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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

08/03/2026
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

GABRIEL ESPINOZA,

Plaintiff,

vs.

JOHNSON WILSHIRE, INC.,
PATAGONIA BUILDING SUPPLIES
INC.,

Defendants.

Case No.:

CGC-26-639552

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

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

BACKGROUND OF THE CASE

1. Plaintiff brings 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 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 (VI)"), a toxic

1 chemical found in leather gloves and gloves with leather components, including but not limited to
2 leather palm work gloves, UPC # 724531116295, sold and/or distributed by defendant Johnson
3 Wilshire, Inc. ("Johnson Wilshire") and/or defendant Patagonia Building Supplies Inc.
4 ("Patagonia") (collectively, "Defendants" and each a "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. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
24 without a requisite exposure warning, leather gloves and gloves with leather components,
25 including but not limited to leather palm work gloves, UPC # 724531116295 (the "Products") that
26 expose persons to chromium (VI) when used for their intended purpose.

27 7. Defendants' failure to warn consumers and other individuals in California of the
28 health hazards associated with exposure to chromium (VI) in conjunction with the sale and/or

1 distribution of the Products is a violation of Proposition 65 and subjects Defendants to the
2 enjoinder and civil penalties described herein.

3 8. Plaintiff seeks civil penalties against Defendants for their violations of Proposition
4 65 in accordance with Health and Safety Code § 25249.7(b).

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

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

10 **PARTIES**

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

15 12. Defendant Johnson Wilshire, 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 Johnson Wilshire, Inc. is a "person" in the
19 course of doing business within the meaning of Health & Safety Code sections 25249.6 and
20 25249.11.

21 13. Defendant Patagonia Building Supplies Inc., through its business, effectively
22 imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it
23 implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use
24 in the State of California. Plaintiff alleges that defendant Patagonia Building Supplies Inc. is a
25 "person" in the course of doing business within the meaning of Health & Safety Code sections
26 25249.6 and 25249.11.

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15. 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.

16. This Court has jurisdiction over Defendants because each Defendant is either a citizen of the State of California, has sufficient minimum contacts with the State of California, is registered with the California Secretary of State as foreign corporations authorized to do business in the State of California, and/or has otherwise purposefully availed itself of the California market. Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent and permissible with traditional notions of fair play and substantial justice. Public policy further supports this conclusion.

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

4 19. An exposure to a chemical in a consumer product is one “which results from a
5 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
6 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
7 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
8 shall provide a warning to any person to whom the product is sold or transferred unless the product
9 is packaged or labeled with a clear and reasonable warning.”

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

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

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

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

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

23 21. Proposition 65 provides that any “person who violates or threatens to violate” the
24 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
25 “threaten to violate” is defined to mean creating “a condition in which there is a substantial

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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 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
2 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
3 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

4 **FACTUAL BACKGROUND**

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

12 23. The exposures that are the subject of the Notice result from the purchase,
13 acquisition, handling and recommended use of the Products. Increased duration of contact with the
14 Products, natural aging of the Products, temperature, light exposure, and contact of the Products
15 with oxidizing agents and alkaline solutions will result in increased conversion of chromium (III)
16 to chromium (VI) in the Products and thus increased dermal exposure to chromium (VI). Direct
17 mouthing of the Products and indirect hand to mouth exposure to chromium (VI) will occur by
18 touching the Products with subsequent touching of the user’s hand to mouth.

19 24. Defendants have manufactured, processed, marketed, distributed, offered to sell
20 and/or sold the Products in California since at least February 18, 2026. Upon information and
21 belief, the Products are consistently in the stream of commerce and available to consumers for
22 purchase in the City and County of San Francisco and the alleged Proposition 65 violations
23 necessarily occurred here. The Products continue to be distributed, offered for sale and/or sold in
24 California without the requisite warning information.

25 25. At all times relevant to this action, Defendants have knowingly and intentionally
26 exposed users, consumers and/or patients to the Products and the chromium (VI) without first
27 giving a clear and reasonable exposure warning to such individuals.

1 26. As a proximate result of acts by each Defendant, as a person in the course of doing
2 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
3 California, including in San Francisco County, have been exposed to chromium (VI) without a
4 clear and reasonable warning on the Products. The individuals subject to the violative exposures
5 include normal and foreseeable users, consumers and patients that use the Products, as well as all
6 others exposed to the Products.

7 **SATISFACTION OF NOTICE REQUIREMENTS**

8 27. On February 18, 2026, Plaintiff purchased the Product from Defendants in
9 California. At the time of purchase, Defendants did not provide a Proposition 65 exposure warning
10 for chromium (VI) or any other Proposition 65 listed chemical in a manner consistent with H&S
11 Code § 25603.1 as described *supra*.

12 28. The Product was sent to a testing laboratory to determine the chromium (VI)
13 content of the Products.

14 29. The laboratory provided the results of its analysis. Results of this test determined
15 the Product exposes users to chromium (VI) (the “Chemical Test Report”).

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

21 31. On April 30, 2026, Plaintiff received from the analytical chemist an exposure
22 assessment report which concluded that persons in California who use the Products will be exposed
23 to levels of chromium (VI) that require a Proposition 65 exposure warning.

24 32. On April 30, 2026, Plaintiff gave notice of alleged violation of Health and Safety
25 Code § 25249.6 (the “Notice”) to Defendants concerning the exposure of California citizens to
26 chromium (VI) contained in the Products without proper warning, subject to a private action to
27 Defendants and to the California Attorney General’s office and the offices of the County District
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1 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
2 the herein violations allegedly occurred.

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

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

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

14 **FIRST CAUSE OF ACTION**

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

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

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

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

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

24 40. Plaintiff, based on his best information and belief, avers that at all relevant times
25 herein, and at least since April 30, 2026, continuing until the present, that Defendants have
26 continued to knowingly and intentionally expose California users and consumers of the Products
27 to chromium (VI) without providing required warnings under Proposition 65.

1 41. The exposures that are the subject of the Notice 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. Plaintiff, based on his 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. Defendants have knowledge that the normal and reasonably foreseeable use of the
13 Product exposes individuals to chromium (VI), and Defendants intend 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. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
17 Complaint.

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

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

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- 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 Defendants 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.

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