

Evan J. Smith, Esquire (SBN 242352)
Ryan P. Cardona, Esquire (SBN 302113)
BRODSKY SMITH
9465 Wilshire Blvd., Ste. 300
Beverly Hills, CA 90212
Telephone: (877) 534-2590
Facsimile: (310) 247-0160

Attorneys for Plaintiffs

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

7/7/2026 12:08:52 PM

Clerk of the Superior Court
By D. Saenz ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

GABRIEL ESPINOZA, EMA BELL,
Plaintiffs,
vs.
FRANKLIN SPORTS, INC.,
Defendant.

Case No.: 26CU001493C

**FIRST AMENDED COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE RELIEF**

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

Plaintiffs Gabriel Espinoza ("Espinoza") and Ema Bell ("Bell") (collectively, "Plaintiffs" and each a "Plaintiff"), by and through their attorneys, allege the following cause of action in the public interest of the citizens of the State of California.

BACKGROUND OF THE CASE

1. Plaintiffs bring this representative action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part, "[n]o 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 ...". Health & Safety Code § 25249.6.

2. This first amended complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to chromium (hexavalent compounds) ("chromium

1 (VI)”), a toxic chemical found in leather gloves and gloves with leather components, including but
2 not limited to, (a) *Franklin®* pickleball performance leather gloves, (b) *Franklin®* CFX Pro Hi-
3 Lite batting gloves, and (c) *Franklin®* Classic One batting gloves sold and/or distributed by
4 defendant Franklin Sports, Inc. (“Franklin” or “Defendant”) in California.

5 3. Chromium (VI) is a harmful chemical known to the State of California to cause
6 cancer and birth defects or other reproductive harm. On February 27, 1987, the State of California
7 listed chromium (VI) as a chemical known to the State to cause cancer and it has come under the
8 purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health
9 & Safety Code §§ 25249.8 & 25249.10(b). On December 19, 2008, the State of California listed
10 chromium (VI) as a chemical known to cause birth defects or other reproductive harm.

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

17 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
18 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
19 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
20 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
21 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
22 25249.7.

23 6. Plaintiffs allege that Defendant distributes and/or offers for sale in California,
24 without a requisite exposure warning, leather gloves and gloves with leather components,
25 including but not limited to, (a) *Franklin®* pickleball performance leather gloves, (b) *Franklin®*
26 CFX Pro Hi-Lite batting gloves, and (c) *Franklin®* Classic One batting gloves (collectively, the
27 “Products” and each a “Product”) that expose persons to chromium (VI) when used for their
28 intended purpose.

1 conducted, and continues to conduct, business in the County of San Diego with respect to the
2 Products.

3 15. This Court has jurisdiction over this action pursuant to California Constitution
4 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
5 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
6 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
7 jurisdiction over this lawsuit.

8 16. This Court has jurisdiction over Defendant because Defendant is either a citizen of
9 the State of California, has sufficient minimum contacts with the State of California, is registered
10 with the California Secretary of State as foreign corporations authorized to do business in the State
11 of California, and/or has otherwise purposefully availed itself of the California market. Such
12 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
13 permissible with traditional notions of fair play and substantial justice.

14 **STATUTORY BACKGROUND**

15 17. The people of the State of California declared in Proposition 65 their right “[t]o be
16 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
17 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

18 18. To effect this goal, Proposition 65 requires that individuals be provided with a
19 “clear and reasonable warning” before being exposed to substances listed by the State of California
20 as causing cancer and/or birth defects or other reproductive harm. H&S Code § 25249.6 states, in
21 pertinent part:

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

24 19. An exposure to a chemical in a consumer product is one “which results from a
25 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
26 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
27 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
28

1 shall provide a warning to any person to whom the product is sold or transferred unless the product
2 is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

16 21. Proposition 65 provides that any “person who violates or threatens to violate” the
17 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
18 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
19 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
20 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
21 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

22 **FACTUAL BACKGROUND**

23 22. On February 27, 1987, the State of California listed chromium (VI) as a chemical
24 known to the State to cause cancer and it has come under the purview of Proposition 65 regulations
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 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
2 25249.10(b). On December 19, 2008, the State of California listed chromium (VI) as a chemical
3 known to cause birth defects or other reproductive harm. In summary, chromium (VI) was listed
4 under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other
5 reproductive harm.

6 23. The exposures that are the subject of the Notices result from the purchase,
7 acquisition, handling and recommended use of the Products. Increased duration of contact with the
8 Products, natural aging of the Products, temperature, light exposure, and contact of the Products
9 with oxidizing agents and alkaline solutions will result in increased conversion of chromium (III)
10 to chromium (VI) in the Products and thus increased dermal exposure to chromium (VI). Direct
11 mouthing of the Products and indirect hand to mouth exposure to chromium (VI) will occur by
12 touching the Products with subsequent touching of the user's hand to mouth.

13 24. Defendant has manufactured, processed, marketed, distributed, offered to sell
14 and/or sold the Products in California since at least June 26, 2023 with respect to the *Franklin*®
15 pickleball performance leather gloves; and since at least January 14, 2025 with respect to the
16 *Franklin*® CFX Pro Hi-Lite batting gloves and *Franklin*® Classic One batting gloves. The
17 Products continue to be distributed and sold in California without the requisite warning
18 information.

