



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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Mar-15-2011 3:31 pm

Case Number: CGC-11-509211

Filing Date: Mar-15-2011 3:26

Juke Box: 001 Image: 03153230

COMPLAINT

RUSSELL BRIMER VS. BBC APPAREL GROUP, LLC et al

001C03153230

Instructions:

Please place this sheet on top of the document to be scanned.

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

BBC APPAREL GROUP, LLC and DOES 1-150

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Russell Brimer

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court
400 McAllister Street (Civic Center Courthouse)
San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGC-11-509211

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
The Chanler Group, Gregory Sheffer, 81 Throckmorton Ave., Suite 202, Mill Valley, CA, 415.388.0911
D. STIERE

DATE: **MAR 15 2011**
(Fecha)

CLERK OF THE COURT
Clerk, by
(Secretario)

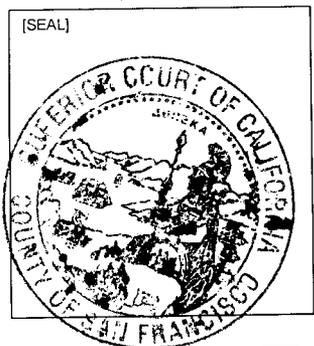
[Signature], Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Gregory M. Sheffer, Esq. S.B. No. 173124
The Chanler Group
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941
TELEPHONE NO.: 415-388-0911 FAX NO.: 415-388-9911
ATTORNEY FOR (Name): Plaintiff, Russell Brimer

FILED
FOR COURT USE ONLY
San Francisco County Superior Court

MAR 15 2011

CLERK OF THE COURT

By: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: 400 McAllister Street
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME: Civic Center Courthouse

CASE NAME:
Russel Brimer v. BBC Apparel Group, LLC et al.

CASE NUMBER: **CGC-11-509211**

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:
- | | | |
|---|---|--|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input checked="" type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|---|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **one**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 15, 2011
Gregory M. Sheffer, Esq.
(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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Clifford A. Chanler, State Bar No. 135534
Gregory M. Sheffer, State Bar No. 173124
THE CHANLER GROUP
81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941
Telephone: 415.388.0911
Facsimile: 415.388.9911

Attorneys for Plaintiff
RUSSELL BRIMER

FILED
San Francisco County Superior Court

MAR 15 2011

CLERK OF THE COURT
By: *[Signature]*
Deputy Clerk

SUMMONS ISSUED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

CGC-11-009211

RUSSELL BRIMER,

Plaintiff,

v.

BBC APPAREL GROUP, LLC and DOES 1-
150,

Defendants.

Case No. _____

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

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

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff RUSSELL
3 BRIMER, 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 lead, a toxic chemical found in certain fashion apparel
5 jackets manufactured, distributed and/or otherwise sold by defendants in California.

6 2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986,
7 California Health & Safety Code Section 25249.6 *et seq.* ("Proposition 65"), "No person in the
8 course of doing business shall knowingly and intentionally expose any individual to a chemical
9 known to the state to cause cancer or reproductive toxicity without first giving clear and
10 reasonable warning to such individual. . . ." (*Cal. Health & Safety Code § 25249.6.*)

11 3. On February 27, 1987, the State of California identified and listed lead as a
12 chemical known to cause birth defects and other reproductive harm. Lead became subject to the
13 warning requirement one year later and was therefore subject to the "clear and reasonable
14 warning" requirements of Proposition 65, beginning on February 27, 1988. (*27 CCR § 27001*
15 *(c); Cal. Health & Safety Code § 25249.8.*) Lead shall hereinafter be referred to as the
16 "LISTED CHEMICAL."

17 4. Significant levels of the LISTED CHEMICAL have been discovered in or on
18 certain materials comprising fashion apparel jackets that defendants manufacture, distribute,
19 and/or offer for sale to consumers throughout the State of California including, but not limited
20 to, J2 by JouJou Jacket (Willow, Style JRP-105-932). All such fashion apparel made with
21 materials containing the LISTED CHEMICAL shall hereinafter be referred to as the
22 "PRODUCTS."

23 5. Defendants' failure to warn consumers and/or other individuals in the State of
24 California about their exposures to the LISTED CHEMICAL in conjunction with defendants'
25 sale of the PRODUCTS is a violation of Proposition 65.

26 6. For defendants' violations of Proposition 65, plaintiff seeks preliminary and
27 permanent injunctive relief to compel defendants to provide purchasers or users of the
28

1 PRODUCTS with the required warning regarding the health hazards of the LISTED
2 CHEMICAL. (*Cal. Health & Safety Code § 25249.7(a).*)

3 7. Plaintiff also seeks civil penalties against defendants for their violations of
4 Proposition 65, as provided for by California Health & Safety Code Section 25249.7(b).

5 **PARTIES**

6 8. Plaintiff RUSSELL BRIMER is a citizen of the State of California who is
7 dedicated to protecting the health of California citizens through the elimination or reduction of
8 toxic exposures from consumer products, and brings this action in the public interest pursuant to
9 California Health & Safety Code Section 25249.7.

10 9. Defendant BBC APPAREL GROUP, LLC (“BBC APPAREL”) is a person doing
11 business within the meaning of California Health & Safety Code Section 25249.11.

12 10. Defendant BBC APPAREL manufactures, distributes, and/or offers the
13 PRODUCTS for sale or use in the State of California or implies by its conduct that they
14 manufacture, distribute, and/or offer the PRODUCTS for sale or use in the State of California.

15 11. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each
16 persons doing business within the meaning of California Health & Safety Code Section
17 25249.11.

18 12. MANUFACTURER DEFENDANTS engage in the process of research, testing,
19 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they
20 engage in the process of research, testing, designing, assembling, fabricating, and/or
21 manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

22 13. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each persons
23 doing business within the meaning of California Health & Safety Code Section 25249.11.

24 14. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or
25 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in
26 the State of California.

27 15. Defendants DOES 101-150 (“RETAIL DEFENDANTS”) are each persons doing
28 business within the meaning of California Health & Safety Code Section 25249.11.

1 **FIRST CAUSE OF ACTION**

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

3 22. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
4 Paragraphs 1 through 21, inclusive.

5 23. The citizens of the State of California have expressly stated in the Safe Drinking
6 Water and Toxic Enforcement Act of 1986, California Health & Safety Code Section 25249.5,
7 *et seq.* (Proposition 65) that they must be informed “about exposures to chemicals that cause
8 cancer, birth defects and other reproductive harm.” (*Cal. Health & Safety Code § 25249.6.*)

9 24. On November 23, 2010, a sixty-day notice of violation (“60-Day Notice”),
10 together with the requisite Certificate of Merit, was provided to BBC APPAREL and various
11 public enforcement agencies stating that as a result of the DEFENDANTS’ sales of the
12 PRODUCTS, purchasers and users in the State of California are being exposed to lead resulting
13 from the reasonably foreseeable uses of the PRODUCTS, without the individual purchasers and
14 users first having been provided with a “clear and reasonable warning” regarding such toxic
15 exposures.

16 25. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of
17 the PRODUCTS for sale or use in violation of California Health & Safety Code Section
18 25249.6 and DEFENDANTS’ manufacture, distribution, and/or offering of the PRODUCTS for
19 sale or use in violation of California Health & Safety Code Section 25249.6 has continued to
20 occur beyond DEFENDANTS’ receipt of plaintiff’s 60-Day Notice. Plaintiff further alleges
21 and believes that such violations will continue to occur into the future.

22 26. After receipt of the claims asserted in the 60-Day Notice, the appropriate public
23 enforcement agencies have failed to commence and diligently prosecute a cause of action
24 against DEFENDANTS under Proposition 65.

25 27. The PRODUCTS manufactured, distributed, and/or offered for sale or use in
26 California by DEFENDANTS contain the LISTED CHEMICAL.

27 28. DEFENDANTS knew or should have known that the PRODUCTS contained the
28 LISTED CHEMICAL.

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1. That the Court, pursuant to California Health & Safety Code Section 25249.7(b), assess civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation alleged herein;

2. That the Court, pursuant to California Health & Safety Code Section 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the PRODUCTS for sale or use in California, without providing "clear and reasonable warnings" as defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED CHEMICAL;

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

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

Dated: March 15, 2011

Respectfully submitted,

THE CHANLER GROUP

By: 
Gregory M. Sheffer
Attorneys for Plaintiff
RUSSELL BRIMER