

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*

**FILED**

**FEB 13 2020**

**JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: W. Simmons, Deputy**

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

ANTHONY FERREIRO,

Plaintiff,

vs.

G & F PRODUCTS, INC.; TARGET  
CORPORATION,

Defendants,

Case No. **CN 2000576**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

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

**BACKGROUND OF THE CASE**

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

2. This complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to chromium (VI), a toxic chemical found in G & F Products

1 reflective gloves sold and/or distributed by defendant G & F Products, Inc. (“G & F Products”)  
2 and defendant Target Corporation (“Target”) (collectively, “Defendants”) in California.

3 3. Chromium (VI) is a harmful chemical known to the State of California to cause  
4 cancer and adverse developmental effects in both males and females. On February 27, 1987, the  
5 state of California listed chromium (VI) as a chemical known to cause cancer and it has come  
6 under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, §  
7 27001(b); Health & Safety Code §§ 25249.8 & 25249.10(b). On December 19, 2008, the State of  
8 California listed chromium (VI) as a chemical known to cause adverse developmental effects in  
9 both males and females.

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 manufacture, distribute and/or offer for sale in  
21 California, without a requisite exposure warning, G & F Products reflective gloves (the  
22 “Products”) that expose persons to Chromium (VI).

23 7. Defendants’ failure to warn consumers and other individuals in California of the  
24 health hazards associated with exposure to chromium (VI) in conjunction with the sale and/or  
25 distribution of the Products is a violation of Proposition 65 and subjects Defendants to the  
26 injunction and civil penalties described herein.

27 8. Plaintiff seeks civil penalties against Defendants for its violations of Proposition  
28 65 in accordance with Health and Safety Code § 25249.7(b).

9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendants to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to chromium (VI) pursuant to Health and Safety Code § 25249.7(a).

## PARTIES

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

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

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

## VENUE AND JURISDICTION

13. Venue is proper in the County of Marin because one or more of the instances of wrongful conduct occurred, and continue to occur in this county and/or because Defendants conducted, and continue to conduct, business in the County of Marin with respect to the Products.

14. This Court has jurisdiction over this action pursuant to California Constitution Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the

1 enforcement of violations of Proposition 65 in any Court of competent jurisdiction; therefore,  
2 this Court has jurisdiction over this lawsuit.

3 15. This Court has jurisdiction over Defendants because Defendants are either a  
4 citizen of the State of California, have sufficient minimum contacts with the State of California,  
5 are registered with the California Secretary of State as foreign corporations authorized to do  
6 business in the State of California, and/or have otherwise purposefully availed itself of the  
7 California market. Such purposeful availment has rendered the exercise of jurisdiction by  
8 California courts consistent and permissible with traditional notions of fair play and substantial  
9 justice.

#### 10 **SATISFACTION OF NOTICE REQUIREMENTS**

11 16. On October 10, 2019, Plaintiff gave notice of alleged violation of Health and  
12 Safety Code § 25249.6 (the "Notice") to Defendants concerning the exposure of California  
13 citizens to chromium (VI) contained in the Products without proper warning, subject to a private  
14 action to Defendants and to the California Attorney General's office and the offices of the  
15 County District attorneys and City Attorneys for each city with a population greater than 750,000  
16 persons wherein the herein violations allegedly occurred.

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

22 18. After receiving the Notice, and to Plaintiff's best information and belief, none of  
23 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted  
24 a cause of action against Defendants under Proposition 65 to enforce the alleged violations which  
25 are the subject of the Notice.

26 19. Plaintiff is commencing this action more than sixty (60) days from the date of the  
27 Notice to Defendants, as required by law.

#### 28 **FIRST CAUSE OF ACTION**

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

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

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

22. The Products contain chromium (VI), a hazardous chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

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

24. Plaintiff, based on his best information and belief, avers that at all relevant times herein, and at least since October 10, 2019, continuing until the present, that Defendants have continued to knowingly and intentionally expose California users and consumers of the Products to chromium (VI) without providing required warnings under Proposition 65.

25. The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the Products. Consequently, the primary route of exposure to these chemicals is through dermal exposure. Increased duration of contact with the Products, natural aging of the Products, temperature, light exposure, and contact of the Products with oxidizing agents and alkaline solutions will result in increased conversion of chromium(III) to chromium(VI) in the Products and thus increased dermal exposure to chromium(VI). Direct mouthing of the Products and indirect hand to mouth exposure to chromium (VI) following wearing are possible additional chromium (VI) exposure routes.

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

27. Defendants have knowledge that the normal and reasonably foreseeable use of the Products exposes individuals to chromium (VI), and Defendants intend that exposures to chromium (VI) will occur by its deliberate, non-accidental participation in the manufacture, importation, distribution, sale and offering of the Products to consumers in California.

