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CENTER FOR ENVIRONMENTAL HEALTH
8

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

12 CENTER FOR ENVIRONMENTAL HEALTH,)
13 a non-profit corporation,)

14 Plaintiff,)

15 v.)

16 LULU NYC LLC, *et al.*, and Defendant DOES 1)
17 through 500, inclusive,)

18 Defendants.)

19 _____)
20 And Consolidated Cases.)
21 _____)

ENDORSED
FILED
ALAMEDA COUNTY

JUL 26 2011

CLERK OF THE SUPERIOR COURT
BY *Rebecca Copel*

Lead Case No. RG 09-459448

[Consolidated with Case No. RG 10-494289; Case No. RG 10-494513; and Case No. RG 10-494517]

**THIRD AMENDED COMPLAINT –
CENTER FOR ENVIRONMENTAL
HEALTH V. ASHLEY STEWART
LTD.; CASE NO. RG 10-494289**

Health & Safety Code §25249.6, *et seq.*

(Other)

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 Third 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' belts made with leather,
10 vinyl or imitation leather materials (the "Products"). Consumers, including pregnant women, are
11 exposed to Lead when they 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 AMAZON.COM, INC. is a person in the course of doing
9 business within the meaning of Health & Safety Code §25249.11. Amazon.com, Inc.
10 manufactures, distributes and/or sells the Products for sale or use in California.

11 6. Defendant AMERICAN PASSION, INC. is a person in the course of
12 doing business within the meaning of Health & Safety Code §25249.11. American Passion, Inc.
13 manufactures, distributes and/or sells the Products for sale or use in California.

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

17 8. Defendant ANA TRADING COMPANY is a person in the course of doing
18 business within the meaning of Health & Safety Code §25249.11. Ana Trading Company
19 manufactures, distributes and/or sells the Products for sale or use in California.

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

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

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

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

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

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

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

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

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

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

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

27 20. Defendant HONEY PUNCH, INC. is a person in the course of doing
28 business within the meaning of Health & Safety Code §25249.11. Honey Punch, Inc.

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

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

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

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

12 24. Defendant IM READY-MADE LLC is a person in the course of doing
13 business within the meaning of Health & Safety Code §25249.11. IM Ready-Made LLC
14 manufactures, distributes and/or sells the Products for sale or use in California.

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

18 26. Defendant J. CREW GROUP, INC. is a person in the course of doing
19 business within the meaning of Health & Safety Code §25249.11. J. Crew Group, Inc.
20 manufactures, distributes and/or sells the Products for sale or use in California.

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

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

27 29. Defendant LANDS' END, INC. DBA LANDS' END DIRECT
28 MERCHANTS, INC. is a person in the course of doing business within the meaning of Health &

1 Safety Code §25249.11. Lands' End, Inc. dba Lands' End Direct Merchants, Inc. manufactures,
2 distributes and/or sells the Products for sale or use in California.

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

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

9 32. Defendant NEW LINE TRIM, INC. is a person in the course of doing
10 business within the meaning of Health & Safety Code §25249.11. New Line Trim, Inc.
11 manufactures, distributes and/or sells the Products for sale or use in California.

12 33. Defendant THE NEIMAN MARCUS GROUP, INC. is a person in the
13 course of doing business within the meaning of Health & Safety Code §25249.11. The Neiman
14 Marcus Group, Inc. manufactures, distributes and/or sells the Products for sale or use in
15 California.

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

19 35. Defendant OAKLEY DIRECT, INC. is a person in the course of doing
20 business within the meaning of Health & Safety Code §25249.11. Oakley Direct, Inc.
21 manufactures, distributes and/or sells the Products for sale or use in California.

22 36. Defendant OAKLEY SALES CORP. is a person in the course of doing
23 business within the meaning of Health & Safety Code §25249.11. Oakley Sales Corp.
24 manufactures, distributes and/or sells the Products for sale or use in California.

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

28 38. Defendant UNITED RETAIL CORPORATION is a person in the course

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

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

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

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

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

15 43. 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 44. 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 45. The defendants identified in paragraphs 5 through 42 and DOES 1 through
21 500 are collectively referred to herein as "Defendants."

22 JURISDICTION AND VENUE

23 46. 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 47. 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 48. 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 49. 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 50. 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 51. 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).

52. 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 53. 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 touch their hands to their mouths after their hands have touched or
9 handled the Products.

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

20 55. There is no safe level of exposure to Lead and even minute amounts of
21 Lead exposure have been shown to permanently reduce mental capacity. Davis, J.M.,
22 Svendgaard, D.J., "Lead and Child Development," *Nature* 329:297-300, 1987. One study on the
23 effect of childhood Lead exposure declared that even the smallest detectable amount of blood
24 Lead levels in children can mean the difference between an A or B grade in school. Lanphear,
25 B.P., Dietrich, K., Auinger, P., Cox, C., "Subclinical Lead Toxicity in U.S. Children and
26 Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000. Another study followed
27 children into adulthood and found a sevenfold increase in the risk for developing a reading
28 disability among children exposed to sufficient levels of Lead as toddlers. Needleman, H.L.,

1 Schell, A., Bellinger, D., Leviton, A., Allred, E.N., "The Long-Term Effects of Exposure to Low
2 Doses of Lead in Childhood: An 11-Year Follow-up Report," *New England Journal of Medicine*
3 322:83-88, 1990.

4 56. Lead exposures for pregnant women are also of particular concern in light
5 of evidence that even short term Lead exposures *in utero* may have long-term harmful effects.

6 Hu, H., *et al.*, "Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant Mental
7 Development," *Environmental Health Perspectives* 114:11, 2006; Schnaas, L., *et al.*, "Reduced
8 Intellectual Development in Children with Prenatal Lead Exposure," *Environmental Health*
9 *Perspectives* 114:5, 2006.

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

15 58. Defendants' Products contain sufficient quantities of Lead such that
16 consumers, including pregnant women and children, who touch and/or handle the Products are
17 exposed to Lead through the average use of the Products. The route of exposure for the
18 violations is direct ingestion when consumers place the Products in their mouths; ingestion via
19 hand-to-mouth contact after consumers touch or handle the Products; and dermal absorption
20 directly through the skin when consumers take on or off and/or otherwise touch or handle the
21 Products.

22 59. No clear and reasonable warning is provided with the Products regarding
23 the carcinogenic or reproductive hazards of Lead.

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

28 61. More than sixty days prior to naming each Defendant in this lawsuit, CEH

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

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

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

27 64. Defendants both know and intend that individuals, including pregnant
28 women and children, will touch and/or handle the Products, thus exposing them to Lead.

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

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

6 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
7 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
8 §12201).

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

11 67. Nevertheless, Defendants continue to expose consumers, including
12 pregnant women and children, to Lead without prior clear and reasonable warnings regarding the
13 carcinogenic and/or reproductive hazards of Lead.

14 68. CEH has engaged in good-faith efforts to resolve the claims alleged herein
15 prior to filing this Complaint.

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

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

23 70. CEH realleges and incorporates by reference as if specifically set forth
24 herein Paragraphs 1 through 69, inclusive.

25 71. By placing the Products into the stream of commerce, each Defendant is a
26 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

27 72. Lead is a chemical listed by the State of California as known to cause
28 cancer and birth defects or other reproductive harm.

1 73. Defendants know that average use of the Products will expose users of the
2 Products to Lead. Defendants intend that the Products be used in a manner that results in users
3 of the Products being exposed to Lead contained in the Products.

4 74. Defendants have failed, and continue to fail, to provide prior clear and
5 reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to users of
6 the Products.

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

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

12 **PRAYER FOR RELIEF**

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

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

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

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

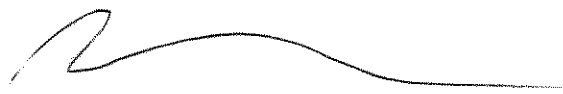
24 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other
25 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and
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5. That the Court grant such other and further relief as may be just and proper.

Dated: July 26, 2011

Respectfully submitted,
LEXINGTON LAW GROUP



Howard Hirsch
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH