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CLERK OF
THE SUPERIOR COURT
By Burt Moskaira, Deputy

CASE NUMBER:

RG15765590

1 LEXINGTON LAW GROUP
 Eric S. Somers, State Bar No. 139050
 2 Howard Hirsch, State Bar No. 213209
 503 Divisadero Street
 3 San Francisco, CA 94117
 Telephone: (415) 913-7800
 4 Facsimile: (415) 759-4112
 esomers@lexlawgroup.com
 5 hhirsch@lexlawgroup.com

6 Attorneys for Plaintiff
 CENTER FOR ENVIRONMENTAL HEALTH

7
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF ALAMEDA

11 CENTER FOR ENVIRONMENTAL)
 12 HEALTH, a non-profit corporation,)
 13 Plaintiff,)
 14 v.)
 15 CHARMING CHARLIE LLC; 6PM.COM LLC;)
 ASHLEY STEWART, INC.; THE CATO)
 16 CORPORATION; COLONY BRANDS, INC.;)
 DAISO CALIFORNIA LLC; DIAMOND)
 17 SUPPLY COMPANY; DIAMOND SUPPLY)
 MANAGEMENT, INC.; DND FASHION,)
 18 INC.; DRAPER'S & DAMON'S LLC;)
 DREAMWAY TRADING LLC; EASTSTAR)
 19 SOLUTIONS, LTD.; E.S. ORIGINALS INC.;)
 E.S.I. CASES & ACCESSORIES, INC.;)
 20 ESQUIRE FOOTWEAR LLC; FAMILY)
 DOLLAR, INC.; GINA CONCEPTS LLC;)
 21 GINA GROUP LLC; REALPLAY CORP.;)
 RIPLAY, INC.; ROYAL FOOTWEAR AND)
 22 ACCESSORIES LLC; SEVENTH AVENUE,)
 INC.; SPRING FOOTWEAR CORP.; VAN)
 23 DALE INDUSTRIES, INC.; and DOES 1)
 through 700, inclusive,)
 24 Defendants.)

Casc No. RG 15-765590

**FIRST AMENDED 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 First Amended Complaint seeks to remedy Defendants' continuing
6 failure to warn individuals in California that they are being exposed to lead and lead compounds
7 (collectively, "Lead"), chemicals known to the State of California to cause cancer and birth
8 defects and other reproductive harm. Such exposures have occurred, and continue to occur,
9 through the manufacture, distribution, sale and/or use of three types of fashion accessories: (i)
10 wallets, 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 CHARMING CHARLIE LLC is a person in the course of
14 doing business within the meaning of Health & Safety Code §25249.11. Charming Charlie LLC
15 manufactures, distributes and/or sells Handbags for sale or use in California.

16 6. Defendant 6PM.COM LLC is a person in the course of doing business
17 within the meaning of Health & Safety Code §25249.11. 6pm.com LLC manufactures,
18 distributes and/or sells Footwear for sale or use in California.

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

22 8. Defendant THE CATO CORPORATION is a person in the course of
23 doing business within the meaning of Health & Safety Code §25249.11. The Cato Corporation
24 manufactures, distributes and/or sells Handbags and Footwear for sale or use in California.

25 9. Defendant COLONY BRANDS, INC. is a person in the course of doing
26 business within the meaning of Health & Safety Code §25249.11. Colony Brands, Inc.
27 manufactures, distributes and/or sells Footwear for sale or use in California.

28 10. Defendant DAISO CALIFORNIA LLC is a person in the course of doing

1 business within the meaning of Health & Safety Code §25249.11. Daiso California LLC
2 manufactures, distributes and/or sells Handbags and Belts for sale or use in California.

3 11. Defendant DIAMOND SUPPLY COMPANY is a person in the course of
4 doing business within the meaning of Health & Safety Code §25249.11. Diamond Supply
5 Company manufactures, distributes and/or sells Handbags for sale or use in California.

6 12. Defendant DIAMOND SUPPLY MANAGEMENT, INC. is a person in
7 the course of doing business within the meaning of Health & Safety Code §25249.11. Diamond
8 Supply Management, Inc. manufactures, distributes and/or sells Handbags for sale or use in
9 California.

10 13. Defendant DND FASHION, INC. is a person in the course of doing
11 business within the meaning of Health & Safety Code §25249.11. DND Fashion, Inc.
12 manufactures, distributes and/or sells Footwear for sale or use in California.

13 14. Defendant DRAPER'S & DAMON'S LLC is a person in the course of
14 doing business within the meaning of Health & Safety Code §25249.11. Draper's and Damon's
15 LLC manufactures, distributes and/or sells Handbags for sale or use in California.

16 15. Defendant DREAMWAY TRADING LLC is a person in the course of
17 doing business within the meaning of Health & Safety Code §25249.11. Dreamway Trading
18 LLC manufactures, distributes and/or sells Handbags for sale or use in California.

19 16. Defendant EASTSTAR SOLUTIONS, LTD. is a person in the
20 course of doing business within the meaning of Health & Safety Code §25249.11. EastStar
21 Solutions, Ltd. manufactures, distributes and/or sells Footwear for sale or use in California.

