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6 CENTER FOR ENVIRONMENTAL HEALTH

ENDORSED  
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ALAMEDA COUNTY  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA

11 CENTER FOR ENVIRONMENTAL HEALTH, ) Lead Case No. RG 09-459448  
a non-profit corporation, )  
12 )  
Plaintiff, ) [Consolidated with Case No. RG 10-  
13 ) 494289; Case No. RG 10-494513; and Case  
v. ) No. RG 10-494517]  
14 )  
15 LULU NYC LLC, *et al.*, and Defendant DOES 1 ) **SECOND AMENDED COMPLAINT –**  
through 500, inclusive, ) **CENTER FOR ENVIRONMENTAL**  
16 ) **HEALTH V. BAG BAZAAR, LTD.;**  
Defendants. ) **CASE NO. RG 10-494517**  
17 ) Health & Safety Code §25249.6, *et seq.*  
(Other)  
18 )  
And Consolidated Cases. )  
19 )

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1 Plaintiff Center for Environmental Health, in the public interest, based on  
2 information and belief and investigation of counsel, except for information based on knowledge,  
3 hereby makes the following allegations:

#### 4 INTRODUCTION

5 1. This Second Amended Complaint seeks to remedy Defendants' continuing  
6 failure to warn individuals in California that they are being exposed to lead and lead compounds  
7 (collectively, "Lead"), chemicals known to the State of California to cause cancer and birth  
8 defects and other reproductive harm. Such exposures have occurred, and continue to occur,  
9 through the manufacture, distribution, sale and/or use of Defendants' wallets, handbags, purses  
10 and clutches made with leather, vinyl or imitation leather materials (the "Products"). Consumers,  
11 including pregnant women, are exposed to Lead when they use, touch or handle the Products.

12 2. Under California's Proposition 65, Health and Safety Code §25249.5, *et*  
13 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California  
14 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without  
15 providing clear and reasonable warnings to individuals prior to their exposure. Defendants  
16 introduce Products contaminated with significant quantities of Lead into the California  
17 marketplace, exposing consumers of their Products, many of whom are pregnant women, to  
18 Lead.

19 3. Despite the fact that Defendants expose pregnant women, children and  
20 other people who come into contact with the Products to Lead, Defendants provide no warnings  
21 whatsoever about the carcinogenic or reproductive hazards associated with these Lead exposures.  
22 Defendants' conduct thus violates the warning provision of Proposition 65. Health & Safety  
23 Code §25249.6.

#### 24 PARTIES

25 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a  
26 non-profit corporation dedicated to protecting the public from environmental health hazards and  
27 toxic exposures. CEH is based in Oakland, California and incorporated under the laws of the  
28 State of California. CEH is a "person" within the meaning of Health & Safety Code

1 §25249.11(a) and brings this enforcement action in the public interest pursuant to Health &  
2 Safety Code §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy  
3 group that has prosecuted a large number of Proposition 65 cases in the public interest. These  
4 cases have resulted in significant public benefit, including the reformulation of thousands of  
5 products to remove toxic chemicals to make them safer. CEH also provides information to  
6 Californians about the health risks associated with exposure to hazardous substances, where  
7 manufacturers and other responsible parties fail to do so.

8           5. Defendant A-LIST, INC. is a person in the course of doing business within  
9 the meaning of Health & Safety Code §25249.11. A-List, Inc. manufactures, distributes and/or  
10 sells the Products for sale or use in California.

11           6. Defendant ACCESSORY EXCHANGE LLC is a person in the course of  
12 doing business within the meaning of Health & Safety Code §25249.11. Accessory Exchange  
13 LLC manufactures, distributes and/or sells the Products for sale or use in California.

14           7. Defendant ADIDAS AMERICA, INC. is a person in the course of doing  
15 business within the meaning of Health & Safety Code §25249.11. Adidas America, Inc.  
16 manufactures, distributes and/or sells the Products for sale or use in California.

17           8. Defendant AE RETAIL WEST LLC is a person in the course of doing  
18 business within the meaning of Health & Safety Code §25249.11. AE Retail West LLC  
19 manufactures, distributes and/or sells the Products for sale or use in California.

20           9. Defendant AMAZON.COM, INC. is a person in the course of doing  
21 business within the meaning of Health & Safety Code §25249.11. Amazon.com, Inc.  
22 manufactures, distributes and/or sells the Products for sale or use in California.

23           10. Defendant AMERICAN EAGLE OUTFITTERS, INC. is a person in the  
24 course of doing business within the meaning of Health & Safety Code §25249.11. American  
25 Eagle Outfitters, Inc. manufactures, distributes and/or sells the Products for sale or use in  
26 California.

27           11. Defendant AMERICAN PROCUREMENT CO., INC. is a person in the  
28 course of doing business within the meaning of Health & Safety Code §25249.11. American

1 Procurement Co., Inc. manufactures, distributes and/or sells the Products for sale or use in  
2 California.

3           12. Defendant AMICI ACCESSORIES, LTD. is a person in the course of  
4 doing business within the meaning of Health & Safety Code §25249.11. Amici Accessories, Ltd.  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6           13. Defendant AMITY/ROLFS, INC. is a person in the course of doing  
7 business within the meaning of Health & Safety Code §25249.11. Amity/Rolfs, Inc.  
8 manufactures, distributes and/or sells the Products for sale or use in California.

9           14. Defendant AM RETAIL GROUP, INC. is a person in the course of doing  
10 business within the meaning of Health & Safety Code §25249.11. AM Retail Group, Inc.  
11 manufactures, distributes and/or sells the Products for sale or use in California.

12           15. Defendant AUDIGIER BRAND MANAGEMENT GROUP, LLC is a  
13 person in the course of doing business within the meaning of Health & Safety Code §25249.11.  
14 Audigier Brand Management Group, LLC manufactures, distributes and/or sells the Products for  
15 sale or use in California.

16           16. Defendant BAEKGAARD LIMITED OF INDIANA is a person in the  
17 course of doing business within the meaning of Health & Safety Code §25249.11. Baekgaard  
18 Limited of Indiana manufactures, distributes and/or sells the Products for sale or use in  
19 California.

20           17. Defendant BAG BAZAAR, LTD. is a person in the course of doing  
21 business within the meaning of Health & Safety Code §25249.11. Bag Bazaar, Ltd.  
22 manufactures, distributes and/or sells the Products for sale or use in California.

23           18. Defendant BANANA REPUBLIC, LLC is a person in the course of doing  
24 business within the meaning of Health & Safety Code §25249.11. Banana Republic, LLC  
25 manufactures, distributes and/or sells the Products for sale or use in California.

26           19. Defendant BATH & BODY WORKS LLC is a person in the course of  
27 doing business within the meaning of Health & Safety Code §25249.11. Bath & Body Works  
28 LLC manufactures, distributes and/or sells the Products for sale or use in California.

1           20. Defendant BATH & BODY WORKS DIRECT, INC. is a person in the  
2 course of doing business within the meaning of Health & Safety Code §25249.11. Bath & Body  
3 Works Direct, Inc. manufactures, distributes and/or sells the Products for sale or use in  
4 California.

5           21. Defendant BCBG MAX AZRIA GROUP, INC. is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. BCBG Max Azria  
7 Group, Inc. manufactures, distributes and/or sells the Products for sale or use in California.

8           22. Defendant BEBE STORES, INC. is a person in the course of doing  
9 business within the meaning of Health & Safety Code §25249.11. Bebe Stores, Inc.  
10 manufactures, distributes and/or sells the Products for sale or use in California.

11           23. Defendant BELGO LUX, INC. is a person in the course of doing business  
12 within the meaning of Health & Safety Code §25249.11. Belgo Lux, Inc. manufactures,  
13 distributes and/or sells the Products for sale or use in California.

14           24. Defendant BENETTON USA CORPORATION DBA UNITED COLORS  
15 OF BENETTON is a person in the course of doing business within the meaning of Health &  
16 Safety Code §25249.11. Benetton USA Corporation dba United Colors of Benetton  
17 manufactures, distributes and/or sells the Products for sale or use in California.

18           25. Defendant THE BETESH GROUP HOLDING CORPORATION is a  
19 person in the course of doing business within the meaning of Health & Safety Code §25249.11.  
20 The Betesh Group Holding Corporation manufactures, distributes and/or sells the Products for  
21 sale or use in California.

22           26. Defendant BETSEY JOHNSON LLC is a person in the course of doing  
23 business within the meaning of Health & Safety Code §25249.11. Betsey Johnson LLC  
24 manufactures, distributes and/or sells the Products for sale or use in California.

25           27. Defendant BILLABONG RETAIL, INC. is a person in the course of doing  
26 business within the meaning of Health & Safety Code §25249.11. Billabong Retail, Inc.  
27 manufactures, distributes and/or sells the Products for sale or use in California.

28           28. Defendant B. J. VINES, INC. is a person in the course of doing business

1 within the meaning of Health & Safety Code §25249.11. B. J. Vines, Inc. manufactures,  
2 distributes and/or sells the Products for sale or use in California.

3           29. Defendant BLOOMINGDALE'S, INC. is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. Bloomingdale's, Inc.  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6           30. Defendant BROOKSTONE COMPANY, INC. is a person in the course of  
7 doing business within the meaning of Health & Safety Code §25249.11. Brookstone Company,  
8 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

9           31. Defendant BROWN SHOE COMPANY, INC. is a person in the course of  
10 doing business within the meaning of Health & Safety Code §25249.11. Brown Shoe Company,  
11 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

12           32. Defendant THE BUCKLE, INC. is a person in the course of doing  
13 business within the meaning of Health & Safety Code §25249.11. The Buckle, Inc.  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15           33. Defendant BURLEIGH POINT, LTD. is a person in the course of doing  
16 business within the meaning of Health & Safety Code §25249.11. Burleigh Point, Ltd.  
17 manufactures, distributes and/or sells the Products for sale or use in California.

18           34. Defendant THE BURTON CORPORATION is a person in the course of  
19 doing business within the meaning of Health & Safety Code §25249.11. The Burton Corporation  
20 manufactures, distributes and/or sells the Products for sale or use in California.

21           35. Defendant C&C CALIFORNIA LLC is a person in the course of doing  
22 business within the meaning of Health & Safety Code §25249.11. C&C California LLC  
23 manufactures, distributes and/or sells the Products for sale or use in California.

24           36. Defendant C. & J. CLARK AMERICA, INC. is a person in the course of  
25 doing business within the meaning of Health & Safety Code §25249.11. C. & J. Clark America,  
26 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

27           37. Defendant C. & J. CLARK RETAIL, INC. is a person in the course of  
28 doing business within the meaning of Health & Safety Code §25249.11. C. & J. Clark Retail,

1 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

2 38. Defendant THE CALIFORNIA BAG, LLC is a person in the course of  
3 doing business within the meaning of Health & Safety Code §25249.11. The California Bag,  
4 LLC manufactures, distributes and/or sells the Products for sale or use in California.

5 39. Defendant CALIFORNIA DREAM CO., INC. is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. California Dream Co.,  
7 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

8 40. Defendant CALIFORNIA ONAX, INC. is a person in the course of doing  
9 business within the meaning of Health & Safety Code §25249.11. California ONAX, Inc.  
10 manufactures, distributes and/or sells the Products for sale or use in California.

11 41. Defendant CALVIN KLEIN, INC. is a person in the course of doing  
12 business within the meaning of Health & Safety Code §25249.11. Calvin Klein, Inc.  
13 manufactures, distributes and/or sells the Products for sale or use in California.

14 42. Defendant CARRYLAND COMPANY, INC. is a person in the course of  
15 doing business within the meaning of Health & Safety Code §25249.11. Carryland Company,  
16 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

17 43. Defendant CBI DISTRIBUTING CORP. is a person in the course of doing  
18 business within the meaning of Health & Safety Code §25249.11. CBI Distributing Corp.  
19 manufactures, distributes and/or sells the Products for sale or use in California.

20 44. Defendant CHARLOTTE RUSSE, INC. is a person in the course of doing  
21 business within the meaning of Health & Safety Code §25249.11. Charlotte Russe, Inc.  
22 manufactures, distributes and/or sells the Products for sale or use in California.

23 45. Defendant CHATEAU INTERNATIONAL, INC. is a person in the course  
24 of doing business within the meaning of Health & Safety Code §25249.11. Chateau  
25 International, Inc. manufactures, distributes and/or sells the Products for sale or use in California.

26 46. Defendant CHENSON INDUSTRIAL CO. LTD., INC. is a person in the  
27 course of doing business within the meaning of Health & Safety Code §25249.11. Chenson  
28 Industrial Co. Ltd., Inc. manufactures, distributes and/or sells the Products for sale or use in

1 California.

2 47. Defendant CHRISTIAN AUDIGIER, INC. is a person in the course of  
3 doing business within the meaning of Health & Safety Code §25249.11. Christian Audigier, Inc.  
4 manufactures, distributes and/or sells the Products for sale or use in California.

5 48. Defendant CLAIRE'S BOUTIQUES, INC. is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. Claire's Boutiques, Inc.  
7 manufactures, distributes and/or sells the Products for sale or use in California.

8 49. Defendant COLDWATER CREEK, INC. is a person in the course of  
9 doing business within the meaning of Health & Safety Code §25249.11. Coldwater Creek, Inc.  
10 manufactures, distributes and/or sells the Products for sale or use in California.

11 50. Defendant COLDWATER CREEK U.S. INC. is a person in the course of  
12 doing business within the meaning of Health & Safety Code §25249.11. Coldwater Creek U.S.  
13 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

14 51. Defendant COLE HAAN is a person in the course of doing business  
15 within the meaning of Health & Safety Code §25249.11. Cole Haan manufactures, distributes  
16 and/or sells the Products for sale or use in California.

17 52. Defendant COLE HAAN COMPANY STORE is a person in the course of  
18 doing business within the meaning of Health & Safety Code §25249.11. Cole Haan Company  
19 Store manufactures, distributes and/or sells the Products for sale or use in California.

