

ENDORSED  
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ALAMEDA COUNTY

NOV 08 2016

CLERK OF THE SUPERIOR COURT  
By *[Signature]*  
JANIE THOMAS, Deputy

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11 Consumer Advocacy Group, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF ALAMEDA**

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

16 Plaintiff,

17 v.

18 ROSS STORES, INC., dba DD'S  
19 DISCOUNTS; a Delaware Corporation;  
20 OCEANLINK INTERNATIONAL, INC., a  
21 California Corporation; OCEANLINK  
22 INT'L, INC., a California Corporation;  
23 WHITE LINE COLLECTIONS, INC., a  
24 business entity form unknown; WHITE LINE  
25 COLLECTIONS, a business entity form  
26 unknown; TUFF COOKIES, a business  
27 entity form unknown; and DOES 1-60;

28 Defendants.

CASE NO.

**RG16838278**

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)

24 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against  
25 Defendants ROSS STORES, INC. DBA DD'S DISCOUNTS; OCEANLINK  
26 INTERNATIONAL, INC.; OCEANLINK INT'L, INC.; WHITE LINE COLLECTIONS, INC.;  
27 WHITE LINE COLLECTIONS; TUFF COOKIES; and DOES 1-20 as follows:  
28

**BY FAX**

1  
2 **THE PARTIES**

- 3 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
4 organization qualified to do business in the State of California. CAG is a person within  
5 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting  
6 as a private attorney general, brings this action in the public interest as defined under  
7 Health and Safety Code section 25249.7, subdivision (d).
- 8 2. Defendant ROSS STORES, INC. DBA DD’S DISCOUNTS (“ROSS”) is a business  
9 entity form unknown, doing business in the State of California at all relevant times  
10 herein.
- 11 3. Defendant OCEANLINK INTERNATIONAL, INC. (“OCEANLINK”) is a California  
12 Corporation, doing business in the State of California at all relevant times herein.
- 13 4. Defendant OCEANLINK INT’L, INC. (“OCEANLINK INT’L”) is a California  
14 Corporation, doing business in the State of California at all relevant times herein.
- 15 5. Defendant WHITE LINE COLLECTIONS, INC. (“WHITE LINE INC”) is a business  
16 entity form unknown, doing business in the State of California at all relevant times  
17 herein.
- 18 6. Defendant WHITE LINE COLLECTIONS (“WHITE LINE”) is a business entity form  
19 unknown, doing business in the State of California at all relevant times herein.
- 20 7. Defendant TUFF COOKIES (“TUFF”) is a business entity form unknown, doing  
21 business in the State of California at all relevant times herein.
- 22 8. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-  
23 20, and therefore sues these defendants by such fictitious names. Plaintiff will amend  
24 this complaint to allege their true names and capacities when ascertained. Plaintiff is  
25 informed, believes, and thereon alleges that each fictitiously named defendant is  
26 responsible in some manner for the occurrences herein alleged and the damages caused  
27 thereby.
- 28

- 1 9. At all times mentioned herein, the term "Defendants" includes ROSS, OCEANLINK,  
2 OCEANLINK INT'L, WHITE LINE INC, WHITE LINE, TUFF, and DOES 1-20.
- 3 10. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
4 times mentioned herein have conducted business within the State of California.
- 5 11. Upon information and belief, at all times relevant to this action, each of the Defendants,  
6 including DOES 1-20, was an agent, servant, or employee of each of the other  
7 Defendants. In conducting the activities alleged in this Complaint, each of the  
8 Defendants was acting within the course and scope of this agency, service, or  
9 employment, and was acting with the consent, permission, and authorization of each of  
10 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
11 were ratified and approved by every other Defendant or their officers or managing  
12 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated  
13 the alleged wrongful conduct of each of the other Defendants.
- 14 12. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
15 Defendants was a person doing business within the meaning of Health and Safety Code  
16 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
17 employees at all relevant times.

