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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

DEC 22 2015

Sherril R. Jager, Executive Officer/Clerk  
By Shaunya Bolden, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

11 ANTHONY FERREIRO,  
12 Plaintiff,  
13 vs.  
14 WATER PIK, INC.,  
15 Defendant.

CASE NO.:

JUDGE

BC 6 05 081

DEPT.:

COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF

(Violation of Health & Safety Code §25249.5  
*et seq.*)

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19 Plaintiff Anthony Ferreiro, by and through his attorneys, alleges the following cause of  
20 action in the public interest of the citizens of the State of California.

21 BACKGROUND OF THE CASE

22 1. Plaintiff Anthony Ferreiro ("Plaintiff" or "Ferreiro"), brings this representative  
23 action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water  
24 and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 *et seq*  
25 ("Proposition 65"), which reads, in relevant part, "[n]o person in the course of doing business  
26 shall knowingly and intentionally expose any individual to a chemical known to the state to  
27 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
28 individual ...". Health & Safety Code § 25249.6.

1           2.       This complaint is a representative action brought by Plaintiff in the public interest  
2 of the citizens of the State of California to enforce the People’s right to be informed of the health  
3 hazards caused by exposure to Di(2-ethylhexyl) phthalate (DEHP), a toxic chemical found in  
4 shower massage cords sold and/or distributed by defendant Water Pik, Inc. (“Water Pik” or  
5 “Defendant”) in California.

6           3.       DEHP is a harmful chemical known to the State of California to cause cancer and  
7 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical  
8 known to the State to cause cancer and it has come under the purview of Proposition 65  
9 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§  
10 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical  
11 known to cause developmental male reproductive toxicity. *Id.*

12           4.       Proposition 65 requires all businesses with ten (10) or more employees that  
13 operate within California or sell products therein to comply with Proposition 65 regulations.  
14 Included in such regulations is the requirement that businesses must label any product containing  
15 a Proposition 65-listed chemical with a “clear and reasonable” warning before “knowingly and  
16 intentionally” exposing any person to it.

17           5.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
18 to be imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety  
19 Code § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin  
20 the actions of a defendant which “violate or threaten to violate” the statute. Health & Safety  
21 Code § 25249.7.

22           6.       Plaintiff alleges that Defendant produces, manufactures, distributes, imports, sells,  
23 and/or offers for sale, without the required warning, shower massage cords in California  
24 containing DEHP. These shower massage cords associated with products distributed by Water  
25 Pik include, but are not limited to, *UPC Nos. 073950313483, 073950166379, and 073950170635*  
26 (the “Products”).

27           7.       Defendant’s failure to warn consumers and other individuals in California of the  
28 health hazards associated with exposure to DEHP in conjunction with the sale, manufacture,

1 and/or distribution of the Products is a violation of Proposition 65 and subjects Defendant to the  
2 enjoinder and civil penalties described herein.

3 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition  
4 65 in accordance with Health and Safety Code § 25249.7(b).

5 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
6 Defendant to provide purchasers or users of the Products with the required warnings related to  
7 the dangers and health hazards associated with exposure to DEHP pursuant to Health and Safety  
8 Code § 25249.7(a).

9 **PARTIES**

10 10. Plaintiff is a citizen of the State of California acting in the interest of the general  
11 public to promote awareness of exposures to toxic chemicals in products sold in California and  
12 to improve human health by reducing hazardous substances contained in such items. He brings  
13 this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

14 11. Defendant has been a leader in developing personal and oral health care products  
15 for the entire family since 1962. Through its business, Water Pik effectively manufactures,  
16 imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or  
17 it implies by its conduct that it manufactures, imports, distributes, sells, and/or offers the  
18 Products for sale or use in the State of California. Water Pik maintains a registered agent for  
19 service of process at c/o National Corporate Research, Ltd., 615 S. Dupont Highway, Dover DE  
20 19901.

21 12. Water Pik is a "person" in the course of doing business within the meaning of  
22 Health & Safety Code sections 25249.6 and 25249.11.

23 **VENUE AND JURISDICTION**

24 13. Venue is proper in the County of Los Angeles because one or more of the  
25 instances of wrongful conduct occurred, and continue to occur in this county and/or because  
26 Defendant conducted, and continues to conduct, business in the County of Los Angeles with  
27 respect to the Products.

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