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CENTER FOR ENVIRONMENTAL HEALTH

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

ACUSHNET COMPANY, ALPINESTARS
USA, C.C. FILSON CO., COSTCO
WHOLESALE CORPORATION, DULUTH
HOLDINGS INC., TAYLOR MADE GOLF
COMPANY, INC., VISTA OUTDOOR INC.,
VISTA OUTDOOR OPERATIONS LLC,
REVELYST, INC., REVELYST SALES LLC,
and DOES 1 through 100, inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
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Deputy Clerk

Case No. **25CV114499**

**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 gloves made with leather materials. The products at issue in this Complaint are limited
10 to gloves for which normal and foreseeable use will result in one or more chrome-tanned leather
11 components coming into direct contact with the skin of the average user's hand while the gloves
12 are worn (*e.g.*, an unlined glove, or one that is lined with chrome-tanned leather) ("Gloves").
13 Hexavalent chromium is present in and leaches out of the leather parts of the Gloves. Consumers,
14 including women and men of child bearing age, are exposed to hexavalent chromium when they
15 wear, touch, or handle the Gloves.

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 Gloves containing significant quantities of hexavalent chromium in the leather parts of the Gloves
21 into the California marketplace, thereby exposing people who wear the Gloves to hexavalent
22 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 Gloves sold by Defendants. Defendants' conduct thus violates the warning
27 provision of Proposition 65. Health & Safety Code §25249.6.

28

1 **PARTIES**

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 ACUSHNET COMPANY is a person in the course of doing business
14 within the meaning of Health & Safety Code §25249.11. Defendant ACUSHNET COMPANY
15 manufactures, distributes, and/or sells Gloves that are sold or worn in California.

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

19 7. Defendant C.C. FILSON CO. is a person in the course of doing business within
20 the meaning of Health & Safety Code §25249.11. Defendant C.C. FILSON CO. manufactures,
21 distributes, and/or sells Gloves that are sold or worn in California.

22 8. Defendant COSTCO WHOLESALE CORPORATION is a person in the course of
23 doing business within the meaning of Health & Safety Code §25249.11. Defendant COSTCO
24 WHOLESALE CORPORATION manufactures, distributes, and/or sells Gloves that are sold or
25 worn in California.

26 9. Defendant DULUTH HOLDINGS INC. is a person in the course of doing business
27 within the meaning of Health & Safety Code §25249.11. Defendant DULUTH HOLDINGS INC.
28 manufactures, distributes, and/or sells Gloves that are sold or worn in California.

1 10. Defendant TAYLOR MADE GOLF COMPANY, INC. is a person in the course of
2 doing business within the meaning of Health & Safety Code §25249.11. Defendant TAYLOR
3 MADE GOLF COMPANY, INC. manufactures, distributes, and/or sells Gloves that are sold or
4 worn in California.

5 11. Defendant VISTA OUTDOOR INC. is a person in the course of doing business
6 within the meaning of Health & Safety Code §25249.11. Defendant VISTA OUTDOOR INC.
7 manufactures, distributes, and/or sells Gloves that are sold or worn in California.

8 12. Defendant VISTA OUTDOOR OPERATIONS LLC is a person in the course of
9 doing business within the meaning of Health & Safety Code §25249.11. Defendant VISTA
10 OUTDOOR OPERATIONS LLC manufactures, distributes, and/or sells Gloves that are sold or
11 worn in California.

12 13. Defendant REVELYST, INC. is a person in the course of doing business within
13 the meaning of Health & Safety Code §25249.11. Defendant REVELYST, INC. manufactures,
14 distributes, and/or sells Gloves that are sold or worn in California.

15 14. Defendant REVELYST SALES LLC is a person in the course of doing business
16 within the meaning of Health & Safety Code §25249.11. Defendant REVELYST SALES LLC
17 manufactures, distributes, and/or sells Gloves that are sold or worn in California.

18 15. DOES 1 through 100 are each a person in the course of doing business within the
19 meaning of Health & Safety Code §25249.11. DOES 1 through 100 manufacture, distribute,
20 and/or sell Gloves that are sold or worn in California.

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

25 17. The defendants identified in paragraphs 5 through 14 and DOES 1 through 100 are
26 collectively referred to herein as “Defendants.”
27
28

1 **JURISDICTION AND VENUE**

2 18. The Court has jurisdiction over this action pursuant to Health & Safety Code
3 §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
4 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
5 other trial courts.

6 19. This Court has jurisdiction over Defendants because each is a business entity that
7 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
8 avails itself of the California market through the sale, marketing, or use of Gloves in California or
9 by having such other contacts with California so as to render the exercise of jurisdiction over it by
10 the California courts consistent with traditional notions of fair play and substantial justice.

11 20. Venue is proper in Alameda County Superior Court because one or more of the
12 violations arise in the County of Alameda.

13 **BACKGROUND FACTS**

14 21. The People of the State of California have declared by initiative under Proposition
15 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
16 other reproductive harm.” Proposition 65, §1(b).

