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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

06/20/2024
Clerk of the Court
BY: JAMES FORONDA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

GABRIEL ESPINOZA,

Plaintiff,

vs.

DICK'S SPORTING GOODS, INC.,
AMERICAN SPORTS LICENSING,
INC., AMERICAN SPORTS
LICENSING, LLC,

Defendants.

Case No.: CGC-24-611936

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

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

Plaintiff Gabriel Espinoza ("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 first amended 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 di(2-ethylhexyl) phthalate ("DEHP") and/or chromium

1 (hexavalent compounds) (“chromium (VI)”), toxic chemicals found in (a) *Franklin*® pickleball
2 performance leather gloves, UPC# 025725528189, (b) *Palmgard*® protective inner gloves, UPC
3 # 72292913227, (c) *Pelican*™ coolers, UPC # 776324564527, (d) *Timberland*® women’s braided
4 leather belts, UPC # 684835266215, and (e) *Warstic*® Workman III batting gloves, UPC #
5 810058380166 sold and/or distributed by defendants Dick’s Sporting Goods, Inc., American
6 Sports Licensing, Inc., and/or American Sports Licensing, LLC (collectively, “Dick’s Sporting
7 Goods” or “Defendants” and each a “Defendant”) in California.

8 3. Chromium (VI)¹ and DEHP² are harmful chemicals known to the State of
9 California to cause cancer and birth defects or other reproductive harm.

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

16 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
17 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
18 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
19 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
20
21

22
23 ¹ On February 27, 1987, the State of California listed chromium (VI) as a chemical known to the
24 State to cause cancer and it has come under the purview of Proposition 65 regulations since that
25 time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On
December 19, 2008, the State of California listed chromium (VI) as a chemical known to cause
adverse birth defects or other reproductive harm.

26 ² On January 1, 1988, the State of California listed DEHP as a chemical known to the State to
27 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.
28 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24,
2003, the State of California listed DEHP as a chemical known to cause birth defects or other
reproductive harm.

1 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
2 25249.7.

3 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
4 without a requisite exposure warning, (a) *Franklin*® pickleball performance leather gloves, UPC#
5 025725528189, (b) *Palmgard*® protective inner gloves, UPC # 72292913227, (c) *Pelican*™
6 coolers, UPC # 776324564527, (d) *Timberland*® women’s braided leather belts, UPC #
7 684835266215, and (e) *Warstic*® Workman III batting gloves, UPC # 810058380166
8 (collectively, the “Products” and each a “Product”) that expose persons to chromium (VI) and/or
9 DEHP when used for their intended purpose.

10 7. Defendants’ failure to warn consumers and other individuals in California of the
11 health hazards associated with exposure to chromium (VI) and/or DEHP in conjunction with the
12 sale and/or distribution of the Products is a violation of Proposition 65 and subjects Defendants to
13 the enjoinder and civil penalties described herein.

14 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition
15 65 in accordance with Health and Safety Code § 25249.7(b).

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

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

21 PARTIES

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

26 12. Defendant Dick’s Sporting Goods, Inc., through its business, effectively imports,
27 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies
28 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the

1 State of California. Plaintiff alleges that defendant Dick's Sporting Goods, Inc. is a "person" in
2 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and
3 25249.11.

4 13. Defendant American Sports Licensing, Inc., through its business, effectively
5 imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it
6 implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use
7 in the State of California. Plaintiff alleges that defendant American Sports Licensing, Inc. is a
8 "person" in the course of doing business within the meaning of Health & Safety Code sections
9 25249.6 and 25249.11.

10 14. Defendant American Sports Licensing, LLC, through its business, effectively
11 imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it
12 implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use
13 in the State of California. Plaintiff alleges that defendant American Sports Licensing, LLC is a
14 "person" in the course of doing business within the meaning of Health & Safety Code sections
15 25249.6 and 25249.11.

