

1 Reuben Yeroushalmi (SBN 193981)  
2 Daniel D. Cho (SBN 105409)  
3 Ben Yeroushalmi (SBN 232540)  
4 **YEROUSHALMI & ASSOCIATES**  
5 9100 Wilshire Boulevard, Suite 240W  
6 Beverly Hills, California 90212  
7 Telephone: 310.623.1926  
8 Facsimile: 310.623.1930

9 Attorneys for Plaintiff,  
10 Consumer Advocacy Group, Inc.

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**ORIGINAL FILED**  
Superior Court Of California  
County Of Los Angeles

JAN 06 2014

Sherri R. Carter, Executive Officer/Clerk  
By: Judi Lara, Deputy

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF LOS ANGELES**

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

15 Plaintiff,

16 v.

17 HAAS OUTDOORS, INC., a Mississippi  
18 Corporation; TRUCK SHIELDS, LLC dba SIGNATURE  
19 PRODUCTS GROUP, a Utah  
20 Limited Liability Company; AUTOZONE,  
21 INC., a Nevada Corporation; AUTOZONE  
22 PARTS, INC., a Nevada Corporation;  
23 KMART CORPORATION, a Michigan  
24 Corporation; and DOES 1-20;

25 Defendants.

CASE NO.

**BC 582252**

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)

26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against  
27 defendants HAAS OUTDOORS, INC., TRUCK SHIELDS, LLC dba SIGNATURE  
28 PRODUCTS GROUP, AUTOZONE, INC., AUTOZONE PARTS, INC., KMART  
CORPORATION, and DOES 1-20 as follows:

**THE PARTIES**

- 1 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
2 organization qualified to do business in the State of California. CAG is a person within  
3 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting  
4 as a private attorney general, brings this action in the public interest as defined under  
5 Health and Safety Code section 25249.7, subdivision (d).
- 6 2. Defendant HAAS OUTDOORS, INC. (“HAAS”) is a Mississippi corporation, qualified  
7 to do business and doing business in the State of California at all relevant times herein.
- 8 3. Defendant TRUCK SHIELDS, LLC dba SIGNATURE PRODUCTS GROUP (“TRUCK  
9 SHIELDS”) is a Utah limited liability company, qualified to do business and doing  
10 business in the State of California at all relevant times herein.
- 11 4. Defendant AUTOZONE, INC. (“AUTOZONE”) is a Nevada corporation, qualified to do  
12 business and doing business in the State of California at all relevant times herein.
- 13 5. Defendant AUTOZONE PARTS, INC. (“AUTOZONE PARTS”) is a Nevada  
14 corporation, qualified to do business and doing business in the State of California at all  
15 relevant times herein.
- 16 6. Defendant KMART CORPORATION (“KMART”) is a Michigan corporation, qualified  
17 to do business and doing business in the State of California at all relevant times herein.
- 18 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20,  
19 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
20 complaint to allege their true names and capacities when ascertained. Plaintiff is  
21 informed, believes, and thereon alleges that each fictitiously named defendant is  
22 responsible in some manner for the occurrences herein alleged and the damages caused  
23 thereby.
- 24 8. At all times mentioned herein, the term “Defendants” includes HAAS, TRUCK  
25 SHIELDS, AUTOZONE, AUTOZONE PARTS, KMART, and DOES 1-20.
- 26 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
27 times mentioned herein have conducted business within the State of California.
- 28

1 10. At all times relevant to this action, each of the Defendants, including DOES 1-20, was an  
2 agent, servant, or employee of each of the other Defendants. In conducting the activities  
3 alleged in this Complaint, each of the Defendants was acting within the course and scope  
4 of this agency, service, or employment, and was acting with the consent, permission, and  
5 authorization of each of the other Defendants. All actions of each of the Defendants  
6 alleged in this Complaint were ratified and approved by every other Defendant or their  
7 officers or managing agents. Alternatively, each of the Defendants aided, conspired with  
8 and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

### 13 JURISDICTION

14 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
15 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
16 those given by statute to other trial courts. This Court has jurisdiction over this action  
17 pursuant to Health and Safety Code section 25249.7, which allows enforcement of  
18 violations of Proposition 65 in any Court of competent jurisdiction.

