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ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
09/27/2023 at 04:38:06 PM
By: Milagros Cortez,
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

THE KOOPLES BLOOM INC., THE KOOPLES
USA, INC., ARZZ INTERNATIONAL INC.,
CELINE INC., FRENCH CONNECTION
GROUP, INC., ROOSEVELT CONNECTION,
LTD., and DOES 1 through 100, inclusive,

Defendants.

Case No. **23CV045797**

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6, *et seq.*

(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on information and
2 belief and investigation of counsel, except for information based on knowledge, hereby makes the
3 following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' failure to warn individuals in
6 California that they are being exposed to chromium (hexavalent compounds) ("hexavalent
7 chromium"), a chemical known to the State of California to cause cancer and reproductive harm.
8 Such exposures have occurred, and continue to occur, through the manufacture, distribution, sale
9 and use of footwear made with leather materials. The footwear at issue in this Complaint is
10 limited to footwear for which normal and foreseeable use will result in one or more chrome-
11 tanned leather components coming into direct contact with the skin of the average user's foot or
12 leg while the footwear is worn (*e.g.*, a chrome-tanned leather insole, tongue, liner, unlined upper
13 or strap) ("Footwear"). Hexavalent chromium is present in and leaches out of the leather parts of
14 the Footwear. Consumers, including women and men of child bearing age, are exposed to
15 hexavalent chromium when they wear, touch or handle the Footwear.

16 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et seq.*, it is
17 unlawful for businesses to knowingly and intentionally expose individuals in California to
18 chemicals known to the State to cause cancer, birth defects or other reproductive harm without
19 first providing clear and reasonable warnings to exposed individuals. Defendants introduce
20 Footwear containing significant quantities of hexavalent chromium in the leather parts of the
21 Footwear into the California marketplace, thereby exposing people who wear the Footwear to
22 hexavalent chromium.

23 3. Despite the fact that Defendants expose women and men of child bearing age and
24 other individuals to hexavalent chromium, Defendants provide no warnings whatsoever about the
25 carcinogenic or reproductive hazards associated with hexavalent chromium exposure resulting
26 from wearing the Footwear sold by Defendants. Defendants' conduct thus violates the warning
27 provision of Proposition 65. Health & Safety Code §25249.6.

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PARTIES

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2 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH (“CEH”) is a non-profit
3 corporation dedicated to protecting the public from environmental health hazards and toxic
4 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of
5 California. CEH is a “person” within the meaning of Health & Safety Code §25249.11(a) and
6 brings this enforcement action in the public interest pursuant to Health & Safety Code
7 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has
8 prosecuted a large number of Proposition 65 cases in the public interest. These cases have
9 resulted in significant public benefit, including the reformulation of millions of products to
10 remove toxic chemicals and to make them safer. CEH also provides information to Californians
11 about the health risks associated with exposure to hazardous substances, where manufacturers and
12 other responsible parties fail to do so.

13 5. Defendant THE KOOPLES BLOOM INC. is a person in the course of doing
14 business within the meaning of Health & Safety Code §25249.11. Defendant THE KOOPLES
15 BLOOM INC. manufactures, distributes and/or sells Footwear that is sold or worn in California.

16 6. Defendant THE KOOPLES USA, INC. is a person in the course of doing business
17 within the meaning of Health & Safety Code §25249.11. Defendant THE KOOPLES USA, INC.
18 manufactures, distributes and/or sells Footwear that is sold or worn in California.

19 7. Defendant ARZZ INTERNATIONAL INC. is a person in the course of doing
20 business within the meaning of Health & Safety Code §25249.11. Defendant ARZZ
21 INTERNATIONAL INC. manufactures, distributes and/or sells Footwear that is sold or worn in
22 California.

23 8. Defendant CELINE INC. is a person in the course of doing business within the
24 meaning of Health & Safety Code §25249.11. Defendant CELINE INC. manufactures,
25 distributes and/or sells Footwear that is sold or worn in California.

26 9. Defendant FRENCH CONNECTION GROUP, INC. is a person in the course of
27 doing business within the meaning of Health & Safety Code §25249.11. Defendant FRENCH
28

1 CONNECTION GROUP, INC. manufactures, distributes and/or sells Footwear that is sold or
2 worn in California.

3 10. Defendant ROOSEVELT CONNECTION, LTD. is a person in the course of doing
4 business within the meaning of Health & Safety Code §25249.11. Defendant ROOSEVELT
5 CONNECTION, LTD. manufactures, distributes and/or sells Footwear that is sold or worn in
6 California.

7 11. DOES 1 through 100 are each a person in the course of doing business within the
8 meaning of Health & Safety Code §25249.11. DOES 1 through 100 manufacture, distribute
9 and/or sell Footwear that is sold or worn in California.

10 12. The true names of DOES 1 through 100 are either unknown to CEH at this time or
11 the applicable time period before which CEH may file a Proposition 65 action has not run. When
12 their identities are ascertained or the applicable time period before which CEH may file a
13 Proposition 65 action has run, the Complaint shall be amended to reflect their true names.

14 13. The defendants identified in paragraphs 5 through 10 and DOES 1 through 100 are
15 collectively referred to herein as “Defendants.”

16 **JURISDICTION AND VENUE**

17 14. The Court has jurisdiction over this action pursuant to Health & Safety Code
18 §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
19 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
20 other trial courts.

21 15. This Court has jurisdiction over Defendants because each is a business entity that
22 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
23 avails itself of the California market through the sale, marketing, or use of Footwear in California
24 or by having such other contacts with California so as to render the exercise of jurisdiction over it
25 by the California courts consistent with traditional notions of fair play and substantial justice.

26 16. Venue is proper in Alameda County Superior Court because one or more of the
27 violations arise in the County of Alameda.

28

1 **BACKGROUND FACTS**

2 17. The People of the State of California have declared by initiative under Proposition
3 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
4 other reproductive harm.” Proposition 65, §1(b).

5 18. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals
6 listed by the State of California as known to cause cancer, birth defects or other reproductive
7 harm above certain levels without a “clear and reasonable warning” unless the business
8 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety
9 Code §25249.6 states, in pertinent part:

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

14 19. On February 27, 1987, the State of California officially listed chromium
15 (hexavalent compounds) as a chemical known to cause cancer. On February 27, 1988, one year
16 after it was listed as a chemical known to cause cancer, hexavalent chromium became subject to
17 the clear and reasonable warning requirement regarding carcinogens under Proposition 65. 27
18 C.C.R. §27001(b); Health & Safety Code §25249.10(b).

19 20. On December 19, 2008, the State of California officially listed chromium
20 (hexavalent compounds) as a chemical known to cause reproductive toxicity. Hexavalent
21 chromium is specifically identified as a reproductive toxicant under three subcategories:
22 “developmental reproductive toxicity,” which means harm to the developing fetus, “female
23 reproductive toxicity,” which means harm to the female reproductive system, and “male
24 reproductive toxicity,” which means harm to the male reproductive system. 27 California Code
25 of Regulations (“C.C.R.”) §27001(c). On December 19, 2009, one year after it was listed as a
26 chemical known to cause reproductive toxicity, hexavalent chromium became subject to the clear
27 and reasonable warning requirement regarding reproductive toxicants under Proposition 65. *Id.*;
28 Health & Safety Code §25249.10(b).

1 21. Exposures to hexavalent chromium are of particular concern in light of the highly
2 toxic nature of the chemical. Numerous studies have demonstrated adverse developmental effects
3 resulting from exposure to hexavalent chromium, including increased postimplantation loss,
4 decreased number of live fetuses/litter, decreased fetal weight, internal and skeletal
5 malformations, delayed sexual maturation in offspring, decreased sperm count, and increased
6 percentage of abnormal sperm. See Agency for Toxic Substances and Disease Registry
7 (“ASTDR”), U.S. Department of Health & Human Services, *Toxicological Profile for Chromium*
8 (September 2012), pp. 18-19, available at <https://www.atsdr.cdc.gov/toxprofiles/tp7.pdf> (last
9 visited September 27, 2023). In addition, studies using rats and mice have shown that exposure to
10 hexavalent chromium causes a variety of cancers including cancers of the gastrointestinal tract,
11 stomach, tongue and small intestine. *Id.* pp. 21-23.

12 22. The leather materials in the Footwear are made through a process called tanning.
13 Tanning is the treating of animal hide to stabilize the resulting material so that it will not rot or
14 harden into an unusable form when exposed to heat, water or other environmental media. The
15 tanning process first involves preparing the hide by scraping it clean of meat, fat and hair. The
16 hide is then chemically treated and tanned. While some leather is tanned through chemicals
17 found in vegetables, today trivalent chromium is the most common chemical used in the leather
18 tanning process. If strict protocols are not observed, the trivalent chromium transforms into
19 hexavalent chromium and residue of the hexavalent chromium remains present in and leaches out
20 of the finished leather.

21 23. The leather parts of Defendants’ Footwear contain sufficient quantities of
22 hexavalent chromium such that individuals who wear, touch or handle the Footwear are exposed
23 to a significant amount of hexavalent chromium. The primary routes of exposure for the
24 violations are: (1) dermal absorption directly through the skin when consumers wear, touch or
25 handle the Footwear or otherwise have direct skin to leather contact with the leather parts of the
26 Footwear; and (2) ingestion via hand to mouth contact after consumers wear, touch or handle the
27 Footwear. These exposures occur in homes, workplaces and everywhere else throughout
28 California where the Footwear are sold and worn.

1 24. No clear and reasonable warning is provided with Defendants' Footwear regarding
2 the carcinogenic or reproductive hazards of hexavalent chromium.

3 25. Any person acting in the public interest has standing to enforce violations of
4 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
5 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
6 within such time. Health & Safety Code §25249.7(d).

7 26. More than sixty days prior to naming each Defendant in this lawsuit, CEH
8 provided a 60-Day "Notice of Violation" of Proposition 65 to the California Attorney General, to
9 the District Attorneys of every county in California, to the City Attorneys of every California city
10 with a population greater than 750,000 and to each of the named Defendants. In compliance with
11 Health & Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following
12 information: (1) the name and address of each violator; (2) the statute violated; (3) the time period
13 during which violations occurred; (4) specific descriptions of the violations, including (a) the
14 routes of exposure to hexavalent chromium from the Footwear, and (b) the specific type of
15 Footwear sold and worn in violation of Proposition 65; and (5) the name of the specific
16 Proposition 65-listed chemical that is the subject of the violations described in each Notice.

17 27. CEH also sent a Certificate of Merit for each Notice to the California Attorney
18 General, to the District Attorneys of every county in California, to the City Attorneys of every
19 California city with a population greater than 750,000, and to each of the named Defendants. In
20 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate
21 certified that CEH's counsel: (1) has consulted with one or more persons with relevant and
22 appropriate experience or expertise who reviewed facts, studies, or other data regarding the
23 exposures to hexavalent chromium alleged in each Notice; and (2) based on the information
24 obtained through such consultations, believes that there is a reasonable and meritorious case for a
25 citizen enforcement action based on the facts alleged in each Notice. In compliance with Health
26 & Safety Code §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the Attorney
27 General included factual information – provided on a confidential basis – sufficient to establish
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1 the basis for the Certificate, including the identity of the person(s) consulted by CEH's counsel
2 and the facts, studies, or other data reviewed by such persons.

3 28. None of the public prosecutors with the authority to prosecute violations of
4 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants
5 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH's
6 Notices regarding hexavalent chromium in the Footwear.

7 29. Defendants know that their Footwear contains and leaches hexavalent chromium.
8 Defendants thus both know and intend that individuals, including women and men of child
9 bearing age, will wear, touch or handle the Footwear, thereby exposing them to hexavalent
10 chromium.

11 30. Nevertheless, Defendants continue to expose consumers, including women and
12 men of child bearing age, to hexavalent chromium without prior clear and reasonable warnings
13 regarding the carcinogenic or reproductive hazards of hexavalent chromium.

14 31. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
15 filing this Complaint.

16 32. Any person "violating or threatening to violate" Proposition 65 may be enjoined in
17 any court of competent jurisdiction. Health & Safety Code §25249.7. "Threaten to violate" is
18 defined to mean "to create a condition in which there is a substantial probability that a violation
19 will occur." Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not
20 to exceed \$2,500 per day for each violation of Proposition 65.

21 **FIRST CAUSE OF ACTION**
22 **(Violations of Health & Safety Code §25249.6)**

23 33. CEH realleges and incorporates by reference as if specifically set forth herein each
24 of the preceding paragraphs.

25 34. By placing their Footwear into the stream of commerce, Defendants are each a
26 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

27 35. Hexavalent chromium is a chemical listed by the State of California as known to
28 cause cancer, birth defects, and other reproductive harm.

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Dated: September 27, 2023

Respectfully submitted,

LEXINGTON LAW GROUP



Eric Somers
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH