

FILED

DEC 17 2012

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: D. Taylor, Deputy

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Daniel D. Cao (SBN 105409)
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF MARIN**

10
11 **CONSUMER ADVOCACY GROUP, INC.,**
12 **in the public interest,**

13 **Plaintiff,**

14 **v.**

15 **FGX International Inc., a Rhode Island**
16 **Corporation; and DOES 1-20;**

17 **Defendants.**

CASE NO. *CIV. 205595*

**COMPLAINT FOR PENALTY,
INJUNCTION, AND RESTITUTION**

**Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code, §
25249.5, et seq.*)**

**ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)**

By Fax

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21 **Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against**
22 **defendants FGX INTERNATIONAL INC., and DOES 1-20 as follows:**

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28 **COMPLAINT FOR VIOLATION OF PROPOSITION 65, THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986 (HEALTH AND SAFETY CODE § 25249.5, ET SEQ.)**

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THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).
2. Defendant FGX International Inc. ("FGX") is a Rhode Island corporation, qualified to do business and doing business in the State of California at all relevant times herein.
3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
4. At all times mentioned herein, the term "Defendants" includes FGX and DOES 1-20.
5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
6. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-20, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

1 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
2 Defendants was a person doing business within the meaning of Health and Safety Code
3 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
4 employees at all relevant times.

5 **JURISDICTION**

- 6 8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
7 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
8 those given by statute to other trial courts. This Court has jurisdiction over this action
9 pursuant to Health and Safety Code section 25249.7, which allows enforcement of
10 violations of Proposition 65 in any Court of competent jurisdiction.
- 11 9. This Court has jurisdiction over Defendants named herein because Defendants either
12 reside or are located in this State or are foreign corporations authorized to do business in
13 California, are registered with the California Secretary of State, or who do sufficient
14 business in California, have sufficient minimum contacts with California, or otherwise
15 intentionally avail themselves of the markets within California through their manufacture,
16 distribution, promotion, marketing, or sale of their products within California to render
17 the exercise of jurisdiction by the California courts permissible under traditional notions
18 of fair play and substantial justice.
- 19 10. Venue is proper in the County of Marin because one or more of the instances of wrongful
20 conduct occurred, and continues to occur, in the County of Marin and/or because
21 Defendants conducted, and continue to conduct, business in the County of Marin with
22 respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

- 24 11. In 1986, California voters approved an initiative to address growing concerns about
25 exposure to toxic chemicals and declared their right "[t]o be informed about exposures to
26 chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Prop.,
27 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
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1 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
2 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources
3 from contamination, to allow consumers to make informed choices about the products
4 they buy, and to enable persons to protect themselves from toxic chemicals as they see
5 fit.

6 12. Proposition 65 requires the Governor of California to publish a list of chemicals known to
7 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
8 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
9 chemicals and chemical families. Proposition 65 imposes warning requirements and
10 other controls that apply to Proposition 65-listed chemicals.

11 13. All businesses with ten (10) or more employees that operate or sell products in California
12 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
13 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
14 water (*Health & Safety Code* § 25249.5), and (2) required to provide "clear and
15 reasonable" warnings before exposing a person, knowingly and intentionally, to a
16 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

17 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
18 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.
19 "Threaten to violate" means "to create a condition in which there is a substantial
20 probability that a violation will occur." *Health & Safety Code* § 25249.11(c).

21 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
22 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

23 15. Plaintiff identified certain practices of manufacturers and distributors of DEHP-bearing
24 products of exposing, knowingly and intentionally, persons in California to the
25 Proposition 65-listed chemicals of such products without first providing clear and
26 reasonable warnings of such to the exposed persons prior to the time of exposure.
27 Plaintiff later discerned that Defendants engaged in such practice.
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1 16. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
2 known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP
3 to the list of chemicals known to the State to cause developmental male reproductive
4 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)
5 months after addition of DEHP to the list of chemicals known to the State to cause
6 reproductive toxicity, DEHP became fully subject to Proposition 65 warning
7 requirements and discharge prohibitions.

8 **SATISFACTION OF PRIOR NOTICE**

9 17. On or about October 21, 2011, Plaintiff gave notice of alleged violations of Health and
10 Safety Code section 25249.6, concerning consumer products exposures and occupational
11 exposures, subject to a private action to FGX, and to the California Attorney General,
12 County District Attorneys, and City Attorneys for each city containing a population of at
13 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
14 the product Nosepiece of Magnivision® Folding Reading Glasses with Case & Hook.