20 53. Defendant COMECO, INC. is a person in the course of doing business  
21 within the meaning of Health & Safety Code §25249.11. Comeco, Inc. manufactures, distributes  
22 and/or sells the Products for sale or use in California.

23 54. Defendant CR MIZ HANDBAGS INC. is a person in the course of doing  
24 business within the meaning of Health & Safety Code §25249.11. CR Miz Handbags Inc.  
25 manufactures, distributes and/or sells the Products for sale or use in California.

26 55. Defendant CVS CAREMARK CORPORATION is a person in the course  
27 of doing business within the meaning of Health & Safety Code §25249.11. CVS Caremark  
28 Corporation manufactures, distributes and/or sells the Products for sale or use in California.



1           56. Defendant CVS PHARMACY, INC. is a person in the course of doing  
2 business within the meaning of Health & Safety Code §25249.11. CVS Pharmacy, Inc.  
3 manufactures, distributes and/or sells the Products for sale or use in California.

4           57. Defendant DIESEL U.S.A., INC. is a person in the course of doing  
5 business within the meaning of Health & Safety Code §25249.11. Diesel U.S.A., Inc.  
6 manufactures, distributes and/or sells the Products for sale or use in California.

7           58. Defendant DISTEX, INC. is a person in the course of doing business  
8 within the meaning of Health & Safety Code §25249.11. Distex, Inc. manufactures, distributes  
9 and/or sells the Products for sale or use in California.

10           59. Defendant DOLCE & GABBANA USA INC. is a person in the course of  
11 doing business within the meaning of Health & Safety Code §25249.11. Dolce & Gabbana USA  
12 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

13           60. Defendant THE DONNA KARAN COMPANY LLC is a person in the  
14 course of doing business within the meaning of Health & Safety Code §25249.11. The Donna  
15 Karan Company LLC manufactures, distributes and/or sells the Products for sale or use in  
16 California.

17           61. Defendant THE DONNA KARAN COMPANY STORE LLC is a person  
18 in the course of doing business within the meaning of Health & Safety Code §25249.11. The  
19 Donna Karan Company Store LLC manufactures, distributes and/or sells the Products for sale or  
20 use in California.

21           62. Defendant DONNA KARAN INTERNATIONAL INC. is a person in the  
22 course of doing business within the meaning of Health & Safety Code §25249.11. Donna Karan  
23 International Inc. manufactures, distributes and/or sells the Products for sale or use in California.

24           63. Defendant THE DRESS BARN, INC. is a person in the course of doing  
25 business within the meaning of Health & Safety Code §25249.11. The Dress Barn, Inc.  
26 manufactures, distributes and/or sells the Products for sale or use in California.

27           64. Defendant EASTBAY, INC. is a person in the course of doing business  
28 within the meaning of Health & Safety Code §25249.11. Eastbay, Inc. manufactures, distributes

1 and/or sells the Products for sale or use in California.

2           65. Defendant EBAGS, INC. is a person in the course of doing business  
3 within the meaning of Health & Safety Code §25249.11. eBags, Inc. manufactures, distributes  
4 and/or sells the Products for sale or use in California.

5           66. Defendant EFASHION SOLUTIONS, LLC is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. eFashion Solutions,  
7 LLC manufactures, distributes and/or sells the Products for sale or use in California.

8           67. Defendant ELEMENT SKATEBOARDS, INC. is a person in the course of  
9 doing business within the meaning of Health & Safety Code §25249.11. Element Skateboards,  
10 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

11           68. Defendant E.M.S. TRADING, INC. DBA MICHAEL ANTONIO  
12 FOOTWEAR GROUP is a person in the course of doing business within the meaning of Health  
13 & Safety Code §25249.11. E.M.S. Trading, Inc. dba Michael Antonio Footwear Group  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15           69. Defendant ESPE is a person in the course of doing business within the  
16 meaning of Health & Safety Code §25249.11. Espe manufactures, distributes and/or sells the  
17 Products for sale or use in California.

18           70. Defendant EXPRESS, LLC is a person in the course of doing business  
19 within the meaning of Health & Safety Code §25249.11. Express, LLC manufactures, distributes  
20 and/or sells the Products for sale or use in California.

21           71. Defendant FOOT LOCKER, INC. is a person in the course of doing  
22 business within the meaning of Health & Safety Code §25249.11. Foot Locker, Inc.  
23 manufactures, distributes and/or sells the Products for sale or use in California.

24           72. Defendant FOOT LOCKER RETAIL, INC. is a person in the course of  
25 doing business within the meaning of Health & Safety Code §25249.11. Foot Locker Retail, Inc.  
26 manufactures, distributes and/or sells the Products for sale or use in California.

27           73. Defendant FOOTLOCKER.COM, INC. is a person in the course of doing  
28 business within the meaning of Health & Safety Code §25249.11. Footlocker.com, Inc.

1 manufactures, distributes and/or sells the Products for sale or use in California.

2           74. Defendant FOREIGN EXCHANGE, INC. is a person in the course of  
3 doing business within the meaning of Health & Safety Code §25249.11. Foreign Exchange, Inc.  
4 manufactures, distributes and/or sells the Products for sale or use in California.

5           75. Defendant FOX HEAD, INC. is a person in the course of doing business  
6 within the meaning of Health & Safety Code §25249.11. Fox Head, Inc. manufactures,  
7 distributes and/or sells the Products for sale or use in California.

8           76. Defendant FRENCH CONNECTION GROUP, INC. is a person in the  
9 course of doing business within the meaning of Health & Safety Code §25249.11. French  
10 Connection Group, Inc. manufactures, distributes and/or sells the Products for sale or use in  
11 California.

12           77. Defendant FURMIR, LLC is a person in the course of doing business  
13 within the meaning of Health & Safety Code §25249.11. Furmir, LLC manufactures, distributes  
14 and/or sells the Products for sale or use in California.

15           78. Defendant GEORGIU DESIGN STUDIOS, INC. is a person in the  
16 course of doing business within the meaning of Health & Safety Code §25249.11. Georgiou  
17 Design Studios, Inc. manufactures, distributes and/or sells the Products for sale or use in  
18 California.

19           79. Defendant GEORGIU STUDIO, INC. is a person in the course of doing  
20 business within the meaning of Health & Safety Code §25249.11. Georgiou Studio, Inc.  
21 manufactures, distributes and/or sells the Products for sale or use in California.

22           80. Defendant GLOBAL BRAND HOLDINGS, LLC is a person in the course  
23 of doing business within the meaning of Health & Safety Code §25249.11. Global Brand  
24 Holdings, LLC manufactures, distributes and/or sells the Products for sale or use in California.

25           81. Defendant GUESS?, INC. is a person in the course of doing business  
26 within the meaning of Health & Safety Code §25249.11. Guess?, Inc. manufactures, distributes  
27 and/or sells the Products for sale or use in California.

28           82. Defendant GUESS? RETAIL, INC. is a person in the course of doing

1 business within the meaning of Health & Safety Code §25249.11. Guess? Retail, Inc.  
2 manufactures, distributes and/or sells the Products for sale or use in California.