19 25. At all times relevant to this action, Defendant has knowingly and intentionally
20 exposed users, consumers and/or patients to the Products and the chromium (VI) without first
21 giving a clear and reasonable exposure warning to such individuals.

22 26. As a proximate result of acts by 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 Diego County, have been exposed to chromium (VI) without a clear
25 and reasonable warning on the Products. The individuals subject to the violative exposures include
26 normal and foreseeable users, consumers and patients that use the Products, as well as all others
27 exposed to the Products.
28

SATISFACTION OF NOTICE REQUIREMENTS

27. Plaintiffs purchased the Products from Defendant in California. At the time of purchase, Defendant did not provide a Proposition 65 exposure warning for chromium (VI) or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

28. The Products were sent to a testing laboratory to determine the chromium (VI) content of the Products.

29. The laboratory provided the results of its analysis. Results of this tests determined the Products expose users to chromium (VI) (the “Chemical Test Report”).

30. Plaintiffs provided the Chemical Test Report and Products to an analytical chemist to determine if, based on the findings of the Chemical Test Report and the reasonable and foreseeable use of the Products, exposure to chromium (VI) will occur at levels that require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California Code of Regulations.

31. On June 26, 2023 (*Franklin*® pickleball performance leather gloves) and January 14, 2025 (*Franklin*® CFX Pro Hi-Lite batting gloves and *Franklin*® Classic One batting gloves), Plaintiffs received from the analytical chemist an exposure assessment report which concluded that persons in California who use the Products will be exposed to levels of chromium (VI) that require a Proposition 65 exposure warning.

32. On June 26, 2023 (*Franklin*® pickleball performance leather gloves) and January 14, 2025 (*Franklin*® CFX Pro Hi-Lite batting gloves and *Franklin*® Classic One batting gloves), Plaintiffs gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning the exposure of California citizens to chromium (VI) contained in the Products without proper warning, subject to a private action to Defendant and to the California Attorney General’s office and the offices of the County District attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein the herein violations allegedly occurred.

33. The Notices complied with all procedural requirements of Proposition 65 including the attachment of a Certificate of Merit affirming that Plaintiffs' counsel had consulted with at least one person with relevant and appropriate expertise who reviewed relevant data regarding chromium (VI) exposure, and that counsel believed there was meritorious and reasonable cause for a private action.

34. After receiving the Notices, and to Plaintiffs' best information and belief, none of the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged violations which are the subject of the Notices.

35. Plaintiffs are commencing this action more than sixty (60) days from the date of each Notice to Defendant, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiffs against Defendant for the Violation of Proposition 65)

36. Plaintiffs hereby repeat and incorporate by reference paragraphs 1 through 35 of this First Amended Complaint as though fully set forth herein.

37. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of the Products.

38. Use of the Products will expose users and consumers thereof to chromium (VI), a hazardous chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

39. The Products do not comply with the Proposition 65 warning requirements.

40. Plaintiffs, based on their best information and belief, avers that at all relevant times herein, and since at least June 26, 2023 with respect to the *Franklin*® pickleball performance leather gloves; and since at least January 14, 2025 with respect to the *Franklin*® CFX Pro Hi-Lite batting gloves and *Franklin*® Classic One batting gloves, continuing until the present, that Defendant has continued to knowingly and intentionally expose California users and consumers of the Products to chromium (VI) without providing required warnings under Proposition 65.

1 41. The exposures that are the subject of the Notices result from the purchase,
2 acquisition, handling and recommended use of the Products. Consequently, the primary route of
3 exposure to these chemicals is through dermal exposure. Increased duration of contact with the
4 Products, natural aging of the Products, temperature, light exposure, and contact of the Products
5 with oxidizing agents and alkaline solutions will result in increased conversion of chromium (III)
6 to chromium (VI) in the Products and thus increased dermal exposure to chromium (VI). Direct
7 mouthing of the Products and indirect hand to mouth exposure to chromium (VI) will occur by
8 touching the Products with subsequent touching of the user's hand to mouth.

9 42. Plaintiffs, based on their best information and belief, avers that such exposures will
10 continue every day until clear and reasonable warnings are provided to purchasers and users or
11 until this known toxic chemical is removed from the Products.

12 43. Defendant has knowledge that the normal and reasonably foreseeable use of the
13 Product exposes individuals to chromium (VI), and Defendant intends those exposures to
14 chromium (VI) will occur by its deliberate, non-accidental participation in the importation,
15 distribution, sale and offering of the Products to consumers in California

16 44. Plaintiffs have engaged in good faith efforts to resolve the herein claims prior to
17 this First Amended Complaint.

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

20 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
21 authorized to grant injunctive relief in favor of Plaintiffs and against Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendant and requests the following relief:

A. That the court assess civil penalties against 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);

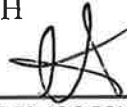
B. That the court preliminarily and permanently enjoin Defendant mandating Proposition 65 compliant warnings on the Products;

C. That the court grant Plaintiffs 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: July 7, 2026

BRODSKY SMITH

By: 

Evan J. Smith (SBN242352)

Ryan P. Cardona (SBN302113)

9465 Wilshire Boulevard, Suite 300

Beverly Hills, CA 90212

Telephone: (877) 534-2590

Facsimile: (310) 247-0160

Attorneys for Plaintiffs