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Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH

ENDORSED  
FILED  
ALAMEDA COUNTY

NOV 24 2014

CLERK OF THE SUPERIOR COURT  
By Louis Staley, Jr.  
Staley, Jr.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

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

Plaintiff, )

v. )

ROCKET DOG BRANDS LLC; )  
AEROPOSTALE, INC.; THE BON-TON )  
STORES, INC.; CARRINI, INC.; )  
CONSOLIDATED SHOE COMPANY, INC.; )  
DOLGEN CALIFORNIA, LLC; DOLLAR )  
GENERAL CORPORATION; ELAINE )  
TURNER DESIGNS, LLC; GINA CONCEPTS )  
LLC; GINA GROUP LLC; GOJANE LLC; )  
HERSCHEL SUPPLY COMPANY LTD.; )  
HRSH ACQUISITIONS LLC; LA VANI INC.; )  
SASHA HANDBAGS, INC.; STEIN MART, )  
INC.; TANGELO, INC.; and DOES 1 through )  
700, inclusive, )

Defendants. )

Case No. **RG14749378**

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

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

(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on  
2 information and belief and investigation of counsel, except for information based on knowledge,  
3 hereby makes the following allegations:

#### 4 INTRODUCTION

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn  
6 individuals in California that they are being exposed to lead and lead compounds (collectively,  
7 "Lead"), chemicals known to the State of California to cause cancer and birth defects and other  
8 reproductive harm. Such exposures have occurred, and continue to occur, through the  
9 manufacture, distribution, sale and/or use of three types of fashion accessories: (i) wallets,  
10 handbags, purses and clutches made with leather, vinyl or imitation leather materials  
11 (collectively, "Handbags"); (ii) footwear made with leather, vinyl or imitation leather materials  
12 ("Footwear"); and (iii) belts made with leather, vinyl or imitation leather materials ("Belts").  
13 Handbags, Footwear and Belts are collectively referred to herein as "Fashion Accessories."  
14 Individuals in California, including pregnant women and children, are exposed to Lead when  
15 they wear, use, touch or handle Defendants' Fashion Accessories.

16 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et*  
17 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California  
18 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without  
19 providing clear and reasonable warnings to individuals prior to their exposure. Defendants  
20 introduce Fashion Accessories contaminated with significant quantities of Lead into the  
21 California marketplace, exposing consumers of their Fashion Accessories, many of whom are  
22 pregnant women and children, to Lead.

23 3. Despite the fact that Defendants expose pregnant women, children and  
24 other people who come into contact with the Fashion Accessories to Lead, Defendants provide  
25 no warnings whatsoever about the carcinogenic or reproductive hazards associated with these  
26 Lead exposures. Defendants' conduct thus violates the warning provision of Proposition 65.  
27 Health & Safety Code §25249.6.  
28

**PARTIES**

1  
2           4.     Plaintiff CENTER FOR ENVIRONMENTAL HEALTH (“CEH”) is a  
3 non-profit corporation dedicated to protecting the public from environmental health hazards and  
4 toxic exposures. CEH is based in Oakland, California and incorporated under the laws of the  
5 State of California. CEH is a “person” within the meaning of Health & Safety Code  
6 §25249.11(a) and brings this enforcement action in the public interest pursuant to Health &  
7 Safety Code §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy  
8 group that has prosecuted a large number of Proposition 65 cases in the public interest. These  
9 cases have resulted in significant public benefit, including the reformulation of thousands of  
10 products to remove toxic chemicals to make them safer. CEH also provides information to  
11 Californians about the health risks associated with exposure to hazardous substances, where  
12 manufacturers and other responsible parties fail to do so.

13           5.     Defendant AEROPOSTALE, INC. is a person in the course of doing  
14 business within the meaning of Health & Safety Code §25249.11. Aeropostale, Inc.  
15 manufactures, distributes and/or sells Belts for sale or use in California.

16           6.     Defendant THE BON-TON STORES, INC. is a person in the course of  
17 doing business within the meaning of Health & Safety Code §25249.11. The Bon-Ton Stores,  
18 Inc. manufactures, distributes and/or sells Footwear and Handbags for sale or use in California.

19           7.     Defendant CARRINI, INC. is a person in the course of doing business  
20 within the meaning of Health & Safety Code §25249.11. Carrini, Inc. manufactures, distributes  
21 and/or sells Footwear for sale or use in California.

