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**FILED**

APR 27 2018

JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: E. Chais, Deputy

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF MARIN

14 UNLIMITED CIVIL JURISDICTION

15 LAURENCE VINO CUR,

16 Plaintiff,

17 v.

18 THE HOME DEPOT, INC.; INTERLINE  
19 BRANDS, INC.; and DOES 1 – 150, inclusive,

20 Defendants.

Case No. \_\_\_\_\_

**CIV 1801415**

**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  
3 VINOCUR 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 di(2-ethylhexyl) phthalate  
5 (“DEHP”), a toxic chemical found in and on vinyl/PVC electrical tape sold by Defendants in  
6 California.

7 2. By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failure to  
8 warn individuals not covered by California’s Occupational Safety Health Act, Labor Code  
9 section 6300 et seq., who purchase, use or handle Defendants’ products, about the risks of  
10 exposure to DEHP present in and on vinyl/PVC electrical tape manufactured, distributed, and  
11 offered for sale or use throughout the State of California. Individuals not covered by  
12 California’s Occupational Safety Health Act, Labor Code section 6300 et seq., who purchase,  
13 use or handle Defendants’ products, are referred to hereinafter as “consumers.”

14 3. Detectable levels of DEHP are found in and on vinyl/PVC electrical tape that  
15 Defendants manufacture, distribute, and offer for sale to consumers throughout the State of  
16 California.

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

22 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed  
23 DEHP as a chemical known to cause birth defects (and reproductive harm). DEHP became  
24 subject to the “clear and reasonable warning” requirements of the act one year later on October  
25 24, 2004. Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
26 25249.10(b).



1           12. HOME DEPOT manufactures, imports, distributes, sells, and/or offers the  
2 PRODUCTS for sale or use in the State of California, or implies by its conduct that it  
3 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
4 State of California.

5           13. Defendant INTERLINE BRANDS, INC. ("INTERLINE") is a person in the  
6 course of doing business within the meaning of Health and Safety Code sections 25249.6 and  
7 25249.11.

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

12           15. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a  
13 person in the course of doing business within the meaning of Health and Safety Code sections  
14 25249.6 and 25249.11.

15           16. MANUFACTURER DEFENDANTS, and each of them, research, test, design,  
16 assemble, fabricate, and manufacture, or each implies by its conduct that it researches, tests,  
17 designs, assembles, fabricates, and manufactures one or more of the PRODUCTS offered for  
18 sale or use in California.

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

22           18. DISTRIBUTOR DEFENDANTS, and each of them, distribute, exchange,  
23 transfer, process, and transport one or more of the PRODUCTS to individuals, businesses, or  
24 retailers for sale or use in the State of California, or each implies by its conduct that it  
25 distributes, exchanges, transfers, processes, and transports one or more of the PRODUCTS to  
26 individuals, businesses, or retailers for sale or use in the State of California.

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1           30.    DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS  
2 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS'  
3 violations have continued beyond their receipt of plaintiff's sixty-day notice of violation. As  
4 such, DEFENDANTS' violations are ongoing and continuous in nature and, unless enjoined  
5 will continue in the future.

6           31.    After receiving Plaintiff's sixty-day notice of violation, no public enforcement  
7 agency has commenced and diligently prosecuted a cause of action against DEFENDANTS  
8 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff's notice of  
9 violation.

10          32.    The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and  
11 offer for sale or use in California cause exposures to DEHP as a result of the reasonably  
12 foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANTS and endured by  
13 consumers in California are not exempt from the "clear and reasonable" warning requirements  
14 of Proposition 65, yet DEFENDANTS provide no warning.

15          33.    DEFENDANTS knew or should have known that the PRODUCTS they  
16 manufacture, import, distribute, sell, and offer for sale in California contain DEHP.

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

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

22          36.    DEFENDANTS know that the normal and reasonably foreseeable use of the  
23 PRODUCTS exposes individuals to DEHP through dermal contact and/or ingestion.

24          37.    DEFENDANTS intend that exposures to DEHP from the reasonably foreseeable  
25 use of the PRODUCTS will occur by their deliberate, non-accidental participation in the  
26 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to  
27 consumers in California.

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currently in the chain of commerce in California without a “clear and reasonable warning” as defined by California Code of Regulations title 27, section 25601 et seq.;

- 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: April 25, 2018

Respectfully submitted,  
THE CHANLER GROUP

By:   
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Christopher Tuttle  
Attorneys for Plaintiff  
LAURENCE VINOCUR