3 83. Defendant H.A. SHELDON CANADA LTD. is a person in the course of  
4 doing business within the meaning of Health & Safety Code §25249.11. H.A. Sheldon Canada  
5 Ltd. manufactures, distributes and/or sells the Products for sale or use in California.

6 84. Defendant HARDY LIFE, LLC is a person in the course of doing business  
7 within the meaning of Health & Safety Code §25249.11. Hardy Life, LLC manufactures,  
8 distributes and/or sells the Products for sale or use in California.

9 85. Defendant HARDY WAY, LLC is a person in the course of doing  
10 business within the meaning of Health & Safety Code §25249.11. Hardy Way, LLC  
11 manufactures, distributes and/or sells the Products for sale or use in California.

12 86. Defendant HENRI BENDEL, INC. is a person in the course of doing  
13 business within the meaning of Health & Safety Code §25249.11. Henri Bendel, Inc.  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15 87. Defendant HOT TOPIC, INC. is a person in the course of doing business  
16 within the meaning of Health & Safety Code §25249.11. Hot Topic, Inc. manufactures,  
17 distributes and/or sells the Products for sale or use in California.

18 88. Defendant HOT TOPIC MERCHANDISING, INC. is a person in the  
19 course of doing business within the meaning of Health & Safety Code §25249.11. Hot Topic  
20 Merchandising, Inc. manufactures, distributes and/or sells the Products for sale or use in  
21 California.

22 89. Defendant HSN, INC. is a person in the course of doing business within  
23 the meaning of Health & Safety Code §25249.11. HSN, Inc. manufactures, distributes and/or  
24 sells the Products for sale or use in California.

25 90. Defendant INDONESIAN IMPORTS, INC. is a person in the course of  
26 doing business within the meaning of Health & Safety Code §25249.11. Indonesian Imports, Inc.  
27 manufactures, distributes and/or sells the Products for sale or use in California.

28 91. Defendant JANTZEN LLC is a person in the course of doing business

1 within the meaning of Health & Safety Code §25249.11. Jantzen LLC manufactures, distributes  
2 and/or sells the Products for sale or use in California.

3           92. Defendant JIMLAR CORPORATION is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. JIMLAR Corporation  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6           93. Defendant KATHY VAN ZEELAND, LLC is a person in the course of  
7 doing business within the meaning of Health & Safety Code §25249.11. Kathy Van Zeeland,  
8 LLC manufactures, distributes and/or sells the Products for sale or use in California.

9           94. Defendant KENNETH COLE PRODUCTIONS, INC. is a person in the  
10 course of doing business within the meaning of Health & Safety Code §25249.11. Kenneth Cole  
11 Productions, Inc. manufactures, distributes and/or sells the Products for sale or use in California.

12           95. Defendant KMART CORPORATION is a person in the course of doing  
13 business within the meaning of Health & Safety Code §25249.11. Kmart Corporation  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15           96. Defendant LA JOLLA GROUP, INC. is a person in the course of doing  
16 business within the meaning of Health & Safety Code §25249.11. La Jolla Group, Inc.  
17 manufactures, distributes and/or sells the Products for sale or use in California.

18           97. Defendant LIMITED STORES, LLC is a person in the course of doing  
19 business within the meaning of Health & Safety Code §25249.11. Limited Stores, LLC  
20 manufactures, distributes and/or sells the Products for sale or use in California.

21           98. Defendant LODIS ACCESSORIES, INC. is a person in the course of  
22 doing business within the meaning of Health & Safety Code §25249.11. Lodis Accessories, Inc.  
23 manufactures, distributes and/or sells the Products for sale or use in California.

24           99. Defendant LOEHMANN'S, INC. is a person in the course of doing  
25 business within the meaning of Health & Safety Code §25249.11. Loehmann's, Inc.  
26 manufactures, distributes and/or sells the Products for sale or use in California.

27           100. Defendant LOUNGEFLY, INC. is a person in the course of doing business  
28 within the meaning of Health & Safety Code §25249.11. Loungefly, Inc. manufactures,

1 distributes and/or sells the Products for sale or use in California.

2           101. Defendant M & P CENTRAL, INC. is a person in the course of doing  
3 business within the meaning of Health & Safety Code §25249.11. M & P Central, Inc.  
4 manufactures, distributes and/or sells the Products for sale or use in California.

5           102. Defendant MANGO NY, INC. is a person in the course of doing business  
6 within the meaning of Health & Safety Code §25249.11. Mango NY, Inc. manufactures,  
7 distributes and/or sells the Products for sale or use in California.

8           103. Defendant MARC JACOBS INTERNATIONAL, L.L.C. is a person in the  
9 course of doing business within the meaning of Health & Safety Code §25249.11. Marc Jacobs  
10 International, L.L.C. manufactures, distributes and/or sells the Products for sale or use in  
11 California.

12           104. Defendant MAURICES INCORPORATED is a person in the course of  
13 doing business within the meaning of Health & Safety Code §25249.11. Maurices Incorporated  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15           105. Defendant MAXX ACCESSORIES, INC. is a person in the course of  
16 doing business within the meaning of Health & Safety Code §25249.11. Maxx Accessories, Inc.  
17 manufactures, distributes and/or sells the Products for sale or use in California.

18           106. Defendant ME & YOU ACCESSORIES INC. is a person in the course of  
19 doing business within the meaning of Health & Safety Code §25249.11. Me & You Accessories  
20 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

21           107. Defendant MELIE BIANCO ACCESSORIES, INC. is a person in the  
22 course of doing business within the meaning of Health & Safety Code §25249.11. Melie Bianco  
23 Accessories, Inc. manufactures, distributes and/or sells the Products for sale or use in California.

24           108. Defendant METROPARK USA, INC. is a person in the course of doing  
25 business within the meaning of Health & Safety Code §25249.11. Metropark USA, Inc.  
26 manufactures, distributes and/or sells the Products for sale or use in California.

27           109. Defendant MICHAEL KORS (USA), INC. is a person in the course of  
28 doing business within the meaning of Health & Safety Code §25249.11. Michael Kors (USA),

1 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

2 110. Defendant MICHAEL KORS STORES (CALIFORNIA), INC. is a person  
3 in the course of doing business within the meaning of Health & Safety Code §25249.11. Michael  
4 Kors Stores (California), Inc. manufactures, distributes and/or sells the Products for sale or use in  
5 California.

6 111. Defendant MITZI INTERNATIONAL HANDBAGS & ACCESSORIES,  
7 LTD. is a person in the course of doing business within the meaning of Health & Safety Code  
8 §25249.11. Mitzi International Handbags & Accessories, Ltd. manufactures, distributes and/or  
9 sells the Products for sale or use in California.

10 112. Defendant MONDANI HANDBAGS & ACCESSORIES, INC. is a person  
11 in the course of doing business within the meaning of Health & Safety Code §25249.11.  
12 Mondani Handbags & Accessories, Inc. manufactures, distributes and/or sells the Products for  
13 sale or use in California.

14 113. Defendant NAKAJIMA USA, INC. is a person in the course of doing  
15 business within the meaning of Health & Safety Code §25249.11. Nakajima USA, Inc.  
16 manufactures, distributes and/or sells the Products for sale or use in California.

17 114. Defendant THE NEIMAN-MARCUS GROUP, INC. is a person in the  
18 course of doing business within the meaning of Health & Safety Code §25249.11. The Neiman-  
19 Marcus Group, Inc. manufactures, distributes and/or sells the Products for sale or use in  
20 California.

21 115. Defendant NERVOUS TATTOO, INC. is a person in the course of doing  
22 business within the meaning of Health & Safety Code §25249.11. Nervous Tattoo, Inc.  
23 manufactures, distributes and/or sells the Products for sale or use in California.

24 116. Defendant NICOLE, INC. is a person in the course of doing business  
25 within the meaning of Health & Safety Code §25249.11. Nicole, Inc. manufactures, distributes  
26 and/or sells the Products for sale or use in California.

27 117. Defendant NORDSTROM, INC. is a person in the course of doing  
28 business within the meaning of Health & Safety Code §25249.11. Nordstrom, Inc. manufactures,

1 distributes and/or sells the Products for sale or use in California.

2           118. Defendant O'NEILL EUROPE B.V. is a person in the course of doing  
3 business within the meaning of Health & Safety Code §25249.11. O'Neill Europe B.V.  
4 manufactures, distributes and/or sells the Products for sale or use in California.

5           119. Defendant OVERSTOCK.COM, INC. is a person in the course of doing  
6 business within the meaning of Health & Safety Code §25249.11. Overstock.com, Inc.  
7 manufactures, distributes and/or sells the Products for sale or use in California.

8           120. Defendant PACIFIC SUNWEAR OF CALIFORNIA, INC. is a person in  
9 the course of doing business within the meaning of Health & Safety Code §25249.11. Pacific  
10 Sunwear of California, Inc. manufactures, distributes and/or sells the Products for sale or use in  
11 California.

12           121. Defendant PACIFIC SUNWEAR STORES CORP. is a person in the  
13 course of doing business within the meaning of Health & Safety Code §25249.11. Pacific  
14 Sunwear Stores Corp. manufactures, distributes and/or sells the Products for sale or use in  
15 California.

16           122. Defendant PACIFIC WORLDWIDE, INC. is a person in the course of  
17 doing business within the meaning of Health & Safety Code §25249.11. Pacific Worldwide, Inc.  
18 manufactures, distributes and/or sells the Products for sale or use in California.

19           123. Defendant PAYLESS SHOESOURCE, INC. is a person in the course of  
20 doing business within the meaning of Health & Safety Code §25249.11. Payless ShoeSource,  
21 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

22           124. Defendant PERLINA HANDBAGS, INC. is a person in the course of  
23 doing business within the meaning of Health & Safety Code §25249.11. Perlina Handbags, Inc.  
24 manufactures, distributes and/or sells the Products for sale or use in California.

25           125. Defendant PERRY ELLIS MENSWEAR LLC is a person in the course of  
26 doing business within the meaning of Health & Safety Code §25249.11. Perry Ellis Menswear  
27 LLC manufactures, distributes and/or sells the Products for sale or use in California.

28           126. Defendant PHAT FASHIONS, INC. is a person in the course of doing



1 business within the meaning of Health & Safety Code §25249.11. Phat Fashions, Inc.  
2 manufactures, distributes and/or sells the Products for sale or use in California.

3 127. Defendant PHAT FASHIONS, LLC is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. Phat Fashions, LLC  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6 128. Defendant PHILLIPS-VAN HEUSEN CORPORATION is a person in the  
7 course of doing business within the meaning of Health & Safety Code §25249.11. Phillips-Van  
8 Heusen Corporation manufactures, distributes and/or sells the Products for sale or use in  
9 California.

10 129. Defendant PHOENIX LEATHER GOODS LLC is a person in the course  
11 of doing business within the meaning of Health & Safety Code §25249.11. Phoenix Leather  
12 Goods LLC manufactures, distributes and/or sells the Products for sale or use in California.

13 130. Defendant POLO RALPH LAUREN CORPORATION is a person in the  
14 course of doing business within the meaning of Health & Safety Code §25249.11. Polo Ralph  
15 Lauren Corporation manufactures, distributes and/or sells the Products for sale or use in  
16 California.

17 131. Defendant PUMA NORTH AMERICA, INC. is a person in the course of  
18 doing business within the meaning of Health & Safety Code §25249.11. Puma North America,  
19 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

20 132. Defendant QVC, INC. is a person in the course of doing business within  
21 the meaning of Health & Safety Code §25249.11. QVC, Inc. manufactures, distributes and/or  
22 sells the Products for sale or use in California.

23 133. Defendant RALPH LAUREN FOOTWEAR CORP. is a person in the  
24 course of doing business within the meaning of Health & Safety Code §25249.11. Ralph Lauren  
25 Footwear Corp. manufactures, distributes and/or sells the Products for sale or use in California.

26 134. Defendant RAY ENTERPRISES OF CHESAPEAKE WALK, INC. DBA  
27 HOBBO INTERNATIONAL is a person in the course of doing business within the meaning of  
28 Health & Safety Code §25249.11. Ray Enterprises of Chesapeake Walk, Inc. dba Hobo

1 International manufactures, distributes and/or sells the Products for sale or use in California.

2 135. Defendant ROBERT TALBOTT, INC. is a person in the course of doing  
3 business within the meaning of Health & Safety Code §25249.11. Robert Talbott, Inc.  
4 manufactures, distributes and/or sells the Products for sale or use in California.

5 136. Defendant RUE21, INC. is a person in the course of doing business within  
6 the meaning of Health & Safety Code §25249.11. rue21, Inc. manufactures, distributes and/or  
7 sells the Products for sale or use in California.

8 137. Defendant SAKS & COMPANY is a person in the course of doing  
9 business within the meaning of Health & Safety Code §25249.11. Saks & Company  
10 manufactures, distributes and/or sells the Products for sale or use in California.

11 138. Defendant SAKS INCORPORATED is a person in the course of doing  
12 business within the meaning of Health & Safety Code §25249.11. Saks Incorporated  
13 manufactures, distributes and/or sells the Products for sale or use in California.

14 139. Defendant SAKS DIRECT, LLC is a person in the course of doing  
15 business within the meaning of Health & Safety Code §25249.11. Saks Direct, LLC  
16 manufactures, distributes and/or sells the Products for sale or use in California.

17 140. Defendant SANRIO, INC. is a person in the course of doing business  
18 within the meaning of Health & Safety Code §25249.11. Sanrio, Inc. manufactures, distributes  
19 and/or sells the Products for sale or use in California.

20 141. Defendant SCCA STORE HOLDINGS, INC. is a person in the course of  
21 doing business within the meaning of Health & Safety Code §25249.11. SCCA Store Holdings,  
22 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

23 142. Defendant SHA SHA COLLECTION, INC. DBA MODE PLUS is a  
24 person in the course of doing business within the meaning of Health & Safety Code §25249.11.  
25 Sha Sha Collection, Inc. dba Mode Plus manufactures, distributes and/or sells the Products for  
26 sale or use in California.

