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Attorneys for Plaintiff  
JOHN MOORE

**FILED**

SEP 24 2012

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
*By: J. Chen, Deputy*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MARIN  
UNLIMITED CIVIL JURISDICTION

JOHN MOORE,

Plaintiff,

v.

BRIDGEPORT PRODUCTS, INC.; ROSS  
STORES, INC.; and DOES 1-150, inclusive.

Defendants.

Case No. CIV1200042

**FIRST AMENDED COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**

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

BY FAX

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff John Moore, in the  
3 public interest of the citizens of the State of California, to enforce the People’s right to be  
4 informed of the presence of di(2-ethylhexyl)phthalate, a toxic chemical, found in coverings for  
5 books sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failures to  
7 warn California citizens about their exposure to di(2-ethylhexyl)phthalate present in or on  
8 certain coverings for books that defendants manufacture, distribute, and/or offer for sale to  
9 consumers throughout the State of California.

10 3. High levels of di(2-ethylhexyl)phthalate are commonly found in and on coverings  
11 for books defendants manufacture, distribute, and/or offer for sale to consumers throughout the  
12 State of California.

13 4. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,  
14 California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), “No person in the course  
15 of doing business shall knowingly and intentionally expose any individual to a chemical known  
16 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
17 warning to such individual. . . .” (*Cal. Health & Safety Code § 25249.6.*)

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

23 6. Defendants manufacture, distribute, and/or offer for sell coverings for books  
24 containing excessive levels of DEHP including, but not limited to, *Soft Touch Classics Bible &*  
25 *Book Cover, bbc-001*. All such coverings for books containing DEHP shall hereinafter be  
26 referred to as the “PRODUCTS.”

27 7. Defendants’ failure to warn consumers and/or other individuals in the state of  
28 California not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et*

1 *seq.* about their exposure to DEHP and its potential to cause birth defects and other reproductive  
2 harm in conjunction with defendants' distribution, importation, manufacturing, and/or sale of  
3 the PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder of such  
4 conduct as well as civil penalties for each such violation.

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

9 9. Plaintiff also seeks civil penalties against defendants for their violations of  
10 Proposition 65, as provided for by California Health & Safety Code § 25249.7(b).

### 11 PARTIES

12 10. Plaintiff JOHN MOORE is a citizen of the State of California who is dedicated to  
13 protecting the health of California citizens through the elimination or reduction of toxic  
14 exposures from consumer products, and brings this action in the public interest pursuant to  
15 California Health & Safety Code § 25249.7.

16 11. Defendant BRIDGEPORT PRODUCTS, INC., ("BRIDGEPORT") is a person  
17 doing business within the meaning of California Health & Safety Code § 25249.11.

18 12. Defendant BRIDGEPORT manufactures and/or distributes the PRODUCTS for  
19 sale or use in the State of California or implies by its conduct that it manufactures and/or  
20 distributes the PRODUCTS for sale or use in the State of California.

21 13. Defendant ROSS STORES, INC., ("ROSS") is a person doing business within the  
22 meaning of California Health & Safety Code § 25249.11.

23 14. Defendant ROSS STORES manufactures and/or distributes the PRODUCTS for  
24 sale or use in the State of California or implies by its conduct that it manufactures and/or  
25 distributes the PRODUCTS for sale or use in the State of California.

26 15. Defendants DOES 2-50 ("MANUFACTURER DEFENDANTS") are each  
27 persons doing business within the meaning of California Health & Safety Code § 25249.11.

28





1           30. On or about May 29, 2012, plaintiff served a supplemental sixty-day notice of  
2 violation together with the requisite certificate of merit on BRIDGEPORT, ROSS, and various  
3 public enforcement agencies which included the additional allegation that ROSS was also  
4 responsible for purchasers' and users' exposed to DEHP during the reasonably foreseeable use  
5 of the PRODUCTS resulting from DEFENDANTS' unwarned sales of the PRODUCTS in  
6 California.

7           31. DEFENDANTS have engaged in the manufacture, distribution and/or offering of  
8 the PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6 and  
9 DEFENDANTS' manufacture, distribution and/or offering of the PRODUCTS for sale or use in  
10 violation of California Health & Safety Code § 25249.6 has continued to occur beyond  
11 DEFENDANTS' receipt of plaintiff's sixty-day notice of violation and supplemental sixty-day  
12 notice of violation. Plaintiff further alleges and believes that such violations will continue to  
13 occur into the future.

14           32. After receipt of the claims asserted in the sixty-day notice of violation and  
15 supplemental sixty-day notice of violation, the appropriate public enforcement agencies have  
16 failed to commence and diligently prosecute a cause of action against DEFENDANTS under  
17 Proposition 65.

18           33. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
19 California by DEFENDANTS contained DEHP above the allowable state limits.

20           34. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
21 distributed, and/or offered for sale or use by DEFENDANTS in California contained DEHP.

22           35. DEHP was present in or on the PRODUCTS in such a way as to expose  
23 individuals to DEHP through dermal contact and/or ingestion and/or inhalation during the  
24 reasonably foreseeable use of the PRODUCTS.

25           36. The normal and reasonably foreseeable use of the PRODUCTS has caused and  
26 continues to cause consumer and workplace exposures to DEHP, as such exposure is defined by  
27 27 CCR § 25602(b).

28



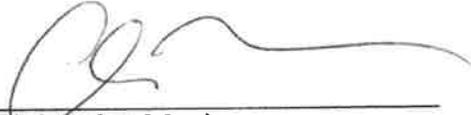
1 offering the PRODUCTS for sale or use in California, without providing “clear and reasonable  
2 warnings” as defined by 27 CCR § 25601, as to the harms associated with exposures DEHP;

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

4 4. That the Court grant such other and further relief as may be just and proper.  
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6 Dated: September 21, 2012

7 Respectfully Submitted,  
THE CHANLER GROUP

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9 By:   
10 Christopher Martin  
11 Attorneys for Plaintiff  
12 JOHN MOORE  
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