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8 *Attorneys for Plaintiff*

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**09/18/2024**  
Clerk of the Court

BY: AUSTIN LAM  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

**CGC-24-618210**

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 SIERRA TRADING POST, INC., THE  
15 TJX COMPANIES, INC.,

16 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

17 Plaintiff Gabriel Espinoza (“Plaintiff”), by and through his attorneys, alleges the following  
18 cause of action in the public interest of the citizens of the State of California.

**BACKGROUND OF THE CASE**

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

25 2. This complaint is a representative action brought by Plaintiff in the public interest  
26 of the citizens of the State of California to enforce the People’s right to be informed of the health  
27 hazards caused by exposure to di(2-ethylhexyl) phthalate (“DEHP”) and/or perfluorooctanoic acid  
28 (“PFOA”), toxic chemicals found in products sold and/or distributed by defendants Sierra Trading

1 Post, Inc. and The TJX Companies, Inc. (collectively, “TJX” or “Defendants” and each a  
2 “Defendant”) in California.

3 3. DEHP<sup>1</sup> and PFOA<sup>2</sup> are harmful chemicals known to the State of California to cause  
4 cancer and birth defects or other reproductive harm.

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

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

17 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
18 without a requisite exposure warning, (a) *National Geographic*<sup>TM</sup> kids mask, snorkel, and fin set  
19 bags, UPC # 812520013329 (DEHP), (b) Pulse pod packable rain pants, UPC # 716398001191,  
20 (PFOA), (c) New Balance impact waterproof jackets, UPC # 196307757713, (PFOA), and (d)  
21

22  
23 <sup>1</sup> On January 1, 1988, the State of California listed DEHP as a chemical known to the State to  
24 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
25 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.

26 <sup>2</sup> On November 10, 2017, the State of California listed PFOA as a chemical known to the State to  
27 cause birth defects or other reproductive harm and it has come under the purview of Proposition  
28 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§  
25249.8 & 25249.10(b). On February 25, 2022, the State of California listed PFOA as a chemical  
known to cause cancer.

1 *National Geographic*<sup>TM</sup> Marianna Trench dry bags, # 2YYWG-01, (DEHP), (collectively, the  
2 “Products” and each a “Product”) that expose persons to PFOA and/or DEHP when used for their  
3 intended purpose.

4 7. Defendants’ failure to warn consumers and other individuals in California of the  
5 health hazards associated with exposure to PFOA and/or DEHP in conjunction with the sale and/or  
6 distribution of the Products is a violation of Proposition 65 and subjects Defendants to the  
7 enjoinder and civil penalties described herein.

8 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition  
9 65 in accordance with Health and Safety Code § 25249.7(b).

10 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
11 Defendants to provide purchasers, users, or consumers of the Products with required warnings  
12 related to the dangers and health hazards associated with exposure to PFOA and/or DEHP pursuant  
13 to Health and Safety Code § 25249.7(a).

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

15 **PARTIES**

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

20 12. Defendant Sierra Trading Post, Inc., through its business, effectively imports,  
21 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
22 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
23 State of California. Plaintiff alleges that defendant Sierra Trading Post, Inc. is a “person” in the  
24 course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
25 25249.11.

26 13. Defendant The TJX Companies, 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 The TJX Companies, Inc. is a “person” in the  
2 course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
3 25249.11.

4 **VENUE AND JURISDICTION**

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

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

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

20 **STATUTORY BACKGROUND**

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

24 18. To effect this goal, Proposition 65 requires that individuals be provided with a  
25 “clear and reasonable warning” before being exposed to substances listed by the State of California  
26 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in  
27 pertinent part:  
28

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

4 19. An exposure to a chemical in a consumer product is one “which results from a  
5 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
6 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
7 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
8 shall provide a warning to any person to whom the product is sold or transferred unless the product  
9 is packaged or labeled with a clear and reasonable warning.”

10 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
11 more of the following methods individually or in combination:<sup>3</sup>

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

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

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

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

23 21. Proposition 65 provides that any “person who violates or threatens to violate” the  
24 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
25 “threaten to violate” is defined to mean creating “a condition in which there is a substantial

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26  
27 <sup>3</sup> 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 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil  
2 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
3 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

4 **FACTUAL BACKGROUND**

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

10 23. On November 10, 2017, the State of California listed PFOA as a chemical known  
11 to the State to cause birth defects or other reproductive harm and it has come under the purview of  
12 Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety  
13 Code §§ 25249.8 & 25249.10(b). On February 25, 2022, the State of California listed PFOA as a  
14 chemical known to cause cancer.

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

21 25. Defendants have processed, marketed, distributed, offered to sell and/or sold the  
22 Products in California since at least September 22, 2023 with respect to the *National Geographic*™  
23 kids mask, snorkel, and fin set bags; since at least March 11, 2024 with respect to the Pulse pod  
24 packable rain pants; since at least March 13, 2024 with respect to the New Balance impact  
25 waterproof jackets; and since at least June 26, 2024 with respect to the *National Geographic*™  
26 Marianna Trench dry bags. The Products continue to be distributed and sold in California without  
27 the requisite warning information.