16 VENUE AND JURISDICTION

17 15. Venue is proper in the County of San Francisco because one or more of the
18 instances of wrongful conduct occurred and continue to occur in this county and/or because
19 Defendants conducted, and continue to conduct, business in the County of San Francisco with
20 respect to the Products.

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

26 17. This Court has jurisdiction over Defendants because each Defendant is either a
27 citizen of the State of California, has sufficient minimum contacts with the State of California, is
28 registered with the California Secretary of State as foreign corporations authorized to do business

1 in the State of California, and/or has otherwise purposefully availed itself of the California market.
2 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent
3 and permissible with traditional notions of fair play and substantial justice.

4 **STATUTORY BACKGROUND**

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

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

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

15 20. An exposure to a chemical in a consumer product is one “which results from a
16 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
17 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
18 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
19 shall provide a warning to any person to whom the product is sold or transferred unless the product
20 is packaged or labeled with a clear and reasonable warning.”

21 21. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
22 more of the following methods individually or in combination:³

23 a. A warning that appears on a product’s label or other labeling.
24
25
26

27 ³ 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.

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

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

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

22. Proposition 65 provides that any “person who violates or threatens to violate” the statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase “threaten to violate” is defined to mean creating “a condition in which there is a substantial probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

FACTUAL BACKGROUND

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

24. On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth

1 defects or other reproductive harm. In summary, DEHP was listed under Proposition 65 as a
2 chemical known to the State to cause cancer and birth defects or other reproductive harm.

3 25. 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
5 chromium (VI) and/or DEHP is through dermal absorption directly through the skin when
6 consumers use, touch, or handle the Products. Exposure through ingestion will occur by touching
7 the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning
8 is provided with the Products regarding the health hazards of exposure.

9 26. Defendants have manufactured, processed, marketed, distributed, offered to sell
10 and/or sold the Products in California since at least June 26, 2023 with respect to the *Franklin*®
11 pickleball performance leather gloves and the *Palmgard*® protective inner gloves; since at least
12 July 6, 2023 with respect to the *Pelican*™ coolers; since at least July 13, 2023 with respect to the
13 *Timberland*® women's braided leather belts; and since at least December 18, 2023 with respect to
14 the *Warstic*® Workman III batting gloves. The Products continue to be distributed and sold in
15 California without the requisite warning information.

16 27. At all times relevant to this action, Defendants have knowingly and intentionally
17 exposed users of the Products to chromium (VI) and/or DEHP without first giving a clear and
18 reasonable exposure warning to such individuals.

19 28. As a proximate result of acts by each Defendant, as a person in the course of doing
20 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
21 California, including in San Francisco County, have been exposed to chromium (VI) and/or DEHP
22 without a clear and reasonable warning on the Products. The individuals subject to the violative
23 exposures include normal and foreseeable users, consumers and patients that use the Products, as
24 well as all others exposed to the Products.

25 **SATISFACTION OF NOTICE REQUIREMENTS**

26 29. Plaintiff purchased the Products from Dick's Sporting Goods. At the time of
27 purchase, Defendants did not provide a Proposition 65 exposure warning for chromium (VI),
28

1 DEHP, or any other Proposition 65 listed chemical in a manner consistent with H&S Code §
2 25603.1 as described *supra*.

3 30. The *Pelican*™ Product was sent to a testing laboratory for phthalate testing to
4 determine the phthalate content of the Products. The *Franklin*® Product, the *Palmgard*® Product,
5 the *Timberland*® Product, and the *Warstic*® Product were sent to a testing laboratory for
6 chromium (VI) testing to determine the chromium (VI) content of the Products.

7 31. For each Product that was sent to the laboratory, Plaintiff received a chemical test
8 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The
9 Chemical Test Reports findings determined the *Pelican*™ Product exposes users to DEHP; and
10 the *Franklin*® Product, the *Palmgard*® Product, the *Timberland*® Product, and the *Warstic*®
11 Product expose users to chromium (VI).