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

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

25 23. On February 27, 1987, the State of California officially listed chromium
26 (hexavalent compounds) as a chemical known to cause cancer. On February 27, 1988, one year
27 after it was listed as a chemical known to cause cancer, hexavalent chromium became subject to
28

1 the clear and reasonable warning requirement regarding carcinogens under Proposition 65. 27
2 California Code of Regulations (“C.C.R.”) §27001(b); Health & Safety Code §25249.10(b).

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

12 25. Exposures to hexavalent chromium are of particular concern in light of the highly
13 toxic nature of the chemical. Numerous studies have demonstrated adverse developmental effects
14 resulting from exposure to hexavalent chromium, including increased postimplantation loss,
15 decreased number of live fetuses/litter, decreased fetal weight, internal and skeletal
16 malformations, delayed sexual maturation in offspring, decreased sperm count, and increased
17 percentage of abnormal sperm. *See* Agency for Toxic Substances and Disease Registry, U.S.
18 Department of Health & Human Services, *Toxicological Profile for Chromium* (September 2012),
19 pp. 18-19, available at <https://www.atsdr.cdc.gov/toxprofiles/tp7.pdf> (last visited February 13,
20 2025). In addition, studies using rats and mice have shown that exposure to hexavalent chromium
21 causes a variety of cancers including cancers of the gastrointestinal tract, stomach, tongue, and
22 small intestine. *Id.* pp. 21-23.

23 26. The leather materials in the Gloves are made through a process called tanning.
24 Tanning is the treating of animal hide to stabilize the resulting material so that it will not rot or
25 harden into an unusable form when exposed to heat, water, or other environmental media. The
26 tanning process first involves preparing the hide by scraping it clean of meat, fat, and hair. The
27 hide is then chemically treated and tanned. While some leather is tanned through chemicals
28 found in vegetables, today trivalent chromium is the most common chemical used in the leather

1 tanning process. If strict protocols are not observed, the trivalent chromium transforms into
2 hexavalent chromium and residue of the hexavalent chromium remains present in and leaches out
3 of the finished leather.

4 27. The leather parts of Defendants' Gloves contain sufficient quantities of hexavalent
5 chromium such that individuals who wear, touch, or handle the Gloves are exposed to a
6 significant amount of hexavalent chromium. The primary routes of exposure for the violations
7 are: (1) dermal absorption directly through the skin when consumers wear, touch, or handle the
8 Gloves or otherwise have direct skin to leather contact with the leather parts of the Gloves; and
9 (2) ingestion via hand to mouth contact after consumers wear, touch, or handle the Gloves. These
10 exposures occur in homes, workplaces, and everywhere else throughout California where the
11 Gloves are sold and worn.

12 28. No clear and reasonable warning is provided with Defendants' Gloves regarding
13 the carcinogenic or reproductive hazards of hexavalent chromium.

14 29. Any person acting in the public interest has standing to enforce violations of
15 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
16 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
17 within such time. Health & Safety Code §25249.7(d).

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

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

14 32. None of the public prosecutors with the authority to prosecute violations of
15 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants
16 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH’s
17 Notices regarding hexavalent chromium in the Gloves.

18 33. Defendants know that their Gloves contain and leach hexavalent chromium.
19 Defendants thus both know and intend that individuals, including women and men of child
20 bearing age, will wear, touch, or handle the Gloves, thereby exposing them to hexavalent
21 chromium.

22 34. Nevertheless, Defendants continue to expose consumers, including women and
23 men of child bearing age, to hexavalent chromium without prior clear and reasonable warnings
24 regarding the carcinogenic or reproductive hazards of hexavalent chromium.

25 35. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
26 filing this Complaint.

27 36. Any person “violating or threatening to violate” Proposition 65 may be enjoined in
28 any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to violate” is

1 defined to mean “to create a condition in which there is a substantial probability that a violation
2 will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not
3 to exceed \$2,500 per day for each violation of Proposition 65.

4 **FIRST CAUSE OF ACTION**
5 **(Violations of Health & Safety Code §25249.6)**

6 37. CEH realleges and incorporates by reference as if specifically set forth herein each
7 of the preceding paragraphs.

8 38. By placing their Gloves into the stream of commerce, Defendants are each a
9 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

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

12 40. Defendants know that average use of their Gloves will expose users to hexavalent
13 chromium. Defendants intend that their Gloves be used in a manner that results in exposures to
14 hexavalent chromium.

15 41. Defendants have failed, and continue to fail, to provide clear and reasonable
16 warnings regarding the carcinogenicity and reproductive toxicity of hexavalent chromium to users
17 of their Gloves.

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

22 **PRAYER FOR RELIEF**

23 CEH prays for judgment against Defendants as follows:

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

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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 Gloves 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.

Dated: March 5, 2025

Respectfully submitted,

LEXINGTON LAW GROUP, LLP



Joseph Mann
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH