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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**04/17/2026**  
Clerk of the Court  
BY: ERNALYN BURA  
Deputy Clerk

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

**CGC-26-636078**

11 GABRIEL ESPINOZA,  
12 Plaintiff,

13 vs.

14 LYNCO DISTRIBUTION, INC.,  
SPORTSMAN'S WAREHOUSE, INC.,  
15 Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

16 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following  
17 cause of action in the public interest of the citizens of the State of California.

**BACKGROUND OF THE CASE**

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

24 2. This complaint is a representative action brought by Plaintiff in the public interest  
25 of the citizens of the State of California to enforce the People's right to be informed of the health  
26 hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP), a toxic chemical found in *Hot*  
27 *Shot*® bags sold and/or distributed by defendant Lynco Distribution, Inc. and/or defendant  
28 Sportsman's Warehouse, Inc. (collectively, "Defendants" and each a "Defendant") in California.

1           3.       DEHP is a harmful chemical known to the State of California to cause cancer and  
2 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known  
3 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since  
4 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).  
5 On October 24, 2003, the State of California listed DEHP as a chemical known to cause  
6 reproductive toxicity.

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

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

18           6.       Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
19 without a requisite exposure warning, *Hot Shot*® bags (the “Products”) that expose persons to  
20 DEHP when used for their intended purpose.

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

25           8.       Plaintiff seeks civil penalties against Defendants for their violations of Proposition  
26 65 in accordance with Health and Safety Code § 25249.7(b).

27           9.       Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
28 Defendants to provide purchasers or users of the Products with required warnings related to the

1 dangers and health hazards associated with exposure to DEHP pursuant to Health and Safety Code  
2 § 25249.7(a).

3 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

4 **PARTIES**

5 11. Plaintiff is a citizen of the State of California acting in the interest of the general  
6 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
7 improve human health by reducing hazardous substances contained in such items. He brings this  
8 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

9 12. Defendant Lynco Distribution, Inc., through its business, effectively imports,  
10 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
11 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
12 State of California. Plaintiff alleges that defendant Lynco Distribution, Inc. is a "person" in the  
13 course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
14 25249.11.

15 13. Defendant Sportsman's Warehouse, Inc., through its business, effectively imports,  
16 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
17 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
18 State of California. Plaintiff alleges that defendant Sportsman's Warehouse, Inc. is a "person" in  
19 the course of doing business within the meaning of Health & Safety Code sections 25249.6 and  
20 25249.11.

21 **VENUE AND JURISDICTION**

22 14. Venue is proper in the County of San Francisco because one or more of the  
23 instances of wrongful conduct occurred and continue to occur in this county and/or because  
24 Defendants conducted, and continue to conduct, business in the County of San Francisco with  
25 respect to the Products. The Products are distributed, marketed, and sold to consumers throughout  
26 San Francisco County, and the alleged Proposition 65 violations necessarily occurred here. Upon  
27 information and belief, the Products are consistently in the stream of commerce and available to  
28 consumers for purchase in the City and County of San Francisco.





1 On October 24, 2003, the State of California listed DEHP as a chemical known to cause  
2 reproductive toxicity.

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

9 24. Defendants have manufactured, processed, marketed, distributed, offered to sell  
10 and/or sold the Products in California since at least April 18, 2025. Upon information and belief,  
11 the Products are consistently in the stream of commerce and available to consumers for purchase  
12 in the City and County of San Francisco and the alleged Proposition 65 violations necessarily  
13 occurred here. The Products continue to be distributed, offered for sale and/or sold in California –  
14 including, but not limited to, San Francisco County - without the requisite warning information.

15 25. At all times relevant to this action, Defendants have knowingly and intentionally  
16 exposed users of the Products to DEHP without first giving a clear and reasonable exposure  
17 warning to such individuals.

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

24 **SATISFACTION OF NOTICE REQUIREMENTS**

25 27. On February 18, 2025, Plaintiff purchased the Product from Sportsman's  
26 Warehouse, Inc. At the time of purchase, Defendants did not provide a Proposition 65 exposure  
27 warning for DEHP or any other Proposition 65 listed chemical in a manner consistent with H&S  
28 Code § 25603.1 as described *supra*.

1           28.     The Product was sent to a testing laboratory for phthalate testing to determine the  
2 phthalate content of the Product.

3           29.     On April 3, 2025, the laboratory provided the results of its analysis. Results of this  
4 test determined the Product exposes users to DEHP (the “Chemical Test Report”).

5           30.     Plaintiff provided the Chemical Test Report and Product to an analytical chemist  
6 to determine if, based on the findings of the Chemical Test Report and the reasonable and  
7 foreseeable use of the Product, exposure to DEHP will occur at levels that require Proposition 65  
8 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California  
9 Code of Regulations.

10          31.     On April 18, 2025, Plaintiff received from the analytical chemist an exposure  
11 assessment report which concluded that persons in California who use the Products will be exposed  
12 to levels of DEHP that require a Proposition 65 exposure warning.

13          32.     On April 18, 2025, Plaintiff gave notice of alleged violation of Health and Safety  
14 Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens to  
15 DEHP from use of the Products without proper warning, subject to a private action to Defendants  
16 and to the California Attorney General’s office and the offices of the County District attorneys and  
17 City Attorneys for each city with a population greater than 750,000 persons wherein the herein  
18 violations allegedly occurred.

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

24          34.     After receiving the Notice, and to Plaintiff’s best information and belief, none of  
25 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
26 cause of action against Defendants under Proposition 65 to enforce the alleged violations which  
27 are the subject of the Notice.  
28

1 35. Plaintiff is commencing this action more than sixty (60) days from the date of the  
2 Notice to Defendants, as required by law.

3 **FIRST CAUSE OF ACTION**

4 **(By Plaintiff against Defendants for the Violation of Proposition 65)**

5 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of  
6 this Complaint as though fully set forth herein.

7 37. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer  
8 of the Products.

9 38. Use of the Products will expose users and consumers thereof to DEHP, a hazardous  
10 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

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

12 40. Plaintiff, based on his best information and belief, avers that at all relevant times  
13 herein, and at least since April 18, 2025, continuing until the present, that Defendants have  
14 continued to knowingly and intentionally expose California users and consumers of the Products  
15 to DEHP without providing required warnings under Proposition 65.

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

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

25 43. Defendants have knowledge that the normal and reasonably foreseeable use of the  
26 Products exposes individuals to DEHP, and Defendants intend that exposures to DEHP will occur  
27 by their deliberate, non-accidental participation in the importation, distribution, sale and offering  
28 of the Products to consumers in California

1 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
2 Complaint.

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

6 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
7 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following  
10 relief:

11 A. That the court assess civil penalties against each Defendant in the amount of \$2,500  
12 per day for each violation for up to 365 days in accordance with Health and Safety Code §  
13 25249.7(b);

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

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

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

19 Dated: April 17, 2026

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