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

17 33. On June 26, 2023, Plaintiff received from the analytical chemist exposure
18 assessment reports which concluded that persons in California who use the *Franklin*® Product and
19 the *Palmgard*® Product will be exposed to levels of chromium (VI) that require a Proposition 65
20 exposure warning. On July 6, 2023, Plaintiff received from the analytical chemist an exposure
21 assessment report which concluded that persons in California who use the *Pelican*™ Product will
22 be exposed to levels of DEHP that require a Proposition 65 exposure warning. On July 13, 2023,
23 Plaintiff received from the analytical chemist an exposure assessment report which concluded that
24 persons in California who use the *Timberland*® Product will be exposed to levels of chromium
25 (VI) that require a Proposition 65 exposure warning. On December 18, 2023, Plaintiff received
26 from the analytical chemist an exposure assessment report which concluded that persons in
27 California who use the *Warstic*® Product will be exposed to levels of chromium (VI) that require
28 a Proposition 65 exposure warning.

34. On June 26, 2023 (*Franklin*® pickleball performance leather gloves and *Palmgard*® protective inner gloves), July 6, 2023 (*Pelican*™ coolers), July 13, 2023 (*Timberland*® women’s braided leather belts), and December 18, 2023 (*Warstic*® Workman III batting gloves), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendants concerning the exposure of California citizens to chromium (VI) and/or DEHP contained in the Products without proper warning, subject to a private action to Defendants and to the California Attorney General’s office and the offices of the County District attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits “A” – “E” a true and correct copy of each Notice.

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

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

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

FIRST CAUSE OF ACTION

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

38. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 37 of this First Amended Complaint as though fully set forth herein.

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

1 40. Use of the Products will expose users and consumers thereof to chromium (VI)
2 and/or DEHP, hazardous chemicals found on the Proposition 65 list of chemicals known to be
3 hazardous to human health.

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

5 42. Plaintiff, based on his best information and belief, avers that at all relevant times
6 herein, and since at least June 26, 2023 with respect to the *Franklin*® pickleball performance
7 leather gloves and the *Palmgard*® protective inner gloves; since at least July 6, 2023 with respect
8 to the *Pelican*™ coolers; since at least July 13, 2023 with respect to the *Timberland*® women's
9 braided leather belts; and since at least December 18, 2023 with respect to the *Warstic*® Workman
10 III batting gloves, continuing until the present, that Defendants have continued to knowingly and
11 intentionally expose California users and consumers of the Products to chromium (VI) and/or
12 DEHP without providing required warnings under Proposition 65.

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

19 44. Plaintiff, based on his best information and belief, avers that such exposures will
20 continue every day until clear and reasonable warnings are provided to purchasers and users or
21 until these known toxic chemicals are removed from the Products.

22 45. Defendants have knowledge that the normal and reasonably foreseeable use of the
23 Product exposes individuals to chromium (VI) and/or DEHP, and Defendants intend those
24 exposures to chromium (VI) and/or DEHP will occur by its deliberate, non-accidental participation
25 in the importation, distribution, sale and offering of the Products to consumers in California

26 46. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
27 First Amended Complaint.

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

PRAYER FOR RELIEF

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

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

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

Dated: June 19, 2024

BRODSKY SMITH

By:

Evan J. Smith (SBN242352)

Ryan P. Cardona (SBN302113)

9595 Wilshire Boulevard, Suite 900

Beverly Hills, CA 90212

Telephone: (877) 534-2590

Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT “A”

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516.741.4977

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

June 26, 2023

President/CEO Franklin Sports, Inc. c/o Business Filings Incorporated 108 West 13 th Street Wilmington, DE 19801	President/CEO Franklin Sports, Inc. c/o Business Filings Incorporated 155 Federal Street, Suite 700 Boston, MA 02110
President/CEO Dick's Sporting Goods, Inc. c/o CSC-Lawyers Incorporating Service 2720 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	President/CEO Dick's Sporting Goods, Inc. 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	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 ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from

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.

