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ENDORSED  
FILED  
ALAMEDA COUNTY

OCT 05 2016

CLERK OF THE SUPERIOR COURT

By   
JAMIE THOMAS, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

10 ANTHONY FERREIRO,  
11 Plaintiff,

12 vs.

13 TWENTIETH CENTURY FOX FILM  
14 CORPORATION, FX NETWORKS,  
15 LLC, TWENTY-FIRST CENTURY  
16 FOX, INC.,  
17 Defendants.

Case No.: RG16833881

COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF

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

17 Plaintiff Anthony Ferreiro (“Plaintiff”), by and through his attorneys, alleges the  
18 following cause of action in the public interest of the citizens of the State of California.

19 **BACKGROUND OF THE CASE**

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

26 2. This complaint is a representative action brought by Plaintiff in the public interest  
27 of the citizens of the State of California to enforce the People’s right to be informed of the health  
28 hazards caused by exposure to Di(2-ethylhexyl) phthalate (DEHP), a toxic chemical found in

BY FAX

1 children's clothing sold and/or distributed by defendants Twentieth Century Fox Film  
2 Corporation t/a Sons of Anarchy ("20th Century Fox"), FX Networks, LLC ("FX"), Twenty-  
3 First Century Fox, Inc. ("21st Century Fox") (collectively, "Defendants"), and non-defendant,  
4 Piston Clothing LLC ("Piston") in California.

5 3. DEHP is a harmful chemical known to the State of California to cause cancer and  
6 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical  
7 known to the State to cause cancer. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code  
8 §§ 25249.8 & 25249.10(b). On October 24, 2003, the State of California DEHP as a chemical  
9 known to cause reproductive toxicity. *Id.*

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

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

20 6. Plaintiff alleges that Defendants distribute, import, sell, and/or offer for sale,  
21 without the required Proposition 65 warning, Piston manufactured Sons of Anarchy Reaper Faux  
22 Leather Kids Vests, SKU ID No. 6397 917600 0607 (the "Products") in California containing  
23 DEHP.

24 7. Defendants' failure to warn consumers, workers, and other individuals in  
25 California of the health hazards associated with exposure to DEHP in conjunction with the sale,  
26 and/or distribution of the Products is a violation of Proposition 65 and subjects Defendants to the  
27 enjoinder and civil penalties described herein.

28





1 citizens to DEHP contained in the Products without proper warning, subject to a private action to  
2 Defendants and to the California Attorney General's office and the offices of the County District  
3 attorneys and City Attorneys for each city with a population greater than 750,000 persons  
4 wherein the herein violations allegedly occurred.

5 19. The Notice complied with all procedural requirements of Proposition 65 including  
6 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at  
7 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
8 DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a  
9 private action.

10 20. After receiving the Notice, and to Plaintiff's best information and belief, none of  
11 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted  
12 a cause of action against Defendants under Proposition 65 to enforce the alleged violations which  
13 are the subject of Plaintiff's notice of violation.

14 21. Plaintiff is commencing this action more than sixty (60) days from the date of his  
15 notice to Defendants, as required by law.

#### 16 **FIRST CAUSE OF ACTION**

#### 17 **(By Plaintiff against Defendants for the Violation of Proposition 65)**

18 22. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 21 of  
19 this complaint as though fully set forth herein.

20 23. Defendants have, at all times mentioned herein, acted as a distributor, and/or  
21 retailer of the Products.

22 24. The Products contain DEHP, s hazardous chemical found on the Proposition 65  
23 list of a chemical known to be hazardous to human health.

24 25. The Products do not comply with the Proposition 65 warning requirements.

25 26. Plaintiff, based on his best information and belief, avers that at all relevant times  
26 herein, and at least since April 18, 2016 continuing until the present, that Defendants have  
27 continued to knowingly and intentionally expose California users and consumers of the Products  
28 to DEHP without providing required warnings under Proposition 65.

1           27.     With respect to the Products, the exposures that are the subject of this notice  
2 result from the purchase, acquisition, handling and recommended use of the Products.  
3 Consequently, the primary route of exposure to these chemicals is through dermal exposure.  
4 Dermal exposure through the child's hands can occur during fitting and removal of the vest and  
5 when hands are placed into pockets. The inside of the vest is likely to be in constant contact with  
6 either bare, exposed skin or the child's clothing. If the vest is worn over bare exposed skin,  
7 direct skin exposure will occur. Should the wearer's skin perspire inside the vest or the interior  
8 of the vest become wet from precipitation, aqueous DEHP skin permeation rates have been  
9 reported to be faster than neat DEHP permeation. Although the association between HMWP  
10 phthalates such as DEHP and atopic dermatitis has never been elucidated, as a multitude of  
11 chemicals are present in plastics that come into contact with human skin, DEHP in headphones  
12 and hearing protection aids has been reported to induce contact dermatitis. Clothing worn  
13 beneath the vest are likely to absorb DEHP while the vest is worn. The contaminated articles of  
14 clothing will continue to be a source of dermal transfer after the vest is removed. If the vest is  
15 stored or transported in a carrier, DEHP that leaches from the vest may contaminate other articles  
16 contained within the carrier bag that are subsequently handled by people.

17           28.     Plaintiff, based on his best information and belief, avers that such exposures will  
18 continue every day until clear and reasonable warnings are provided to the Products' purchasers  
19 and users or until this known toxic chemical is removed from the Products.

20           29.     Defendants have knowledge that the normal and reasonably foreseeable use of the  
21 Products exposes individuals to DEHP, and Defendant intend that exposures to DEHP will occur  
22 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of  
23 the Products to consumers in California

24           30.     Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
25 Complaint.

26           31.     Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
27 described acts, Defendants are liable for a maximum civil penalty of \$2,500 per day per  
28 violation.

