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Clad Pike, Executive Officer / Clerk of the Court

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11 CENTER FOR ENVIRONMENTAL HEALTH

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF ALAMEDA

14 CENTER FOR ENVIRONMENTAL HEALTH,
15 a non-profit corporation,

16 Plaintiff,

17 v.

18 MANGO NY, INC., PUNTO FA, S.L.,
19 BALENCIAGA AMERICA, INC.,
20 BALENCIAGA SAS, BALLY AMERICAS
21 INC., BALLY SCHUHFABRIKEN AG,
22 BRIGHTON COLLECTIBLES, LLC, FRAME
23 LA BRANDS, LLC, HURLEY
24 INTERNATIONAL LLC, UNITED LEGWEAR
25 COMPANY, LLC, LANDS' END, INC.,
26 LANDS' END DIRECT MERCHANTS, INC.,
27 MATISSE FOOTWEAR, INC., 3.1 PHILLIP
28 LIM, LLC, PHOENIX FOOTWEAR GROUP,
INC., RALPH LAUREN CORPORATION, RAG
& BONE INDUSTRIES LLC, RAG & BONE
HOLDINGS LLC, RAG & BONE FOOTWEAR
LLC, RIVER ISLAND CLOTHING CO.
LIMITED, YALEET INC., and DOES 1 through
100, inclusive,

Defendants.

Case No. 25CV112558

ASSIGNED FOR ALL PURPOSES TO:
Judge Rebekah Evenson, Department 24

**FIRST AMENDED 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 products at issue in this Complaint are
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.

PARTIES

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

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

6. Defendant PUNTO FA, S.L. is a person in the course of doing business within the meaning of Health & Safety Code §25249.11. Defendant PUNTO FA, S.L. manufactures, distributes, and/or sells Footwear that is sold or worn in California.

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

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

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

1 10. Defendant BALLY SCHUHFABRIKEN AG is a person in the course of doing
2 business within the meaning of Health & Safety Code §25249.11. Defendant BALLY
3 SCHUHFABRIKEN AG manufactures, distributes, and/or sells Footwear that is sold or worn in
4 California.

5 11. Defendant BRIGHTON COLLECTIBLES, LLC is a person in the course of doing
6 business within the meaning of Health & Safety Code §25249.11. Defendant BRIGHTON
7 COLLECTIBLES, LLC manufactures, distributes, and/or sells Footwear that is sold or worn in
8 California.

9 12. Defendant FRAME LA BRANDS, LLC is a person in the course of doing business
10 within the meaning of Health & Safety Code §25249.11. Defendant FRAME LA BRANDS,
11 LLC manufactures, distributes, and/or sells Footwear that is sold or worn in California.

12 13. Defendant HURLEY INTERNATIONAL LLC is a person in the course of doing
13 business within the meaning of Health & Safety Code §25249.11. Defendant HURLEY
14 INTERNATIONAL LLC manufactures, distributes, and/or sells Footwear that is sold or worn in
15 California.

16 14. Defendant UNITED LEGWEAR COMPANY, LLC is a person in the course of
17 doing business within the meaning of Health & Safety Code §25249.11. Defendant UNITED
18 LEGWEAR COMPANY, LLC manufactures, distributes, and/or sells Footwear that is sold or
19 worn in California.

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

23 16. Defendant LANDS' END DIRECT MERCHANTS, INC. is a person in the course
24 of doing business within the meaning of Health & Safety Code §25249.11. Defendant LANDS'
25 END DIRECT MERCHANTS, INC. manufactures, distributes, and/or sells Footwear that is sold
26 or worn in California.

27 17. Defendant MATISSE FOOTWEAR, INC. is a person in the course of doing
28 business within the meaning of Health & Safety Code §25249.11. Defendant MATISSE

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

3 18. Defendant 3.1 PHILLIP LIM, LLC is a person in the course of doing business
4 within the meaning of Health & Safety Code §25249.11. Defendant 3.1 PHILLIP LIM, LLC
5 manufactures, distributes, and/or sells Footwear that is sold or worn in California.

6 19. Defendant PHOENIX FOOTWEAR GROUP, INC. is a person in the course of
7 doing business within the meaning of Health & Safety Code §25249.11. Defendant PHOENIX
8 FOOTWEAR GROUP, INC. manufactures, distributes, and/or sells Footwear that is sold or worn
9 in California.