1 require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title  
2 27 of the California Code of Regulations.

3 32. On September 22, 2023, Plaintiff received from the analytical chemist an exposure  
4 assessment report for the *National Geographic*™ kids mask, snorkel, and fin set bags that  
5 concluded that persons in California who use the *National Geographic*™ kids mask, snorkel, and  
6 fin set bags will be exposed to levels of DEHP that require a Proposition 65 exposure warning. On  
7 March 11, 2024, Plaintiff received from the analytical chemist an exposure assessment report for  
8 the Pulse pod packable rain pants that concluded that persons in California who use the Pulse pod  
9 packable rain pants will be exposed to levels of PFOA that require a Proposition 65 exposure  
10 warning. On March 13, 2024, Plaintiff received from the analytical chemist an exposure  
11 assessment report for the New Balance impact waterproof jackets that concluded that persons in  
12 California who use the New Balance impact waterproof jackets will be exposed to levels of PFOA  
13 that require a Proposition 65 exposure warning. On June 26, 2024, Plaintiff received from the  
14 analytical chemist an exposure assessment report for the *National Geographic*™ Marianna Trench  
15 dry bags that concluded that persons in California who use the *National Geographic*™ Marianna  
16 Trench dry bags will be exposed to levels of DEHP that require a Proposition 65 exposure warning.

17 33. On September 22, 2023 (*National Geographic*™ kids mask, snorkel, and fin set  
18 bags), March 11, 2024 (Pulse pod packable rain pants), March 13, 2024 (New Balance impact  
19 waterproof jackets), and June 26, 2024 (*National Geographic*™ Marianna Trench dry bags),  
20 Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the  
21 “Notices” and each a “Notice”) to Defendants concerning the exposure of California citizens to  
22 PFOA and/or DEHP contained in the Products without proper warning, subject to a private action  
23 to Defendants and to the California Attorney General’s office and the offices of the County District  
24 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein  
25 the herein violations allegedly occurred. See attached at Exhibits “A” – “D” a true and correct  
26 copy of the Notices.

27 34. The Notices complied with all procedural requirements of Proposition 65 including  
28 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at



1 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
2 PFOA and/or DEHP exposure, and that counsel believed there was meritorious and reasonable  
3 cause for a private action.

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

8 36. Plaintiff is commencing this action more than sixty (60) days from the date of each  
9 Notice to Defendants, as required by law.

10 **FIRST CAUSE OF ACTION**

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

12 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of  
13 this Complaint as though fully set forth herein.

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

16 39. Use of the Products will expose users to PFOA and/or DEHP, hazardous chemicals  
17 found on the Proposition 65 list of chemicals known to be hazardous to human health.

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

19 41. Plaintiff, based on his best information and belief, avers that at all relevant times  
20 herein, and since at least September 22, 2023 with respect to the *National Geographic*<sup>TM</sup> kids  
21 mask, snorkel, and fin set bags; since at least March 11, 2024 with respect to the Pulse pod  
22 packable rain pants; since at least March 13, 2024 with respect to the New Balance impact  
23 waterproof jackets; and since at least June 26, 2024 with respect to the *National Geographic*<sup>TM</sup>  
24 Marianna Trench dry bags, continuing until the present, that Defendants have continued to  
25 knowingly and intentionally expose California users and consumers of the Products to PFOA  
26 and/or DEHP without providing required warnings under Proposition 65.

27 42. The exposures that are the subject of the Notices result from the purchase,  
28 acquisition, handling, and recommended use of the Products. The primary route of exposure to

1 PFOA and/or DEHP is through dermal absorption directly through the skin when consumers use,  
2 touch, or handle the Products. Exposure through ingestion will occur by touching the Products  
3 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided  
4 with the Products regarding the health hazards of exposure.

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

8 44. Defendants have knowledge that the normal and reasonably foreseeable use of the  
9 Products expose individuals to PFOA and/or DEHP, and Defendants intend that exposures to  
10 PFOA and/or DEHP will occur by its deliberate, non-accidental participation in the importation,  
11 distribution, sale and offering of the Products to consumers in California.

12 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
13 Complaint.

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

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

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against each Defendant and requests the  
3 following 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 (up to a maximum civil penalty amount per  
6 violation of \$912,000.00) in accordance with Health and Safety Code § 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: September 18, 2024

BRODSKY SMITH

13 By:  \_\_\_\_\_

14 Evan J. Smith (SBN242352)  
15 Ryan P. Cardona (SBN302113)  
16 9465 Wilshire Boulevard, Suite 300  
17 Beverly Hills, CA 90212  
18 Telephone: (877) 534-2590  
19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

# EXHIBIT "A"

LAW OFFICES  
**BRODSKY SMITH**

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 MINEOLA, NY 11501  
 516.741.4977

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

September 22, 2023

President/CEO Florida Atlantic International Corp. c/o Palmero, NA 1174 NW Spruce Ridge Drive Stuart, FL 34994	President/CEO Florida Atlantic International Corp. 1669 SE South Niemeyer Circle, Unit 101 Port Saint Lucie, FL 34952-3500
President/CEO National Geographic Society c/o Sumect Seam 1145 17 <sup>th</sup> Street, N.W. Washington, District of Columbia 20036	President/CEO National Geographic Society c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833
President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 155 Federal St., Suite 700 Boston, MA 02110	President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 2232 Dell Range Blvd., Suite 200 Cheyenne, WY 82009
President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO The TJX Companies, Inc. dba Sierra c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

<sup>1</sup> 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.

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):** Florida Atlantic International Corp.; National Geographic Society; Sierra Trading Post, Inc.; The TJX Companies, Inc.; The TJX Companies, Inc. dba Sierra
3. **Time Period of Exposure:** Violations have been occurring since at least September 22, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Kids Mask, Snorkel & Fin Set Bag	National Geographic Kids Mask, Snorkel, & Fin Set Bag UPC# 812520013329

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

<sup>2</sup> 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.

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](mailto: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

March 11, 2024

President/CEO World Famous Sports, Incorporated c/o Nicholas Davila 2505 McCabe Way, Suite 100 Irvine, CA 92614	President/CEO World Famous Sports, Incorporated 687 Anita St. Chula Vista, CA 91911
President/CEO World Famous Sports Inc. 3625 Dalbergia Street San Diego, CA 92113	President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 155 Federal St., Suite 700 Boston, MA 02110
President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 2232 Dell Range Blvd., Suite 200 Cheyenne, WY 82009	President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO The TJX Companies, Inc. dba Sierra Trading Post c/o CT Corporation System 155 Federal St., Suite 700 Boston, MA 02110	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

<sup>1</sup> 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.

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):** World Famous Sports, Incorporated; World Famous Sports, Inc.; Sierra Trading Post, Inc.; The TJX Companies, Inc.; The TJX Companies, Inc. dba Sierra Trading Post
3. **Time Period of Exposure:** Violations have been occurring since at least March 11, 2024 and are continuing to this day.
4. **Listed Chemical:** Perfluorooctanoic Acid (PFOA). PFOA 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Rain Pants	Pulse Pod Packable Rain Pants UPC# 7 16398 00119 1

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.

<sup>2</sup> 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](mailto:esmith@brodskysmith.com).**

Sincerely,



Evan J. Smith

#### Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Act 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

March 13, 2024

President/CEO New Balance Athletics, Inc. c/o Paul Gauron 100 Guet St. Boston, MA 02135	President/CEO New Balance Athletics, Inc. aka New Balance Athletic Shoe, Inc. c/o Paul Gauron 100 Guest St. Boston, MA 02135
President/CEO New Balance Athletics, Inc. 61 North Beacon Street Boston, MA 02134	President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 155 Federal Street, Suite 700 Boston, MA 02110
President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 2232 Dell Range Blvd., Suite 200 Cheyenne, WY 82009	President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO The TJX Companies, Inc. dba Sierra Trading Post c/o CT Corporation System 155 Federal St., Suite 700 Boston, MA 02110	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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.

<sup>1</sup> 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):** New Balance Athletics, Inc.; New Balance Athletics, Inc. aka New Balance Athletic Shoe, Inc.; Sierra Trading Post, Inc.; The TJX Companies, Inc.; The TJX Companies, Inc. dba Sierra Trading Post
3. **Time Period of Exposure:** Violations have been occurring since at least March 13, 2024 and are continuing to this day.
4. **Listed Chemical:** Perfluorooctanoic Acid (PFOA). PFOA 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Waterproof Jacket	New Balance Impact Waterproof Jacket UPC# 1 96307 75771 3

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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<sup>2</sup> 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

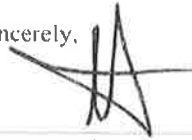
For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## 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](mailto: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

June 26, 2024

President/CEO National Geographic Society c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	President/CEO Florida Atlantic International Corp. c/o NA Palmero 1174 NW Spruce Ridge Drive Stuart, FL 34994
President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 155 Federal St., Suite 700 Boston, MA 02110	President/CEO Sierra Trading Post, Inc. c/o CT Corporation System 2232 Dell Range Blvd., Suite 200 Cheyenne, WY 82009
President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO The TJX Companies, Inc. dba Sierra c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

<sup>1</sup> 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):** National Geographic Society; Florida Atlantic International Corp.; Sierra Trading Post, Inc.; The TJX Companies, Inc.; The TJX Companies, Inc. dba Sierra
3. **Time Period of Exposure:** Violations have been occurring since at least June 26, 2024 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 defect or other reproductive harm.
5. **Product:**

<b>Product<sup>2</sup></b>	<b>Non- Exclusive Examples of the Product</b>
Dry Bag	National Geographic Marianna Trench Dry Bag 2YYWG-01

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

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<sup>2</sup> 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](mailto:esmith@brodskysmith.com).**

Sincerely,

A handwritten signature in black ink, appearing to be 'Evan J. 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