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FILED
San Francisco County Superior Court
JUN 20 2018
CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

CGC-18-567464

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

Plaintiff,

v.

ASSOCIATED LEISURE PRODUCTS, INC.,

Defendant.

Case No. _____

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

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

BY FAX
NATIONWIDE LEGAL LLC
859 HARRISON STREET SECA 9410
415-351-0400

NATURE OF THE ACTION

1
2 1. This Complaint is a representative action brought by plaintiff Anthony E. Held, Ph.D.,
3 P.E. in the public interest of the citizens of the State of California to enforce the People’s right to be
4 informed of the health hazards caused by exposures to di(2-ethylhexyl)phthalate (“DEHP”), a
5 phthalate chemical found in vinyl/PVC hoses sold by defendant into California.

6 2. By this Complaint, plaintiff seeks to remedy defendant’s continuing failure to warn
7 California citizens and other individuals about the risks of exposure to DEHP present in and on
8 vinyl/PVC hoses manufactured, imported, distributed, shipped, sold and/or offered for sale or use to
9 consumers and other individuals throughout the State of California.

10 3. Detectable levels of DEHP are found in and on vinyl/PVC hoses that defendant
11 manufactures, imports, distributes, ships, sells and/or offers for sale or use to consumers and other
12 individuals throughout the State of California.

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

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

22 6. Defendant manufactures, imports, distributes, ships, sells and/or offers for sale without
23 health hazard warnings in or into California, vinyl/PVC hoses containing DEHP including, but not
24 limited to, *Aqua EZ Pool Accessories Professional Backwash Hose, Item# 176919, Model#*
25 *BWH50PRO, UPC #0 26497 00687 5*. All vinyl/PVC hoses containing DEHP manufactured,
26 imported, distributed, shipped and/or offered by defendant for sale or use in or into California are
27 referred to collectively hereinafter as “PRODUCTS.”

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1 21. DEFENDANT manufactures, distributes, imports, ships, sells and offers the
2 PRODUCTS for sale or use in violation of Health & Safety Code §25249.6, and DEFENDANT's
3 violations have continued beyond its receipt of plaintiff's Notice. DEFENDANT's violations are
4 ongoing and continuous in nature, and, as such, will continue in the future.

5 22. After receiving plaintiff's Notice, none of the appropriate public enforcement agencies
6 have commenced and diligently prosecuted a cause of action against DEFENDANT under
7 Proposition 65 to enforce the alleged violations that are the subject of plaintiff's Notice.

8 23. The PRODUCTS that DEFENDANT manufactures, imports, distributes, ships, sells,
9 and offers for sale or use in California cause exposures to DEHP as a result of the reasonably
10 foreseeable uses of the PRODUCTS. Such exposures caused by DEFENDANT and endured by
11 consumers and other individuals in California are not exempt from the "clear and reasonable"
12 warning requirements of Proposition 65, yet DEFENDANT provides no warning.

13 24. DEFENDANT knew or should have known that the PRODUCTS it manufactured,
14 imported, distributed, shipped, sold, and offered for sale or use in California contained DEHP.

15 25. DEHP are present in or on the PRODUCTS in such a way as to expose individuals to
16 DEHP through dermal contact and/or ingestion during reasonably foreseeable uses.

17 26. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and
18 continue to cause, consumer exposures to DEHP, as defined by title 27 of the California Code of
19 Regulations, section 25602(b).

20 27. DEFENDANT had knowledge that the normal and reasonably foreseeable uses of the
21 PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.


22 28. DEFENDANT intended that exposures to DEHP from the reasonably foreseeable uses
23 of the PRODUCTS would occur by its deliberate, non-accidental participation in the manufacture,
24 importation, distribution, shipment, sale and offering of the PRODUCTS for sale or use to
25 consumers and other individuals in California.

26 29. DEFENDANT failed to provide a "clear and reasonable warning" to those consumers
27 and other individuals in California who were or who would become exposed to DEHP through
28 dermal contact and/or ingestion resulting from their use of the PRODUCTS.

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Dated: June 19, 2018

Respectfully Submitted,
THE CHANLER GROUP

By: 

Laralei Paras
Attorneys for Plaintiff
LAURENCE VINO CUR