19 13. This Court has jurisdiction over Defendants named herein because Defendants either  
20 reside or are located in this State or are foreign corporations authorized to do business in  
21 California, are registered with the California Secretary of State, or who do sufficient  
22 business in California, have sufficient minimum contacts with California, or otherwise  
23 intentionally avail themselves of the markets within California through their manufacture,  
24 distribution, promotion, marketing, or sale of their products within California to render  
25 the exercise of jurisdiction by the California courts permissible under traditional notions  
26 of fair play and substantial justice.

1 14. Venue is proper in the County of Los Angeles because one or more of the instances of  
2 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
3 because Defendants conducted, and continue to conduct, business in the County of Los  
4 Angeles with respect to the consumer product that is the subject of this action.

5 **BACKGROUND AND PRELIMINARY FACTS**

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

15 16. Proposition 65 requires the Governor of California to publish a list of chemicals known to  
16 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*  
17 § 25249.8. The list, which the Governor updates at least once a year, contains over 700  
18 chemicals and chemical families. Proposition 65 imposes warning requirements and  
19 other controls that apply to Proposition 65-listed chemicals.

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

26 18. Proposition 65 provides that any person "violating or threatening to violate" the statute  
27 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.  
28

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

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

5 19. Plaintiff identified certain practices of manufacturers and distributors of Di (2-ethylhexyl)  
6 phthalate ("DEHP") and lead-bearing products of exposing, knowingly and intentionally,  
7 persons in California to the Proposition 65-listed chemicals of such products without first  
8 providing clear and reasonable warnings of such to the exposed persons prior to the time  
9 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

10 20. On February 27, 1987, the Governor of California added lead to the list of chemicals  
11 known to the State to cause reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)).  
12 Lead 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 (20)  
14 months after addition of lead to the list of chemicals known to the State to cause  
15 reproductive toxicity, lead became fully subject to Proposition 65 warning requirements  
16 and discharge prohibitions.

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

24 22. On October 1, 1992, the Governor of California added lead and lead compounds to the  
25 list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)).  
26 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months  
27 after addition of lead and lead compounds to the list of chemicals known to the State to  
28

1 cause cancer, lead and lead compounds became fully subject to Proposition 65 warning  
2 requirements and discharge prohibitions.

3 **SATISFACTION OF PRIOR NOTICE**

4 23. On or about July 22, 2013, Plaintiff gave notice of alleged violations of Health and Safety  
5 Code section 25249.6, concerning consumer products exposures and occupational  
6 exposures, subject to a private action to HAAS, TRUCK SHIELDS, AUTOZONE,  
7 AUTOZONE PARTS and to the California Attorney General, County District Attorneys,  
8 and City Attorneys for each city containing a population of at least 750,000 people in  
9 whose jurisdictions the violations allegedly occurred, concerning the product Steering  
10 Wheel Covers.

11 24. On or about October 29, 2013, Plaintiff gave notice of alleged violations of Health and  
12 Safety Code section 25249.6, concerning consumer products exposures and occupational  
13 exposures, subject to a private action to HAAS, TRUCK SHIELDS, KMART and to the  
14 California Attorney General, County District Attorneys, and City Attorneys for each city  
15 containing a population of at least 750,000 people in whose jurisdictions the violations  
16 allegedly occurred, concerning the product Steering Wheel Covers.

17 25. Before sending the notices of alleged violation, Plaintiff investigated the consumer  
18 products involved, the likelihood that such products would cause users to suffer  
19 significant exposures to DEHP and lead, and the corporate structure of each of the  
20 Defendants.

21 26. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
22 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
23 Plaintiff who executed the certificate had consulted with at least one person with relevant  
24 and appropriate expertise who reviewed data regarding the exposures to DEHP and lead,  
25 the subject Proposition 65-listed chemical of this action. Based on that information, the  
26 attorney for Plaintiff who executed the Certificate of Merit believed there was a  
27 reasonable and meritorious case for this private action. The attorney for Plaintiff attached  
28

1 to the Certificate of Merit served on the Attorney General the confidential factual  
2 information sufficient to establish the basis of the Certificate of Merit.

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

6 28. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
7 gave notices of the alleged violations to HAAS, TRUCK SHIELDS, AUTOZONE,  
8 AUTOZONE PARTS, KMART and the public prosecutors referenced in Paragraphs 23  
9 and 24.

10 29. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
11 any applicable district attorney or city attorney has commenced and is diligently  
12 prosecuting an action against the Defendants.

13 **FIRST CAUSE OF ACTION**

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

17 **Steering Wheel Covers**

18 30. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
19 reference paragraphs 1 through 29 of this complaint as though fully set forth herein.

20 31. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
21 distributor, promoter, or retailer of Steering Wheel Covers, including but not limited to  
22 "Mossy Oak Brand Camo® Bullet Grip Steering Cover, "BREAK-UP®", "Rubber Hand  
23 Grips", "One Size Fits Most", Manufactured and Distributed by SPC® Signature  
24 Products Group", "MO SWC MONBU MSW3401" barcode: 8 46571 02207 8"  
25 ("COVERS").

26 32. Plaintiff is informed, believes, and thereon alleges that COVERS contains DEHP and  
27 lead.  
28

1 33. Defendants knew or should have known that DEHP and lead have been identified by the  
2 State of California as chemicals known to cause cancer and reproductive toxicity and  
3 therefore was subject to Proposition 65 warning requirements. Defendants were also  
4 informed of the presence of DEHP and lead in COVERS within Plaintiff's notice of  
5 alleged violations further discussed above at Paragraph 23.

6 34. Plaintiff's allegations regarding COVERS 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 COVERS are consumer products, and, as mentioned herein, exposures to DEHP and lead  
11 took place as a result of such normal and foreseeable consumption and use.

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

16 36. Plaintiff is informed, believes, and thereon alleges that between July 22, 2010 and the  
17 present, each of the Defendants knowingly and intentionally exposed their employees and  
18 California consumers and users of Covers, which Defendants manufactured, distributed,  
19 or sold as mentioned above, to DEHP and lead, without first providing any type of clear  
20 and reasonable warning of such to the exposed persons before the time of exposure.  
21 Defendants have distributed and sold COVERS in California. Defendants know and  
22 intend that California consumers will use and consume COVERS, thereby exposing them  
23 to DEHP and lead. Defendants thereby violated Proposition 65.

24 37. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
25 Persons sustain exposures by handling COVERS without wearing gloves or any other  
26 personal protective equipment, or by touching bare skin or mucous membranes with  
27 gloves after handling COVERS, as well as through direct and indirect hand to mouth  
28

1 contact, hand to mucous membrane, or breathing in particulate matter dispersed from  
2 COVERS. And as to Defendants' employees, employees may be exposed to DEHP and  
3 lead in the course of their employment by handling, distributing, and selling COVERS.

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

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

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

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

19  
20 **SECOND CAUSE OF ACTION**

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

24 **Steering Wheel Covers**

25 42. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
26 reference paragraphs 1 through 41 of this complaint as though fully set forth herein.

1 43. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
2 distributor, promoter, or retailer of Steering Wheel Covers , including but not limited to  
3 “Mossy Oak Brand Camo® Bullet Grip Steering Cover, “BREAK-UP®” ,”Rubber Hand  
4 Grips”, “One Size Fits Most”, Manufactured and Distribute by SPC® Signature Products  
5 Group”, “MO SWC MONBU MSW3401” barcode: 8 46571 02207 8” (“COVERS”).

6 44. Plaintiff is informed, believes, and thereon alleges that COVERS contains DEHP.

7 45. 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 COVERS within Plaintiff's notice of alleged violations further  
11 discussed above at Paragraph 24.

12 46. Plaintiff's allegations regarding COVERS 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 COVERS 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 47. Plaintiff's allegations regarding COVERS also concern occupational exposures, which  
19 “means an exposure to any employee in his or her employer’s workplace.” *Cal. Code*  
20 *Regs. tit. 27, § 25602(f)*. Exposures of DEHP and lead to Defendants’ employees  
21 occurred through the course of their employment in their employers’ workplaces.

22 48. Plaintiff is informed, believes, and thereon alleges that between October 29, 2010 and the  
23 present, each of the Defendants knowingly and intentionally exposed their employees and  
24 California consumers and users of COVERS, which Defendants manufactured,  
25 distributed, or sold as mentioned above, to DEHP, without first providing any type of  
26 clear and reasonable warning of such to the exposed persons before the time of exposure.  
27 Defendants have distributed and sold COVERS in California. Defendants know and  
28

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

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

10 50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
11 Proposition 65 as to COVERS 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 COVERS, so that a separate and distinct violation of  
15 Proposition 65 occurred each and every time a person was exposed to DEHP by  
16 COVERS as mentioned herein.

17 51. 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 52. 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 COVERS, pursuant to Health  
22 and Safety Code section 25249.7(b).

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

25  
26 **PRAYER FOR RELIEF**

27 Plaintiff demands against each of the Defendants as follows:  
28

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: January 6, 2014

YEROUSHALMI & ASSOCIATES



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