22           8.     Defendant CONSOLIDATED SHOE COMPANY, INC. is a person in the  
23 course of doing business within the meaning of Health & Safety Code §25249.11. Consolidated  
24 Shoe Company, Inc. manufactures, distributes and/or sells Footwear for sale or use in California.

25           9.     Defendant DOLGEN CALIFORNIA, LLC is a person in the course of  
26 doing business within the meaning of Health & Safety Code §25249.11. Dolgen California, LLC  
27 manufactures, distributes and/or sells Footwear and Handbags for sale or use in California.

28           10.    Defendant DOLLAR GENERAL CORPORATION is a person in the

1 course of doing business within the meaning of Health & Safety Code §25249.11. Dollar  
2 General Corporation manufactures, distributes and/or sells Footwear and Handbags for sale or  
3 use in California.

4 11. Defendant ELAINE TURNER DESIGNS, LLC is a person in the course of  
5 doing business within the meaning of Health & Safety Code §25249.11. Elaine Turner Designs,  
6 LLC manufactures, distributes and/or sells Footwear for sale or use in California.

7 12. Defendant GINA CONCEPTS LLC is a person in the course of doing  
8 business within the meaning of Health & Safety Code §25249.11. Gina Concepts LLC  
9 manufactures, distributes and/or sells Footwear and Handbags for sale or use in California.

10 13. Defendant GINA GROUP LLC is a person in the course of doing business  
11 within the meaning of Health & Safety Code §25249.11. Gina Group LLC manufactures,  
12 distributes and/or sells Footwear and Handbags for sale or use in California.

13 14. Defendant GOJANE LLC is a person in the course of doing business  
14 within the meaning of Health & Safety Code §25249.11. GoJane LLC manufactures, distributes  
15 and/or sells Belts for sale or use in California.

16 15. Defendant HERSCHEL SUPPLY COMPANY LTD. is a person in the  
17 course of doing business within the meaning of Health & Safety Code §25249.11. Herschel  
18 Supply Company Ltd. manufactures, distributes and/or sells Handbags for sale or use in  
19 California.

20 16. Defendant HRSH ACQUISITIONS LLC is a person in the course of doing  
21 business within the meaning of Health & Safety Code §25249.11. HRSH Acquisitions LLC  
22 manufactures, distributes and/or sells Footwear for sale or use in California.

23 17. Defendant LA VANI INC. is a person in the course of doing business  
24 within the meaning of Health & Safety Code §25249.11. La Vani Inc. manufactures, distributes  
25 and/or sells Handbags for sale or use in California.

26 18. Defendant ROCKET DOG BRANDS LLC is a person in the course of  
27 doing business within the meaning of Health & Safety Code §25249.11. Rocket Dog Brands  
28 LLC manufactures, distributes and/or sells Footwear for sale or use in California.

1           19. Defendant SASHA HANDBAGS, INC. is a person in the course of doing  
2 business within the meaning of Health & Safety Code §25249.11. Sasha Handbags, Inc.  
3 manufactures, distributes and/or sells Handbags for sale or use in California.

4           20. Defendant STEIN MART, INC. is a person in the course of doing business  
5 within the meaning of Health & Safety Code §25249.11. Stein Mart, Inc. manufactures,  
6 distributes and/or sells Handbags for sale or use in California.

7           21. Defendant TANGELO, INC. is a person in the course of doing business  
8 within the meaning of Health & Safety Code §25249.11. Tangelo, Inc. manufactures, distributes  
9 and/or sells Footwear for sale or use in California.

10          22. DOES 1 through 100 are each a person in the course of doing business  
11 within the meaning of Health & Safety Code §25249.11. DOES 1 through 100 manufacture,  
12 distribute and/or sell Handbags for sale or use in California.

13          23. DOES 101 through 200 are each a person in the course of doing business  
14 within the meaning of Health & Safety Code §25249.11. DOES 101 through 200 manufacture,  
15 distribute and/or sell Footwear for sale or use in California.

16          24. DOES 201 through 300 are each a person in the course of doing business  
17 within the meaning of Health & Safety Code §25249.11. DOES 201 through 300 manufacture,  
18 distribute and/or sell Belts for sale or use in California.

