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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF ALAMEDA  
11 UNLIMITED CIVIL JURISDICTION  
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14 MICHAEL DIPIRRO,

15 Plaintiff,

16 v.

17 JEFFERS, INC.; and DOES 1-150,

18 Defendants.

Case No. **23CV049833**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code. § 25249.6 *et seq.*)

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff MICHAEL  
3 DIPIRRO in the public interest of the citizens of the State of California to enforce the People’s  
4 right to be informed of the presence of toxic chemical, Diethylhexyl phthalate (“DEHP”), for  
5 exposures created by the consumer use of Jeffers Clear Saddle Cover as well as the presence of  
6 toxic chemical, Diethylhexyl phthalate (“DINP”), for exposures created by the consumer use of  
7 Jeffers Hoof Pick. Jeffers Clear Saddle Cover and Jeffers Hoof Pick are collectively referred to  
8 herein as “PRODUCTS”.

9 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
10 warn California citizens about the risk of exposure to DEHP and DINP from the use of the  
11 PRODUCTS that are manufactured, distributed, and/or offered for sale or use to consumers  
12 throughout the State of California without the requisite health hazard warnings.

13 3. Exposure to high levels of DEHP and/or DINP are commonly produced through  
14 the normal and foreseeable use of PRODUCTS that defendants manufacture, distribute, and/or  
15 offer for sale to consumers throughout the State of California without requisite health hazard  
16 warnings.

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 January 1, 1988, California identified and listed  
23 DEHP as a chemical known to cause cancer. DEHP became subject to the “clear and  
24 reasonable warning” requirements of the act one year later on January 1, 1988, for cancer. On  
25 October 24, 2003, California identified and listed DEHP as a chemical known to cause  
26 developmental toxicity (male). DEHP became subject to the “clear and reasonable warning”  
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1 requirements of the act one year later on October 24, 2004, for developmental toxicity (male).  
2 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

3 6. Pursuant to Proposition 65, on December 20, 2013, California identified and listed  
4 DINP as a chemical known to cause cancer. DINP became subject to the “clear and reasonable  
5 warning” requirements of the act one year later on December 20, 2014, for cancer. Cal. Code  
6 Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

7 7. DEHP and DINP are respectively referred to hereinafter as the “LISTED  
8 CHEMICAL.”

9 8. Defendants manufacture or otherwise process for sale, distribute, and sell saddle  
10 covers and hoof picks including, but not limited to the Jeffers Clear Saddle Cover and the  
11 Jeffers Hoof Pick, the normal and foreseeable use of which results in exposure to DEHP and  
12 DINP, respectively, at levels that require health hazard warnings under Proposition 65.

13 9. Defendants’ failure to warn consumers and other individuals in the State of  
14 California about their exposure to the LISTED CHEMICAL in conjunction with defendants’  
15 sales of the PRODUCTS is a violation of Proposition 65, and subjects defendants to enjoinder  
16 of such conduct as well as civil penalties for each violation. Health & Safety Code § 25249.7(a)  
17 & (b)(1).

18 10. For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
19 permanent injunctive relief to compel defendants to provide purchasers or users of the  
20 PRODUCTS with the required warning regarding the health hazards of the LISTED  
21 CHEMICAL. Health & Safety Code § 25249.7(a).

22 11. Pursuant to Health and Safety Code section 25249.7(b), plaintiff also seeks civil  
23 penalties against defendants for their violations of Proposition 65.

24 **PARTIES**

25 12. Plaintiff MICHAEL DIPIRRO is a citizen of the State of California who is  
26 dedicated to protecting the health of California citizens through the elimination or reduction of  
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1 toxic exposures from consumer products; and he brings this action in the public interest  
2 pursuant to Health and Safety Code section 25249.7(d).

3 13. Defendant JEFFERS, INC. (“JEFFERS”) is a person in the course of doing  
4 business within the meaning of Health and Safety Code section 25249.11.

5 14. JEFFERS manufactures (or otherwise processes for sale), distributes, and/or offers  
6 the PRODUCTS for sale or use in the State of California, or implies by its conduct that it  
7 manufactures, distributes, and/or offers the PRODUCTS for sale or use in the State of California.

8 15. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
9 person in the course of doing business within the meaning of Health and Safety Code section  
10 25249.11.

11 16. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate,  
12 cultivate, harvest and/or manufacture, or imply by their conduct that they research, test, design,  
13 assemble, fabricate, cultivate, harvest and/or manufacture one or more of the PRODUCTS  
14 offered for sale or use in the State of California.

15 17. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each a person  
16 in the course of doing business within the meaning of Health and Safety Code section 25249.11.

17 18. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and/or  
18 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use  
19 in the State of California.

20 19. Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each a person in  
21 the course of doing business within the meaning of Health and Safety Code section 25249.11.

22 20. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the  
23 State of California.

24 21. At this time, the true names of defendants DOES 1 through 150, inclusive, are  
25 unknown to plaintiff, who, therefore, sues said defendants by their fictitious names pursuant to  
26 Code of Civil Procedure section 474. Plaintiff is informed and believes, and on that basis  
27 alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences  
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1 alleged herein. When ascertained, their true names shall be reflected in an amended complaint.  
2 Specifically named defendants and all “Doe” Defendants are hereinafter collectively referred to  
3 as “DEFENDANTS”.