22 17. Defendant E.S. ORIGINALS INC. is a person in the course of doing
23 business within the meaning of Health & Safety Code §25249.11. E.S. Originals Inc.
24 manufactures, distributes and/or sells Footwear for sale or use in California.

25 18. Defendant E.S.I. CASES & ACCESSORIES, INC. is a person in the
26 course of doing business within the meaning of Health & Safety Code §25249.11. E.S.I. Cases
27 & Accessories, Inc. manufactures, distributes and/or sells Handbags for sale or use in California.

28 19. Defendant ESQUIRE FOOTWEAR LLC is a person in the course of

1 doing business within the meaning of Health & Safety Code §25249.11. Esquire Footwear LLC
2 manufactures, distributes and/or sells Footwear for sale or use in California.

3 20. Defendant FAMILY DOLLAR, INC. is a person in the course of doing
4 business within the meaning of Health & Safety Code §25249.11. Family Dollar, Inc.
5 manufactures, distributes and/or sells Handbags for sale or use in California.

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

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

12 23. Defendant REALPLAY CORP. is a person in the course of doing business
13 within the meaning of Health & Safety Code §25249.11. Realplay Corp. manufactures,
14 distributes and/or sells Footwear for sale or use in California.

15 24. Defendant RIPLAY, INC. is a person in the course of doing business
16 within the meaning of Health & Safety Code §25249.11. Riplay, Inc. manufactures, distributes
17 and/or sells Footwear for sale or use in California.

18 25. Defendant ROYAL FOOTWEAR AND ACCESSORIES LLC is a person
19 in the course of doing business within the meaning of Health & Safety Code §25249.11. Royal
20 Footwear and Accessories LLC manufactures, distributes and/or sells Footwear for sale or use in
21 California.

22 26. Defendant SEVENTH AVENUE, INC. is a person in the course of doing
23 business within the meaning of Health & Safety Code §25249.11. Seventh Avenue, Inc.
24 manufactures, distributes and/or sells Footwear for sale or use in California.

25 27. Defendant SPRING FOOTWEAR CORP. is a person in the course of
26 doing business within the meaning of Health & Safety Code §25249.11. Spring Footwear Corp.
27 manufactures, distributes and/or sells Footwear for sale or use in California.

28 28. Defendant VAN DALE INDUSTRIES, INC. is a person in the course of

1 doing business within the meaning of Health & Safety Code §25249.11. Van Dale Industries,
2 Inc. manufactures, distributes and/or sells Belts for sale or use in California.

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

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

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

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

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

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

21 35. DOES 601 through 700 are each a person in the course of doing business
22 within the meaning of Health & Safety Code §25249.11. DOES 601 through 700 manufacture,
23 distribute and/or sell Handbags, Footwear and Belts for sale or use in California.

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

26 37. The defendants identified in paragraphs 5 through 28 and DOES 1 through
27 700 are collectively referred to herein as "Defendants."

28

1 **JURISDICTION AND VENUE**

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

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

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

14 **BACKGROUND FACTS**

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

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

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

26 43. On February 27, 1987, the State of California officially listed lead as a
27 chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive
28 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to

1 the developing fetus, “female reproductive toxicity,” which means harm to the female
2 reproductive system, and “male reproductive toxicity,” which means harm to the male
3 reproductive system. 27 Cal. Code Regs. (“C.C.R.”) §27001(c). On February 27, 1988, one
4 year after it was listed as a chemical known to cause reproductive toxicity, lead became subject
5 to the clear and reasonable warning requirement regarding reproductive toxicants under
6 Proposition 65. 27 C.C.R. §27001(c); Health & Safety Code §25249.10(b).

7 44. On October 1, 1992, the State of California officially listed lead and lead
8 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were
9 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear
10 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.
11 §27001(c); Health & Safety Code §25249.10(b).

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

23 46. There is no safe level of exposure to Lead and even minute amounts of
24 Lead exposure have been shown to permanently reduce mental capacity. Studies have
25 repeatedly concluded that concentrations of Lead in children’s blood previously deemed
26 acceptable can have adverse health effects. *See, e.g.,* Canfield, R.L., *et al.*, “Intellectual
27 Impairment in Children with Blood Lead Concentrations below 10 ug per Deciliter,” *New*
28 *England Journal of Medicine* 348:16, 2003. Another recent study found that childhood Lead

1 exposure predicts intellectual functioning in early adulthood in that adult IQ levels are inversely
2 associated with blood Lead concentrations from childhood. Mazumdar, M., *et al.*, “Low-Level
3 Environmental Lead Exposure in Childhood and Adult Intellectual Function: A Follow-Up
4 Study,” *Environmental Health* 10:24, 2011; *see also* Lanphear, B.P., *et al.*, “Subclinical Lead
5 Toxicity in U.S. Children and Adolescents,” *Neurodevelopmental Disabilities II Platform*, 2000
6 (concluded that even the smallest detectable amount of blood Lead levels in children can mean
7 the difference between an A or B grade in school).