27 143. Defendant SIGNATURE STYLES, LLC is a person in the course of doing  
28 business within the meaning of Health & Safety Code §25249.11. Signature Styles, LLC

1 manufactures, distributes and/or sells the Products for sale or use in California.

2 144. Defendant SILHOUETTE CLOTHING, INC. is a person in the course of  
3 doing business within the meaning of Health & Safety Code §25249.11. Silhouette Clothing,  
4 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

5 145. Defendant SIXTY USA RETAIL, INC. is a person in the course of doing  
6 business within the meaning of Health & Safety Code §25249.11. Sixty USA Retail, Inc.  
7 manufactures, distributes and/or sells the Products for sale or use in California.

8 146. Defendant SME CONSOLIDATED, LTD. is a person in the course of  
9 doing business within the meaning of Health & Safety Code §25249.11. SME Consolidated, Ltd.  
10 manufactures, distributes and/or sells the Products for sale or use in California.

11 147. Defendant SPIEGEL CATALOG HOLDINGS CORPORATION is a  
12 person in the course of doing business within the meaning of Health & Safety Code §25249.11.  
13 Spiegel Catalog Holdings Corporation manufactures, distributes and/or sells the Products for sale  
14 or use in California.

15 148. Defendant S.P.S. LLC DBA S.P.S. FASHION is a person in the course of  
16 doing business within the meaning of Health & Safety Code §25249.11. S.P.S. LLC dba S.P.S.  
17 Fashion manufactures, distributes and/or sells the Products for sale or use in California.

18 149. Defendant THE STRIDE RITE CORPORATION is a person in the course  
19 of doing business within the meaning of Health & Safety Code §25249.11. The Stride Rite  
20 Corporation manufactures, distributes and/or sells the Products for sale or use in California.

21 150. Defendant STUART WEITZMAN HOLDINGS, LLC is a person in the  
22 course of doing business within the meaning of Health & Safety Code §25249.11. Stuart  
23 Weitzman Holdings, LLC manufactures, distributes and/or sells the Products for sale or use in  
24 California.

25 151. Defendant SUPER TRADER, INC. is a person in the course of doing  
26 business within the meaning of Health & Safety Code §25249.11. Super Trader, Inc.  
27 manufactures, distributes and/or sells the Products for sale or use in California.

28 152. Defendant SUPREME INTERNATIONAL LLC is a person in the course

1 of doing business within the meaning of Health & Safety Code §25249.11. Supreme  
2 International LLC manufactures, distributes and/or sells the Products for sale or use in California.

3 153. Defendant THE TALBOTS, INC. is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. The Talbots, Inc.  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6 154. Defendant TANDY BRANDS ACCESSORIES, INC. is a person in the  
7 course of doing business within the meaning of Health & Safety Code §25249.11. Tandy Brands  
8 Accessories, Inc. manufactures, distributes and/or sells the Products for sale or use in California.

9 155. Defendant TANDY BRANDS ACCESSORIES HANDBAGS, INC. is a  
10 person in the course of doing business within the meaning of Health & Safety Code §25249.11.  
11 Tandy Brands Accessories Handbags, Inc. manufactures, distributes and/or sells the Products for  
12 sale or use in California.

13 156. Defendant TED BAKER LIMITED is a person in the course of doing  
14 business within the meaning of Health & Safety Code §25249.11. Ted Baker Limited  
15 manufactures, distributes and/or sells the Products for sale or use in California.

16 157. Defendant TED BAKER NEW YORK, INC. is a person in the course of  
17 doing business within the meaning of Health & Safety Code §25249.11. Ted Baker New York,  
18 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

19 158. Defendant T.J. MAXX OF CA, LLC is a person in the course of doing  
20 business within the meaning of Health & Safety Code §25249.11. T.J. Maxx of CA, LLC  
21 manufactures, distributes and/or sells the Products for sale or use in California.

22 159. Defendant THE TJX COMPANIES, INC. is a person in the course of  
23 doing business within the meaning of Health & Safety Code §25249.11. The TJX Companies,  
24 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

25 160. Defendant TORY BURCH LLC is a person in the course of doing  
26 business within the meaning of Health & Safety Code §25249.11. Tory Burch LLC  
27 manufactures, distributes and/or sells the Products for sale or use in California.

28 161. Defendant TOSS DESIGNS, INC. is a person in the course of doing

1 business within the meaning of Health & Safety Code §25249.11. Toss Designs, Inc.  
2 manufactures, distributes and/or sells the Products for sale or use in California.

3 162. Defendant TREBBIANNO, LLC is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. Trebbianno, LLC  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6 163. Defendant TUMI, INC. is a person in the course of doing business within  
7 the meaning of Health & Safety Code §25249.11. Tumi, Inc. manufactures, distributes and/or  
8 sells the Products for sale or use in California.

9 164. Defendant TUMI STORES, INC. is a person in the course of doing  
10 business within the meaning of Health & Safety Code §25249.11. Tumi Stores, Inc.  
11 manufactures, distributes and/or sells the Products for sale or use in California.

12 165. Defendant VAN ZEELAND, INC. is a person in the course of doing  
13 business within the meaning of Health & Safety Code §25249.11. Van Zeeland, Inc.  
14 manufactures, distributes and/or sells the Products for sale or use in California.

15 166. Defendant VF OUTDOOR, INC. is a person in the course of doing  
16 business within the meaning of Health & Safety Code §25249.11. VF Outdoor, Inc.  
17 manufactures, distributes and/or sells the Products for sale or use in California.

18 167. Defendant VICTORIA'S SECRET DIRECT BRAND MANAGEMENT,  
19 LLC is a person in the course of doing business within the meaning of Health & Safety Code  
20 §25249.11. Victoria's Secret Direct Brand Management, LLC manufactures, distributes and/or  
21 sells the Products for sale or use in California.

22 168. Defendant VICTORIA'S SECRET STORES, LLC is a person in the  
23 course of doing business within the meaning of Health & Safety Code §25249.11. Victoria's  
24 Secret Stores, LLC manufactures, distributes and/or sells the Products for sale or use in  
25 California.

26 169. Defendant VIEWMARK USA, INC. is a person in the course of doing  
27 business within the meaning of Health & Safety Code §25249.11. Viewmark USA, Inc.  
28 manufactures, distributes and/or sells the Products for sale or use in California.

1           170. Defendant VOLCOM, INC. is a person in the course of doing business  
2 within the meaning of Health & Safety Code §25249.11. Volcom, Inc. manufactures, distributes  
3 and/or sells the Products for sale or use in California.

4           171. Defendant VOLCOM RETAIL, INC. is a person in the course of doing  
5 business within the meaning of Health & Safety Code §25249.11. Volcom Retail, Inc.  
6 manufactures, distributes and/or sells the Products for sale or use in California.

7           172. Defendant VZI INVESTMENT CORP. is a person in the course of doing  
8 business within the meaning of Health & Safety Code §25249.11. VZI Investment Corp.  
9 manufactures, distributes and/or sells the Products for sale or use in California.

10           173. Defendant WATHNE USA LLC is a person in the course of doing  
11 business within the meaning of Health & Safety Code §25249.11. Wathne USA LLC  
12 manufactures, distributes and/or sells the Products for sale or use in California.

13           174. Defendant WESTPORT CORPORATION is a person in the course of  
14 doing business within the meaning of Health & Safety Code §25249.11. Westport Corporation  
15 manufactures, distributes and/or sells the Products for sale or use in California.

16           175. Defendant THE WET SEAL, INC. is a person in the course of doing  
17 business within the meaning of Health & Safety Code §25249.11. The Wet Seal, Inc.  
18 manufactures, distributes and/or sells the Products for sale or use in California.

19           176. Defendant THE WET SEAL RETAIL, INC. is a person in the course of  
20 doing business within the meaning of Health & Safety Code §25249.11. The Wet Seal Retail,  
21 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

22           177. Defendant WITH YOU, INC. is a person in the course of doing business  
23 within the meaning of Health & Safety Code §25249.11. With You, Inc. manufactures,  
24 distributes and/or sells the Products for sale or use in California.

25           178. Defendant WORLDWIDE DREAMS LLC is a person in the course of  
26 doing business within the meaning of Health & Safety Code §25249.11. Worldwide Dreams  
27 LLC manufactures, distributes and/or sells the Products for sale or use in California.

28           179. Defendant WORLDWIDE DYNASTY, INC. is a person in the course of

1 doing business within the meaning of Health & Safety Code §25249.11. Worldwide Dynasty,  
2 Inc. manufactures, distributes and/or sells the Products for sale or use in California.

3 180. Defendant Y & S HANDBAGS, INC. is a person in the course of doing  
4 business within the meaning of Health & Safety Code §25249.11. Y & S Handbags, Inc.  
5 manufactures, distributes and/or sells the Products for sale or use in California.

6 181. Defendant YOOX CORPORATION is a person in the course of doing  
7 business within the meaning of Health & Safety Code §25249.11. YOOX Corporation  
8 manufactures, distributes and/or sells the Products for sale or use in California.

9 182. Defendant ZAPPOS.COM, INC. is a person in the course of doing  
10 business within the meaning of Health & Safety Code §25249.11. Zappos.com, Inc.  
11 manufactures, distributes and/or sells the Products for sale or use in California.

12 183. Defendant ZUMIEZ, INC. is a person in the course of doing business  
13 within the meaning of Health & Safety Code §25249.11. Zumiez, Inc. manufactures, distributes  
14 and/or sells the Products for sale or use in California.

15 184. DOES 1 through 500 are each a person in the course of doing business  
16 within the meaning of Health & Safety Code §25249.11. DOES 1 through 500 manufacture,  
17 distribute and/or sell the Products for sale or use in California.

18 185. The true names of DOES 1 through 500 are unknown to CEH at this time.  
19 When their identities are ascertained, the Complaint shall be amended to reflect their true names.

20 186. The defendants identified in paragraphs 5 through 183 and DOES 1  
21 through 500 are collectively referred to herein as "Defendants."

### 22 JURISDICTION AND VENUE

23 187. The Court has jurisdiction over this action pursuant to Health & Safety  
24 Code §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant  
25 to California Constitution Article VI, Section 10, because this case is a cause not given by statute  
26 to other trial courts.

27 188. This Court has jurisdiction over Defendants because each is a business  
28 entity that does sufficient business, has sufficient minimum contacts in California or otherwise

1 intentionally avails itself of the California market through the sale, marketing or use of the  
2 Products in California and/or by having such other contacts with California so as to render the  
3 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair  
4 play and substantial justice.

5 189. Venue is proper in the Alameda Superior Court because one or more of the  
6 violations arise in the County of Alameda.

### 7 BACKGROUND FACTS

8 190. The People of the State of California have declared by initiative under  
9 Proposition 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth  
10 defects, or other reproductive harm.” Proposition 65, §1(b).

11 191. To effectuate this goal, Proposition 65 prohibits exposing people to  
12 chemicals listed by the State of California as known to cause cancer, birth defects or other  
13 reproductive harm without a “clear and reasonable warning” unless the business responsible for  
14 the exposure can prove that it fits within a statutory exemption. Health & Safety Code §25249.6  
15 states, in pertinent part:

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

20 192. On February 27, 1987, the State of California officially listed lead as a  
21 chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive  
22 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to  
23 the developing fetus, “female reproductive toxicity,” which means harm to the female  
24 reproductive system, and “male reproductive toxicity,” which means harm to the male  
25 reproductive system. 27 California Code of Regulations (“C.C.R.”) §27001(c). On February 27,  
26 1988, one year after it was listed as a chemical known to cause reproductive toxicity, lead  
27 became subject to the clear and reasonable warning requirement regarding reproductive toxicants  
28 under Proposition 65. 27 C.C.R. §27001(c); Health & Safety Code §25249.10(b).

193. On October 1, 1992, the State of California officially listed lead and lead



1 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were  
2 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear  
3 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.  
4 §27001(c); Health & Safety Code §25249.10(b).

5           194. Some of the Products are designed for and marketed to children. Young  
6 children are also exposed to Lead from the Products when they touch or play with Products that  
7 are owned or used by their parents or caretakers. In addition, young children are exposed to Lead  
8 from the Products when they eat food that is stored or carried in the Products or touch or play  
9 with non-food items that are stored or carried in the Products. Additional childhood exposures to  
10 Lead occur when children touch their hands to their mouths after their hands have touched the  
11 Products or items stored or carried in the Products.

12           195. Young children are especially susceptible to the toxic effects of Lead.  
13 Children show a greater sensitivity to Lead's effects than do adults. Adverse health impacts from  
14 Lead exposure generally occur in children at lower blood Lead levels than in adults. Children  
15 absorb and retain more Lead in proportion to their weight than do adults. Young children also  
16 show a greater prevalence of iron deficiency, a condition that can increase gastrointestinal  
17 absorption of Lead. The body accumulates Lead over a lifetime and releases it slowly, so even  
18 small doses received in childhood, over time, can cause adverse health impacts, including but not  
19 limited to reproductive toxicity, later in life. For example, in times of physiological stress, such  
20 as pregnancy, the body can mobilize accumulated stores of Lead in tissue and bone, thereby  
21 increasing the level of Lead in the blood and increasing the risk of harm to the fetus.

22           196. There is no safe level of exposure to Lead and even minute amounts of  
23 Lead exposure have been shown to permanently reduce mental capacity. Davis, J.M.,  
24 Svendgaard, D.J., "Lead and Child Development," *Nature* 329:297-300, 1987. One study on the  
25 effect of childhood Lead exposure declared that even the smallest detectable amount of blood  
26 Lead levels in children can mean the difference between an A or B grade in school. Lanphear,  
27 B.P., Dietrich, K., Auinger, P., Cox, C., "Subclinical Lead Toxicity in U.S. Children and  
28 Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000. Another study followed

1 children into adulthood and found a sevenfold increase in the risk for developing a reading  
2 disability among children exposed to sufficient levels of Lead as toddlers. Needleman, H.L.,  
3 Schell, A., Bellinger, D., Leviton, A., Alred, E.N., "The Long-Term Effects of Exposure to Low  
4 Doses of Lead in Childhood: An 11-Year Follow-up Report," *New England Journal of Medicine*  
5 322:83-88, 1990.

6 197. Lead exposures for pregnant women are also of particular concern in light  
7 of evidence that even short term Lead exposures *in utero* may have long-term harmful effects.  
8 Hu, H., *et al.*, "Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant Mental  
9 Development," *Environmental Health Perspectives* 114:11, 2006; Schnaas, L., *et al.*, "Reduced  
10 Intellectual Development in Children with Prenatal Lead Exposure," *Environmental Health*  
11 *Perspectives* 114:5, 2006.

12 198. Lead is found in the fabric and/or material from which many of the  
13 Products are made. Lead is found in the Products as a stabilizer in the vinyl or imitation leather  
14 materials, as a chemical ingredient in some of the dyes, paints and other coloring agents used in  
15 the Products and in the chemicals used in the leather tanning process. Lead is also found in the  
16 metallic components such as zippers and zipper pulls used on some of the Products.

17 199. Defendants' Products contain sufficient quantities of Lead such that  
18 consumers, including pregnant women and children, who use, touch and/or handle the Products  
19 are exposed to Lead through the average use of the Products. The route of exposure for the  
20 violations is direct ingestion when consumers place the Products or items that have been stored  
21 in the Products in their mouths; ingestion via hand-to-mouth contact after consumers use, touch  
22 and/or handle the Products or items that have been stored in the Products; and dermal absorption  
23 directly through the skin when consumers use, touch and/or handle the Products or items that  
24 have been stored in the Products.

25 200. Any person acting in the public interest has standing to enforce violations  
26 of Proposition 65 provided that such person has supplied the requisite public enforcers with a  
27 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the  
28 action within such time. Health & Safety Code §25249.7(d).

1           201. More than sixty days prior to naming each Defendant in this lawsuit, CEH  
2 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General,  
3 the District Attorneys of every county in California, the City Attorneys of every California city  
4 with a population greater than 750,000 and to each of the named Defendants. In compliance with  
5 Health & Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following  
6 information: (1) the name and address of each violator; (2) the statute violated; (3) the time  
7 period during which violations occurred; (4) specific descriptions of the violations, including (a)  
8 the routes of exposure to Lead from the Products, and (b) the specific type of products sold and  
9 used in violation of Proposition 65; and (5) the name of the specific Proposition 65-listed  
10 chemical that is the subject of the violations described in each Notice.

11           202. CEH also sent a Certificate of Merit for each Notice to the California  
12 Attorney General, the District Attorneys of every county in California, the City Attorneys of  
13 every California city with a population greater than 750,000 and to the named Defendants. In  
14 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each of the  
15 Certificates certified that CEH’s counsel: (1) has consulted with one or more persons with  
16 relevant and appropriate experience or expertise who reviewed facts, studies or other data  
17 regarding the exposures to Lead alleged in each of the Notices; and (2) based on the information  
18 obtained through such consultations, believes that there is a reasonable and meritorious case for a  
19 citizen enforcement action based on the facts alleged in each of the Notices. In compliance with  
20 Health & Safety Code §25249.7(d) and 11 C.C.R. §3102, each of the Certificates served on the  
21 Attorney General included factual information – provided on a confidential basis – sufficient to  
22 establish the basis for the Certificate, including the identity of the person(s) consulted by CEH’s  
23 counsel and the facts, studies or other data reviewed by such persons.

24           203. None of the public prosecutors with the authority to prosecute violations  
25 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against  
26 Defendants under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in the  
27 Notice.

28           204. Defendants both know and intend that individuals, including pregnant

1 women and children, will use, touch and/or handle the Products, thus exposing them to Lead.

2           205. Under Proposition 65, an exposure is “knowing” where the party  
3 responsible for such exposure has:

4                   knowledge of the fact that a[n] . . . exposure to a chemical listed  
5                   pursuant to [Health and Safety Code §25249.8(a)] is occurring. No  
6                   knowledge that the . . . exposure is unlawful is required.

7 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
8 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,  
9 §12201).

10           206. No clear and reasonable warning is provided with the Products regarding  
11 the carcinogenic or reproductive hazards of Lead.

12           207. Defendants have been informed of the Lead in their Products by the 60-  
13 Day Notice of Violation and accompanying Certificate of Merit served on them by CEH.

14           208. Nevertheless, Defendants continue to expose consumers, including  
15 pregnant women and children, to Lead without prior clear and reasonable warnings regarding the  
16 carcinogenic and/or reproductive hazards of Lead.

17           209. CEH has engaged in good-faith efforts to resolve the claims alleged herein  
18 prior to filing this complaint.

19           210. Any person “violating or threatening to violate” Proposition 65 may be  
20 enjoined in any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to  
21 violate” is defined to mean “to create a condition in which there is a substantial probability that a  
22 violation will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil  
23 penalties not to exceed \$2,500 per day for each violation of Proposition 65.

24                   **FIRST CAUSE OF ACTION**  
25                   **(Violations of the Health & Safety Code §25249.6)**

26           211. CEH realleges and incorporates by reference as if specifically set forth  
27 herein Paragraphs 1 through 210, inclusive.

28           212. By placing the Products into the stream of commerce, each Defendant is a

1 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

2 213. Lead is a chemical listed by the State of California as known to cause  
3 cancer and birth defects or other reproductive harm.

4 214. Defendants know that average use of the Products will expose users of the  
5 Products to Lead. Defendants intend that the Products be used in a manner that results in users  
6 of the Products being exposed to Lead contained in the Products.

7 215. Defendants have failed, and continue to fail, to provide prior clear and  
8 reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to users of  
9 the Products.

10 216. By committing the acts alleged above, Defendants have at all times  
11 relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing  
12 individuals to Lead without first giving clear and reasonable warnings to such individuals  
13 regarding the carcinogenicity and reproductive toxicity of Lead.

14 Wherefore, CEH prays for judgment against Defendants, as set forth hereafter.

15 **PRAYER FOR RELIEF**

16 Wherefore, CEH prays for judgment against Defendants as follows:

17 1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil  
18 penalties against each Defendant in the amount of \$2,500 per day for each violation of  
19 Proposition 65 according to proof;

20 2. That the Court, pursuant to Health & Safety Code §25249.7(a),  
21 preliminarily and permanently enjoin Defendants from offering the Products for sale in  
22 California without providing prior clear and reasonable warnings, as CEH shall specify in further  
23 application to the Court;

24 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order  
25 Defendants to take action to stop ongoing unwarned exposures to Lead resulting from use of  
26 Products sold by Defendants, as CEH shall specify in further application to the Court;

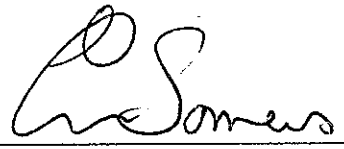
27 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other  
28 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

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5. That the Court grant such other and further relief as may be just and proper.

Dated: November 3, 2010

Respectfully submitted,  
LEXINGTON LAW GROUP



Eric S. Somers  
Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH