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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

11/06/2023
Clerk of the Court
BY: WILLIAM TRUPEK
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 MARUCCI SPORTS, LLC, AMERICAN
15 SPORTS LICENSING, LLC,
16 AMERICAN SPORTS LICENSING,
17 INC., DICK'S SPORTING GOODS,
18 INC.,

19 Defendants.

Case No.: CGC-22-602638

**FIRST AMENDED COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE RELIEF**

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

20 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following
21 cause of action in the public interest of the citizens of the State of California.

22 **BACKGROUND OF THE CASE**

23 1. Plaintiff brings this representative action on behalf of all California citizens to
24 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
25 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
26 "[n]o person in the course of doing business shall knowingly and intentionally expose any
27 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
28 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

1 hazards caused by exposure to chromium (hexavalent compounds) (“chromium (VI)”), a toxic
2 chemical found in (a) Marucci *Signature*™ batting gloves, UPC # 849817097014, (b) Marucci
3 *Medallion*™ batting gloves, UPC # 840058729566, and (c) *Lizard Skins*™ Komodo V2 batting
4 gloves, UPC # 696260002986, sold and/or distributed by defendant Marucci Sports, LLC
5 (“Marucci”), American Sports Licensing, LLC; American Sports Licensing, Inc.; Dick’s Sporting
6 Goods, Inc. (collectively “Dick’s Sporting Goods” and with Marucci “Defendants”) in California.

7 3. Chromium (VI) is a harmful chemical known to the State of California to cause
8 cancer and birth defects or other reproductive harm. On February 27, 1987, the State of California
9 listed chromium (VI) as a chemical known to the State to cause cancer and it has come under the
10 purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health
11 & Safety Code §§ 25249.8 & 25249.10(b). On December 19, 2008, the State of California listed
12 chromium (VI) as a chemical known to cause birth defects or other reproductive harm.

13 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
14 within California or sell products therein to comply with Proposition 65 regulations. Included in
15 such regulations is the requirement that businesses must label any product containing a Proposition
16 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
17 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
18 chemical.

19 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
20 for up to 365 days to be imposed upon defendants in a civil action for violations of Proposition 65.
21 Health & Safety Code § 25249.7(b). Proposition 65 also allows for any court of competent
22 jurisdiction to enjoin the actions of a defendant which “violate or threaten to violate” the statute.
23 Health & Safety Code § 25249.7.

24 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
25 without a requisite exposure warning, (a) Marucci *Signature*™ batting gloves, UPC #
26 849817097014, (b) Marucci *Medallion*™ batting gloves, UPC # 840058729566, and (c) *Lizard*
27 *Skins*™ Komodo V2 batting gloves, UPC # 696260002986, (the “Products”) that expose persons
28 to chromium (VI) when used for their intended purpose.

1 **VENUE AND JURISDICTION**

2 14. Venue is proper in the County of San Francisco because one or more of the
3 instances of wrongful conduct occurred and continue to occur in this county and/or because
4 Defendants conducted, and continue to conduct, business in the County of San Francisco with
5 respect to the Products.

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

11 16. This Court has jurisdiction over Defendants because each defendant is either a
12 citizen of the State of California, has sufficient minimum contacts with the State of California, is
13 registered with the California Secretary of State as foreign corporations authorized to do business
14 in the State of California, and/or has otherwise purposefully availed itself of the California market.
15 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent
16 and permissible with traditional notions of fair play and substantial justice.

17 **STATUTORY BACKGROUND**

18 17. The people of the State of California declared in Proposition 65 their right “[t]o be
19 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
20 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

21 18. To effect this goal, Proposition 65 requires that individuals be provided with a
22 “clear and reasonable warning” before being exposed to substances listed by the State of California
23 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
24 pertinent part:

25 No person in the course of doing business shall knowingly and intentionally expose any
26 individual to a chemical known to the state to cause cancer or reproductive toxicity without
27 first giving clear and reasonable warning to such individual...

1 19. An exposure to a chemical in a consumer product is one “which results from a
2 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
3 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
4 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
5 shall provide a warning to any person to whom the product is sold or transferred unless the product
6 is packaged or labeled with a clear and reasonable warning.”

7 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
8 more of the following methods individually or in combination:¹

9 a. A warning that appears on a product’s label or other labeling.

10 b. Identification of the product at the retail outlet in a manner which provides
11 a warning. Identification may be through shelf labeling, signs, menus, or a combination
12 thereof.

