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6 CENTER FOR ENVIRONMENTAL HEALTH

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10
11 CENTER FOR ENVIRONMENTAL HEALTH,)
a non-profit corporation,)

Case No. RG 10-514803

12 Plaintiff,)

**SECOND AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

13 v.)

14 AEROPOSTALE, INC.; AEROPOSTALE)
15 WEST, INC.; AE RETAIL WEST LLC; A.I.J.J.)
ENTERPRISES, INC.; AMERICAN EAGLE)
16 OUTFITTERS, INC.; BCBG MAX AZRIA)
GROUP, INC.; THE BUCKLE, INC.;)
17 BURLINGTON COAT FACTORY)
WAREHOUSE CORPORATION;)
18 CATHERINES, INC.; CATHERINES OF)
CALIFORNIA, INC.; CATHERINES STORES)
19 CORPORATION; CBI DISTRIBUTING)
CORP.; CHARLOTTE RUSSE, INC.;)
20 CHARLOTTE RUSSE HOLDING, INC.;)
CLAIRE'S BOUTIQUES, INC.; CLAIRE'S)
21 STORES, INC.; COST PLUS, INC.; FASHION)
BUG OF CALIFORNIA; FASHION BUG)
22 RETAIL COMPANIES, INC.; FIESTA)
JEWELRY CORPORATION; FOREVER 21)
23 RETAIL INC.; GROUP USA, INC.; GROUP)
USA APPAREL, INC.; HASKELL JEWELS,)
24 LTD.; HOT TOPIC, INC.; J.M. HOLLISTER,)
LLC; MJM JEWELRY CORP. DBA BERRY)
25 JEWELRY COMPANY; THE NEW 5-7-9 AND)
BEYOND, INC.; OLD NAVY, LLC;)
26 RAINBOW APPAREL DISTRIBUTION)
CENTER CORP.; RAINBOW USA, INC.;)
27 ROGERS SPORTS MANAGEMENT GROUP;)
SAKS & COMPANY; SAKS)
28 INCORPORATED; TANYA CREATIONS,)

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

(Other)

1 INC.; TARGET CORPORATION; TWEEN)
2 BRANDS, INC.; WAL-MART STORES, INC.;)
3 THE WET SEAL, INC.; THE WET SEAL)
4 RETAIL, INC.; and Defendant DOES 1 through)
5 500, inclusive,)
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Defendants.

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 cadmium, a chemical
7 known to the State of California to cause birth defects and other reproductive harm. Such
8 exposures have occurred, and continue to occur, through the manufacture, distribution, sale
9 and/or use of Defendants' jewelry ("Jewelry") made of materials containing cadmium.
10 Consumers, including pregnant women, are exposed to cadmium when they wear, use, touch or
11 handle the Jewelry.

12 2. Under California's Proposition 65, Health & 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 birth defects or other reproductive harm without
15 providing clear and reasonable warnings to individuals prior to their exposure. Defendants
16 introduce Jewelry contaminated with significant quantities of cadmium into the California
17 marketplace, exposing consumers of their Jewelry, many of whom are pregnant women, to
18 cadmium.

19 3. Despite the fact that Defendants expose pregnant women and other people
20 who come into contact with the Jewelry to cadmium, Defendants provide no warnings
21 whatsoever about the reproductive hazards associated with these cadmium 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 AEROPOSTALE, INC. is a person in the course of doing
9 business within the meaning of Health & Safety Code §25249.11. Aeropostale, Inc.
10 manufactures, distributes and/or sells the Jewelry for sale or use in California.

11 6. Defendant AEROPOSTALE WEST, INC. is a person in the course of
12 doing business within the meaning of Health & Safety Code §25249.11. Aeropostale West, Inc.
13 manufactures, distributes and/or sells the Jewelry for sale or use in California.

14 7. Defendant AE RETAIL WEST LLC is a person in the course of doing
15 business within the meaning of Health & Safety Code §25249.11. AE Retail West LLC
16 manufactures, distributes and/or sells the Jewelry for sale or use in California.

17 8. Defendant AMERICAN EAGLE OUTFITTERS, INC. is a person in the
18 course of doing business within the meaning of Health & Safety Code §25249.11. American
19 Eagle Outfitters, Inc. manufactures, distributes and/or sells the Jewelry for sale or use in
20 California.

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

24 10. Defendant THE BUCKLE, INC. is a person in the course of doing
25 business within the meaning of Health & Safety Code §25249.11. The Buckle, Inc.
26 manufactures, distributes and/or sells the Jewelry for sale or use in California.

27 11. Defendant BURLINGTON COAT FACTORY WAREHOUSE
28 CORPORATION is a person in the course of doing business within the meaning of Health &

1 Safety Code §25249.11. Burlington Coat Factory Warehouse Corporation manufactures,
2 distributes and/or sells the Jewelry for sale or use in California.

3 12. Defendant CATHERINES, INC. is a person in the course of doing
4 business within the meaning of Health & Safety Code §25249.11. Catherines, Inc.
5 manufactures, distributes and/or sells the Jewelry for sale or use in California.

6 13. Defendant CATHERINES OF CALIFORNIA, INC. is a person in the
7 course of doing business within the meaning of Health & Safety Code §25249.11. Catherines of
8 California, Inc. manufactures, distributes and/or sells the Jewelry for sale or use in California.

9 14. Defendant CATHERINES STORES CORPORATION is a person in the
10 course of doing business within the meaning of Health & Safety Code §25249.11. Catherines
11 Stores Corporation manufactures, distributes and/or sells the Jewelry for sale or use in
12 California.

13 15. Defendant CBI DISTRIBUTING CORP. is a person in the course of doing
14 business within the meaning of Health & Safety Code §25249.11. CBI Distributing Corp.
15 manufactures, distributes and/or sells the Jewelry for sale or use in California.

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

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

23 18. Defendant CLAIRE'S BOUTIQUES, INC. is a person in the course of
24 doing business within the meaning of Health & Safety Code §25249.11. Claire's Boutiques, Inc.
25 manufactures, distributes and/or sells the Jewelry for sale or use in California.

26 19. Defendant CLAIRE'S STORES, INC. is a person in the course of doing
27 business within the meaning of Health & Safety Code §25249.11. Claire's Stores, Inc.
28 manufactures, distributes and/or sells the Jewelry for sale or use in California.

1 20. Defendant COST PLUS, INC. is a person in the course of doing business
2 within the meaning of Health & Safety Code §25249.11. Cost Plus, Inc. manufactures,
3 distributes and/or sells the Jewelry for sale or use in California.

4 21. Defendant FASHION BUG OF CALIFORNIA is a person in the course of
5 doing business within the meaning of Health & Safety Code §25249.11. Fashion Bug of
6 California manufactures, distributes and/or sells the Jewelry for sale or use in California.

7 22. Defendant FASHION BUG RETAIL COMPANIES, INC. is a person in
8 the course of doing business within the meaning of Health & Safety Code §25249.11. Fashion
9 Bug Retail Companies, Inc. manufactures, distributes and/or sells the Jewelry for sale or use in
10 California.

11 23. Defendant FIESTA JEWELRY CORPORATION is a person in the course
12 of doing business within the meaning of Health & Safety Code §25249.11. Fiesta Jewelry
13 Corporation manufactures, distributes and/or sells the Jewelry for sale or use in California.

14 24. Defendant FOREVER 21 RETAIL INC. is a person in the course of doing
15 business within the meaning of Health & Safety Code §25249.11. Forever 21 Retail Inc.
16 manufactures, distributes and/or sells the Jewelry for sale or use in California.

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

20 26. Defendant GROUP USA APPAREL, INC. is a person in the course of
21 doing business within the meaning of Health & Safety Code §25249.11. Group USA Apparel,
22 Inc. manufactures, distributes and/or sells the Jewelry for sale or use in California.

23 27. Defendant HASKELL JEWELS, LTD. is a person in the course of doing
24 business within the meaning of Health & Safety Code §25249.11. Haskell Jewels, Ltd.
25 manufactures, distributes and/or sells the Jewelry for sale or use in California.

