

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Hexavalent Chromium in Footwear Made With Leather Materials

October 22, 2020

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Caroline Cox is the Senior Scientist of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are: The names and addresses of the violators are identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least October 22, 2017, and are ongoing.
- Provision of Proposition 65: This Notice covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is chromium (hexavalent compounds), which is also known as hexavalent chromium. Hexavalent chromium is listed under Proposition 65 as a chemical known to the State of California to cause cancer and reproductive toxicity. Exposures to hexavalent chromium occur from use of the products identified in this Notice.
- Type of Product: The specific type of product that is the subject of this Notice and is causing these violations is footwear made with leather materials. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to hexavalent chromium. Use of the products identified in this Notice results in human exposures to hexavalent chromium. The routes of exposure for the violations are: (1) dermal absorption directly through the skin when consumers

wear, touch or handle the products or otherwise have direct skin to leather contact with the leather parts of the products; and (2) ingestion via hand to mouth contact after consumers wear, touch or handle the products. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of hexavalent chromium.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the hexavalent chromium exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of hexavalent chromium in footwear; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of hexavalent chromium in such products; and representative exemplars of each unit of any such products sold by each alleged violator in the year preceding this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Eric S. Somers at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, esomers@lexlawgroup.com

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Eric S. Somers, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code § 25249.7(h)(2), i.e. (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

October 22, 2020



Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

EXHIBIT 1
October 22, 2020 Notice of Violation
Hexavalent Chromium in Footwear Made With Leather Materials

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Description of Non-Exclusive Exemplar	Limitation on Products Sold by Violators
Etienne Aigner, Inc. 19 West 34th Street 7th Floor New York, NY 10001	Etienne Aigner Simone Peep Toe Bootie in Potters Clay	Style No. EAF1333-CPC 9 UPC No. 7-40028-87957-7	None
Trebbianno LLC 19 West 34th Street 7th Floor New York, NY 10001	Etienne Aigner Simone Peep Toe Bootie in Potters Clay	Style No. EAF1333-CPC 9 UPC No. 7-40028-87957-7	None
Genesco, Inc. 1415 Murfreesboro Road, Suite 190 Nashville, TN 37217	Johnston & Murphy Julia Slide Leopard Print Haircalf M	RN No. 124179 Item No. 07811363-100-M Product No. 07811363	None
	H.S. Trask Teresa Black Haircalf	Item 36-1841 Product No. 03601841	None
Nordstrom, Inc. 1617 Sixth Avenue Seattle, WA 98101	Nordstrom Signature Leandra Knotted Sandal	RN# 58665/ CA# 57963 UPC: 439090299429	Products sold under Nordstrom private label brands
Styleline Studios, LLC 10 Cutter Mill Road Great Neck, NY 11021	J/Slides Quincy Natural LE 8M	Item No. 0903 016; 843637132283	None
JSL Studio Int, LLC. 10 Cutter Mill Road Great Neck, NY 11021	J/Slides Quincy Natural LE 8M	Item No. 0903 016; 843637132283	None

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Description of Non-Exclusive Exemplar Products	Limitation on Products Sold by Violators
Saks & Company LLC 225 Liberty Street, 31 st Floor New York, NY 10281	J/Slides Quincy Natural LE 8M	Item No. 0903 016; 843637132283	J/Slides footwear
	Jack Rogers Shelby Cognac	UPC No. 885434387176 Style No. 1216WW003 0934 023 0065	Jack Rogers footwear
Jack Rogers, LLC 1412 Broadway Suite 1600 New York, NY 10018	Jack Rogers Shelby Cognac	UPC No. 885434387176 Style No. 1216WW003 0934 023 0065	None
Paige LLC 10119 Jefferson Blvd Culver City, CA 90232	Paige Marea in Suede Black	UPC No. 1-90161-49412-8	None
Tapestry, Inc. 10 Hudson Yards New York, NY 10001	Coach Eddison 102mm Mule Lion	UPC No. 1-91202-82553-6 Style No. G2503, 232701	None
	Kate Spade Ryan Cashmere	UPC No. 6-40819-59989-2 Style S5100004 085M	None
FitFlop USA, LLC 10 Bank Street, 11 th Floor White Plains, NY 10606	FitFlop Eloise Croc Print Wedge Back Strap Sandal – Light Tan	Product Code 193286848197 AF8-592-070 0-193286-848197 F0030 0719	None
Spring Footwear Corp. 1001 West McNab Road Pompano Beach, FL 33069	Spring Step Fusaro Loafer – Black	UPC No. 8-89796-62231-9 Lot # 15790-1910	None

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Description of Non-Exclusive Exemplar Products	Limitation on Products Sold by Violators
Marc Jacobs International, LLC 72 Spring Street, 2nd Floor NY, NY 10012	Marc Jacobs Bette Slingback Pump	UPC No. 1-9126704242-8 Style No. M9001911 RN No. 103927	None
Ariat International, Inc. 3242 Whipple Rd Union City, CA 94587	Two24 by Ariat Jubilee – Black	UPC No. 8-89359-49639-5 Style No. 10022627	None

1 **PROOF OF SERVICE**

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3 I, Alexis Pearson, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
apearson@lexlawgroup.com.

7 On October 22, 2020, I served the following document(s) on all interested parties in this
8 action by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT;** and

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986**
13 **(PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
14 asterisk).

15 ☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
16 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
18 ordinary course of business. On this date, I placed sealed envelopes containing the above
19 mentioned documents for collection and mailing following my firm's ordinary business practices.

20 *Please see attached service list.*

21 ☐ **BY FACSIMILE:** I caused all pages of the document(s) listed above to be transmitted via
22 facsimile to the fax number(s) as indicated and said transmission was reported as complete and
23 without error.

24 ☒ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
25 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
26 on the date executed.

27 Stacey Grassini, Deputy District Attorney
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1 ☐ **BY PERSONAL DELIVERY:** I placed all pages of the document(s) listed above in a sealed
2 envelope addressed to the party(ies) listed above, and caused such envelope to be delivered by
hand to the addressee(s) as indicated.

3 ☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility
4 regularly maintained by FedEx, or delivered such document(s) to a courier or driver authorized by
FedEx, with delivery fees paid or provided for, and addressed to the person(s) being served.

5 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

6 Executed on October 22, 2020 at San Francisco, California.

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Alexis Pearson

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