13 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
14 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
15 with such conspicuousness, as compared with other words, statements, designs, or devices
16 in the label, labeling or display as to render it likely to be read and understood by an
17 ordinary individual under customary conditions of purchase or use.

18 d. A system of signs, public advertising identifying the system and toll-free
19 information services, or any other system that provides clear and reasonable warnings.

20 21. Proposition 65 provides that any “person who violates or threatens to violate” the
21 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
22 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
23 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
24

25
26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, *et seq.*, as amended on August 30,
2016, and operative on August 30, 2018.

1 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
2 365 days.

3 FACTUAL BACKGROUND

4 22. On February 27, 1987, the State of California listed chromium (VI) as a chemical
5 known to the State to cause cancer and it has come under the purview of Proposition 65 regulations
6 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
7 25249.10(b). On December 19, 2008, the State of California listed chromium (VI) as a chemical
8 known to cause birth defects or other reproductive harm. In summary, chromium (VI) was listed
9 under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other
10 reproductive harm.

11 23. The exposures that are the subject of the Notices result from the purchase,
12 acquisition, handling and recommended use of the Products. The primary route of exposure to the
13 chromium (VI) is through dermal absorption directly through the skin when consumers use, touch,
14 or handle the Products. Exposure through ingestion will occur by touching the Products with
15 subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
16 with the Products regarding the health hazards of exposure to chromium (VI).
17

18 24. Defendants have manufactured, processed, marketed, distributed, offered to sell
19 and/or sold the Products in California since at least August 6, 2021 with respect to the Marucci
20 *Signature*TM batting gloves; since at least October 18, 2022 with respect to the Marucci
21 *Medallion*TM batting gloves; and since at least March 15, 2023 with respect to the *Lizard Skins*TM
22 Komodo V2 batting gloves. The Products continue to be distributed and sold in California without
23 the requisite warning information.

24 25. At all times relevant to this action, Defendants have knowingly and intentionally
25 exposed users, consumers and/or patients to the Products and the chromium (VI) without first
26 giving a clear and reasonable exposure warning to such individuals.

27 26. As a proximate result of acts by each defendant, as a person in the course of doing
28 business within the meaning of H&S Code § 25249.11, individuals throughout the State of

1 California, including in San Francisco County, have been exposed to chromium (VI) without a
2 clear and reasonable warning on the Products. The individuals subject to the violative exposures
3 include normal and foreseeable users, consumers and patients that use the Products, as well as all
4 others exposed to the Products.

5 **SATISFACTION OF NOTICE REQUIREMENTS**

6 27. Plaintiff purchased the Products from Dick's Sporting Goods. At the time of
7 purchase, Defendants did not provide a Proposition 65 exposure warning for chromium (VI) or
8 any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as
9 described *supra*.

10 28. The Products were sent to a testing laboratory to determine the chromium (VI)
11 content of the Products.

12 29. The laboratory provided the results of its analysis. Results of this test determined
13 the Products exposes users to chromium (VI) (the "Chemical Test Report").

14 30. Plaintiff provided the Chemical Test Report and Products to an analytical chemist
15 to determine if, based on the findings of the Chemical Test Report and the reasonable and
16 foreseeable use of the Products, exposure to chromium (VI) will occur at levels that require
17 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
18 the California Code of Regulations.

19 31. Plaintiff received from the analytical chemist an exposure assessment report which
20 concluded that persons in California who use the Products will be exposed to levels of chromium
21 (VI) that require a Proposition 65 exposure warning.

22 32. On August 6, 2021 (Marucci *Signature*[™] batting gloves), October 18, 2022
23 (Marucci *Medallion*[™] batting gloves), and March 15, 2023 (*Lizard Skins*[™] Komodo V2 batting
24 gloves), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6
25 (collectively, the "Notices") to Defendants concerning the exposure of California citizens to
26 chromium (VI) contained in the Products without proper warning, subject to a private action to
27 Defendants and to the California Attorney General's office and the offices of the County District
28 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein

1 the herein violations allegedly occurred. See attached as Exhibits “A – C” true and correct copies
2 of the Notices of Violations.

3 33. The Notices complied with all procedural requirements of Proposition 65 including
4 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
5 least one person with relevant and appropriate expertise who reviewed relevant data regarding
6 chromium (VI) exposure, and that counsel believed there was meritorious and reasonable cause
7 for a private action.

8 34. After receiving the Notices, and to Plaintiff’s best information and belief, none of
9 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
10 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
11 are the subject of the Notices.

12 35. Plaintiff is commencing this action more than sixty (60) days from the date of the
13 Notices to Defendants, as required by law.

