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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 v.

14 ILLINOIS TOOL WORKS INC.,

15 Defendant.

Case No.: CGC-25-621519

CONSENT JUDGMENT

Judge: Christine Van Aken

Dept.: 301

Hearing Date: May 13, 2025

Hearing Time: 9:30 AM

Complaint Filed: January 17, 2025

1 **1. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Gabriel
3 Espinoza acting on behalf of the public interest (hereinafter “Espinoza”) and Illinois Tool Works
4 Inc. (“Illinois Tool Works” or “Defendant”) with Espinoza and Defendant collectively referred to
5 as the “Parties” and each of them as a “Party.” Espinoza is an individual residing in California that
6 seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing
7 or eliminating hazardous substances contained in consumer products. Illinois Tool Works is alleged
8 to be a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety
9 Code §§ 25249.6 et seq.

10 **1.2 Allegations and Representations.** Espinoza alleges that Defendant has exposed
11 individuals to chromium (hexavalent compounds) (CrVI) from its sales of gloves with leather
12 components, including, but not limited to the exemplar, Miller TIG/Multi-Task gloves, without
13 providing a clear and reasonable exposure warning pursuant to Proposition 65. CrVI is listed
14 pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth
15 defects or other reproductive harm.

16 **1.3 Notice of Violation/Action.** On February 19, 2024, Espinoza served Illinois Tool
17 Works and various public enforcement agencies with documents entitled “60-Day Notice of
18 Violation” pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendant
19 violated Proposition 65 for failing to warn consumers and customers that use of gloves with leather
20 components, including, but not limited to the exemplar, Miller TIG/Multi-Task gloves, expose
21 users in California to CrVI. No public enforcer has brought and is diligently prosecuting the claims
22 alleged in the Notice. On January 17, 2025, Espinoza filed a complaint (the “Complaint”).

23 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has
24 jurisdiction over Defendant as to the allegations contained in the Action filed in this matter, that
25 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,
26 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution
27 of all claims which were or could have been raised in the Action based on the facts alleged therein
28

1 and in the Notice.

2 1.5 Defendant denies the material allegations contained in Espinoza's Notice and
3 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment
4 shall be construed as an admission by Defendant of any fact, finding, issue of law, or violation of
5 law; nor shall compliance with this Consent Judgment constitute or be construed as an admission
6 by Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being
7 specifically denied by Defendant. However, this section shall not diminish or otherwise affect the
8 obligations, responsibilities, and duties of Defendant under this Consent Judgment.

9 **2. DEFINITIONS**

10 2.1 **Covered Products.** The term "Covered Products" means gloves with leather
11 components, including, but not limited to the exemplar, Miller TIG/Multi-Task gloves, that are
12 manufactured, distributed, shipped into California and offered for sale in California by Illinois Tool
13 Works that exposes user to CrVI.

14 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
15 entered as a Judgment of the Court.


16 **3. INJUNCTIVE RELIEF: WARNINGS**

17 3.1 **Clear and Reasonable Warning.** Commencing within sixty (60) days of the
18 Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in
19 this §§ 3.1 and 3.2 must be provided for all Covered Products that Defendant manufacturers,
20 imports, distributes, sells, or offers for sale in California. There shall be no obligation for Defendant
21 to provide a warning for Covered Products that enter the stream of commerce prior to the date this
22 Consent Judgment is signed by both Parties. The warning shall consist of either the **Warning** or
23 **Alternative Warning** described in §§ 3.1(a) or (b), respectively:

24 (a) **Warning.** The "Warning" shall consist of the statement:

25 **⚠ WARNING:** This product can expose you to chemicals including chromium
26 (hexavalent compounds) (CrVI), which is known to the State of California to cause
27 cancer and birth defects or other reproductive harm. For more information go to
28 www.P65Warnings.ca.gov.

1 (b) **Alternative Warning:** Illinois Tool Works may, but is not required to, use the
2 alternative short-form warning¹ as set forth in this § 3.1(b) (“**Alternative Warning**”) as follows:

3  **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

4 3.2 A **Warning** or **Alternative Warning** provided pursuant to § 3.1 must print the word
5 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to
6 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral
7 triangle with a black outline, except that if the sign or label for the Covered Product does not use
8 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
9 than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed
10 to or printed on the Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or
11 electronic device or automatic process only if such electronic device or automatic process provides
12 the **Warning** or **Alternative Warning** without the purchaser having to seek it out, providing that
13 the **Warning** or **Alternative Warning** is displayed with such conspicuousness, as compared with
14 other words, statements, or designs as to render it likely to be read and understood by an ordinary
15 individual under customary conditions of purchase or use. The **Warning** or **Alternative Warning**
16 may be contained in the same section of the packaging, labeling, or instruction booklet that states
17 other safety warnings, if any, concerning the use of the Covered Product and shall be at least the
18 same size as those other safety warnings. If “consumer information,” as that term is defined in Title
19 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is
20 provided in a foreign language, Illinois Tool Works shall provide the **Warning** or **Alternative**
21 **Warning** in the foreign language in accordance with applicable warning regulations adopted by
22 OEHHA.