18 **JURISDICTION**

- 19 13. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
20 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
21 those given by statute to other trial courts. This Court has jurisdiction over this action  
22 pursuant to Health and Safety Code section 25249.7, which allows enforcement of  
23 violations of Proposition 65 in any Court of competent jurisdiction.
- 24 14. This Court has jurisdiction over Defendants named herein because Defendants either  
25 reside or are located in this State or are foreign corporations authorized to do business in  
26 California, are registered with the California Secretary of State, or who do sufficient  
27 business in California, have sufficient minimum contacts with California, or otherwise  
28 intentionally avail themselves of the markets within California through their

1 manufacture, distribution, promotion, marketing, or sale of their products within  
2 California to render the exercise of jurisdiction by the California courts permissible  
3 under traditional notions of fair play and substantial justice.

- 4 15. Venue is proper in the County of Alameda because one or more of the instances of  
5 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or  
6 because Defendants conducted, and continue to conduct, business in the County of  
7 Alameda with respect to the consumer product that is the subject of this action.

8 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

1 19. Proposition 65 provides that any person "violating or threatening to violate" the statute  
2 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
3 25249.7. "Threaten to violate" means "to create a condition in which there is a  
4 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
5 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
6 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

7 20. Plaintiff identified certain practices of manufacturers and distributors of products  
8 bearing Di (2-ethylhexyl) phthalate, also known as Diethyl Hexyl Phthalate and Bis (2-  
9 ethylhexyl) phthalate ("DEHP"), Diisononyl phthalate ("DINP"), and Di-*n*-Butyl  
10 Phthalate ("DBP") of exposing, knowingly and intentionally, persons in California to the  
11 Proposition 65-listed chemicals of such products without first providing clear and  
12 reasonable warnings of such to the exposed persons prior to the time of exposure.  
13 Plaintiff later discerned that Defendants engaged in such practice.

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

21 22. On December 2, 2005, the Governor of California added DBP to the list of chemicals  
22 known to the state to cause developmental, female, and male reproductive toxicity.  
23 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months  
24 after addition of DBP to the list of chemicals known to the State to cause reproductive  
25 toxicity, DEP became fully subject to Proposition 65 warning requirements and  
26 discharge prohibitions.

27 23. On December 20, 2013, the Governor of California added DINP to the list of chemicals  
28 known to the State to cause cancer. Pursuant to Health and Safety Code sections 25249.9

1 and 25249.10, twenty (20) months after addition of DINP to the list of chemicals known  
2 to the State to cause cancer, DINP became fully subject to Proposition 65 warning  
3 requirements and discharge prohibitions.

4 **SATISFACTION OF PRIOR NOTICE**

5 24. On or about December 3, 2015, Plaintiff gave notice of alleged violations of Health and  
6 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
7 private action to ROSS and to the California Attorney General, County District  
8 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
9 people in whose jurisdictions the violations allegedly occurred, concerning the product  
10 Cutlery Trays containing DEHP.

11 25. On or about April 20, 2016, Plaintiff gave notice of alleged violations of Health and  
12 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
13 private action to ROSS and to the California Attorney General, County District  
14 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
15 people in whose jurisdictions the violations allegedly occurred, concerning the product  
16 Children's Footwear containing DEHP and DINP.

17 26. On or about May 13, 2016, Plaintiff gave notice of alleged violations of Health and  
18 Safety Code section 25249.6, concerning consumer products exposures, subject to a  
19 private action to ROSS, OCEANLINK, OCEANLINK INT'L, and to the California  
20 Attorney General, County District Attorneys, and City Attorneys for each city  
21 containing a population of at least 750,000 people in whose jurisdictions the violations  
22 allegedly occurred, concerning the product Children's Footwear containing DEHP and  
23 DINP.

24 27. On or about July 7, 2016, Plaintiff gave notice of alleged violations of Health and Safety  
25 Code section 25249.6, concerning consumer products exposures, subject to a private  
26 action to ROSS, WHITE LINE INC, TUFF, and to the California Attorney General,  
27 County District Attorneys, and City Attorneys for each city containing a population of at  
28

1           least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning  
2           the product Infant White Polymer Sandals containing DBP.

3           28. On or about August 9, 2016, Plaintiff gave notice of alleged violations of Health and  
4           Safety Code section 25249.6, concerning consumer products exposures, subject to a  
5           private action to ROSS and to the California Attorney General, County District  
6           Attorneys, and City Attorneys for each city containing a population of at least 750,000  
7           people in whose jurisdictions the violations allegedly occurred, concerning the product  
8           Infant/Toddler Shoes with Polymer Components containing DEHP.