14 **FIRST CAUSE OF ACTION**

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

16 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of
17 this First Amended Complaint as though fully set forth herein.

18 37. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer
19 of the Products.

20 38. Use of the Products will expose users and consumers thereof to chromium (VI), a
21 hazardous chemical found on the Proposition 65 list of chemicals known to be hazardous to human
22 health.

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

24 40. Plaintiff, based on his best information and belief, avers that at all relevant times
25 herein, and since at least August 6, 2021 with respect to the Marucci *Signature*TM batting gloves;
26 since at least October 18, 2022 with respect to the Marucci *Medallion*TM batting gloves; and since
27 at least March 15, 2023 with respect to the *Lizard Skins*TM Komodo V2 batting gloves, continuing
28 until the present, that Defendants have continued to knowingly and intentionally expose California

1 users and consumers of the Products to chromium (VI) without providing required warnings under
2 Proposition 65.

3 41. The exposures that are the subject of the Notices result from the purchase,
4 acquisition, handling and recommended use of the Products. The primary route of exposure to the
5 chromium (VI) is through dermal absorption directly through the skin when consumers use, touch,
6 or handle the Products. Exposure through ingestion will occur by touching the Products with
7 subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
8 with the Products regarding the health hazards of exposure to chromium (VI).
9

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

13 43. Defendants have knowledge that the normal and reasonably foreseeable use of the
14 Products expose individuals to chromium (VI), and Defendants intend those exposures to
15 chromium (VI) will occur by its deliberate, non-accidental participation in the importation,
16 distribution, sale and offering of the Products to consumers in California

17 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
18 First Amended Complaint.

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

21 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
22 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.
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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
3 relief:

4 A. That the court assess civil penalties against each defendant in the amount of \$2,500
5 per day for each violation for up to 365 days in accordance with Health and Safety Code §
6 25249.7(b);

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

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

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

12 Dated: November 6, 2023

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)
15 Ryan P. Cardona (SBN302113)
16 9595 Wilshire Boulevard, Suite 900
17 Beverly Hills, CA 90212
18 Telephone: (877) 534-2590
19 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT “A”

LAW OFFICES
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NEW YORK OFFICE
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MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

August 6, 2021

Member/Manager Marucci Sports, LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	Member/Manager American Sports Licensing, LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808
President/CEO American Sports Licensing, Inc. c/o Delaware Incorporators & Registration Service, LLC 301 North Market Street, Suite 1410 Farmers Bank Bldg. Wilmington, DE 19801	President/CEO Dick's Sporting Goods, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) (424)285-4896
2. **Alleged Violator(s):** Marucci Sports, Inc.; American Sports Licensing, LLC; American Sports Licensing, Inc.; Dick's Sporting Goods, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least June 12, 2021 and are continuing to this day.
4. **Listed Chemical:** Chromium (VI). Chromium (VI) is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity and cancer.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Marucci gloves	Marucci gloves UPC# 849817097014

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “B”

LAW OFFICES
BRODSKY SMITH

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516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

October 18, 2022

Member/Manager Marucci Sports, LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	President/CEO Dick's Sporting Goods, Inc. c/o Corporation Service Company Which Will Do Business In California As CSC – Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO American Sports Licensing, Inc. c/o Delaware Incorporators & Registration Service, LLC 301 North Market Street, Suite 1410 Farmers Bank Bldg. Wilmington, DE 19801	President/CEO Dick's Sporting Goods, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808
Member/Manager American Sports Licensing, LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) (424)285-4896
2. **Alleged Violator(s):** Marucci Sports, LLC; American Sports Licensing, LLC; American Sports Licensing, Inc.; Dick's Sporting Goods, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least October 18, 2022 and are continuing to this day.
4. **Listed Chemical:** Chromium (VI). Chromium (VI) is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity and cancer.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Batting Gloves	Marucci Medallion Batting Gloves UPC# 840058729566

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “C”

LAW OFFICES
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PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
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610.667.6200

March 15, 2023

Marucci Sports, LLC c/o Hazel Ocampo Greenberg Traurig, LLP 18565 Jamboree Road, Suite 500 Irvine, CA 92612	
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60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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- 1. Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) (424)285-4896
- 2. Alleged Violator(s):** Marucci Sports, LLC
- 3. Time Period of Exposure:** Violations have been occurring since at least March 15, 2023 and are continuing to this day.

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

4. **Listed Chemical:** Chromium (VI). Chromium (VI) is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity and cancer.

5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Batting Gloves	Lizard Skins Komodo V2 Batting Gloves UPC# 6 96260 00298 6

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.