23 In addition to affixing the **Warning** or **Alternative Warning** to the Covered Product’s
24 packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where
25 Illinois Tool Works offers Products for sale to consumers in California. The requirements of this
26

27 ¹ An **Alternative Warning** on a Covered Product manufactured and labeled after January 1, 2028
28 shall be provided in accordance with Title 27, California Code of Regulations, § 25603(b).

1 Section shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink
2 using the word "**WARNING**," appears on the product display page, or by otherwise prominently
3 displaying the warning to the purchaser prior to completing the purchase. To comply with this
4 Section, Illinois Tool Works shall (a) post the **Warning** or **Alternative Warning** on its own
5 website and, if it has the ability to do so, on the websites of its third-party internet sellers; and (b)
6 if it does not have the ability to post the **Warning** or **Alternative Warning** on the websites of its
7 third-party internet sellers, provide such sellers with written notice in accordance with Title 27,
8 California Code of Regulations, § 25600.2. Third-party internet sellers of the Covered Product that
9 have been provided with written notice in accordance with Title 27, California Code of Regulations,
10 § 25600.2 are not released in Section 5 of this Agreement if they fail to meet the warning
11 requirements herein.

12 3.3 **Compliance with Warning Regulations.** Defendant shall be deemed to be in
13 compliance with this Consent Judgment by either adhering to §§ 3.1 and 3.2 of this Consent
14 Judgment or by complying with warning regulations adopted by OEHHA applicable to the Covered
15 Product and exposures at issue.

16 **4. MONETARY TERMS**

17 4.1 **Civil Penalty.** Illinois Tool Works shall pay \$5,000.00 as a Civil Penalty pursuant
18 to Health and Safety Code section 25249.7(b), to be apportioned in accordance with California
19 Health & Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining
20 25% of the Civil Penalty remitted to Espinoza, as provided by California Health & Safety Code
21 § 25249.12(d).

22 4.1.1 Within fifteen (15) days of the Effective Date, Illinois Tool Works shall
23 issue two separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of
24 \$3,750.00; and to (b) "Gabriel Espinoza" in the amount of \$1,250.00. Payment owed to Espinoza
25 pursuant to this Section shall be delivered to the following payment address:

26 Evan J. Smith, Esquire
27 Brodsky Smith
28 Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

1 Payment owed to OEHHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly
2 to OEHHHA (Memo Line "Prop 65 Penalties") at one of the following address(es):

3 For United States Postal Service Delivery:

4 Mike Gyurics
5 Fiscal Operations Branch Chief
6 Office of Environmental Health Hazard Assessment
7 P.O. Box 4010
8 Sacramento, CA 95812-4010

9 For Non-United States Postal Service Delivery:

10 Mike Gyurics
11 Fiscal Operations Branch Chief
12 Office of Environmental Health Hazard Assessment
13 1001 I Street
14 Sacramento, CA 95814

15 A copy of the check payable to OEHHHA shall be mailed to Brodsky Smith at the address set forth
16 above as proof of payment to OEHHHA.

17 4.2 **Attorneys' Fees.** Within fifteen (15) days of the Effective Date, Illinois Tool Works
18 shall pay \$50,000.00 to Brodsky Smith as complete reimbursement for Espinoza's attorneys' fees
19 and costs incurred as a result of investigating, bringing this matter to the attention of Illinois Tool
20 Works, litigating and negotiating and obtaining judicial approval of a settlement in the public
21 interest, pursuant to Code of Civil Procedure § 1021.5.