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

1 29. Defendant J.M. HOLLISTER, LLC is a person in the course of doing
2 business within the meaning of Health & Safety Code §25249.11. J.M. Hollister, LLC
3 manufactures, distributes and/or sells the Jewelry for sale or use in California.

4 30. Defendant MJM JEWELRY CORP. DBA BERRY JEWELRY
5 COMPANY is a person in the course of doing business within the meaning of Health & Safety
6 Code §25249.11. MJM Jewelry Corp. dba Berry Jewelry Company manufactures, distributes
7 and/or sells the Jewelry for sale or use in California.

8 31. Defendant THE NEW 5-7-9 AND BEYOND, INC. is a person in the
9 course of doing business within the meaning of Health & Safety Code §25249.11. The New 5-7-
10 9 and Beyond, Inc. manufactures, distributes and/or sells the Jewelry for sale or use in
11 California.

12 32. Defendant OLD NAVY, LLC is a person in the course of doing business
13 within the meaning of Health & Safety Code §25249.11. Old Navy, LLC manufactures,
14 distributes and/or sells the Jewelry for sale or use in California.

15 33. Defendant RAINBOW APPAREL DISTRIBUTION CENTER CORP. is a
16 person in the course of doing business within the meaning of Health & Safety Code §25249.11.
17 Rainbow Apparel Distribution Center Corp. manufactures, distributes and/or sells the Jewelry
18 for sale or use in California.

19 34. Defendant RAINBOW USA, INC. is a person in the course of doing
20 business within the meaning of Health & Safety Code §25249.11. Rainbow USA, Inc.
21 manufactures, distributes and/or sells the Jewelry for sale or use in California.

22 35. Defendant ROGERS SPORTS MANAGEMENT GROUP is a person in
23 the course of doing business within the meaning of Health & Safety Code §25249.11. Rogers
24 Sports Management Group manufactures, distributes and/or sells the Jewelry for sale or use in
25 California.

26 36. Defendant SAKS & COMPANY is a person in the course of doing
27 business within the meaning of Health & Safety Code §25249.11. Saks & Company
28 manufactures, distributes and/or sells the Jewelry for sale or use in California.

1 37. Defendant SAKS INCORPORATED is a person in the course of doing
2 business within the meaning of Health & Safety Code §25249.11. Saks Incorporated
3 manufactures, distributes and/or sells the Jewelry for sale or use in California.

4 38. Defendant TANYA CREATIONS, INC. is a person in the course of doing
5 business within the meaning of Health & Safety Code §25249.11. Tanya Creations, Inc.
6 manufactures, distributes and/or sells the Jewelry for sale or use in California.

7 39. Defendant TARGET CORPORATION is a person in the course of doing
8 business within the meaning of Health & Safety Code §25249.11. Target Corporation
9 manufactures, distributes and/or sells the Jewelry for sale or use in California.

10 40. Defendant TWEEN BRANDS, INC. is a person in the course of doing
11 business within the meaning of Health & Safety Code §25249.11. Tween Brands, Inc.
12 manufactures, distributes and/or sells the Jewelry for sale or use in California.

13 41. Defendant WAL-MART STORES INC. is a person in the course of doing
14 business within the meaning of Health & Safety Code §25249.11. Wal-Mart Stores Inc.
15 manufactures, distributes and/or sells the Jewelry for sale or use in California.

16 42. 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 Jewelry for sale or use in California.

19 43. 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 Jewelry for sale or use in California.

22 44. DOES 1 through 500 are each a person in the course of doing business
23 within the meaning of Health & Safety Code §25249.11. DOES 1 through 500 manufacture,
24 distribute and/or sell the Jewelry for sale or use in California.

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

27 46. The defendants identified in paragraphs 5 through 43 and DOES 1 through
28 500 are collectively referred to herein as "Defendants."

1 JURISDICTION AND VENUE

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

6 48. This Court has jurisdiction over the Defendants because each is a business
7 entity that does sufficient business, has sufficient minimum contacts in California or otherwise
8 intentionally avails itself of the California market through the sale, marketing or use of the
9 Jewelry in California and/or by having such other contacts with California so as to render the
10 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair
11 play and substantial justice.

12 49. Venue is proper in the Alameda Superior Court because one or more of the
13 violations arise in the County of Alameda.

14 BACKGROUND FACTS

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

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

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

26 52. On May 1, 1997, the State of California officially listed cadmium as a
27 chemical known to cause reproductive toxicity. Cadmium became subject to the Proposition 65
28 “clear and reasonable” reproductive toxicity warning one year later beginning on May 1, 1998.

1 27 C.C.R. §27001(c); Health & Safety Code §25249.10(b).

2 53. For over six years, CEH has been extensively investigating the presence of
3 toxic chemicals in Jewelry made available for sale in California. CEH's investigation has
4 included filing four Proposition 65 lawsuits against manufacturers and re-sellers of Jewelry that
5 contain lead and lead compounds ("Lead"), entitled *Center for Environmental Health v. Hot*
6 *Topic, Inc.* (Alameda County Superior Court Case No. RG-04-162037), *Center for*
7 *Environmental Health v. Nadri, Inc.* (Alameda County Superior Court Case No. RG 06-269531),
8 *Center for Environmental Health v. Two's Company, Inc.* (Alameda County Superior Court Case
9 No. RG 10-545680), and *Center for Environmental Health v. Cara Accessories Ltd.* (Alameda
10 County Superior Court Case No. RG 10-545687). CEH's Lead-in-Jewelry actions have resulted
11 in the entry of dozens of consent judgments restricting the Lead levels permitted in Jewelry as
12 well as the passing of California and federal laws prohibiting the sale of Leaded Jewelry. More
13 recently, CEH's investigation has expanded to include research and testing regarding the
14 presence of cadmium in Jewelry, which has revealed that some manufacturers of Jewelry appear
15 to be using cadmium as a replacement for Lead in such Jewelry. CEH's complaint in the *Cara*
16 *Accessories* action also alleges violations of Proposition 65 based on sales of cadmium-
17 containing Jewelry.

18 54. Cadmium in consumer products is of particular concern in light of
19 evidence that cadmium exposure has the potential to negatively impact reproduction and
20 embryonic development in several different ways and at every stage of the reproductive process.
21 *See, e.g.,* Thompson, J., *et al.*, "Review: Cadmium: Toxic Effects on the Reproductive System
22 and the Embryo," *Reproductive Toxicology* (February 2008) Vol. 25:304; *and* Ji, Yan-Li, *et al.*,
23 "Pubertal Cadmium Exposure Impairs Testicular Development and Spermatogenesis via
24 Disrupting Testicular Testosterone Synthesis in Adult Mice," *Reproductive Toxicology* (accepted
25 for publication October 2009) (even low levels of cadmium accumulation in semen may
26 contribute to male infertility).

27 55. The Jewelry is made of materials and components that contain cadmium.
28 Cadmium is primarily present in the metallic parts of the Jewelry. For example, metallic

1 components such as beads, pendants, clasps, posts and other parts of the Jewelry often contain
2 cadmium.

3 56. Defendants' Jewelry contains sufficient quantities of cadmium such that
4 consumers, including pregnant women, who wear, use, touch and/or handle the Jewelry are
5 exposed to cadmium through the average use of the Jewelry. The route of exposure for the
6 violation is ingestion via hand-to-mouth contact after consumers touch or handle the Jewelry;
7 direct ingestion when consumers place the Jewelry in their mouths; and dermal absorption
8 directly through the skin when consumers wear, touch or handle the Jewelry. These exposures
9 occur in homes, workplaces and everywhere else throughout California where such Jewelry is
10 worn, handled or used.

11 57. No clear and reasonable warning is provided with the Jewelry regarding
12 the reproductive hazards of cadmium.

