

MAY 15 2014

Sherri R. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

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10 Consumer Advocacy Group, Inc.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

13 **BC 545821**

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 QUANG HOA SUPERMARKET, INC.,
19 California Corporation, QUANG HOA II
20 SUPERMARKET, INC., a California
21 Corporation, and DOES 1-20;

22 Defendants.

CASE NO.

COMPLAINT FOR PENALTY AND
INJUNCTION

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)

23 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against
24 defendants QUANG HOA SUPERMARKET, INC., QUANG HOA II SUPERMARKET, INC.,
25 and DOES 1-20 as follows:

26 **THE PARTIES**

- 27 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
28 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

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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 QUANG HOA SUPERMARKET, INC. ("QUANG HOA") is a California corporation, doing business in the State of California at all relevant times herein.

3. Defendant QUANG HOA II SUPERMARKET, INC. ("QUANG HOA II") is a California corporation, doing business in the State of California at all relevant times herein.

4. 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.

5. At all times mentioned herein, the term "Defendants" includes QUANG HOA, QUANG HOA II, and DOES 1-20.

6. 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.

7. 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 8. 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 9. 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 10. 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 11. Venue is proper in the County of Los Angeles because one or more of the instances of
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
21 because Defendants conducted, and continue to conduct, business in the County of Los
22 Angeles with respect to the consumer product that is the subject of this action.

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24 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

18 15. Proposition 65 provides that any person "violating or threatening to violate" the statute
19 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.

20 "Threaten to violate" means "to create a condition in which there is a substantial
21 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

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

24 16. Plaintiff identified certain practices of manufacturers and distributors of Diethyl Hexyl
25 Phthalate ("DEHP") and Di-*n*-butyl Phthalate ("DBP")-bearing products of exposing,
26 knowingly and intentionally, persons in California to the Proposition 65-listed chemicals
27 of such products without first providing clear and reasonable warnings of such to the
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1 exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants
2 engaged in such practice.

3 17. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
4 known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP
5 to the list of chemicals known to the State to cause developmental male reproductive
6 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)
7 months after addition of DEHP to the list of chemicals known to the State to cause cancer
8 and reproductive toxicity, DEHP became fully subject to Proposition 65 warning
9 requirements and discharge prohibitions.

10 18. On December 2, 2005, the Governor of California added DBP to the list of chemicals
11 known to the State to cause reproductive toxicity (*Cal. Code Regs. tit. 27, § 27001(c)*).
12 DBP is known to the State to cause developmental, female, and male reproductive
13 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty
14 (20) months after addition DBP to the list of chemicals known to the State to cause
15 reproductive toxicity, DBP became fully subject to Proposition 65 warning requirements
16 and discharge prohibitions.

17 **SATISFACTION OF PRIOR NOTICE**

18 19. On or about July 12, 2013, Plaintiff gave notice of alleged violations of Health and Safety
19 Code section 25249.6, concerning consumer products exposures and occupational
20 exposures, subject to a private action to QUANG HOA, QUANG HOA II, and to the
21 California Attorney General, County District Attorneys, and City Attorneys for each city
22 containing a population of at least 750,000 people in whose jurisdictions the violations
23 allegedly occurred, concerning the product Strainers and Shears containing DEHP.

24 20. On or about August 1, 2013, Plaintiff gave notice of alleged violations of Health and
25 Safety Code section 25249.6, concerning consumer products exposures and occupational
26 exposures, subject to a private action to QUANG HOA, QUANG HOA II, and to the
27 California Attorney General, County District Attorneys, and City Attorneys for each city

1 containing a population of at least 750,000 people in whose jurisdictions the violations
2 allegedly occurred, concerning the product Childrens' Sandals containing DEHP and
3 DBP.

4 21. On or about November 20, 2013, Plaintiff gave notice of alleged violations of Health and
5 Safety Code section 25249.6, concerning consumer products exposures and occupational
6 exposures, subject to a private action to QUANG HOA, QUANG HOA II, and to the
7 California Attorney General, County District Attorneys, and City Attorneys for each city
8 containing a population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning the product Sandals containing DEHP and DBP.

10 22. Before sending the notices of alleged violation, Plaintiff investigated the consumer
11 products involved, the likelihood that such products would cause users to suffer
12 significant exposures to DEHP and DBP, and the corporate structure of each of the
13 Defendants.