15 18. On or about September 14, 2012, Plaintiff gave notice of alleged violations of Health and
16 Safety Code section 25249.6, concerning consumer products exposures and occupational
17 exposures, subject to a private action to FGX, and to the California Attorney General,
18 County District Attorneys, and City Attorneys for each city containing a population of at
19 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
20 the product Sunglasses.

21 19. On or about October 5, 2012, Plaintiff gave notice of alleged violations of Health and
22 Safety Code section 25249.6, concerning consumer products exposures and occupational
23 exposures, subject to a private action to FGX, and to the California Attorney General,
24 County District Attorneys, and City Attorneys for each city containing a population of at
25 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
26 the product Eyewear.

- 1 20. On or about November 14, 2012, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures and occupational
3 exposures, subject to a private action to PGX, and to the California Attorney General,
4 County District Attorneys, and City Attorneys for each city containing a population of at
5 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
6 the product Sunglasses.
- 7 21. Before sending the notices of alleged violation, Plaintiff investigated the consumer
8 products involved, the likelihood that such products would cause users to suffer
9 significant exposures to DEHP, and the corporate structure of each of the Defendants.
- 10 22. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
11 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
12 Plaintiff who executed the certificate had consulted with at least one person with relevant
13 and appropriate expertise who reviewed data regarding the exposures to DEHP, the
14 subject Proposition 65-listed chemical of this action. Based on that information, the
15 attorney for Plaintiff who executed the Certificate of Merit believed there was a
16 reasonable and meritorious case for this private action. The attorney for Plaintiff attached
17 to the Certificate of Merit served on the Attorney General the confidential factual
18 information sufficient to establish the basis of the Certificate of Merit.
- 19 23. Plaintiff's notices of alleged violations also included a Certificate of Service and a
20 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
21 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).
- 22 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
23 gave notices of the alleged violations to PGX, and the public prosecutors referenced in
24 Paragraph 17-20.
- 25 25. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
26 any applicable district attorney or city attorney has commenced and is diligently
27 prosecuting an action against the Defendants.
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FIRST CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against FGX, and DOES 1-20
for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement
Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Nosepiece of Magnivision® Folding Reading Glasses with Case & Hook

26. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 25 of this complaint as though fully set forth herein.

27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Nosepiece of Magnivision® Folding Reading Glasses with Case & Hook ("Nosepiece").

28. Nosepiece contain DEHP.

29. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DEHP in Nosepiece within Plaintiff's notice of alleged violations further discussed above at Paragraph 17.

30. Plaintiff's allegations regarding Nosepiece concerns "[c]onsumer products exposure[s]," which "is an exposure that results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*. Nosepiece are consumer products, and, as mentioned herein, exposures to DEHP took place as a result of such normal and foreseeable consumption and use.

31. Plaintiff is informed, believes, and thereon alleges that between October 21, 2011 and the present, each of the Defendants knowingly and intentionally exposed their employees and California consumers and users of Nosepiece, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Nosepiece in California. Defendants know and

1 intend that California consumers will use and consume Nosepiece, thereby exposing them
2 to DEHP. Defendants thereby violated Proposition 65.

3 32. The principal routes of exposure are through dermal contact, ingestion and inhalation.
4 Persons sustain exposures by handling Nosepiece without wearing gloves or any other
5 personal protective equipment, or by touching bare skin or mucous membranes with
6 gloves after handling Nosepiece, as well as through direct and indirect hand to mouth
7 contact, hand to mucous membrana, or breathing in particulate matter dispersed from
8 Nosepiece. And as to Defendants' employees, employees may be exposed to DEHP in the
9 course of their employment by handling, distributing, and selling Nosepiece.

10 33. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
11 Proposition 65 as to Nosepiece have been ongoing and continuous to the date of the
12 signing of this complaint, as Defendants engaged and continue to engage in conduct
13 which violates Health and Safety Code section 25249.6, including the manufacture,
14 distribution, promotion, and sale of Nosepiece, so that a separate and distinct violation of
15 Proposition 65 occurred each and every time a person was exposed to DEHP by
16 Nosepiece as mentioned herein.

17 34. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 35. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to DEHP from Nosepiece, pursuant to Health
22 and Safety Code section 25249.7(b).

23 36. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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26 **SECOND CAUSE OF ACTION**

27 **(By CONSUMER ADVOCACY GROUP, INC. and against FGX, and DOES 1-20**
28 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**
Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

Sunglasses

- 1
2 37. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
3 reference paragraphs 1 through 37 of this complaint as though fully set forth herein.
- 4 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Sunglasses ("Sunglasses"), including but not limited
6 to Dockers® Sunglasses S01400LDM224 26311.
- 7 39. Defendants knew or should have known that DEHP has been identified by the State of
8 California as a chemical known to cause cancer and reproductive toxicity and therefore
9 was subject to Proposition 65 warning requirements. Defendants were also informed of
10 the presence of DEHP in Sunglasses within Plaintiff's notice of alleged violations further
11 discussed above at Paragraph 18.
- 12 40. Plaintiff's allegations regarding Sunglasses concerns "[c]onsumer products exposure[s],"
13 which "is an exposure that results from a person's acquisition, purchase, storage,
14 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
15 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.
16 Sunglasses are consumer products, and, as mentioned herein, exposures to DEHP took
17 place as a result of such normal and foreseeable consumption and use.
- 18 41. Plaintiff is informed, believes, and thereon alleges that between September 14, 2012 and
19 the present, each of the Defendants knowingly and intentionally exposed their employees
20 and California consumers and users of Sunglasses, which Defendants manufactured,
21 distributed, or sold as mentioned above, to DEHP, without first providing any type of
22 clear and reasonable warning of such to the exposed persons before the time of exposure.
23 Defendants have distributed and sold Sunglasses in California. Defendants know and
24 intend that California consumers will use and consume Sunglasses, thereby exposing
25 them to DEHP. Defendants thereby violated Proposition 65.
- 26 42. The principal routes of exposure are through dermal contact, ingestion and inhalation.
27 Persons sustain exposures by handling Sunglasses without wearing gloves or any other
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1 personal protective equipment, or by touching bare skin or mucous membranes with
2 gloves after handling Sunglasses, as well as through direct and indirect hand to mouth
3 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
4 Sunglasses. And as to Defendants' employees, employees may be exposed to DEHP in
5 the course of their employment by handling, distributing, and selling Sunglasses.

6 43. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
7 Proposition 65 as to Sunglasses have been ongoing and continuous to the date of the
8 signing of this complaint, as Defendants engaged and continue to engage in conduct
9 which violates Health and Safety Code section 25249.6, including the manufacture,
10 distribution, promotion, and sale of Sunglasses, so that a separate and distinct violation of
11 Proposition 65 occurred each and every time a person was exposed to DEHP by
12 Sunglasses as mentioned herein.

13 44. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
14 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
15 violations alleged herein will continue to occur into the future.

16 45. Based on the allegations herein, Defendants are liable for civil penalties of up to
17 \$2,500.00 per day per individual exposure to DEHP from Sunglasses, pursuant to Health
18 and Safety Code section 25249.7(b).

19 Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
20 filing this Complaint.

21 **THIRD CAUSE OF ACTION**

22 **(By CONSUMER ADVOCACY GROUP, INC. and against FGX, and DOES 1-20**
23 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**
24 **Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

25 **Eyewear**

26 45. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
27 reference paragraphs 1 through 45 of this complaint as though fully set forth herein.
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- 1 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Eyewear ("Eyewear"), including but not limited to
3 daisy fuentes sunglasses, SD0662RDF040 28154.
- 4 48. Defendants knew or should have known that DEHP has been identified by the State of
5 California as a chemical known to cause cancer and reproductive toxicity and therefore
6 was subject to Proposition 65 warning requirements. Defendants were also informed of
7 the presence of DEHP in Eyewear within Plaintiff's notice of alleged violations further
8 discussed above at Paragraph 19.
- 9 49. Plaintiff's allegations regarding Eyewear concerns "[c]onsumer products exposure[s],"
10 which "is an exposure that results from a person's acquisition, purchase, storage,
11 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
12 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.
13 Eyewear are consumer products, and, as mentioned herein, exposures to DEHP took
14 place as a result of such normal and foreseeable consumption and use.
- 15 50. Plaintiff is informed, believes, and thereon alleges that between October 5, 2012 and the
16 present, each of the Defendants knowingly and intentionally exposed their employees and
17 California consumers and users of Eyewear, which Defendants manufactured, distributed,
18 or sold as mentioned above, to DEHP, without first providing any type of clear and
19 reasonable warning of such to the exposed persons before the time of exposure.
20 Defendants have distributed and sold Eyewear in California. Defendants know and
21 intend that California consumers will use and consume Eyewear, thereby exposing them
22 to DEHP. Defendants thereby violated Proposition 65.
- 23 51. The principal routes of exposure are through dermal contact, ingestion and inhalation.
24 Persons sustain exposures by handling Eyewear without wearing gloves or any other
25 personal protective equipment, or by touching bare skin or mucous membranes with
26 gloves after handling Eyewear, as well as through direct and indirect hand to mouth
27 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
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1 Eyewear. And as to Defendants' employees, employees may be exposed to DEHP in the
2 course of their employment by handling, distributing, and selling Eyewear.

3 52. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Eyewear have been ongoing and continuous to the date of the
5 signing of this complaint, as Defendants engaged and continue to engage in conduct
6 which violates Health and Safety Code section 25249.6, including the manufacture,
7 distribution, promotion, and sale of Eyewear, so that a separate and distinct violation of
8 Proposition 65 occurred each and every time a person was exposed to DEHP by Eyewear
9 as mentioned herein.

10 53. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
11 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
12 violations alleged herein will continue to occur into the future.

13 54. Based on the allegations herein, Defendants are liable for civil penalties of up to
14 \$2,500.00 per day per individual exposure to DEHP from Eyewear, pursuant to Health
15 and Safety Code section 25249.7(b).

16 55. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
17 filing this Complaint.

18 FOURTH CAUSE OF ACTION

19 (By CONSUMER ADVOCACY GROUP, INC. and against FGX, and DOES 1-20
20 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement
21 Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))

22 Sunglasses

23 56. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
24 reference paragraphs 1 through 54 of this complaint as though fully set forth herein.

25 57. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
26 distributor, promoter, or retailer of Sunglasses ("Sunglasses"), including but not limited
27 to Revlon StyleScience® Sunglasses S00342LWS200 26601.

- 1 58. Defendants knew or should have known that DEHP has been identified by the State of
2 California as a chemical known to cause cancer and reproductive toxicity and therefore
3 was subject to Proposition 65 warning requirements. Defendants were also informed of
4 the presence of DEHP in Sunglasses within Plaintiff's notice of alleged violations further
5 discussed above at Paragraph 20.
- 6 59. Plaintiff's allegations regarding Sunglasses concerns "[c]onsumer products exposure[s],"
7 which "is an exposure that results from a person's acquisition, purchase, storage,
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
9 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.
10 Sunglasses are consumer products, and, as mentioned herein, exposures to DEHP took
11 place as a result of such normal and foreseeable consumption and use.
- 12 60. Plaintiff is informed, believes, and thereon alleges that between November 2, 2012 and
13 the present, each of the Defendants knowingly and intentionally exposed their employees
14 and California consumers and users of Sunglasses, which Defendants manufactured,
15 distributed, or sold as mentioned above, to DEHP, without first providing any type of
16 clear and reasonable warning of such to the exposed persons before the time of exposure.
17 Defendants have distributed and sold Sunglasses in California. Defendants know and
18 intend that California consumers will use and consume Sunglasses, thereby exposing
19 them to DEHP. Defendants thereby violated Proposition 65.
- 20 61. The principal routes of exposure are through dermal contact, ingestion and inhalation.
21 Persons sustain exposures by handling Sunglasses without wearing gloves or any other
22 personal protective equipment, or by touching bare skin or mucous membranes with
23 gloves after handling Sunglasses, as well as through direct and indirect hand to mouth
24 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
25 Sunglasses. And as to Defendants' employees, employees may be exposed to DEHP in
26 the course of their employment by handling, distributing, and selling Sunglasses.
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1 62. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Sunglasses have been ongoing and continuous to the date of the
3 signing of this complaint, as Defendants engaged and continue to engage in conduct
4 which violates Health and Safety Code section 25249.6, including the manufacture,
5 distribution, promotion, and sale of Sunglasses, so that a separate and distinct violation of
6 Proposition 65 occurred each and every time a person was exposed to DEHP by
7 Sunglasses as mentioned herein.

8 63. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
10 violations alleged herein will continue to occur into the future.

11 64. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DEHP from Sunglasses, pursuant to Health
13 and Safety Code section 25249.7(b).

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

16 **PRAYER FOR RELIEF**

17 Plaintiff demands against each of the Defendants as follows:

- 18 1. A permanent injunction mandating Proposition 65-compliant warnings;
19 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
20 3. Costs of suit;
21 4. Reasonable attorney fees and costs; and
22 5. Any further relief that the court may deem just and equitable.

23
24 Dated: 12/14/12, 2012

YEROUSHALMI & ASSOCIATES

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26 BY: 

Reuben Yeroushalmi
Attorneys for Plaintiff,
Consumer Advocacy Group, Inc.