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**FILED**

**MAR 25 2011**

**KIM TURNER**  
Court Executive Officer  
**MARIN COUNTY SUPERIOR COURT**  
By: C. Lucchesi, Deputy

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF MARIN  
13 UNLIMITED CIVIL JURISDICTION

14 RUSSELL BRIMER,  
15 Plaintiff,  
16 v.  
17 HYPNOTIC HATS, LTD. and DOES 1-150,  
18 Defendants.

Case No. CIV 1101583

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

NATURE OF THE ACTION

1  
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 of defendants'  
5 belt products 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 belts that defendants manufacture, distribute, and/or offer for sale to consumers throughout the  
19 State of California including, but not limited to, the *Pink Cookie Fashion Belt # 11693 (#6*  
20 *61128 29650 0)*. All such belts containing the LISTED CHEMICAL shall hereinafter be  
21 referred to as the "PRODUCTS."

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

25 6. For defendants' violations of Proposition 65, plaintiff seeks preliminary and  
26 permanent injunctive relief to compel defendants to provide purchasers or users of the  
27  
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 HYPNOTIC HATS, LTD. ("HYPNOTIC HATS") is a person doing  
11 business within the meaning of California Health & Safety Code Section 25249.11.

12 10. Defendant HYPNOTIC HATS manufactures, distributes, and/or offers the  
13 PRODUCTS for sale or use in the State of California or implies by its conduct that it  
14 manufactures, distributes, and/or offers the PRODUCTS for sale or use in the State of  
15 California.

16 11. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each  
17 persons doing business within the meaning of California Health & Safety Code Section  
18 25249.11.

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

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

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