14 23. Plaintiff's notices of alleged violation included a Certificate of Merit executed by the
15 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
16 Plaintiff who executed the certificate had consulted with at least one person with relevant
17 and appropriate expertise who reviewed data regarding the exposures to DEHP and DBP,
18 the subject Proposition 65-listed chemical of this action. Based on that information, the
19 attorney for Plaintiff who executed the Certificate of Merit believed there was a
20 reasonable and meritorious case for this private action. The attorney for Plaintiff attached
21 to the Certificate of Merit served on the Attorney General the confidential factual
22 information sufficient to establish the basis of the Certificate of Merit.

23 24. Plaintiff's notices of alleged violations also included a Certificate of Service and a
24 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
25 (Proposition 65) A Summary." *Health & Safety Code § 25249.7(d)*.

1 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notices of the alleged violations to QUANG HOA, QUANG HOA II, and the public
3 prosecutors referenced in Paragraph 19-21.

4 26. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
5 any applicable district attorney or city attorney has commenced and is diligently
6 prosecuting an action against the Defendants.

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8 **FIRST CAUSE OF ACTION**

9 (By CONSUMER ADVOCACY GROUP, INC. and against QUANG HOA,
10 QUANG HOA II, and DOES 1-20 for Violations of Proposition 65, The Safe
11 Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§
12 25249.5, *et seq.*))

13 **STRAINERS**

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

16 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Strainers, which includes but is not limited to
18 "Qunfeng" strainer, UPC 6 940978 327089, with small multicolored cardboard tag
19 attached, printed in green, yellow, red, blue with cartoon character of a chef, information
20 is all in Chinese ("STRAINERS").

21 29. STRAINERS contains DEHP.

22 30. Defendants knew or should have known that DEHP has been identified by the State of
23 California as a chemical known to cause cancer and reproductive toxicity and therefore
24 was subject to Proposition 65 warning requirements. Defendants were also informed of
25 the presence of DEHP in STRAINERS within Plaintiff's notice of alleged violations
26 further discussed above at Paragraph 19.

27 31. Plaintiff's allegations regarding STRAINERS concern "[c]onsumer products
28 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
3 25602(b). STRAINERS are consumer products, and, as mentioned herein, exposures to
4 DEHP took place as a result of such normal and foreseeable consumption and use.

5 32. Plaintiff’s allegations regarding STRAINERS also concern occupational exposures,
6 which “means an exposure to any employee in his or her employer’s workplace.” *Cal.*
7 *Code Regs.* tit. 27, § 25602(f). Exposures of DEHP to Defendants’ employees occurred
8 through the course of their employment in their employers’ workplaces.

9 33. Plaintiff is informed, believes, and thereon alleges that between July 12, 2010 and the
10 present, each of the Defendants knowingly and intentionally exposed their employees and
11 California consumers and users of STRAINERS, which Defendants manufactured,
12 distributed, or sold as mentioned above, to DEHP, without first providing any type of
13 clear and reasonable warning of such to the exposed persons before the time of exposure.
14 Defendants have distributed and sold STRAINERS in California. Defendants know and
15 intend that California consumers will use and consume STRAINERS, thereby exposing
16 them to DEHP. Defendants thereby violated Proposition 65.

17 34. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling STRAINERS without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling STRAINERS, as well as through direct and indirect hand to mouth
21 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
22 STRAINERS. And as to Defendants’ employees, employees may be exposed to DEHP in
23 the course of their employment by handling, distributing, and selling STRAINERS.

24 35. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations of
25 Proposition 65 as to STRAINERS have been ongoing and continuous to the date of the
26 signing of this complaint, as Defendants engaged and continue to engage in conduct
27 which violates Health and Safety Code section 25249.6, including the manufacture,
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1 distribution, promotion, and sale of STRAINERS, so that a separate and distinct violation
2 of Proposition 65 occurred each and every time a person was exposed to DEHP by
3 STRAINERS as mentioned herein.

4 36. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
5 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
6 violations alleged herein will continue to occur into the future.

7 37. Based on the allegations herein, Defendants are liable for civil penalties of up to
8 \$2,500.00 per day per individual exposure to DEHP from STRAINERS, pursuant to
9 Health and Safety Code section 25249.7(b).

10 38. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
11 filing this Complaint.

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13 **SECOND CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against QUANG HOA,**
15 **QUANG HOA II, and DOES 1-20 for Violations of Proposition 65, The Safe**
16 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
17 **25249.5, *et seq.*))**

18 **SHEARS**

19 39. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
20 reference paragraphs 1 through 38 of this complaint as though fully set forth herein.

21 40. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
22 distributor, promoter, or retailer of Shears, which include but are not limited to
23 "Zhang Xiao Quan" shears, "ZH-102", "ISO9001 : 2000", "QB/T2289.4-2001",
24 HANGZHOU ZHANGXIAOQUAN GROUP CO., LTD., 400-88-1663, 310011,
25 <http://www.zhangxiaoquan.com.cn> UPC 6 901350 339229" ("SHEARS").

26 41. SHEARS contain DEHP.

27 42. Defendants knew or should have known that DEHP has been identified by the State of
28 California as a chemical known to cause cancer and reproductive toxicity and therefore

1 was subject to Proposition 65 warning requirements. Defendants were also informed of
2 the presence of DEHP in SHEARS within Plaintiff's notice of alleged violations further
3 discussed above at Paragraph 19.

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

10 44. Plaintiff's allegations regarding SHEARS also concern occupational exposures, which
11 "means an exposure to any employee in his or her employer's workplace." *Cal. Code*
12 *Regs. tit. 27, § 25602(f)*. Exposures of DEHP to Defendants' employees occurred through
13 the course of their employment in their employers' workplaces.

14 45. Plaintiff is informed, believes, and thereon alleges that between July 12, 2010 and the
15 present, each of the Defendants knowingly and intentionally exposed their employees and
16 California consumers and users of SHEARS, which Defendants manufactured,
17 distributed, or sold as mentioned above, to DEHP, without first providing any type of
18 clear and reasonable warning of such to the exposed persons before the time of exposure.
19 Defendants have distributed and sold SHEARS in California. Defendants know and
20 intend that California consumers will use and consume SHEARS, thereby exposing them
21 to DEHP. Defendants thereby violated Proposition 65.

22 46. The principal routes of exposure are through dermal contact, ingestion and inhalation.
23 Persons sustain exposures by handling SHEARS without wearing gloves or any other
24 personal protective equipment, or by touching bare skin or mucous membranes with
25 gloves after handling SHEARS, as well as through direct and indirect hand to mouth
26 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
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1 SHEARS. And as to Defendants' employees, employees may be exposed to DEHP in the
2 course of their employment by handling, distributing, and selling SHEARS.

3 47. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to SHEARS 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 SHEARS, so that a separate and distinct violation of
8 Proposition 65 occurred each and every time a person was exposed to DEHP by
9 SHEARS as mentioned herein.

10 48. 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 49. 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 SHEARS, pursuant to Health
15 and Safety Code section 25249.7(b).

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

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19 **THIRD CAUSE OF ACTION**

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

24 **CHILDRENS' SANDALS**

25 51. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
26 reference paragraphs 1 through 50 of this complaint as though fully set forth herein.

27 52. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Childrens' Sandals, which include but are not limited

1 to: 1)“Love Baby children’s sandals, color blue with angry birds characters, “28”
2 (encircled), “ZM-3116”, “Made in China”, 2) Love Baby children’s sandals, color pink
3 with angry birds characters, “27” (encircled), “ZM-3116”, “Made in China”, and 3) A-
4 ONE children’s sandals, black sandals with white floral design, size 6 ½ (“CHILDRENS’
5 SANDALS”).

6 53. CHILDRENS’ SANDALS contain DEHP and DBP.

7 54. Defendants knew or should have known that DEHP and DBP has been identified by the
8 State of California as a chemical known to cause cancer and reproductive toxicity and
9 therefore was subject to Proposition 65 warning requirements. Defendants were also
10 informed of the presence of DEHP and DBP in CHILDRENS’ SANDALS within
11 Plaintiff’s notice of alleged violations further discussed above at Paragraph 20.

12 55. Plaintiff’s allegations regarding CHILDRENS’ SANDALS concern “[c]onsumer
13 products exposure[s],” which “is an exposure that results from a person’s acquisition,
14 purchase, storage, consumption, or other reasonably foreseeable use of a consumer good,
15 or any exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27,*
16 *§ 25602(b)*. CHILDRENS’ SANDALS are consumer products, and, as mentioned
17 herein, exposures to DEHP and DBP took place as a result of such normal and
18 foreseeable consumption and use.

