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**ENDORSED
FILED
ALAMEDA COUNTY**

DEC 20 2016

CLERK OF THE SUPERIOR COURT
By 
JANIE THOMAS, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA
11 UNLIMITED CIVIL JURISDICTION

13 LAURENCE VINOCUR,

14 Plaintiff,

15 v.

16 HONEYWELL INTERNATIONAL INC.; and
17 DOES 1-150, inclusive,

18 Defendants.

Case No. RG 16843189

**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 VINO CUR (“Vinocur”) in the public interest of the citizens of the State of California to enforce
4 the People’s right to be informed of the health hazards caused by exposures to di(2-
5 ethylhexyl)phthalate (“DEHP”), a toxic chemical found in products sold by defendants in
6 California.

7 2. By this Complaint, Vinocur seeks to remedy defendants’ continuing failure to warn
8 California citizens and other individuals about the risks of exposure to DEHP present in and on
9 gloves with vinyl/PVC components manufactured, distributed, and offered for sale or use to
10 consumers and other individuals throughout the State of California.

11 3. Detectable levels of DEHP are found in and on the gloves with vinyl/PVC
12 components that defendants manufacture, distribute, and offer for sale to consumers and other
13 individuals throughout the State of California.

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

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

23 6. Defendants manufacture, distribute, import, sell and/or offer for sale without health
24 hazard warnings in California gloves with vinyl/PVC components including, but not limited to, the
25 *North Safety Products Power Expert Mechanic’s Glove, M3000, UPC #8 21812 76019 3*. All such
26 gloves with vinyl/PVC components containing DEHP are referred to collectively hereinafter as
27 “PRODUCTS.”

1 7. Defendants’ failure to warn consumers and other individuals in the State of
2 California of the health hazards associated with exposures to DEHP in conjunction with
3 defendants’ sales of the PRODUCTS are violations of Proposition 65, and subject defendants, and
4 each of them, to enjoinder of such conduct as well as civil penalties for each violation. Health &
5 Safety Code § 25249.7(a) & (b)(1).

6 8. For defendants’ violations of Proposition 65, Vinocur seeks preliminary and
7 permanent injunctive relief to compel defendants to provide purchasers or users of the
8 PRODUCTS with the required warning regarding the health hazards associated with exposures to
9 DEHP. Health & Safety Code § 25249.7(a).

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

12 **PARTIES**

13 10. Plaintiff LAURENCE VINOCUR is a citizen of the State of California who is
14 dedicated to protecting the health of California citizens through the elimination or reduction of
15 toxic exposures from consumer products; and he brings this action in the public interest pursuant to
16 Health and Safety Code section 25249.7(d).

17 11. Defendant HONEYWELL INTERNATIONAL INC. (“HONEYWELL”) is a person
18 in the course of doing business within the meaning of Health and Safety Code sections 25249.6
19 and 25249.11.

20 12. HONEYWELL manufactures, imports, distributes, sells, and/or offers the
21 PRODUCTS for sale or use in the State of California, or implies by its conduct that it manufactures,
22 imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of California.

23 13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a person
24 in the course of doing business within the meaning of Health and Safety Code sections 25249.6
25 and 25249.11.

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1 14. MANUFACTURER DEFENDANTS research, test, design, assemble, fabricate, and
2 manufacture, or imply by their conduct that they research, test, design, assemble, fabricate, and
3 manufacture one or more of the PRODUCTS offered for sale or use in the State of California.

4 15. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each a person in
5 the course of doing business within the meaning of Health and Safety Code sections 25249.6 and
6 25249.11.

7 16. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process, and
8 transport one or more of the PRODUCTS to individuals, businesses, or retailers for sale or use in
9 the State of California.

10 17. Defendants DOES 101-150 (“RETAILER DEFENDANTS”) are each a person in the
11 course of doing business within the meaning of Health and Safety Code sections 25249.6 and
12 25249.11.

13 18. RETAILER DEFENDANTS offer the PRODUCTS for sale to individuals in the
14 State of California.

15 19. At this time, the true names of defendants DOES 1 through 150, inclusive, are
16 unknown to Vinocur, who, therefore, sues said defendants by their fictitious names pursuant to
17 Code of Civil Procedure section 474. Vinocur is informed and believes, and on that basis alleges,
18 that each of the fictitiously named defendants is responsible for the acts and occurrences alleged
19 herein. When ascertained, their true names shall be reflected in an amended complaint.

20 20. HONEYWELL, MANUFACTURER DEFENDANTS, DISTRIBUTOR
21 DEFENDANTS, and RETAILER DEFENDANTS shall, where appropriate, collectively be
22 referred to as “DEFENDANTS.”

VENUE AND JURISDICTION

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24 21. Venue is proper in Alameda County Superior Court, pursuant to Code of Civil
25 Procedure sections 393, 395, and 395.5, because this Court is a court of competent jurisdiction,
26 because Vinocur seeks civil penalties against DEFENDANTS, because one or more instances of
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1 wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS
2 conducted, and continue to conduct, business in Alameda County with respect to the PRODUCTS.

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

7 23. The California Superior Court has jurisdiction over DEFENDANTS based on
8 Vinocur’s information and good faith belief that each defendant is a person, firm, corporation or
9 association that is a citizen of the State of California, has sufficient minimum contacts in the State
10 of California, and/or otherwise purposefully avails itself of the California market. DEFENDANTS’
11 purposeful availment renders the exercise of personal jurisdiction by California courts consistent
12 with traditional notions of fair play and substantial justice.

13 **FIRST CAUSE OF ACTION**

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

15 24. Vinocur realleges and incorporates by reference, as if fully set forth herein,
16 Paragraphs 1 through 23, inclusive.

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

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

24 27. On September 29, 2016, Vinocur served a sixty-day notice of violation, together
25 with the requisite certificate of merit, on HONEYWELL and certain public enforcement agencies
26 alleging that, as a result of DEFENDANTS’ sales of the PRODUCTS containing DEHP,
27 purchasers and users in the State of California were being exposed to DEHP resulting from their
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1 reasonably foreseeable use of the PRODUCTS, without the individual purchasers and users first
2 having been provided with a “clear and reasonable warning” regarding the harms associated with
3 such exposures, as required by Proposition 65.

4 28. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
5 sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’ violations
6 have continued beyond their receipt of Vinocur’s sixty-day notice of violation. DEFENDANTS’
7 violations are ongoing and continuous in nature, and, as such, will continue in the future.

8 29. After receiving Vinocur’s sixty-day notice of violation, none of the appropriate
9 public enforcement agencies have commenced and diligently prosecuted a cause of action against
10 DEFENDANTS under Proposition 65 to enforce the alleged violations that are the subject of
11 Vinocur’s notice of violation.

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

17 31. DEFENDANTS knew or should have known that the PRODUCTS they
18 manufactured, imported, distributed, sold, and offered for sale or use in California contained
19 DEHP.

20 32. DEHP is present in or on the PRODUCTS in such a way as to expose individuals to
21 DEHP through dermal contact and/or ingestion during reasonably foreseeable use.

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

25 34. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of
26 the PRODUCTS exposed individuals to DEHP through dermal contact and/or ingestion.

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1 35. DEFENDANTS intended that exposures to DEHP from the reasonably foreseeable
2 use of the PRODUCTS would occur by their deliberate, non-accidental participation in the
3 manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use to
4 consumers and other individuals in California.

5 36. DEFENDANTS failed to provide a "clear and reasonable warning" to those
6 consumers and other individuals in California who were or who would become exposed to DEHP
7 through dermal contact and/or ingestion resulting from their use of the PRODUCTS.

8 37. Contrary to the express policy and statutory prohibition of Proposition 65 enacted
9 directly by California voters, individuals exposed to DEHP through dermal contact and/or
10 ingestion as a result of their use of the PRODUCTS that DEFENDANTS sold without a "clear and
11 reasonable" health hazard warning, have suffered, and continue to suffer, irreparable harm for
12 which they have no plain, speedy, or adequate remedy at law.

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

16 39. As a consequence of the above-described acts, Health and Safety Code
17 section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
18 DEFENDANTS.

19 **PRAYER FOR RELIEF**

20 Wherefore, Vinocur prays for judgment against DEFENDANTS as follows:

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

24 2. That the Court, pursuant to Health and Safety Code section 25249.7(a), preliminarily
25 and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the
26 PRODUCTS for sale or use in California without first providing a "clear and reasonable warning"
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1 in accordance with title 27 of the California Code of Regulations, section 25601 *et seq.*, regarding
2 the harms associated with exposures to DEHP;

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

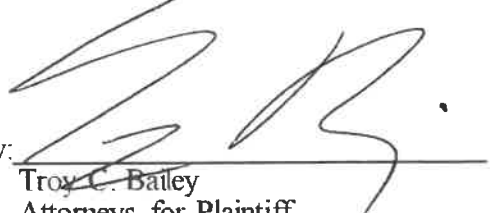
7 4. That the Court grant Vinocur his reasonable attorneys’ fees and costs of suit; and

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

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Dated: December 19, 2016

Respectfully Submitted,
THE CHANLER GROUP

By: 
Troy C. Bailey
Attorneys for Plaintiff
LAURENCE VINO CUR