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

14 48. The problem of Lead in Fashion Accessories is an industry-wide problem.
15 As the California Office of Environmental Health Hazard Assessment (“OEHHA”) recently
16 found, “[p]otentially unsafe levels of lead in products such as jewelry and fashion accessories
17 imported into the U.S. still pose a significant concern.” OEHHA, Initial Statement of Reasons
18 for Proposed Adoption of New Title 27, Article 6, at 20 (Jan. 16, 2015). Lead is found in the
19 fabric and/or material from which many Fashion Accessories are made. Lead is found in
20 Fashion Accessories as a stabilizer in the vinyl or imitation leather materials, as a chemical
21 ingredient in some of the dyes, paints and other coloring agents used in Fashion Accessories and
22 in the chemicals used in the leather tanning process. Lead is also found in the metallic
23 components such as zippers, zipper pulls and buckles used on some Fashion Accessories.

24 49. Defendants’ Fashion Accessories contain sufficient quantities of Lead
25 such that individuals, including pregnant women and children, who wear, use, touch and/or
26 handle Fashion Accessories are exposed to Lead through the average use of Fashion Accessories.
27 Consumer exposures to Lead occur through ingestion via hand-to-mouth contact after consumers
28 touch and/or handle Fashion Accessories and dermal absorption directly through the skin when

1 consumers wear, touch and/or handle Fashion Accessories.

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

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

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

24 53. CEH also sent a Certificate of Merit for each Notice to the California
25 Attorney General, the District Attorneys of every county in California, the City Attorneys of
26 every California city with a population greater than 750,000 and to the named Defendants. In
27 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each of the
28 Certificates certified that CEH’s counsel: (1) has consulted with one or more persons with

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

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

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

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

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

21 27 C.C.R. §25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
22 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
23 §12201).

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

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

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

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

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

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

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

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

26 64. CEH realleges and incorporates by reference as if specifically set forth
27 herein Paragraphs 1 through 63, inclusive.

28 65. Lead is a chemical listed by the State of California as known to cause

1 cancer and birth defects or other reproductive harm.

2 66. By placing their Handbags into the stream of commerce, Defendants The
3 Cato Corporation, Charming Charlie LLC, Daiso California LLC, Diamond Supply Company,
4 Diamond Supply Management, Inc., Draper's & Damon's LLC, Dreamway Trading LLC, E.S.I.
5 Cases & Accessories, Inc., Family Dollar, Inc., Gina Group LLC, Gina Concepts LLC, and
6 DOES 1 through 100, 301 through 500, and 601 through 700 (collectively, the "Handbags
7 Defendants") are each a person in the course of doing business within the meaning of Health &
8 Safety Code §25249.11.

9 67. 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
11 a manner that results in users of their Handbags being exposed to Lead contained therein.

12 68. 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 69. By committing the acts alleged above, Handbag Defendants have at all
16 times relevant to this Complaint violated Proposition 65 by knowingly and intentionally
17 exposing individuals to Lead without first giving clear and reasonable warnings to such
18 individuals 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 70. CEH realleges and incorporates by reference as if specifically set forth
25 herein Paragraphs 1 through 69, inclusive.

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

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

1 6pm.com LLC, The Cato Corporation, Colony Brands, Inc., DND Fashion, Inc., EastStar
2 Solutions, Ltd., E.S. Originals Inc., Esquire Footwear LLC, Gina Group LLC, Gina Concepts
3 LLC, Realplay Corp., Riplay, Inc., Royal Footwear and Accessories LLC, Seventh Avenue, Inc.,
4 Spring Footwear Corp., and DOES 101 through 200, 301 through 400, and 501 through 700
5 (collectively, the “Footwear Defendants”) are each a person in the course of doing business
6 within the meaning of Health & Safety Code §25249.11.

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

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

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

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

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

22 76. CEH realleges and incorporates by reference as if specifically set forth
23 herein Paragraphs 1 through 75, inclusive.

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

26 78. By placing their Belts into the stream of commerce, Defendants
27 Ashley Stewart, Inc., Daiso California LLC, Van Dale Industries, Inc., and DOES 201 through
28 300 and 401 through 700 (collectively, the “Belts Defendants”) are each a person in the course

1 of doing business within the meaning of Health & Safety Code §25249.11.

2 79. Belts Defendants know that average use of their Belts will expose users of
3 their Belts to Lead. Belts Defendants intend that their Belts be used in a manner that results in
4 users of their Belts being exposed to Lead contained therein.

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

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

12 Wherefore, CEH prays for judgment against Belts Defendants, as set forth
13 hereafter.

14 **PRAYER FOR RELIEF**

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

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

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

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

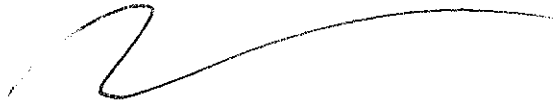
27 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other
28 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

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

Dated: May 8, 2015

Respectfully submitted,
LEXINGTON LAW GROUP



Howard Hirsch
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH