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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

12/08/2021  
Clerk of the Court  
BY: LAURA SIMMONS  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 ANTHONY FERREIRO,

12 Plaintiff,

13 vs.

14 STANLEY BLACK & DECKER, INC.,

15 Defendant.

Case No.:

**CGC-21-597019**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

16 Plaintiff Anthony Ferreiro (“Plaintiff”), by and through his attorneys, alleges the following  
17 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 at  
21 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 di-isodecyl phthalate (DIDP), a toxic chemical found in Proto brand  
28 hand tools with plastic dipped handles sold and/or distributed by defendant Stanley Black &  
Decker, Inc. dba Stanley-Proto Industrial Tools, Inc. (“Stanley” or the “Defendant”) in California.

1           3.       DIDP is a harmful chemical known to the State of California to cause reproductive  
2 toxicity. On April 20, 2007, the State of California listed DIDP as a chemical known to the State  
3 to cause reproductive toxicity and it has come under the purview of Proposition 65 regulations  
4 since that time. Cal. Code Regs. Tit. 27, § 25805(b); Health & Safety Code §§ 25249.8 &  
5 25249.10(b).

6           4.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
7 within California or sell products therein to comply with Proposition 65 regulations. Included in  
8 such regulations is the requirement that businesses must label any product containing a Proposition  
9 65-listed chemical with a “clear and reasonable” warning before “knowingly and intentionally”  
10 exposing any person to any such listed chemical.

11          5.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
12 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
13 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
14 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
15 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
16 25249.7.

17          6.       Plaintiff alleges that Defendant distributes and/or offers for sale in California,  
18 without a requisite exposure warning, Proto brand hand tools with plastic dipped handles (the  
19 “Products”) that expose persons to DIDP when used as intended and/or for its intended purpose.

20          7.       Defendant’s failure to warn consumers and other individuals in California of the  
21 health hazards associated with exposure to DIDP from use of the Products in conjunction with the  
22 sale and/or distribution of the Products is a violation of Proposition 65 and subjects Defendant to  
23 the enjoinder and civil penalties described herein.

24          8.       Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65  
25 in accordance with Health and Safety Code § 25249.7(b).

26          9.       Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
27 Defendant to provide purchasers or users of the Products with required warnings related to the  
28

1 dangers and health hazards associated with exposure to DIDP pursuant to Health and Safety Code  
2 § 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

4 **PARTIES**

5 11. Plaintiff is a citizen of the State of California acting in the interest of the general  
6 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
7 improve human health by reducing hazardous substances contained in such items. She brings this  
8 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

9 12. Defendant Stanley, through its business, effectively imports, distributes, sells,  
10 and/or offers the Products for sale or use in the State of California, or it implies by its conduct that  
11 it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.

12 13. Plaintiff alleges that defendant Stanley is a "person" in the course of doing business  
13 within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14 **VENUE AND JURISDICTION**

15 14. Venue is proper in the County of San Francisco because one or more of the  
16 instances of wrongful conduct occurred, and continue to occur in this county and/or because  
17 Defendant conducted, and continues to conduct, business in the County of San Francisco with  
18 respect to the Products.

19 15. This Court has jurisdiction over this action pursuant to California Constitution  
20 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
21 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
22 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
23 jurisdiction over this lawsuit.

24 16. This Court has jurisdiction over Defendant because Defendant is either a citizen of  
25 the State of California, has sufficient minimum contacts with the State of California, is registered  
26 with the California Secretary of State as foreign corporations authorized to do business in the State  
27 of California, and/or has otherwise purposefully availed itself of the California market. Such  
28

1 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and  
2 permissible with traditional notions of fair play and substantial justice.

### 3 STATUTORY BACKGROUND

4 17. The people of the State of California declared in Proposition 65 their right “[t]o be  
5 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
6 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

7 18. To effect this goal, Proposition 65 requires that individuals be provided with a  
8 “clear and reasonable warning” before being exposed to substances listed by the State of California  
9 as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent part:

10 No person in the course of doing business shall knowingly and intentionally expose any  
11 individual to a chemical known to the state to cause cancer or reproductive toxicity without  
12 first giving clear and reasonable warning to such individual...

13 19. An exposure to a chemical in a consumer product is one “which results from a  
14 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
15 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
16 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
17 shall provide a warning to any person to whom the product is sold or transferred unless the product  
18 is packaged or labeled with a clear and reasonable warning.”

19 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
20 more of the following methods individually or in combination:<sup>1</sup>

- 21 a. A warning that appears on a product’s label or other labeling.
- 22 b. Identification of the product at the retail outlet in a manner which provides  
23 a warning. Identification may be through shelf labeling, signs, menus, or a combination  
24 thereof.

25  
26  
27 <sup>1</sup> Alternatively, a person in the course of doing business may elect to comply with the warning  
28 requirements set out in the amended version of 27 CCR 25601, *et.seq.* as amended on August 30,  
2016, and operative on August 30, 2018.







1 39. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
2 Complaint.

3 40. Pursuant to Health and 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 per violation.

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

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
9 relief:

10 A. That the court assess civil penalties against each Defendant in the amount of \$2,500  
11 per day for each violation for up to 365 days (up to a maximum civil penalty amount per  
12 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

13 B. That the court preliminarily and permanently enjoin Defendant mandating  
14 Proposition 65 compliant warnings on the Products;

15 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the  
16 amount of \$50,000.00.

17 D. That the court grant any further relief as may be just and proper.

18 Dated: December 8, 2021

BRODSKY & SMITH

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