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MAY 30 2019

CLERK OF THE SUPERIOR COURT

By Jayana Turner Deputy

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

11 ANTHONY FERREIRO,  
12 Plaintiff,  
13 vs.  
14 REVZILLA MOTORSPORTS, LLC,  
15 Defendant.

Case No.: RC19020893  
COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF  
(Violation of Health & Safety Code § 25249.5 et  
seq.)

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

18 BACKGROUND OF THE CASE

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

25 2. This complaint is a representative action brought by Plaintiff in the public interest  
26 of the citizens of the State of California to enforce the People's right to be informed of the health  
27 hazards caused by exposure to diisononyl phthalate (DINP), a toxic chemical found in Oxford  
28 MIR Micro Magnetic Tank Bags sold and/or distributed by defendant Revzilla Motorsports,  
LLC ("Revzilla" or "Defendant") in California.

311 FAX







1 continued to knowingly and intentionally expose California users and consumers of the Product  
2 to DINP without providing required warnings under Proposition 65.

3       25.     The exposures that are the subject of the Notice result from the purchase,  
4 acquisition, handling and recommended use of the Product. Consequently, the primary route of  
5 exposure to these chemicals is through dermal absorption. Users may be exposed to DINP by  
6 dermal absorption through direct skin contact with the Product during expected use when the  
7 Product is grasped or manipulated with bare hands. If the Product becomes wet due to  
8 precipitation or is handled with wet hands, aqueous HMWP skin permeation rates have been  
9 reported to be faster than neat HMWP permeation. DINP that leaches from the Product can  
10 contaminate contents, including but not limited to a cell phone contained within the windowed  
11 compartment, that are subsequently handled, worn, mouthed, or ingested. When a cell phone is  
12 removed from the windowed compartment and used, dermal absorption of DINP is possible  
13 when the user manipulates the phone or holds the cell phone against an ear. If the Product is  
14 stored or transported in a carrier, DINP that leaches from the plastic may contaminate other  
15 articles contained within these closed spaces that are subsequently handled, worn, mouthed, or  
16 consumed. Finally, while mouthing of the Product does not seem likely, some amount of  
17 exposure through ingestion can occur by touching the product with subsequent touching of the  
18 user's hand to mouth, through touching the DINP contaminated smartphone screen after it is  
19 removed from the pocket with subsequent touching of the user's hand to mouth, or if the phone  
20 surface is contaminated with DINP and comes into contact with the user's mouth during use.

21       26.     Plaintiff, based on his best information and belief, avers that such exposures will  
22 continue every day until clear and reasonable warnings are provided to Product purchasers and  
23 users or until this known toxic chemical is removed from the Product.

24       27.     Defendant has knowledge that the normal and reasonably foreseeable use of the  
25 Product exposes individuals to DINP, and Defendant intends that exposures to DINP will occur  
26 by its deliberate, non-accidental participation in the manufacture, importation, distribution, sale  
27 and offering of the Products to consumers in California

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1 28. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
2 Complaint.

3 29. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
4 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

5 30. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
6 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff demands judgment against Defendant and requests the  
9 following relief:

- 10 A. That the court assess civil penalties against Defendant in the amount of  
11 \$2,500 per day for each violation in accordance with Health and Safety  
12 Code § 25249.7(b);
- 13 B. That the court preliminarily and permanently enjoin Defendant mandating  
14 Proposition 65 compliant warnings on the Product;
- 15 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit.
- 16 D. That the court grant any further relief as may be just and proper.

17  
18 Dated: May 29, 2019

BRODSKY & SMITH, LLC

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