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

17 59. More than sixty days prior to naming each Defendant in this lawsuit, CEH
18 provided a 60-Day "Notice of Violation of Proposition 65" to the California Attorney General,
19 the District Attorneys of every county in California, the City Attorneys of every California city
20 with a population greater than 750,000 and to each of the named Defendants. In compliance
21 with Health & Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each of the Notices included
22 the following information: (1) the name and address of each violator; (2) the statute violated; (3)
23 the time period during which violations occurred; (4) specific descriptions of the violations,
24 including (a) the routes of exposure to cadmium from the Jewelry, and (b) the specific type of
25 products sold and used in violation of Proposition 65; and (5) the name of the specific
26 Proposition 65-listed chemical that is the subject of the violations described in each of the
27 Notices (cadmium).

28 60. CEH also sent a Certificate of Merit for each of the Notices to the

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

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

18 62. Defendants both know and intend that individuals, including pregnant
19 women, will wear, use, touch and/or handle the Jewelry, thus exposing them to cadmium.

20 63. Under Proposition 65, an exposure is “knowing” where the party
21 responsible for such exposure has:

22 knowledge of the fact that a[n] . . . exposure to a chemical listed
23 pursuant to [Health & Safety Code §25249.8(a)] is occurring. No
24 knowledge that the . . . exposure is unlawful is required.

25 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
26 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
27 §12201).

28 64. Defendants have been informed of the cadmium in their Jewelry by the

1 60-Day Notice of Violation and accompanying Certificate of Merit served on them by CEH.

2 65. Nevertheless, Defendants continue to expose consumers to cadmium
3 without prior clear and reasonable warnings regarding the reproductive hazards of cadmium.

4 66. CEH has engaged in good-faith efforts to resolve the claims alleged herein
5 prior to filing this complaint.

6 67. Any person "violating or threatening to violate" Proposition 65 may be
7 enjoined in any court of competent jurisdiction. Health & Safety Code §25249.7. "Threaten to
8 violate" is defined to mean "to create a condition in which there is a substantial probability that a
9 violation will occur." Health & Safety Code §25249.11(e). Proposition 65 provides for civil
10 penalties not to exceed \$2,500 per day for each violation of Proposition 65.

11 **FIRST CAUSE OF ACTION**

12 **(Violations of the Health & Safety Code §25249.6)**

13 68. CEH realleges and incorporates by reference as if specifically set forth
14 herein Paragraphs 1 through 67, inclusive.

15 69. By placing the Jewelry into the stream of commerce, each Defendant is a
16 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

17 70. Cadmium is a chemical listed by the State of California as known to cause
18 birth defects or other reproductive harm.

19 71. Defendants know that average use of the Jewelry will expose users of the
20 Jewelry to cadmium. Defendants intend that the Jewelry be used in a manner that results in users
21 of the Jewelry being exposed to cadmium contained in the Jewelry.

22 72. Defendants have failed, and continue to fail, to provide prior clear and
23 reasonable warnings regarding the reproductive toxicity of cadmium to users of the Jewelry.

24 73. By committing the acts alleged above, Defendants have at all times
25 relevant to this complaint violated Proposition 65 by knowingly and intentionally exposing
26 individuals to cadmium without first giving clear and reasonable warnings to such individuals
27 regarding the reproductive toxicity of cadmium.

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

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PRAYER FOR RELIEF

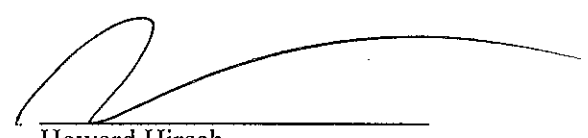
Wherefore, CEH prays for judgment against Defendants as follows:

1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against each of the Defendants in the amount of \$2,500 per day for each violation of Proposition 65 according to proof;
2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin Defendants from offering the Jewelry for sale in California without providing prior clear and reasonable warnings, as CEH shall specify in further application to the Court;
3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to take action to stop ongoing unwarned exposures to cadmium resulting from use of Jewelry sold by Defendants, as CEH shall specify in further application to the Court;
4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and
5. That the Court grant such other and further relief as may be just and proper.

Dated: April 8, 2011

Respectfully submitted,

LEXINGTON LAW GROUP



Howard Hirsch
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH