

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Voorhees & Bailey, LLP Troy C. Bailey SBN 277424 839 Emerson Street Palo Alto, CA 94301 TELEPHONE NO: (650) 313-2154 FAX NO (Optional): E-MAIL ADDRESS (Optional): troy@voorheesbailey.com ATTORNEY FOR (Name): Plaintiff	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p>Electronically Filed by Superior Court of CA, County of Santa Clara, on 2/10/2025 1:41 PM Reviewed By: R. Fleming Case #24CV455343 Envelope: 18216796</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 N. First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, 95113-1090 BRANCH NAME: Santa Clara - First Street	
PLAINTIFF / PETITIONER: Dennis Johnson DEFENDANT / RESPONDENT: Gibson Overseas, Inc., et al.	CASE NUMBER: 24CV455343
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: 12647496 (24652266)

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. Summons
 - b. Complaint
 - c. Alternative Dispute Resolution (ADR) Package
 - d. Civil Case Cover Sheet *(served in complex cases only)*
 - e. Cross-Complaint
 - f. Other *(specify documents):* Civil Lawsuit Notice, Appendix
3. a. Party served *(specify name of party as shown on documents served):*
Gibson Overseas, Inc.
- b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
Soleiman Gabbay - Person Authorized to Accept Service of Process
4. Address where the party was served:
2410 Yates Ave, Commerce, CA 90040
5. I served the party *(check proper box)*
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* _____ (2) at *(time):* _____
 - b. **by substituted service.** On *(date):* Thu, Feb 06 2025 at *(time):* 11:33 AM I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3):*
Rosa Nunez, Person In Charge of the Office
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* _____ from *(city):* _____ or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

5. c. **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
 (1) on (date): _____ (2) from (city): _____
 (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
 (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d. **by other means** (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (*specify*): _____
- c. as occupant.
- d. On behalf of (*specify*): Gibson Overseas, Inc.
 under the following Code of Civil Procedure section:

<input checked="" type="checkbox"/> 416.10 (corporation)	<input type="checkbox"/> 415.95 (business organization, form unknown)
<input type="checkbox"/> 416.20 (defunct corporation)	<input type="checkbox"/> 416.60 (minor)
<input type="checkbox"/> 416.30 (joint stock company/association)	<input type="checkbox"/> 416.70 (ward or conservatee)
<input type="checkbox"/> 416.40 (association or partnership)	<input type="checkbox"/> 416.90 (authorized person)
<input type="checkbox"/> 416.50 (public entity)	<input type="checkbox"/> 415.46 (occupant)
<input type="checkbox"/> other: _____	

7. **Person who served papers**

- a. Name: Shakeyla Crayton-Small
- b. Address: 1400 North McDowell Blvd Suite 300, Petaluma, CA 94954
- c. Telephone number: 800-938-8815
- d. **The fee for service was:** \$120.00
- e. I am:
 - (1) not a registered California process server.
 - (2) exempt from registration under Business and Professions Code section 22350(b).
 - (3) a registered California process server:
 - (i) owner employee independent contractor
 - (ii) Registration No: 2024005930
 - (iii) County: Los Angeles

8. **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: February 7, 2025

Shakeyla Crayton-Small

 (NAME OF PERSON WHO SERVED PAPERS / SHERIFF OR MARSHAL)

InfoTrack US, Inc. - P000634
 1400 North McDowell Blvd Suite 300,
 Petaluma, CA 94954
 800-938-8815



 (SIGNATURE)

PLAINTIFF / PETITIONER: Dennis Johnson	CASE NUMBER: 24CV455343
DEFENDANT / RESPONDENT: Gibson Overseas, Inc., et al.	

DECLARATION OF MAILING

(This form must be attached to another form or court paper before it can be filed in court.)

I am a citizen of the United States, over the age of 18 and not a party to the within action. My business address is 1400 North McDowell Blvd Suite 300, Petaluma, CA 94954.

On 2/6/2025, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCP 4(e)(2)(B) or FRCP 4(h)(1)(B) was made (if applicable), I mailed copies of the:

Civil Case Cover Sheet, Summons, Complaint, Civil Lawsuit Notice, Appendix

to the person to be served at the place where the copies were left by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at Petaluma, CA, addressed as follows:

Gibson Overseas, Inc.
Soleiman Gabbay - Person Authorized to Accept Service of Process
2410 Yates Ave
Commerce, CA 90040.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 2/6/2025

Sandra Alcalá

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

- Attorney for
- Plaintiff
- Petitioner
- Defendant
- Respondent
- Other (Specify): InfoTrack US, Inc.

E-FILED
12/30/2024 6:46 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
24CV455343
Reviewed By: C. Roman

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6 Attorneys for Plaintiff
7 DENNIS JOHNSON

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 CITY AND COUNTY OF SANTA CLARA
11 UNLIMITED CIVIL JURISDICTION

13 DENNIS JOHNSON,
14 Plaintiff,
15 v.
16 GIBSON OVERSEAS, INC.; BURLINGTON
17 STORES, INC.; and DOES 1-150, inclusive,
18 Defendants.

Case No. 24CV455343
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**
(Health & Safety Code § 25249.5 *et seq.*)

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by Plaintiff DENNIS JOHNSON in
3 the public interest of the citizens of the State of California to enforce the People’s right to be
4 informed of the health hazards caused by exposures to lead, a toxic chemical found on ceramic mugs
5 sold by defendants in California.

6 2. By this Complaint, Plaintiff seeks to remedy defendants’ continuing failure to warn
7 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 et seq.,
8 who purchase, use or handle defendants’ products, about the risks of exposure to lead present on the
9 surface of ceramic mugs that defendants manufacture, distribute and offer for sale or use throughout
10 the State of California. Individuals not covered by California’s Occupational Safety Health Act,
11 Labor Code § 6300 et seq., who purchase, use or handle defendants’ products, are referred to
12 hereinafter as “consumers.”

13 3. Detectable levels of lead are found on the surface of ceramic mugs that defendants
14 manufacture, distribute, and offer for sale to consumers throughout the State of California.

15 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
16 Health and Safety Code § 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
17 business shall knowingly and intentionally expose any individual to a chemical known to the state to
18 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
19 individual... .” Health & Safety Code § 25249.6.

20 5. Pursuant to Proposition 65, on February 27, 1987, California listed lead as a chemical
21 known to cause birth defects and other reproductive harm. Lead became subject to the “clear and
22 reasonable warning” requirements of the act one year later, on February 27, 1988. Cal. Code Regs.
23 tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24 6. Defendants manufacture, distribute, import, sell, and/or offer for sale without health
25 hazard warnings in California, ceramic mugs containing lead including, but not limited to the *Gibson*
26 *Overseas Cat and Plant Mug, UPC: 16 104 37265245 4*. All such ceramic mugs are referred to
27 collectively hereinafter as “PRODUCTS.”
28

1 wrongful conduct occurred, and continue to occur, in this county, and/or because DEFENDANTS
2 conducted, and continue to conduct, business in Santa Clara county with respect to the PRODUCTS.

3 24. The California Superior Court has jurisdiction over this action pursuant to California
4 Constitution Article VI, section 10, which grants the Superior Court “original jurisdiction in all
5 causes except those given by statute to other trial courts.” The statute under which this action is
6 brought does not specify any other basis of subject matter jurisdiction.

7 25. The California Superior Court has jurisdiction over DEFENDANTS based on
8 Plaintiff’s information and good faith belief that each of the DEFENDANTS are a person, firm,
9 corporation, or association that is a citizen of the State of California, has sufficient minimum
10 contacts in the State of California, and/or otherwise purposefully avails itself of the California
11 market. DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by
12 California courts consistent with traditional notions of fair play and substantial justice.

13 **FIRST CAUSE OF ACTION**

14 **(Violation of Proposition 65 - Against All Defendants)**

15 26. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs
16 1 through 25, inclusive.

17 27. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic
18 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be informed
19 about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”

20 28. Proposition 65 states, “[n]o person in the course of doing business shall knowingly and
21 intentionally expose any individual to a chemical known to the state to cause cancer or reproductive
22 toxicity without first giving clear and reasonable warning to such individual....” Health & Safety
23 Code § 25249.6.

24 29. On July 12, 2024, Plaintiff served a sixty-day notice of violation, together with the
25 accompanying certificate of merit, on GIBSON, BURLINGTON, the California Attorney General,
26 and all other requisite public enforcers alleging that, as a result of the notice recipients’ sales of the
27 PRODUCTS, consumers in the State of California were being exposed to lead resulting from their
28 reasonably foreseeable use of the PRODUCTS, without the consumers first receiving a “clear and

1 reasonable warning” regarding the harms associated with exposures to lead as required by
2 Proposition 65.

3 30. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for
4 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS’ violations have
5 continued beyond their receipt of Plaintiff’s sixty-day notice of violation. As such, DEFENDANTS’
6 violations are ongoing and continuous and, unless enjoined, will continue in the future.

7 31. After receiving Plaintiff’s sixty-day notice of violation, no public enforcement agency
8 has commenced and diligently prosecuted a cause of action against DEFENDANTS under
9 Proposition 65 to enforce the alleged violations that are the subject of Plaintiff’s notice of violation.

10 32. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and offer
11 for sale or use in California cause exposures to lead as a result of the reasonably foreseeable use of
12 the PRODUCTS. Such exposures caused by DEFENDANTS and endured by consumers in
13 California are not exempt from the “clear and reasonable” warning requirements of Proposition 65.

14 33. DEFENDANTS know or should know that the PRODUCTS they manufacture, import,
15 distribute, sell, and offer for sale in California contain lead.

16 34. Lead is present on the PRODUCTS in such a way as to expose consumers through
17 dermal contact and/or ingestion during reasonably foreseeable use.

18 35. The normal and reasonably foreseeable use of the PRODUCTS has caused, and
19 continues to cause, consumer exposures to lead, as defined by title 27 of the California Code of
20 Regulations, section 25602(b).

21 36. DEFENDANTS know that the normal and reasonably foreseeable use of the
22 PRODUCTS expose individuals to lead through dermal contact and/or ingestion.


23 37. DEFENDANTS intend that exposures to lead from the reasonably foreseeable use of
24 the PRODUCTS will occur by their deliberate, non-accidental participation in the manufacture,
25 importation, distribution, sale, and offering of the PRODUCTS for sale or use to consumers in
26 California.

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Dated: December 30, 2024

Respectfully submitted,
VOORHEES & BAILEY, LLP

By: 
Troy Bailey
Attorneys for Plaintiff
DENNIS JOHNSON