10 20. Defendant RALPH LAUREN CORPORATION is a person in the course of doing
11 business within the meaning of Health & Safety Code §25249.11. Defendant RALPH LAUREN
12 CORPORATION manufactures, distributes, and/or sells Footwear that is sold or worn in
13 California.

14 21. Defendant RAG & BONE INDUSTRIES LLC is a person in the course of doing
15 business within the meaning of Health & Safety Code §25249.11. Defendant RAG & BONE
16 INDUSTRIES LLC manufactures, distributes, and/or sells Footwear that is sold or worn in
17 California.

18 22. Defendant RAG & BONE HOLDINGS LLC is a person in the course of doing
19 business within the meaning of Health & Safety Code §25249.11. Defendant RAG & BONE
20 HOLDINGS LLC manufactures, distributes, and/or sells Footwear that is sold or worn in
21 California.

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

26 24. Defendant RIVER ISLAND CLOTHING CO. LIMITED is a person in the course
27 of doing business within the meaning of Health & Safety Code §25249.11. Defendant RIVER
28

1 ISLAND CLOTHING CO. LIMITED manufactures, distributes, and/or sells Footwear that is sold
2 or worn in California.

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

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

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

13 28. The defendants identified in paragraphs 5 through 25 and DOES 1 through 100 are
14 collectively referred to herein as “Defendants.”

15 **JURISDICTION AND VENUE**

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

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

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

BACKGROUND FACTS

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

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

No 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. . .

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

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

36. Exposures to hexavalent chromium are of particular concern in light of the highly toxic nature of the chemical. Numerous studies have demonstrated adverse developmental effects

1 resulting from exposure to hexavalent chromium, including increased postimplantation loss,
2 decreased number of live fetuses/litter, decreased fetal weight, internal and skeletal
3 malformations, delayed sexual maturation in offspring, decreased sperm count, and increased
4 percentage of abnormal sperm. See Agency for Toxic Substances and Disease Registry, U.S.
5 Department of Health & Human Services, *Toxicological Profile for Chromium* (September 2012),
6 pp. 18-19, available at <https://www.atsdr.cdc.gov/toxprofiles/tp7.pdf> (last visited February 13,
7 2025). In addition, studies using rats and mice have shown that exposure to hexavalent chromium
8 causes a variety of cancers including cancers of the gastrointestinal tract, stomach, tongue, and
9 small intestine. *Id.* pp. 21-23.

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

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

27 39. No clear and reasonable warning is provided with Defendants' Footwear regarding
28 the carcinogenic or reproductive hazards of hexavalent chromium.

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

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

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

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

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

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

12 46. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
13 filing this Complaint.

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

19 **FIRST CAUSE OF ACTION**
20 **(Violations of Health & Safety Code §25249.6)**

21 48. CEH realleges and incorporates by reference as if specifically set forth herein each
22 of the preceding paragraphs.

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

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

51. Defendants know that average use of their Footwear will expose users to hexavalent chromium. Defendants intend that their Footwear be used in a manner that results in exposures to hexavalent chromium.

52. Defendants have failed, and continue to fail, to provide clear and reasonable warnings regarding the carcinogenicity and reproductive toxicity of hexavalent chromium to users of their Footwear.

53. By committing the acts alleged above, Defendants have at all times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to hexavalent chromium without first giving clear and reasonable warnings to such individuals regarding the carcinogenicity and reproductive toxicity of hexavalent chromium.

PRAYER FOR RELIEF

CEH prays for judgment against Defendants as follows:

1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin Defendants from offering the Footwear for sale in California without either reformulating the Footwear such that no Proposition 65 warnings are required or providing prior clear and reasonable warnings, as CEH shall specify in further application to the Court;

2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against each of the Defendants in the amount of \$2,500 per day for each violation of Proposition 65 according to proof;

3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to take action to stop ongoing unwarned exposures to hexavalent chromium resulting from use of the Footwear sold by Defendants, as CEH shall specify in further application to the Court;

4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

5. That the Court grant such other and further relief as may be just and proper.

1 Dated: March 6, 2025

Respectfully submitted,

2 LEXINGTON LAW GROUP, LLP

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6 Joseph Mann
7 Attorneys for Plaintiff
8 CENTER FOR ENVIRONMENTAL HEALTH
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