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By: C. Freeman
Deputy Clerk

Laralei S. Paras, State Bar No. 203319
THE CHANLER GROUP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565
Telephone: (510) 848-8880
Facsimile: (510) 848-8118
Laralei@chanler.com

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO
UNLIMITED CIVIL JURISDICTION

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

Plaintiff,

v.

RV DESIGNER; WOODBRIDGE, INC.; and
DOES 1-150, inclusive,

Defendants.

Case No. 34-2018-00230677

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.5 *et seq.*)

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

8. For defendants' violations of Proposition 65, plaintiff seeks preliminary and permanent injunctive relief to compel defendants, and each of them, to provide purchasers or users of the PRODUCTS with the required warning regarding the health hazards associated with exposures to DEHP. Health & Safety Code § 25249.7(a).

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

PARTIES

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

11. Defendant RV DESIGNER is a person in the course of doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

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

13. Defendant WOODBRIDGE, INC. ("WOODBRIDGE") is a person in the course of doing business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

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

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1 15. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a person
2 in the course of doing business within the meaning of Health and Safety Code sections 25249.6 and
3 25249.11.

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

7 17. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each a person in
8 the course of doing business within the meaning of Health and Safety Code sections 25249.6 and
9 25249.11.

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

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

16 20. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the State
17 of California.

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

23 22. RV DESIGNER, WOODBRIDGE, MANUFACTURER DEFENDANTS,
24 DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate,
25 collectively be referred to as "DEFENDANTS."

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2 **VENUE AND JURISDICTION**

3 23. Venue is proper in Sacramento County Superior Court, pursuant to Code of Civil
4 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,
5 because plaintiff seeks civil penalties against DEFENDANTS, because one or more instances of
6 wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS
7 conducted, and continue to conduct, business in Sacramento County with respect to the
8 PRODUCTS.

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

13 25. The California Superior Court has jurisdiction over DEFENDANTS based on
14 plaintiff's information and good faith belief that each defendant is a person, firm, corporation or
15 association that is a citizen of the State of California, has sufficient minimum contacts in the State
16 of California, and/or otherwise purposefully avails itself of the California market. DEFENDANTS'
17 purposeful availment renders the exercise of personal jurisdiction by California courts consistent
18 with traditional notions of fair play and substantial justice.

19 **FIRST CAUSE OF ACTION**

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

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

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

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

5 29. On November 20, 2018, plaintiff served a 60-day Notice of Violation (the “Notice”),
6 together with the requisite certificate of merit, on RV DESIGNER, WOODBRIDGE, INC. and
7 certain public enforcement agencies alleging that, as a result of DEFENDANTS’ sales of the
8 PRODUCTS containing DEHP, purchasers and users in the State of California were being exposed
9 to DEHP resulting from their reasonably foreseeable use of the PRODUCTS, without the individual
10 purchasers and users first having been provided with a “clear and reasonable warning” regarding
11 the harms associated with such exposures, as required by Proposition 65.

12 30. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
13 sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’ violations
14 have continued beyond their receipt of plaintiff’s Notice. DEFENDANTS’ violations are ongoing
15 and continuous in nature, and, as such, will continue in the future.

16 31. After receiving plaintiff’s Notice, none of the appropriate public enforcement
17 agencies have commenced and diligently prosecuted a cause of action against DEFENDANTS
18 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s Notice.

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

24 33. DEFENDANTS knew or should have known that the PRODUCTS they
25 manufactured, imported, distributed, sold and offered for sale or use in California contained DEHP.

26 34. DEHP is present in or on the PRODUCTS in such a way as to expose individuals to
27 DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

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1 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
2 continues to cause, consumer exposures to DEHP, as defined by title 27 of the California Code of
3 Regulations, section 25602(b).

4 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of the
5 PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.

6 37. DEFENDANTS intended that exposures to DEHP from the reasonably foreseeable
7 use of the PRODUCTS would occur by their deliberate, non-accidental participation in the
8 manufacture, importation, distribution, sale and offering of the PRODUCTS for sale or use to
9 consumers and other individuals in California.

10 38. DEFENDANTS failed to provide a "clear and reasonable warning" to those
11 consumers and other individuals in California who were or who would become exposed to DEHP
12 through dermal contact and/or ingestion resulting from their use of the PRODUCTS.

13 39. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
14 directly by California voters, individuals exposed to DEHP through dermal contact and/or ingestion
15 as a result of their use of the PRODUCTS that DEFENDANTS sold without a "clear and
16 reasonable" health hazard warning, have suffered, and continue to suffer, irreparable harm for
17 which they have no plain, speedy or adequate remedy at law.

18 40. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the
19 above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day for
20 each violation.

21 41. As a consequence of the above-described acts, Health and Safety Code
22 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
23 DEFENDANTS.

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1 **PRAYER FOR RELIEF**

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

3 1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess civil
4 penalties against DEFENDANTS, and each of them, in the amount of \$2,500 per day for each
5 violation;

6 2. That the Court, pursuant to Health and Safety Code section 25249.7(a), preliminarily
7 and permanently enjoin DEFENDANTS from manufacturing, importing, distributing, selling or
8 offering the PRODUCTS for sale or use in California without first providing a "clear and
9 reasonable warning" in accordance with title 27 of the California Code of Regulations, section
10 25601 *et seq.*, regarding the harms associated with exposures to DEHP;


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

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

16 5. That the Court grant such other and further relief as may be just and proper.

17 Dated: April 9, 2018

18 Respectfully Submitted,
19 THE CHANLER GROUP

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21 By: 
22 Laralei S. Paras
23 Attorneys for Plaintiff
24 ANTHONY E. HELD, PH.D., P.E.
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