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):** Franklin Sports, Inc.; Dick's Sporting Goods, Inc.; American Sports Licensing, Inc.; American Sports Licensing, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least June 26, 2023 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
Pickelball Glove	Franklin Pickleball Performance Leather Glove UPC# 025725528189

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 &

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.

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 “B”

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

June 26, 2023

President/CEO Markwort Sporting Goods Company c/o Herbert W. Markwort, Jr. 1203 Ambassador Blvd. St. Louis, MO 63132	President/CEO Palmgard International, Inc. c/o Charles H. Webster 3834 Janbrook Road Randallstown, MD 21133
President/CEO Palmgard International, Inc. 9633 Liberty Road, Suite C Randallstown, MD 21133-2435	President/CEO Dick's Sporting Goods, Inc. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO Dick's Sporting Goods, Inc. 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 Blvd. Wilmington, DE 19801
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)

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.

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. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) (424)285-4896
2. **Alleged Violator(s):** Markwort Sporting Goods Company; Palmgard International, Inc.; Dick’s Sporting Goods, Inc.; American Sports Licensing, Inc.; American Sports Licensing, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least June 26, 2023 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
Protective Inner Glove	Palmgard Protective Inner Glove UPC# 722929132227

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.

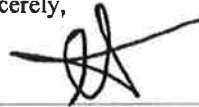
² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive 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.

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

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
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

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

July 6, 2023

Member/Manager Pelican International, LLC c/o Corporate Creations Network Inc. 3411 Silverside Road Tatnall Building, Suite 104 Wilmington, DE 19810	President/CEO Pelican International Limited c/o Registered Agents, Ltd. 1013 Centre Road, Suite 403A Wilmington, DE 19805
President/CEO Pelican International Inc. 1000 Place Paul Kane Laval, Quebec CANADA H7C2T2	Member/Manager Pelican Products LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Pelican Products, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street 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	President/CEO Dick's Sporting Goods, Inc. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833

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)

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.

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. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Pelican International, LLC; Pelican International Limited; Pelican International, Inc.; Pelican Products LLC; Pelican Products, Inc.; Dick’s Sporting Goods, Inc.; American Sports Licensing, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least July 6, 2023 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Cooler	Pelican Cooler UPC# 776324564527

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.

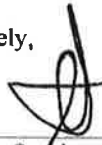
² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive 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.

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

Attachments

Certificate of Merit

Certificate of Service

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

EXHIBIT “D”

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

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

July 13, 2023

President/CEO Westport Corporation c/o John Florin 331 Changebridge Road Pine Brook, NJ 07058	President/CEO Westport Corporation PO Box 2002 Pine Brook, NJ 07058-2002
Member/Manager TBL Licensing 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 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 Dick's Sporting Goods, Inc. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833

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

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.

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):** Westport Corporation; TBL Licensing LLC; Dick's Sporting Goods, Inc.; American Sports Licensing, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least July 13, 2023 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
Women's leather belt	Timberland Women's Braided Leather Belt UPC# 684835266215

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

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.

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,

A handwritten signature in black ink, appearing to be 'EJ Smith', written over a horizontal line.

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 “E”

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

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

December 18, 2023

President/CEO Warstic Sports Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Warstic Sports Inc. c/o OneFastBuffalo Corp. 9514 Crestedge Drive Dallas, TX 75238
President/CEO Warstic Sports Inc. 2900 Main Street Dallas, TX 75226-1503	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
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	

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.

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.

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. Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) (424)285-4896
- 2. Alleged Violator(s):** Warstic 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 December 18, 2023 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 of California to cause cancer and birth defects or other reproductive harm.
- 5. Product:**

Product²	Non- Exclusive Examples of the Product
Batting Gloves	Warstic Workman III Batting Gloves UPC# 810058380166

- 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.

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.

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

Attachments

Certificate of Merit

Certificate of Service

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