19          25. DOES 301 through 400 are each a person in the course of doing business  
20 within the meaning of Health & Safety Code §25249.11. DOES 301 through 400 manufacture,  
21 distribute and/or sell Handbags and Footwear for sale or use in California.

22          26. DOES 401 through 500 are each a person in the course of doing business  
23 within the meaning of Health & Safety Code §25249.11. DOES 401 through 500 manufacture,  
24 distribute and/or sell Handbags and Belts for sale or use in California.

25          27. DOES 501 through 600 are each a person in the course of doing business  
26 within the meaning of Health & Safety Code §25249.11. DOES 501 through 600 manufacture,  
27 distribute and/or sell Footwear and Belts for sale or use in California.

28          28. DOES 601 through 700 are each a person in the course of doing business

1 within the meaning of Health & Safety Code §25249.11. DOES 601 through 700 manufacture,  
2 distribute and/or sell Handbags, Footwear and Belts for sale or use in California.

3 29. The true names of DOES 1 through 700 are unknown to CEH at this time.  
4 When their identities are ascertained, the Complaint shall be amended to reflect their true names.

5 30. The defendants identified in paragraphs 5 through 21 and DOES 1 through  
6 700 are collectively referred to herein as “Defendants.”

7 **JURISDICTION AND VENUE**

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

12 32. This Court has jurisdiction over Defendants because each is a business  
13 entity that does sufficient business, has sufficient minimum contacts in California or otherwise  
14 intentionally avails itself of the California market through the sale, marketing or use of Fashion  
15 Accessories in California and/or by having such other contacts with California so as to render the  
16 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair  
17 play and substantial justice.

18 33. Venue is proper in the Alameda Superior Court because one or more of the  
19 violations arise in the County of Alameda.

20 **BACKGROUND FACTS**

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

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

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

4 36. On February 27, 1987, the State of California officially listed lead as a  
5 chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive  
6 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to  
7 the developing fetus, “female reproductive toxicity,” which means harm to the female  
8 reproductive system, and “male reproductive toxicity,” which means harm to the male  
9 reproductive system. 27 Cal. Code Regs. (“C.C.R.”) §27001(c). On February 27, 1988, one year  
10 after it was listed as a chemical known to cause reproductive toxicity, lead became subject to the  
11 clear and reasonable warning requirement regarding reproductive toxicants under Proposition 65.  
12 27 C.C.R. §27001(c); Health & Safety Code §25249.10(b).

13 37. On October 1, 1992, the State of California officially listed lead and lead  
14 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were  
15 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear  
16 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.  
17 §27001(c); Health & Safety Code §25249.10(b).

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

28 39. There is no safe level of exposure to Lead and even minute amounts of

1 Lead exposure have been shown to permanently reduce mental capacity. Studies have repeatedly  
2 concluded that concentrations of Lead in children's blood previously deemed acceptable can  
3 have adverse health effects. *See, e.g.,* Canfield, R.L., *et al.*, "Intellectual Impairment in Children  
4 with Blood Lead Concentrations below 10 ug per Deciliter," *New England Journal of Medicine*  
5 348:16, 2003. Another recent study found that childhood Lead exposure predicts intellectual  
6 functioning in early adulthood in that adult IQ levels are inversely associated with blood Lead  
7 concentrations from childhood. Mazumdar, M., *et al.*, "Low-Level Environmental Lead  
8 Exposure in Childhood and Adult Intellectual Function: A Follow-Up Study," *Environmental*  
9 *Health* 10:24, 2011; *see also* Lanphear, B.P., *et al.*, "Subclinical Lead Toxicity in U.S. Children  
10 and Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000 (concluded that even the  
11 smallest detectable amount of blood Lead levels in children can mean the difference between an  
12 A or B grade in school).

13           40.     Lead exposures for pregnant women are also of particular concern in light  
14 of evidence that even short-term Lead exposures *in utero* may have long-term harmful effects.  
15 Hu, H., *et al.*, "Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant Mental  
16 Development," *Environmental Health Perspectives* 114:11, 2006; Schnaas, L., *et al.*, "Reduced  
17 Intellectual Development in Children with Prenatal Lead Exposure," *Environmental Health*  
18 *Perspectives* 114:5, 2006.

19           41.     The problem of Lead in Fashion Accessories is an industry-wide problem.  
20 Lead is found in the fabric and/or material from which many Fashion Accessories are made.  
21 Lead is found in Fashion Accessories as a stabilizer in the vinyl or imitation leather materials, as  
22 a chemical ingredient in some of the dyes, paints and other coloring agents used in Fashion  
23 Accessories and in the chemicals used in the leather tanning process. Lead is also found in the  
24 metallic components such as zippers, zipper pulls and buckles used on some Fashion  
25 Accessories.

26           42.     Defendants' Fashion Accessories contain sufficient quantities of Lead  
27 such that individuals, including pregnant women and children, who wear, use, touch and/or  
28 handle Fashion Accessories are exposed to Lead through the average use of Fashion Accessories.



1 Consumer exposures to Lead occur through ingestion via hand-to-mouth contact after consumers  
2 touch and/or handle Fashion Accessories and dermal absorption directly through the skin when  
3 consumers wear, touch and/or handle Fashion Accessories.

4 43. Some Fashion Accessories are designed for and marketed to children.  
5 Young children are also exposed to Lead from Fashion Accessories when they touch or play with  
6 Fashion Accessories that are owned or used by their parents or caretakers. In addition, young  
7 children are exposed to Lead from Handbags when they eat food that is stored or carried in  
8 Handbags or touch or play with non-food items that are stored or carried in Handbags.  
9 Additional childhood exposures to Lead occur when children touch their hands to their mouths  
10 after their hands have touched Fashion Accessories or items stored or carried in Handbags.

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

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

25 46. CEH also sent a Certificate of Merit for each Notice to the California  
26 Attorney General, the District Attorneys of every county in California, the City Attorneys of  
27 every California city with a population greater than 750,000 and to the named Defendants. In  
28 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each of the

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

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

14 48. Defendants both know and intend that consumers in California, including  
15 pregnant women and children, will wear, use, touch and/or handle Fashion Accessories, thus  
16 exposing them to Lead.

17 49. Under Proposition 65, an exposure is “knowing” where the party  
18 responsible for such exposure has:

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

22 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
23 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,  
24 §12201).

25 50. No clear and reasonable warning is provided with Fashion Accessories  
26 regarding the carcinogenic or reproductive hazards of Lead.

27 51. Defendants have been informed of the Lead in their Fashion Accessories  
28 by the 60-Day Notice of Violation and accompanying Certificate of Merit served on them by

1 CEH.

2           52. Defendants also have constructive knowledge that their Fashion  
3 Accessories contain Lead due to the widespread media coverage concerning the problem of Lead  
4 in consumer products in general and in Fashion Accessories in particular. The industry-wide  
5 problem of Lead in Fashion Accessories has been the subject of extensive media coverage,  
6 including articles in national newspapers and stories on nationally televised programs such as  
7 “Good Morning America.”

8           53. As companies that manufacture, import, distribute and/or sell Fashion  
9 Accessories for use in the California marketplace, Defendants know or should know that Fashion  
10 Accessories contain Lead and that individuals who use Fashion Accessories will be exposed to  
11 Lead. The Lead exposures to consumers who use the Fashion Accessories are a natural and  
12 foreseeable consequence of Defendants’ placing the Fashion Accessories into the stream of  
13 commerce.

14           54. Nevertheless, Defendants continue to expose consumers in California,  
15 including pregnant women and children, to Lead without prior clear and reasonable warnings  
16 regarding the carcinogenic and/or reproductive hazards of Lead.

17           55. CEH has engaged in good-faith efforts to resolve the claims alleged herein  
18 prior to filing this Complaint.

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

24                                   **FIRST CAUSE OF ACTION**  
25                                   **(Violations of the Health & Safety Code §25249.6)**  
26                                   **(Against Handbag Defendants Only)**

27           57. CEH realleges and incorporates by reference as if specifically set forth  
28 herein Paragraphs 1 through 56, inclusive.

1 58. Lead is a chemical listed by the State of California as known to cause  
2 cancer and birth defects or other reproductive harm.

3 59. By placing their Handbags into the stream of commerce, Defendants The  
4 Bon-Ton Stores, Inc., Dolgen California, LLC, Dollar General Corporation, Gina Concepts LLC,  
5 Gina Group LLC, Herschel Supply Company Ltd., La Vani Inc., Sasha Handbags, Inc., Stein  
6 Mart, Inc., and DOES 1 through 100, 301 through 500, and 601 through 700 (collectively, the  
7 "Handbags Defendants") are each a person in the course of doing business within the meaning of  
8 Health & Safety Code §25249.11.

9 60. Handbags Defendants know that average use of their Handbags will  
10 expose users of Handbags to Lead. Handbags Defendants intend that their Handbags be used in a  
11 manner that results in users of their Handbags being exposed to Lead contained therein.

12 61. Handbags Defendants have failed, and continue to fail, to provide prior  
13 clear and reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to  
14 users of their Handbags.

15 62. By committing the acts alleged above, Handbag Defendants have at all  
16 times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing  
17 individuals to Lead without first giving clear and reasonable warnings to such individuals  
18 regarding the carcinogenicity and reproductive toxicity of Lead.

19 Wherefore, CEH prays for judgment against Handbag Defendants, as set forth  
20 hereafter.

21 **SECOND CAUSE OF ACTION**  
22 **(Violations of the Health & Safety Code §25249.6)**  
23 **(Against Footwear Defendants Only)**

24 63. CEH realleges and incorporates by reference as if specifically set forth  
25 herein Paragraphs 1 through 62, inclusive.

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

28 65. By placing their Footwear into the stream of commerce, Defendants The

1 Bon-Ton Stores, Inc., Carrini, Inc., Consolidated Shoe Company, Inc., Dolgen California, LLC,  
2 Dollar General Corporation, Elaine Turner Designs, LLC, Gina Concepts LLC, Gina Group LLC,  
3 HRSB Acquisitions LLC, Rocket Dog Brands LLC, Tangelo, Inc., and DOES 101 through 200,  
4 301 through 400, and 501 through 700 (collectively, the "Footwear Defendants") are each a  
5 person in the course of doing business within the meaning of Health & Safety Code §25249.11.

6 66. Footwear Defendants know that average use of their Footwear will expose  
7 users of their Footwear to Lead. Footwear Defendants intend that their Footwear be used in a  
8 manner that results in users of their Footwear being exposed to Lead contained therein.

9 67. Footwear Defendants have failed, and continue to fail, to provide prior  
10 clear and reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to  
11 users of their Footwear.

12 68. By committing the acts alleged above, Footwear Defendants have at all  
13 times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing  
14 individuals to Lead without first giving clear and reasonable warnings to such individuals  
15 regarding the carcinogenicity and reproductive toxicity of Lead.

16 Wherefore, CEH prays for judgment against Footwear Defendants, as set forth  
17 hereafter.

18 **THIRD CAUSE OF ACTION**  
19 **(Violations of the Health & Safety Code §25249.6)**  
20 **(Against Belts Defendants Only)**

21 69. CEH realleges and incorporates by reference as if specifically set forth  
22 herein Paragraphs 1 through 68, inclusive.

23 70. Lead is a chemical listed by the State of California as known to cause  
24 cancer and birth defects or other reproductive harm.

25 71. By placing their Belts into the stream of commerce, Defendants  
26 Aeropostale, Inc., GoJane LLC, and DOES 201 through 300 and 401 through 700 (collectively,  
27 the "Belts Defendants") are each a person in the course of doing business within the meaning of  
28 Health & Safety Code §25249.11.

72. Belts Defendants know that average use of their Belts will expose users of

1 their Belts to Lead. Belts Defendants intend that their Belts be used in a manner that results in  
2 users of their Belts being exposed to Lead contained therein.

3 73. Belts Defendants have failed, and continue to fail, to provide prior clear  
4 and reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to users  
5 of their Belts.

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

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

12 **PRAYER FOR RELIEF**

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

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

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

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

24 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other  
25 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

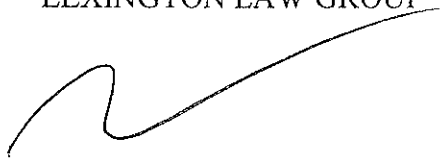
26 5. That the Court grant such other and further relief as may be just and  
27 proper.

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1 Dated: November 24, 2014

Respectfully submitted,

2 LEXINGTON LAW GROUP

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5 \_\_\_\_\_  
6 Howard Hirsch  
7 Attorneys for Plaintiff  
8 CENTER FOR ENVIRONMENTAL HEALTH  
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