19 56. Plaintiff’s allegations regarding CHILDRENS’ SANDALS also concern occupational
20 exposures, which “means an exposure to any employee in his or her employer’s
21 workplace.” *Cal. Code Regs. tit. 27, § 25602(f)*. Exposures of DEHP and DBP to
22 Defendants’ employees occurred through the course of their employment in their
23 employers’ workplaces.

24 57. Plaintiff is informed, believes, and thereon alleges that between August 1, 2010 and the
25 present, each of the Defendants knowingly and intentionally exposed their employees and
26 California consumers and users of CHILDRENS’ SANDALS, which Defendants
27 manufactured, distributed, or sold as mentioned above, to DEHP and DBP, without first
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1 providing any type of clear and reasonable warning of such to the exposed persons before
2 the time of exposure. Defendants have distributed and sold CHILDRENS' SANDALS in
3 California. Defendants know and intend that California consumers will use and consume
4 CHILDRENS' SANDALS, thereby exposing them to DEHP and DBP. Defendants
5 thereby violated Proposition 65.

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

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

21 60. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
22 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
23 violations alleged herein will continue to occur into the future.

24 61. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DEHP and DBP from CHILDRENS'
26 SANDALS, pursuant to Health and Safety Code section 25249.7(b).

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1 62. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

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4 **FOURTH CAUSE OF ACTION**

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

8 **SANDALS**

9 63. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
10 reference paragraphs 1 through 62 of this complaint as though fully set forth herein.

11 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Sandals, which include but are not limited to:

13 1) Pearl White Knotted Rope Design Rubber Flip Flops "Made in China" "38" with
14 Black Rectangular Label with White Chinese Characters Near Heel, 2) jymnk® Bright
15 Pink Iridescent Wavy Texture Crisscross Strap Sandals With White Orange & Blue Label
16 on Strap JIE YANG MONIC SHOES INDUSTRY CO., LTD Size 37 "MNK-1305W
17 MADE IN CHINA" "www.jyshoes.com.cn" "EVA, PVC" "MNK-W1305" UPC
18 6956031600310 "0663-8878888 8868888", and 3) Black SPORT One-strap Sandals with
19 Blue, Grey & White "Sport" Logo on Strap, Rectangular Ribbed Texture Design on
20 Footbed, Oblong Oval Cutouts on top and sides of strap, Geometrical textured designs on
21 strap, Size 40, "D-859" ("SANDALS").

22 65. SANDALS contain DEHP and DBP.

23 66. Defendants knew or should have known that DEHP and DBP have been identified by the
24 State of California as a chemical known to cause cancer and reproductive toxicity and
25 therefore was subject to Proposition 65 warning requirements. Defendants were also
26 informed of the presence of DEHP and DBP in SANDALS within Plaintiff's notice of
27 alleged violations further discussed above at Paragraph 21.

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

7 68. Plaintiff's allegations regarding SANDALS also concern occupational exposures, which
8 "means an exposure to any employee in his or her employer's workplace." *Cal. Code*
9 *Regs. tit. 27, § 25602(f)*. Exposures of DEHP and DBP to Defendants' employees
10 occurred through the course of their employment in their employers' workplaces.

11 69. Plaintiff is informed, believes, and thereon alleges that between November 20, 2010 and
12 the present, each of the Defendants knowingly and intentionally exposed their employees
13 and California consumers and users of SANDALS, which Defendants manufactured,
14 distributed, or sold as mentioned above, to DEHP and DBP, without first providing any
15 type of clear and reasonable warning of such to the exposed persons before the time of
16 exposure. Defendants have distributed and sold SANDALS in California. Defendants
17 know and intend that California consumers will use and consume SANDALS, thereby
18 exposing them to DEHP and DBP. Defendants thereby violated Proposition 65.

19 70. The principal routes of exposure are through dermal contact, ingestion and inhalation.
20 Persons sustain exposures by handling SANDALS without wearing gloves or any other
21 personal protective equipment, or by touching bare skin or mucous membranes with
22 gloves after handling SANDALS, as well as through direct and indirect hand to mouth
23 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
24 SANDALS. And as to Defendants' employees, employees may be exposed to DEHP and
25 DBP in the course of their employment by handling, distributing, and selling SANDALS.

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

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

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

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

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

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

Dated: 5-15-14

YEROUSHALMI & ASSOCIATES

BY: _____
 Reuben Yeroushalmi
 Attorneys for Plaintiff,
 Consumer Advocacy Group, Inc.