3 San Diego, California 92101
Telephone: (619) 325-0492
4 Facsimile: (619) 325-0496
Email: cnicholas@nicholaslaw.org
5 Email: smarkley@nicholaslaw.org

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6 **NICHOLAS & TOMASEVIC, LLP**
Stephen M. Frayne (SBN 188938)
7 3090 Glascock Street, Suite 101
Oakland, CA 94601
8 Telephone: (510) 479-1081
Facsimile: (619) 325-0496
9 Email: sfrayne@nicholaslaw.org

10 **GLICK LAW GROUP, P.C.**
Noam Glick (SBN 251582)
11 Kathryn Turner-Arsenault (SBN 167831)
225 Broadway, Suite 2100
12 San Diego, CA 92101
Telephone: (619) 382-3400
13 Facsimile: (619) 615-2193
Email: noam@glicklawgroup.com
14 Email: kathryn@glicklawgroup.com

15 Attorneys for Plaintiff
Kim Embry

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **IN AND FOR THE COUNTY OF ALAMEDA**

19 KIM EMBRY, an individual,
20 Plaintiff,
21 v.
22 HAMPTON PRODUCTS
INTERNATIONAL CORPORATION, a
23 Delaware corporation; and DOES 1 through
24 100, inclusive,
25 Defendants.

Case No.: **RG18896654**
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Cal. Health & Safety Code § 25249.6 et seq.)

BY FAX

I.
INTRODUCTION

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3 1. This Complaint is a representative action brought by Plaintiff in the public interest
4 of the citizens of the State of California. Plaintiff seeks to enforce the People’s right to be
5 informed of the presence of di(2-ethylhexyl) phthalate (“DEHP” or “Listed Chemical”), found in
6 Hampton Products International Corporation’s (“Hampton Products” or “Defendant”) vinyl-
7 coated hooks manufactured, imported, sold, or distributed for sale in California by Defendant.

8 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
9 California Health & Safety Code Section 25249.6 et seq. (“Proposition 65”), “[n]o person in the
10 course of doing business shall knowingly and intentionally expose any individual to a chemical
11 known to the state to cause cancer or reproductive toxicity without first giving clear and
12 reasonable warning to such individual. . . .” (Cal. Health & Safety Code, § 25249.6.)

13 3. California identified and listed DEHP as a chemical known to cause birth defects
14 or other reproductive harm, as well as cancer, as early as January 1, 1988.

15 4. Defendant’s vinyl-coated hooks manufactured, imported, sold, or distributed in
16 California contain prohibited levels of DEHP (“Products”).

17 5. Defendant failed to sufficiently warn consumers and individuals in California
18 about potential exposure to DEHP in connection with Defendant’s manufacture, import, sale, or
19 distribution of Products. This is a violation of Proposition 65.

20 6. Plaintiff seeks injunctive relief compelling Defendant to cease exposing consumers
21 in California to DEHP through its Products and/or sufficiently warn consumers in California
22 before exposing them to DEHP in Products pursuant to Proposition 65 and related Regulations.
23 (Cal. Health & Safety Code, § 25249.7(a).) Plaintiff also seeks civil penalties against Defendant
24 for its violations of Proposition 65, attorney’s fees and costs. (Cal. Health & Safety Code, §
25 25249.7.)

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II.
PARTIES

7. Plaintiff is a citizen of the State of California dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposure from consumer products. She brings this action in the public interest pursuant to California Health and Safety Code section 25249.7.

8. HAMPTON PRODUCTS INTERNATIONAL CORPORATION is a corporation organized and existing under the laws of Delaware. Defendant is registered to do and does business in California, County of Alameda, within the meaning of California Health and Safety Code section 25249.11. Defendant manufactures, imports, sells, or distributes Products in California and Alameda County.

9. Plaintiff does not know the true names and/or capacities, whether individual, partners, or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and thereon alleges that these defendants are responsible in whole or in part for Plaintiffs' alleged damages.

III.
VENUE AND JURISDICTION

10. California Constitution Article VI, Section 10, grants the Superior Court original jurisdiction in all cases except those given by statute to other trial courts. The Health & Safety Code statute upon which this action is based does not give jurisdiction to any other court. As such, this Court has jurisdiction.

11. Venue is proper in Alameda County Superior Court pursuant to Code of Civil Procedure sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendant conducted and continue to conduct business in this County as it relates to Products.

1 alleged that Defendant violated Proposition 65 by failing to sufficiently warn consumers in
2 California of the health hazards associated with exposures to DEHP contained in the Products.

3 21. The appropriate public enforcement agencies provided with the Notice failed to
4 commence and diligently prosecute a cause of action against Defendant.

5 22. Individuals exposed to DEHP contained in the Products resulting from reasonably
6 foreseeable use of the Products have suffered and continue to suffer irreparable harm. There is no
7 other plain, speedy, or adequate remedy at law.

8 23. Defendant is liable for a maximum civil penalty of \$2,500 per day for each
9 violation of Proposition 65 pursuant to California Health and Safety Code section 252497(b).
10 Injunctive relief is also appropriate pursuant to California Health and Safety Code section
11 25249.7(a).

12 **V.**
13 **PRAYER FOR RELIEF**

14 Wherefore, Plaintiff prays for judgment against Defendant as follows:

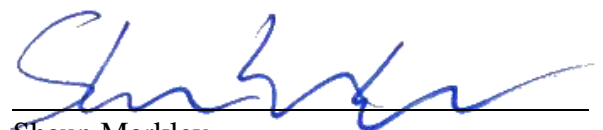
- 15 1. Civil penalties in the amount of \$2,500 per day for each violation;
- 16 2. A preliminary and permanent injunction against Defendant from manufacturing,
17 importing, selling, and/or distributing Products in California without providing a
18 clear and reasonable warning as required by Proposition 65 and related
19 Regulations;
- 20 3. Reasonable attorney's fees and costs of suit; and
- 21 4. Such other and further relief as may be just and proper.

22 Respectfully submitted:

23 Dated: March 13, 2018

NICHOLAS & TOMASEVIC, LLP

24
25
26 By:


Shaun Markley

27 Attorney for Plaintiff
28 Kim Embry