

1 Evan J. Smith, Esquire (SBN 242352)  
2 Ryan P. Cardona, Esquire (SBN 302113)  
3 BRODSKY & SMITH, LLC  
4 9595 Wilshire Blvd., Ste. 900  
5 Beverly Hills, CA 90212  
6 Telephone: (877) 534-2590  
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

ENDORSED  
FILED  
ALAMEDA COUNTY

OCT 15 2011

CLERK OF THE SUPERIOR COURT  
By Xian-Xii Bowie

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ALAMEDA

12 ANTHONY FERREIRO,  
13 Plaintiff,  
14 vs.  
15 WILSON HUNT INTERNATIONAL,  
16 LTD. D/B/A CHAMPRO SPORTS,  
17 Defendant.

CASE NO.: RG 15789605

JUDGE

DEPT.:

COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF

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

BY FAX

18  
19 Plaintiff Anthony Ferreiro ("Plaintiff" or "Ferreiro"), by and through his attorneys,  
20 alleges the following cause of action in the public interest of the citizens of the State of  
21 California.

22 BACKGROUND OF THE CASE

23 1. Plaintiff brings this representative action on behalf of all California citizens to  
24 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified  
25 at the Health and Safety Code § 25249.5 *et seq* ("Proposition 65"), which reads, in relevant part,  
26 "[n]o person in the course of doing business shall knowingly and intentionally expose any  
27 individual to a chemical known to the state to cause cancer or reproductive toxicity without first  
28 giving clear and reasonable warning to such 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) and Diisononyl phthalate  
4 (DINP), toxic chemicals found in flag football belts sold and/or distributed by defendant Wilson  
5 Hunt International, Ltd. d/b/a Champro Sports (“Champro”) 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.       DINP is a harmful chemical known to the State of California to cause cancer. On  
13 December 20, 2013, the State of California listed DINP as a chemical known to cause cancer and  
14 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.  
15 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

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

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

26           7.       Plaintiff alleges that Defendant produces, manufactures, distributes, imports, sells,  
27 and/or offers for sale, without the required warning, flag football belts in California containing  
28

1 DEHP and DINP. These products include, but are not limited to, *Football Flag Belt, Color:*  
2 *blue, UPC# 752044739575, SC-A15RY* (the “Product”).

3 8. Defendant’s failure to warn consumers, workers, and other individuals in  
4 California of the health hazards associated with exposure to DEHP and DINP in conjunction  
5 with the sale, manufacture, and/or distribution of the Product is a violation of Proposition 65 and  
6 subjects Defendant to the enjoinder and civil penalties described herein.

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

9 10. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
10 Defendant to provide purchasers or users of the Product with the required warnings related to the  
11 dangers and health hazards associated with exposure to DEHP and DINP pursuant to Health and  
12 Safety Code § 25249.7(a).

13 **PARTIES**

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

18 12. Defendant Champro designs, manufactures, and sells sports apparel and  
19 equipment. Through its business, Champro effectively manufactures, imports, distributes, sells,  
20 and/or offers the Product for sale or use in the State of California, or it implies by its conduct that  
21 it manufactures, imports, distributes, sells, and/or offers the Product for sale or use in the State of  
22 California. Champro maintains a registered agent for service of process at c/o Wilson F. Hunt,  
23 Jr. at 2126 Larkdale, Glenview, Illinois 60025.

24 13. Defendant Champro is a “person” in the course of doing business within the  
25 meaning of Health & Safety Code §§ 25249.6 and 25249.11.

26 **VENUE AND JURISDICTION**

27 14. Venue is proper in the County of Alameda because one or more of the instances  
28 of wrongful conduct occurred, and continue to occur in this county and/or because Defendant

1 conducted, and continues to conduct, business in the County of Alameda with respect to the  
2 Product.

3 15. This Court has jurisdiction over this action pursuant to California Constitution  
4 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
5 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the  
6 enforcement of violations of Proposition 65 in any Court of competent jurisdiction; therefore,  
7 this Court has jurisdiction over this lawsuit.

8 16. This Court has jurisdiction over Defendant because it has sufficient minimum  
9 contacts with the State of California, and/or has otherwise purposefully availed itself of the  
10 California market. Such purposeful availment has rendered the exercise of jurisdiction by  
11 California courts consistent and permissible with traditional notions of fair play and substantial  
12 justice.

13 **SATISFACTION OF NOTICE REQUIREMENTS**

14 17. On May 27, 2015, Plaintiff gave notice of alleged violation of Health and Safety  
15 Code § 25249.6 (the "Notice") to Defendant concerning the exposure of California citizens to  
16 DEHP and DINP contained in the Product without proper warning, subject to a private action to  
17 Defendant and to the California Attorney General's office and the offices of the County District  
18 attorneys and City Attorneys for each city with a population greater than 750,000 persons  
19 wherein the herein violations allegedly occurred.

20 18. The Notice complied with all procedural requirements of Proposition 65 including  
21 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at  
22 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
23 DEHP and DINP exposure, and that counsel believed there was meritorious and reasonable cause  
24 for a private action.

25 19. After receiving the Notice, and to Plaintiff's best information and belief, none of  
26 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted  
27 a cause of action against Defendant under Proposition 65 to enforce the alleged violations which  
28 are the subject of Plaintiff's notice of violation.



