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**ENDORSED
FILED
ALAMEDA COUNTY**

SEP 22 2021

CLERK OF THE SUPERIOR COURT
By *J. Thomas*
JAMIE THOMAS, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

9 ANTHONY FERREIRO,

10 Plaintiff,

11 vs.

12 LEATHER IMPRESSIONS, INC.,
13 OUTDOOR WORLD, INC.,

14 Defendants.

Case No.:

RG21113486

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

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

17 **BACKGROUND OF THE CASE**

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

24 2. This complaint is a representative action brought by Plaintiff in the public interest
25 of the citizens of the State of California to enforce the People's right to be informed of the health
26 hazards caused by exposure to diisononyl phthalate (DINP), a toxic chemical found in Bacci
27 Leather Impressions passport covers sold and/or distributed by defendant Leather Impressions,
28

1 Inc. (“Leather Impressions”) and defendant Outdoor World, Inc. (“Outdoor World”) (collectively,
2 the “Defendants”) in California.

3 3. DINP is a harmful chemical known to the State of California to cause cancer. On
4 December 20, 2013, the State of California listed DINP as a chemical known to the State to cause
5 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
6 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

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

12 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
13 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
14 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
15 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
16 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
17 25249.7.

18 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
19 without a requisite exposure warning, Bacci Leather Impressions passport covers (the “Products”)
20 that expose persons to DINP.

21 7. Defendants’ failure to warn consumers and other individuals in California of the
22 health hazards associated with exposure to DINP in conjunction with the sale and/or distribution
23 of the Products is a violation of Proposition 65 and subjects Defendants to the enjoinder and civil
24 penalties described herein.

25 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition
26 65 in accordance with Health and Safety Code § 25249.7(b).

27 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
28 Defendants to provide purchasers or users of the Products with required warnings related to the

1 dangers and health hazards associated with exposure to DINP pursuant to Health and Safety Code
2 § 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney’s fees and costs.

4 **PARTIES**

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

9 12. Defendant Leather Impressions, through its business, effectively imports,
10 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies
11 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the
12 State of California. Plaintiff alleges that defendant Leather Impressions is a “person” in the course
13 of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

14 13. Defendant Outdoor World, through its business, effectively imports, distributes,
15 sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct
16 that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
17 Plaintiff alleges that defendant Outdoor World is a “person” in the course of doing business within
18 the meaning of Health & Safety Code sections 25249.6 and 25249.11.

19 **VENUE AND JURISDICTION**

20 14. Venue is proper in the County of Alameda because one or more of the instances of
21 wrongful conduct occurred, and continue to occur in this county and/or because Defendants
22 conducted, and continue to conduct, business in the County of Alameda with respect to the
23 Products.

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

1 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
2 the Products to consumers in California

3 39. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
4 Complaint.

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

7 41. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
8 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
11 relief:

12 A. That the court assess civil penalties against each defendant in the amount of \$2,500
13 per day for each violation for up to 365 days (up to a maximum civil penalty amount per
14 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

15 B. That the court preliminarily and permanently enjoin Defendants mandating
16 Proposition 65 compliant warnings on the Products;

17 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
18 amount of \$50,000.00.

19 D. That the court grant any further relief as may be just and proper.

20 Dated: September 21, 2021

BRODSKY SMITH

21 By:  _____

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