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JUL 26 2018

MARGARET J. DOWNIE

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 ANTHONY FERREIRO,
12 Plaintiff,
13 vs.
14 TRACTOR SUPPLY COMPANY,
15 Defendant.

Case No.: **RG18914383**
**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELEIF**
(Violation of Health & Safety Code §25249.5 et
seq.)

16 Plaintiff Anthony Ferreiro ("Plaintiff"), by and through his attorneys, alleges the
17 following cause of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

19 1. Plaintiff brings this representative action on behalf of all California citizens to
20 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified
21 at the Health and Safety Code § 25249.5 et seq. ("Proposition 65"), which reads, in relevant part,
22 "[n]o person in the course of doing business shall knowingly and intentionally expose any
23 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
24 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

25 2. This complaint is a representative action brought by Plaintiff in the public interest
26 of the citizens of the State of California to enforce the People's right to be informed of the health
27 hazards caused by exposure to diisononyl phthalate (DINP), a toxic chemical found in safety
28 gloves and tow straps sold and/or distributed by defendant Tractor Supply Company ("TSC" or
"Defendant") in California.

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELEIF - VIOLATION OF
HEALTH & SAFETY CODE §25249.5

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1 24. Plaintiff, based on his best information and belief, avers that at all relevant times
2 herein, and at least since November 15, 2017, that Defendant has continued to knowingly and
3 intentionally expose California users and consumers of the Products to DINP without providing
4 required warnings under Proposition 65.

5 25. The exposures that are the subject of the Notice result from the purchase,
6 acquisition, handling and recommended use of the Product. Consequently, the primary route of
7 exposure to these chemicals in the safety gloves is through dermal absorption. Dermal exposure
8 through direct contact with the user's hands is possible during application, removal, and
9 manipulation of the work gloves. Dermal exposure is also possible if the PVC comes into
10 contact with the other areas of the user's exposed skin. Should the PVC become wet, the user
11 grasp the glove with wet hands, or the PVC contact water/perspiration on the user's skin, skin
12 permeation rates can potentially increase as aqueous HMWP skin permeation rates are faster
13 than neat HMWP permeation. If the gloves are stored or transported in a carrier, DINP that
14 leaches from the product may contaminate other articles contained within these closed spaces are
15 subsequently handled, worn, mouthed, or consumed. Finally, while mouthing of the product
16 does not seem likely, some amount of exposure through ingestion can occur by touching the
17 user's hand to mouth while wearing the gloves or handling items that come into contact with the
18 PVC that are subsequently consumed.

19 26. The primary route of exposure to these chemicals in the tow straps is through
20 dermal absorption. Initial exposure would result from directly touching or holding the item
21 during normal use. For example, in this case dermal exposure would result every time the case is
22 transported or handled in order to open it or close it while removing and then replacing the tow
23 strap. Ingestion would then occur from hand to mouth contact, for example, from eating after
24 having handled the item.

25 27. Plaintiff, based on his best information and belief, avers that such exposures will
26 continue every day until clear and reasonable warnings are provided to Product purchasers and
27 users or until this known toxic chemical is removed from the Product.

28

1 28. Defendant has knowledge that the normal and reasonably foreseeable use of the
2 Product exposes individuals to DINP, and Defendant intends that exposures to DINP will occur
3 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
4 the Products to consumers in California

5 29. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
6 Complaint.

7 30. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
8 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

9 31. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
10 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff demands judgment against Defendant and requests the
13 following relief:

- 14 A. That the court assess civil penalties against Defendant in the amount of
- 15 \$2,500 per day for each violation in accordance with Health and Safety
- 16 Code § 25249.7(b);
- 17 B. That the court preliminarily and permanently enjoin Defendant mandating
- 18 Proposition 65 compliant warnings on the Product;
- 19 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit.
- 20 D. That the court grant any further relief as may be just and proper.

21 Dated: July 26, 2018

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