22 **5. RELEASE OF ALL CLAIMS**

23 5.1 This Consent Judgment is a full, final, and binding resolution between Espinoza
24 acting on his own behalf, and on behalf of the public interest, and Illinois Tool Works, and its
25 parents, shareholders, members, directors, officers, managers, employees, representatives, agents,
26 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
27 predecessors, successors and assigns ("Defendant Releasees"), and all entities to whom they
28 directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers,
suppliers, distributors, wholesalers, customers, licensors, licensees retailers, including but not
limited to Illinois Tool Works and its parents, subsidiaries, and affiliates, franchisees, and
cooperative members ("Downstream Releasees"), of all claims for violations of Proposition 65

1 based on exposure to CrVI from use of the Covered Products manufactured, distributed, or sold by
2 Illinois Tool Works prior to the Effective Date or within 60 days after the Effective Date as set
3 forth in the Notice. It is the Parties' intention that this Consent Judgment shall have preclusive
4 effect such that no other actions by private enforcers, whether purporting to act in his, her, or its
5 interests or the public interest shall be permitted to pursue and take any action with respect to any
6 violation of Proposition 65 based on exposure to CrVI from use of the Covered Products that was
7 alleged in the Complaint, or that could have been brought pursuant to the Notice against Illinois
8 Tool Works and the Downstream Releasees ("Proposition 65 Claims"). Illinois Tool Works'
9 compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65
10 by Illinois Tool Works with regard to exposure to CrVI from use of the Covered Products.

11 5.2 In addition to the foregoing, Espinoza, on behalf of himself, his past and current
12 agents, representatives, attorneys, and successors and assignees, and not in his representative
13 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
14 legal action and releases Illinois Tool Works, Defendant Releasees, and Downstream Releasees
15 from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations,
16 debts, contracts, agreements, promises, liabilities, damages, charges, losses, costs, expenses, and
17 attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent,
18 now or in the future, with respect to any alleged violations of Proposition 65 related to or arising
19 from Covered Products manufactured, distributed, or sold by Illinois Tool Works, Defendant
20 Releasees or Downstream Releasees. With respect to the foregoing waivers and releases in this
21 paragraph, Espinoza hereby specifically waives any and all rights and benefits which he now has,
22 or in the future may have, conferred by virtue of the provisions of § 1542 of the California Civil
23 Code, which provides as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
25 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
26 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
27 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
28 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
 DEBTOR OR RELEASED PARTY.

1 5.3 Illinois Tool Works waives any and all claims against Espinoza, his attorneys and
2 other representatives, for any and all actions taken, or statements made (or those that could have
3 been taken or made) by Espinoza and his attorneys and other representatives, whether in the course
4 of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
5 and with respect to Covered Products.

6 **6. INTEGRATION**

7 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
8 any and all prior negotiations and understandings related hereto shall be deemed to have been
9 merged within it. No representations or terms of agreement other than those contained herein exist
10 or have been made by any Party with respect to the other Party or the subject matter hereof.

11 **7. NOTICES**

12 7.1 Unless specified herein, all correspondence and notices required to be provided
13 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
14 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
15 by the other party at the following addresses:

16 For Defendant:

17 Joshua G. Simon
18 Call & Jensen, APC
19 610 Newport Center Dr., Ste. 700
 Newport Beach, CA 92660

20 And

21 For Espinoza:

22 Evan Smith
23 Brodsky Smith
 9465 Wilshire Blvd., Ste. 300
 Beverly Hills, CA 90212

24 Any party, from time to time, may specify in writing to the other party a change of address to
25 which all notices and other communications shall be sent.

1 **8. COUNTERPARTS; FACSIMILE SIGNATURES**

2 8.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
3 which shall be deemed an original, and all of which, when taken together, shall constitute one and
4 the same document.

5 **9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
6 **APPROVAL**

7 9.1 Espinoza agrees to comply with the requirements set forth in California Health &
8 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
9 Defendant agrees it shall support approval of such Motion.

10 9.2 This Consent Judgment shall not be effective until it is approved and entered by the
11 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
12 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
13 days, the case shall proceed on its normal course.

14 9.3 If the Court approves this Consent Judgment and is reversed or vacated by an
15 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
16 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
17 its normal course on the trial court's calendar.

18 **10. MODIFICATION**

19 10.1 This Consent Judgment may be modified only by further stipulation of the Parties
20 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

21 **11. ATTORNEY'S FEES**

22 11.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
23 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

24 11.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
25 pursuant to law.

12. RETENTION OF JURISDICTION

12.1 This Court shall retain jurisdiction of this matter to implement or modify the Consent Judgment.

13. AUTHORIZATION

13.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this document and certify that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided herein each Party is to bear its own fees and costs.

AGREED TO:

AGREED TO:

Date: _____

Date: March 10, 2025

By: _____
GABRIEL ESPINOZA

By: [Signature]
ILLINOIS TOOL WORKS INC.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

Judge of Superior Court

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AGREED TO:

AGREED TO:

Date: 3 / 25 / 25

Date: _____

By: GABRIEL ESPINOZA

By: _____
ILLINOIS TOOL WORKS INC.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

Judge of Superior Court