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Superior Court of California,
County of San Francisco

12/18/2025
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 BATTLE SPORTS SCIENCE, LLC,
15 DICK'S SPORTING GOODS, INC.,

16 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-25-632204

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.

19 **BACKGROUND OF THE CASE**

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

26 2. This complaint is a representative action brought by Plaintiff in the public interest
27 of the citizens of the State of California to enforce the People's right to be informed of the health
28 hazards caused by exposure to perfluorooctanoic acid ("PFOA"), a toxic chemical found in Battle
coaches bucket hats sold and/or distributed by defendant Battle Sports Science, LLC and/or

1 defendant Dick’s Sporting Goods, Inc. (collectively, “Defendants” and each a “Defendant”) in
2 California.

3 3. PFOA is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On November 10, 2017, the state of California listed
5 PFOA as a chemical known to cause birth defects or other reproductive harm and it has come
6 under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, §
7 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 25, 2022, the State of
8 California listed PFOA as a chemical known to cause cancer.

9 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
10 within California or sell products therein to comply with Proposition 65 regulations. Included in
11 such regulations is the requirement that businesses must label any product containing a Proposition
12 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
13 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
14 chemical.

15 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
17 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
18 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
19 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
20 25249.7.

21 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
22 without a requisite exposure warning, Battle coaches bucket hats (the “Products”) that expose
23 persons to PFOA when used for their intended purpose.

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

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

7 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
8 more of the following methods individually or in combination:¹

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

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

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

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

20 21. Proposition 65 provides that any “person who violates or threatens to violate” the
21 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
22 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
23 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
24

25
26
27 ¹ 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 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
2 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

3 **FACTUAL BACKGROUND**

4 22. On November 10, 2017, the state of California listed PFOA as a chemical known
5 to cause birth defects or other reproductive harm and it has come under the purview of Proposition
6 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§
7 25249.8 & 25249.10(b). On February 25, 2022, the State of California listed PFOA as a chemical
8 known to cause cancer. In summary, PFOA was listed under Proposition 65 as a chemical known
9 to the State to cause cancer and birth defects or other reproductive harm.

10 23. The exposures that are the subject of the Notice result from the purchase,
11 acquisition, handling and recommended use of the Product. The primary route of exposure to the
12 is through dermal absorption directly through the skin when consumers use, touch, or handle the
13 Products. Exposure through ingestion will occur by touching the Product with subsequent touching
14 of the user's hand to mouth. No clear and reasonable warning is provided with the Products
15 regarding the health hazards of exposure.

16 24. Defendants have processed, marketed, distributed, offered to sell and/or sold the
17 Products in California since at least December 20, 2024. The Products continue to be distributed
18 and sold in California without the requisite warning information.

19 25. At all times relevant to this action, Defendants have knowingly and intentionally
20 exposed users of the Products to PFOA without first giving a clear and reasonable exposure
21 warning to such individuals.

22 26. As a proximate result of acts by each Defendant, as a person in the course of doing
23 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
24 California, including in San Francisco County, have been exposed to PFOA without a clear and
25 reasonable warning on the Products. The individuals subject to the violative exposures include
26 normal and foreseeable users and consumers that use the Products, as well as all others exposed to
27 the Products.
28

SATISFACTION OF NOTICE REQUIREMENTS

1
2 27. On August 22, 2024, Plaintiff purchased the Product from Dick’s Sporting Goods,
3 Inc. At the time of purchase, Defendants did not provide a Proposition 65 exposure warning for
4 PFOA or any other Proposition 65 listed chemical in a manner consistent with H&S Code §
5 25603.1 as described *supra*.

6 28. The Product was sent to a testing laboratory for PFOA testing to determine the
7 PFOA content of the Product.

8 29. On December 5, 2024, the laboratory provided the results of its analysis. Results of
9 this test determined the Product exposes users to PFOA (the “Chemical Test Report”).

10 30. Plaintiff provided the Chemical Test Report and Product to an analytical chemist
11 to determine if, based on the findings of the Chemical Test Report and the reasonable and
12 foreseeable use of the Product, exposure to PFOA will occur at levels that require Proposition 65
13 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California
14 Code of Regulations.

15 31. On December 20, 2024, Plaintiff received from the analytical chemist an exposure
16 assessment report which concluded that persons in California who use the Products will be exposed
17 to levels of PFOA that require a Proposition 65 exposure warning.

18 32. On December 20, 2024, Plaintiff gave notice of alleged violation of Health and
19 Safety Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens
20 to PFOA contained in the Products without proper warning, subject to a private action to
21 Defendants and to the California Attorney General’s office and the offices of the County District
22 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
23 the herein violations allegedly occurred.

24 33. The Notice complied with all procedural requirements of Proposition 65 including
25 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at
26 least one person with relevant and appropriate expertise who reviewed relevant data regarding
27 PFOA exposure, and that counsel believed there was meritorious and reasonable cause for a private
28 action.

1 34. After receiving the Notice, and to Plaintiff's best information and belief, none of
2 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
3 cause of action against Defendants under Proposition 65 to enforce the alleged violations which
4 are the subject of the Notice.

5 35. On March 7, 2025, more than five business days after Defendants received the
6 Notice, Plaintiff purchased the Product from Dicks Sporting Goods, Inc. At the time of purchase,
7 Defendants did not provide a Proposition 65 compliant exposure warning.

8 36. Plaintiff is commencing this action more than sixty (60) days from the date of the
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 Product.

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

18 40. The Product does 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 at least since December 20, 2024, continuing until the present, that Defendants have
21 continued to knowingly and intentionally expose California users and consumers of the Product to
22 PFOA without providing required warnings under Proposition 65.

23 42. The exposures that are the subject of the Notice result from the purchase,
24 acquisition, handling and recommended use of the Product. The primary route of exposure to the
25 is through dermal absorption directly through the skin when consumers use, touch, or handle the
26 Products. Exposure through ingestion will occur by touching the Product with subsequent touching
27 of the user's hand to mouth. No clear and reasonable warning is provided with the Products
28 regarding the health hazards of exposure.

1 43. Plaintiff, based on his best information and belief, avers that such exposures will
2 continue every day until clear and reasonable warnings are provided to purchasers and users or
3 until this known toxic chemical is removed from the Products.

4 44. Defendants have knowledge that the normal and reasonably foreseeable use of the
5 Products exposes individuals to PFOA, and Defendants intend that exposures to PFOA will occur
6 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
7 the Products to consumers in California

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

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

13 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
14 authorized to grant injunctive relief in favor of Plaintiff and against each Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against each Defendant and requests the following relief:

A. That the court assess civil penalties against each Defendant in the amount of \$2,500 per day for each violation for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

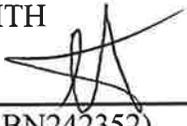
B. That the court preliminarily and permanently enjoin each Defendant mandating Proposition 65 compliant warnings on the Products;

C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit, in the amount of \$50,000.00.

D. That the court grant any further relief as may be just and proper.

Dated: December 18, 2025

BRODSKY SMITH

By:  _____

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