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ELECTRONICALLY
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Superior Court of California,
County of San Francisco

05/28/2026
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 TARGET STORES, INC.,

15 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

CGC-26-637373

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 and birth defects or other reproductive
23 harm without first giving clear and reasonable warning to such individual ...". Health & Safety
24 Code § 25249.6.

25 2. This complaint is a representative action brought by Plaintiff in the public interest
26 of the citizens of the State of California to enforce the People's right to be informed of the health
27 hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP), a toxic chemical found in NPW
28

1 Tabletop Pickleball – grips sold and/or distributed by defendant Target Stores, Inc. (“Target”) in
2 California.

3 3. DEHP is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On January 1, 1988, the State of California listed DEHP
5 as a chemical known to the State to cause cancer 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 October 24, 2003, the State of California listed DEHP as a chemical
8 known to cause birth defects or other reproductive harm.

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 Defendant distributes and/or offers for sale in California,
22 without a requisite exposure warning, NPW Tabletop Pickleball – grips (the “Products”) that
23 expose persons to DEHP when used for their intended purpose.

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

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

9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendant to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to DEHP pursuant to Health and Safety Code § 25249.7(a).

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

PARTIES

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

12. Defendant Target Stores, Inc., through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Target Stores, Inc. is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

VENUE AND JURISDICTION

13. Venue is proper in the County of San Francisco because one or more of the instances of wrongful conduct occurred and continue to occur in this county and/or because Defendant conducted, and continue to conduct, business in the County of San Francisco with respect to the Products.

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

1 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
2 the State of California, has sufficient minimum contacts with the State of California, is registered
3 with the California Secretary of State as foreign corporations authorized to do business in the State
4 of California, and/or has otherwise purposefully availed itself of the California market. Such
5 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
6 permissible with traditional notions of fair play and substantial justice.

7 **STATUTORY BACKGROUND**

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

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

15 No person in the course of doing business shall knowingly and intentionally expose any
16 individual to a chemical known to the state to cause cancer and birth defects or other
reproductive harm without first giving clear and reasonable warning to such individual...

17 18. An exposure to a chemical in a consumer product is one “which results from a
18 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
19 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
20 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
21 shall provide a warning to any person to whom the product is sold or transferred unless the product
22 is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

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

18 21. Pursuant to Cal. Code Regs. Tit. 27, § 25600.2(e), a retail seller is responsible for
19 providing the warning required by § 25249.6 of the Act for a consumer product exposure when
20 one or more of the following circumstances exist: (a) the retailer seller is selling the product under
21 a brand or trademark that is owned or licensed by the retail seller or an affiliated entity; (b) the
22 retailer seller has knowingly introduced a listed chemical into the product, or knowingly caused
23 the listed chemical to be created in the product; (c) the retail seller has covered, obscured or altered
24 a warning label that has been affixed to the product pursuant to § 25600.2(b); (d) the retail seller
25 has received a notice and warning materials for the exposure pursuant to § 25600.2(b)-(c) and the
26 retail seller has sold the product without conspicuously posting or displaying the warning; or (e)
27 the retailer seller has actual knowledge of the potential consumer product exposure requiring the
28 warning, and there is no manufacturer, producer, packager, importer, supplier, or distributor of the

1 product who: (i) is a “person in the course of doing business under § 25249.11(b) of the Act, and
2 (ii) has designated an agent for service of process in California, or has a place of business in
3 California.

4 **FACTUAL BACKGROUND**

5 22. On January 1, 1988, the State of California listed DEHP as a chemical known to
6 the State to cause cancer and it has come under the purview of Proposition 65 regulations since
7 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
8 On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth
9 defects or other reproductive harm.

10 23. On March 18, 2025, Plaintiff purchased the Product from Target. At the time of
11 purchase, Defendant did not provide a Proposition 65 exposure warning for DEHP or any other
12 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
13 *supra*.

14 24. On May 28, 2025, Plaintiff served notice of alleged violation of Health and Safety
15 Code § 25249.6 (the “Notice”) to Defendant concerning the exposure of California citizens to
16 DEHP from use of the Products without proper warning, subject to a private action to Defendant
17 and to the California Attorney General’s office and the offices of the County District attorneys and
18 City Attorneys for each city with a population greater than 750,000 persons wherein the herein
19 violations allegedly occurred.

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

26 26. On July 30, 2025, Plaintiff provided Defendant with further notice concerning the
27 exposure of California citizens to lead from use of the Products without proper warning, subject
28 to a private action to Defendant and to the California Attorney General’s office and the offices of

1 the County District attorneys and City Attorneys for each city with a population greater than
2 750,000 persons wherein the herein violations allegedly occurred.

3 27. Defendant has actual knowledge that sales of the Products in California will result
4 in an actionable consumer product exposure pursuant to Cal. Health & Safety Code § 25249.5 et
5 seq.

6 28. Defendant has manufactured, processed, marketed, distributed, offered to sell
7 and/or sold the Products in California since at least May 28, 2025. The Products continue to be
8 distributed and sold in California without the requisite warning information.

9 29. At all times relevant to this action, Defendant has knowingly and intentionally
10 exposed users of the Products to DEHP without first giving a clear and reasonable exposure
11 warning to such individuals.

12 30. On July 8, 2025, Plaintiff purchased the Product a second time from Defendant. At
13 the time of the purchase, Defendant did not provide a clear and reasonable exposure warning
14 pursuant to Cal. Code Regs. Tit. 27, § 25602.

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

21 **SATISFACTION OF NOTICE REQUIREMENTS**

22 32. On March 18, 2025, Plaintiff purchased the Product from Target. At the time of
23 purchase, Defendant did not provide a Proposition 65 exposure warning for DEHP or any other
24 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
25 *supra*.

26 33. The Product was sent to a testing laboratory for phthalate testing to determine the
27 phthalate content of the Product. The laboratory provided the results of its analysis. Results of this
28 test determined the Product exposes users to DEHP (the “Chemical Test Report”).

34. Plaintiff provided the Chemical Test Report and Product to an analytical chemist to determine if, based on the findings of the Chemical Test Report and the reasonable and foreseeable use of the Product, exposure to DEHP 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.

36. On May 28, 2025, Plaintiff served the Notice to Defendant concerning the exposure of California citizens to DEHP from use of 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.

38. After receiving the Notice, and to Plaintiff's 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 Notice.

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

FIRST CAUSE OF ACTION

40. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 39 of this Complaint as though fully set forth herein.

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

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

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

6 44. Plaintiff, based on his best information and belief, avers that at all relevant times
7 herein, and at least since May 28, 2025, continuing until the present, that Defendant has continued
8 to knowingly and intentionally expose California users and consumers of the Products to DEHP
9 without providing required warnings under Proposition 65.

10 45. 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 46. Plaintiff, based on his best information and belief, avers that such exposures will
17 continue every day until clear and reasonable warnings are provided to purchasers and users or
18 until this known toxic chemical is removed from the Products.

19 47. Defendant has knowledge that the normal and reasonably foreseeable use of the
20 Products exposes individuals to DEHP, and Defendant intends that exposures to DEHP will occur
21 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
22 the Products to consumers in California

23 48. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
24 Complaint.

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

27 50. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
28 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

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

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

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

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

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

12 Dated: May 28, 2026

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