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FILED
San Francisco County Superior Court

JUN 07 2018

CLERK OF THE COURT

BY:  Deputy Clerk

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 CITY AND COUNTY OF SAN FRANCISCO
10 UNLIMITED CIVIL JURISDICTION

11
12 LAURENCE VINOUCUR,
13 Plaintiff,
14 v.
15 SIGVARIS INC.,
16 Defendant.

CGC - 18 - 567049
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 Laurence Vinocur in the
3 public interest of the citizens of the State of California to enforce the People’s right to be informed of
4 the health hazards caused by exposures to di(2-ethylhexyl)phthalate (“DEHP”), a phthalate chemical
5 found in gloves with vinyl/PVC components 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 gloves
8 with vinyl/PVC components manufactured, imported, distributed, shipped, sold and/or offered for sale
9 or use to consumers and other individuals throughout the State of California.

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

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

18 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed DEHP
19 as a chemical known to cause birth defects (and reproductive harm). DEHP became subject to the
20 “clear and reasonable warning” requirements of the act one year later on October 24, 2004. Cal. Code
21 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, gloves with vinyl/PVC components containing DEHP
24 including, but not limited to, *Sigvaris Latex-Free Donning Gloves, 592RPRS, 05565, UPC #7 45129*
25 *19055 2*. All gloves with vinyl/PVC components containing DEHP manufactured, imported,
26 distributed, shipped and/or offered by defendant for sale or use in or into California are referred to
27 hereinafter as “PRODUCTS.”

28 7. Defendant’s failure to warn consumers and other individuals in the State of California

1 of the health hazards associated with exposures to DEHP in conjunction with defendant's sales of the
2 PRODUCTS are violations of Proposition 65, and subject defendant to enjoinder of such conduct as
3 well as civil penalties for each violation. Health & Safety Code §25249.7(a), (b)(1).

4 8. For defendant's violations of Proposition 65, plaintiff seeks preliminary and permanent
5 injunctive relief to compel defendant to provide purchasers or users of the PRODUCTS in California
6 with the required warning regarding the health hazards associated with exposures to DEHP. Health &
7 Safety Code §25249.7(a).

8 9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil penalties
9 against defendant for its violations of Proposition 65.

10 PARTIES

11 10. Plaintiff Laurence Vinocur is a citizen of the State of California who is dedicated to
12 protecting the health of its citizens through the elimination of toxic exposures from consumer
13 products; he brings this action in the public interest pursuant to Health & Safety Code §25249.7(d).

14 11. Defendant Sigvaris Inc. ("Sigvaris") is a person in the course of doing business within
15 the meaning of Health & Safety Code §§25249.6 and 25249.11.

16 12. Sigvaris manufactures, imports, distributes, ships, sells and/or offers the PRODUCTS
17 for sale or use in the State of California, or implies by its conduct that it manufactures, imports,
18 distributes, sells and/or offers the PRODUCTS for sale or use in the State of California.

19 13. Sigvaris shall, where appropriate, be referred to herein as "Defendant."

20 VENUE AND JURISDICTION

21 14. Venue is proper in the Superior Court for the City and County of San Francisco,
22 pursuant to Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent
23 jurisdiction, because plaintiff seeks civil penalties against Defendant, because one or more instances of
24 wrongful conduct occurred, and continue to occur, in this county, and/or because Defendant
25 conducted, and continues to conduct, business in the City and County of San Francisco with respect to
26 the PRODUCTS.

27 15. The California Superior Court has jurisdiction over this action pursuant to California
28 Constitution Article VI, section 10, which grants the Superior Court "original jurisdiction in all causes

1 except those given by statute to other trial courts.” The statute under which this action is brought does
2 not specify any other basis of subject matter jurisdiction.

3 16. The California Superior Court has jurisdiction over Defendant based on plaintiff’s
4 information and good faith belief that Defendant is a person, firm, corporation or association that has
5 sufficient minimum contacts in the State of California, and/or otherwise purposefully avails itself of
6 the California market. Defendant’s purposeful availment renders the exercise of personal jurisdiction
7 by California courts consistent with traditional notions of fair play and substantial justice.

8 **FIRST CAUSE OF ACTION**

9 **(Violation of Proposition 65 - Against Defendant)**

10 17. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs
11 1 through 16, inclusive.

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

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

19 20. On January 17, 2018, plaintiff served a 60-day Notice of Violation (the “Notice”),
20 together with the requisite certificate of merit, on Sigvaris Inc. and certain public enforcement
21 agencies alleging that, as a result of Defendant’s sales of gloves with vinyl/PVC components
22 containing DEHP, purchasers and users in the State of California were being exposed to DEHP
23 resulting from their reasonably foreseeable uses of the PRODUCTS, without the individual purchasers
24 and users first having been provided with a “clear and reasonable warning” regarding the harms
25 associated with such exposures, as required by Proposition 65.

26 21. Defendant manufactures, distributes, imports, ships, sells and offers the PRODUCTS
27 for sale or use in violation of Health & Safety Code §25249.6, and Defendant’s violations have
28 continued beyond its receipt of plaintiff’s Notice. Defendant’s violations are ongoing and continuous

1 in nature, and, as such, will continue in the future.

2 22. After receiving plaintiff's Notice, no public enforcement agency has commenced and
3 diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged
4 violations that are the subject of plaintiff's Notice.

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

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

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

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

17 27. Defendant had knowledge that individuals are exposed to DEHP through dermal
18 contact and/or ingestion during the normal and reasonably foreseeable uses of the PRODUCTS.

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

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

26 30. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
27 directly by California voters, individuals exposed to DEHP through dermal contact and/or ingestion as
28 a result of their use of the PRODUCTS that Defendant sold without a "clear and reasonable" health

1 hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no plain,
2 speedy, or adequate remedy at law.

3 31. Pursuant to Health & Safety Code §25249.7(b), as a consequence of the above-
4 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day for each violation.

5 32. As a consequence of the above-described acts, Health & Safety Code §25249.7(a) also
6 specifically authorizes the Court to grant injunctive relief against Defendant.

7 **PRAYER FOR RELIEF**

8 Wherefore, plaintiff prays for judgment against Defendant as follows:

9 1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties
10 against Defendant in the amount of \$2,500 per day for each violation;

11 2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
12 permanently enjoin Defendant from manufacturing, distributing, shipping or offering the PRODUCTS
13 for sale or use in California without first providing a “clear and reasonable warning” in accordance
14 with title 27 of the California Code of Regulations, section 25601 *et seq.*, regarding the harms
15 associated with exposures to DEHP;

16 3. That the Court, Pursuant to Health & Safety Code §25249.7(a), issue preliminary and
17 permanent injunctions mandating that Defendant recall all PRODUCTS currently in the chain of
18 commerce in California without a “clear and reasonable warning” as defined by California Code of
19 Regulations title 27, section 25601 *et seq.*;

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

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

22 Dated: June 6, 2018

Respectfully Submitted,

23 THE CHANLER GROUP

24
25
26 By: 

27 Laralei Paras
Attorneys for Plaintiff
LAURENCE VINOUCUR