

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKSHEPARD FAIREY AND OBEY GIANT  
ART, INC.,

Plaintiffs,

v.

THE ASSOCIATED PRESS,

Defendant and Counterclaim  
Plaintiff,

v.

SHEPARD FAIREY, OBEY GIANT ART,  
INC., OBEY GIANT LLC, STUDIO  
NUMBER ONE, INC., and ONE 3 TWO,  
INC. (d/b/a OBEY CLOTHING),

Counterclaim Defendants.

ECF

Case No. 09-01123 (AKH)

**COUNTERCLAIM DEFENDANT ONE 3 TWO, INC.'S NOTICE OF MOTION IN  
LIMINE NO. 5 TO EXCLUDE EVIDENCE OF SUBSEQUENT REMEDIAL  
MEASURES****TO ALL PARTIES AND THEIR COUNSEL OF RECORD:****PLEASE TAKE NOTICE** that upon the accompanying memorandum of law,

Counterclaim Defendant One 3 Two, Inc. d/b/a Obey Clothing ("One 3 Two") will move, before the honorable Alvin K. Hellerstein, United States District Judge at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., Courtroom 14D, New York, New York 10007, on March 16, 2011 at 10:00 a.m., to exclude evidence and argument of evidence of actions taken by One 3 Two to avoid future litigation. One 3 Two moves *in limine* on grounds that this evidence is inadmissible because it is irrelevant under Federal Rules of Evidence 401 and 402, its risk of

unfair prejudice substantially outweighs its probative value under Federal Rule of Evidence 403, and is evidence of subsequent remedial measures under Federal Rule of Evidence 407.

By: /s/ Robyn C. Crowther  
Robyn C. Crowther  
Jeanne A. Fugate  
Laurie C. Martindale  
Caldwell Leslie & Proctor, PC  
1000 Wilshire Boulevard, Suite 600  
Los Angeles, California 90017-2463  
Telephone: (213) 629-9040  
Facsimile: (213) 629-9022  
[crowther@caldwell-leslie.com](mailto:crowther@caldwell-leslie.com)  
[fugate@caldwell-leslie.com](mailto:fugate@caldwell-leslie.com)  
[martindale@caldwell-leslie.com](mailto:martindale@caldwell-leslie.com)

Theresa Trzaskoma  
Charles Michael  
Brune & Richard LLP  
One Battery Park Plaza, 34<sup>th</sup> Floor  
New York, NY 10004  
Telephone: (212) 668-1900  
Facsimile: (212) 668-0315  
[ttrzaskoma@bruneandrichard.com](mailto:ttrzaskoma@bruneandrichard.com)  
[cmichael@bruneandrichard.com](mailto:cmichael@bruneandrichard.com)

*Counsel for Counterclaim Defendant  
One 3 Two, Inc. (d/b/a Obey Clothing)*