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FILED
San Francisco County Superior Court

MAY 21 2018

CLERK OF THE COURT
BY: *Salene Tabris*
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

UNLIMITED CIVIL JURISDICTION

CCC-18-566691

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

Plaintiff,

v.

TRACTOR SUPPLY COMPANY,

Defendant.

Case No. _____

**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. Held,
3 Ph.D., P.E. in the public interest of the citizens of the State of California to enforce the People's
4 right to be informed of the health hazards caused by exposures to Lead, a toxic chemical found in
5 and on sprayer hoses containing Lead sold by defendant in California.

6 2. By this Complaint, plaintiff seeks to remedy defendant's continuing failure to warn
7 individuals not covered by California's Occupational Safety Health Act, Labor Code § 6300 et seq.,
8 who purchase, use or handle defendant's products, about the risks of exposure to Lead present in
9 and on the sprayer hoses containing Lead manufactured, imported, distributed, sold and offered for
10 sale or use throughout the State of California. Individuals not covered by California's Occupational
11 Safety Health Act, Labor Code § 6300 et seq., who purchase, use or handle defendant's products,
12 are referred to hereinafter as "consumers."

13 3. Detectable levels of Lead are found in and on the sprayer hoses containing Lead that
14 defendant manufactures, imports, distributes, sells, and offers for sale, directly and indirectly, to
15 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 § 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing
18 business shall knowingly and intentionally expose any individual to a chemical known to the state
19 to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
20 individual" Health & Safety Code § 25249.6.

21 5. Pursuant to Proposition 65, on February 27, 1987, California identified and listed
22 Lead as a chemical known to cause birth defects (and other reproductive harm). Lead became
23 subject to the warning requirement one year later and was therefore subject to the "clear and
24 reasonable warning" requirements of Proposition 65, beginning on February 27, 1988. Cal. Code
25 Regs. tit. 27, § 27001 (c); Health & Safety Code §§ 25249.8 & 25249.10(b).

26 6. Defendant manufactures, distributes, imports, sells, and offers for sale without health
27 hazard warnings in California sprayer hoses containing Lead as a component of its sprayer products
28 including, but not limited to, *GroundWork 1/2 Gallon Pump Sprayer, #1093696, UPC #7 49394*

1 08650 3. All such sprayer hoses, containing Lead are referred to collectively hereinafter as
2 "PRODUCTS."

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

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

11 9. Pursuant to Health and Safety Code § 25249.7(b), Plaintiff also seeks civil penalties
12 against defendant for its violations of Proposition 65.

13 **PARTIES**

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

18 11. Defendant TRACTOR SUPPLY COMPANY ("TSC") is a person in the course of
19 doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

20 12. TSC manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or
21 use in the State of California, or implies by its conduct that it manufactures, imports, distributes,
22 sells, and/or offers the PRODUCTS for sale or use in the State of California.

23 13. TSC shall hereinafter, where appropriate, be referred to as the "DEFENDANT."

24 **VENUE AND JURISDICTION**

25 14. Venue is proper in the Superior Court in and for the City and County of San
26 Francisco pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court
27 of competent jurisdiction, because Plaintiff seeks civil penalties against DEFENDANT, because
28 one or more instances of wrongful conduct occurred, and continue to occur, in this city and county,

1 and/or because DEFENDANT conducted, and continues to conduct, business in San Francisco with
2 respect to the PRODUCTS.

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

7 16. The California Superior Court has jurisdiction over DEFENDANT based on
8 Plaintiff’s information and good faith belief that DEFENDANT is a person, firm, corporation or
9 association that is a citizen of the State of California, has sufficient minimum contacts in the State
10 of California, and/or otherwise purposefully avails itself of the California market. DEFENDANT’S
11 purposeful availment renders the exercise of personal jurisdiction by California courts consistent
12 with traditional notions of fair play and substantial justice.

13 **FIRST CAUSE OF ACTION**
14 **(Violation of Proposition 65)**

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

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

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

24 20. On November 20, 2017, Plaintiff served a sixty-day notice of violation, together with
25 the accompanying certificate of merit, on DEFENDANT, the California Attorney General’s Office,
26 and the requisite public enforcement agencies alleging that, as a result of DEFENDANT’s sales of
27 the PRODUCTS, consumers in the State of California are being exposed to Lead resulting from
28 their reasonably foreseeable use of the PRODUCTS, without the consumers first receiving a “clear

1 and reasonable warning” regarding the harms associated with exposures to Lead as required by
2 Proposition 65.

3 21. DEFENDANT manufactures, imports, distributes, sells, and offers the PRODUCTS
4 for sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANT’s violations
5 have continued beyond its receipt of Plaintiff’s sixty-day notice of violation. As such,
6 DEFENDANT’s violations are ongoing and continuous in nature and, unless enjoined, will
7 continue in the future.

8 22. After receiving Plaintiff’s sixty-day notice of violation, no public enforcement agency
9 has commenced and diligently prosecuted a cause of action against DEFENDANT under
10 Proposition 65 to enforce the alleged violations that are the subject of Plaintiff’s notice of violation.

11 23. The PRODUCTS that DEFENDANT manufactures, imports, distributes, sells, and
12 offers for sale or use in California cause exposures to Lead as a result of the reasonably foreseeable
13 use of the PRODUCTS. Such exposures caused by DEFENDANT and endured by consumers in
14 California are not exempt from the “clear and reasonable” warning requirements of Proposition 65,
15 yet DEFENDANT provides no clear & reasonable warning.

16 24. DEFENDANT knew or should have known that the PRODUCTS it manufactures,
17 imports, distributes, sells, and offers for sale in California contain Lead.

18 25. Lead is present in or on the PRODUCTS in such a way as to expose consumers
19 through dermal contact and/or ingestion during reasonably foreseeable use.

20 26. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
21 continues to cause, consumer exposures to Lead, as defined by title 27 of the California Code of
22 Regulations, section 25602(b).

23 27. DEFENDANT knows that the normal and reasonably foreseeable use of the
24 PRODUCTS exposes individuals to Lead through dermal contact and/or ingestion.


25 28. DEFENDANT intends that exposures to Lead from the reasonably foreseeable use of
26 the PRODUCTS will occur by its deliberate, non-accidental participation in the manufacture,
27 importation, distribution, sale, and offering of the PRODUCTS for sale or use to consumers in
28 California.

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- 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: May 18, 2018

Respectfully submitted,
THE CHANLER GROUP

By: 
Laralei Paras
Attorneys for Plaintiff
ANTHONY E. HELD, PH.D., P.E.