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5 **VENUE AND JURISDICTION**

6 22. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil  
7 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,  
8 because one or more instances of wrongful conduct occurred, and continue to occur, in Alameda  
9 County, and/or because DEFENDANTS conducted, and continue to conduct, business in this  
10 county with respect to the PRODUCTS.

11 23. The California Superior Court has jurisdiction over this action pursuant to  
12 California Constitution Article VI, section 10, which grants the Superior Court “original  
13 jurisdiction in all causes except those given by statute to other trial courts.” The statute under  
14 which this action is brought does not specify any other basis of subject matter jurisdiction.

15 24. The California Superior Court has jurisdiction over DEFENDANTS based on  
16 plaintiff’s information and good faith belief that each defendant is a person, firm, corporation or  
17 association that is a citizen of the State of California, has sufficient minimum contacts in the  
18 State of California, and/or otherwise purposefully avails itself of the California market.  
19 DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by  
20 California courts consistent with traditional notions of fair play and substantial justice.

21 **FIRST CAUSE OF ACTION**

22 **(Violation of Proposition 65 - Against All Defendants)**

23 25. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
24 Paragraphs 1 through 24, inclusive.

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

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

7 28. On March 31, 2023, plaintiff’s 60-Day Notice of Violation, together with the  
8 requisite certificate of merit, was provided to JEFFERS and certain public enforcement agencies  
9 stating that, as a result of DEFENDANTS’ sales of the Jeffers Clear Saddle Cover containing  
10 DEHP, purchasers and users in the State of California were being exposed to the DEHP  
11 resulting from the reasonably foreseeable uses of the PRODUCTS, without the individual  
12 purchasers and users first having been provided with a “clear and reasonable warning”  
13 regarding such toxic exposures, as required by Proposition 65.

14 29. On June 13, 2023, plaintiff’s 60-Day Notice of Violation, together with the  
15 requisite certificate of merit, was provided to JEFFERS and certain public enforcement agencies  
16 stating that, as a result of DEFENDANTS’ sales of the Jeffers Hoof Pick containing DINP,  
17 purchasers and users in the State of California were being exposed to the DINP resulting from  
18 the reasonably foreseeable uses of the PRODUCTS, without the individual purchasers and users  
19 first having been provided with a “clear and reasonable warning” regarding such toxic  
20 exposures, as required by Proposition 65.

21 30. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of  
22 the PRODUCTS for sale or use in violation of Health and Safety Code section 25249.6, and  
23 such violations have continued to occur beyond DEFENDANTS’ receipt of plaintiff’s 60-Day  
24 Notices of Violation. As such, DEFENDANTS’ violations are ongoing and continuous in  
25 nature, and will continue to occur in the future.

26 31. After receiving the claims asserted in the 60-day Notices of Violation, the  
27 appropriate public enforcement agencies have failed to commence and diligently prosecute a  
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1 cause of action against DEFENDANTS under Proposition 65.

2 32. The PRODUCTS manufactured, distributed, and offered for sale or use in  
3 California by DEFENDANTS contain the LISTED CHEMICAL in amounts above the  
4 allowable state limits, such that they require a “clear and reasonable” warning under Proposition  
5 65.

6 33. DEFENDANTS knew or should have known that the PRODUCTS they  
7 manufacture, distribute, and offer for sale or use in California contain the LISTED  
8 CHEMICAL.

9 34. The exposures to the LISTED CHEMICAL result from the normal use of the  
10 PRODUCTS in such a way as to expose individuals through dermal contact during reasonably  
11 foreseeable use.

12 35. The normal and reasonably foreseeable uses of the PRODUCTS have caused, and  
13 continue to cause, consumer exposures to the LISTED CHEMICAL, as such exposures are  
14 defined by California Code of Regulations title 27, section 25602(b).

15 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable uses  
16 of the PRODUCTS expose individuals to the LISTED CHEMICAL through dermal contact.

17 37. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from  
18 the reasonably foreseeable uses of the PRODUCTS would occur by their deliberate, non-  
19 accidental participation in the manufacture, distribution, and/or offering of the PRODUCTS for  
20 sale or use to individuals in the State of California.

21 38. DEFENDANTS failed to provide a “clear and reasonable warning” to those  
22 consumers and other individuals in the State of California who were or who would become  
23 exposed to the LISTED CHEMICAL through dermal contact during the reasonably foreseeable  
24 uses of the PRODUCTS.

25 39. Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
26 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal  
27 contact resulting from the reasonably foreseeable use of the PRODUCTS sold by  
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1 DEFENDANTS without a “clear and reasonable warning”, have suffered, and continue to  
2 suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

3 40. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the  
4 above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day  
5 for each violation.

6 41. As a consequence of the above-described acts, Health and Safety Code  
7 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against  
8 DEFENDANTS.

9 **PRAYER FOR RELIEF**

10 Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

11 1. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
12 civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation;

13 2. That the Court, pursuant to Health and Safety Code section 25249.7(a),  
14 preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or  
15 offering the PRODUCTS for sale or use in California without first providing a “clear and  
16 reasonable warning” as defined by California Code of Regulations title 27, section 25601 *et*  
17 *seq.*, as to the harms associated with exposures to the LISTED CHEMICAL;

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


19 4. That the Court grant such other and further relief as may be just and proper.  
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Dated: November 3, 2023

Respectfully Submitted,

By:   
David Bush  
Jeremy Fietz  
Attorneys for Plaintiff  
MICHAEL DIPIRRO