9           29. On or about August 19, 2016, Plaintiff gave notice of alleged violations of Health and  
10          Safety Code section 25249.6, concerning consumer products exposures, subject to a  
11          private action to ROSS, WHITE LINE INC, WHITE LINE, and to the California  
12          Attorney General, County District Attorneys, and City Attorneys for each city  
13          containing a population of at least 750,000 people in whose jurisdictions the violations  
14          allegedly occurred, concerning the product Flip Flops with Polymer Components  
15          containing DBP.

16          30. On or about August 19, 2016, Plaintiff gave notice of alleged violations of Health and  
17          Safety Code section 25249.6, concerning consumer products exposures, subject to a  
18          private action to ROSS and to the California Attorney General, County District  
19          Attorneys, and City Attorneys for each city containing a population of at least 750,000  
20          people in whose jurisdictions the violations allegedly occurred, concerning the product  
21          Flip Flops with Polymer Components containing DBP.

22          31. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
23          products involved, the likelihood that such products would cause users to suffer  
24          significant exposures to DEHP, DBP, and DINP and the corporate structure of each of  
25          the Defendants.

26          32. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
27          attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney  
28          for Plaintiff who executed the certificate had consulted with at least one person with

1 relevant and appropriate expertise who reviewed data regarding the exposures to DEHP,  
2 DBP, and DINP, the subject Proposition 65-listed chemicals of this action. Based on that  
3 information, the attorney for Plaintiff who executed the Certificate of Merit believed  
4 there was a reasonable and meritorious case for this private action. The attorney for  
5 Plaintiff attached to the Certificate of Merit served on the Attorney General the  
6 confidential factual information sufficient to establish the basis of the Certificate of  
7 Merit.

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

11 34. Plaintiff is commencing this action more than sixty (60) days from the dates that  
12 Plaintiff gave notices of the alleged violation to ROSS, OCEANLINK, OCEANLINK  
13 INT'L, WHITE LINE INC, WHITE LINE, TUFF, and the public prosecutors referenced  
14 in Paragraphs 24-30.

15 35. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
16 any applicable district attorney or city attorney has commenced and is diligently  
17 prosecuting an action against the Defendants.

### 18 **FIRST CAUSE OF ACTION**

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

### 22 **Cutlery Trays**

23 36. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
24 reference paragraphs 1 through 35 of this complaint as though fully set forth herein.  
25 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
26 distributor, promoter, or retailer of Cutlery Trays, which includes but is not limited to,  
27 "clean concepts" "5 compartment cutlery tray" "Rust Resistant" "Made in China"



1 “D5167 C4163” “N” “FL\_2” “29” “980” “533 size” “VSH” “16 COOKING ACC”  
2 “400124358771” (“CUTLERY TRAYS”).

3 37. CUTLERY TRAYS contain DEHP.

4 38. Defendants knew or should have known that DEHP has been identified by the State of  
5 California as a chemical known to cause cancer and reproductive toxicity and therefore  
6 was subject to Proposition 65 warning requirements. Defendants were also informed of  
7 the presence of DEHP in CUTLERY TRAYS within Plaintiff's notice of alleged  
8 violations further discussed above at Paragraph 24.

9 39. Plaintiff's allegations regarding CUTLERY TRAYS concerns “[c]onsumer products  
10 exposure[s],” which “is an exposure that results from a person's acquisition, purchase,  
11 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
12 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §  
13 25602(b). CUTLERY TRAYS are consumer products, and, as mentioned herein,  
14 exposures to DEHP took place as a result of such normal and foreseeable use.

15 40. Plaintiff's allegations regarding CUTLERY TRAYS also concern Occupational  
16 Exposures, which “means an exposure to any employee in his or her employer's  
17 workplace.” *Cal. Code Regs.* tit. 27, § 25602(f). Exposures of DEHP to Defendants'  
18 employees occurred through the course of their employment in their employers'  
19 workplaces.

20 41. Plaintiff is informed, believes, and thereon alleges that between December 3, 2012 and  
21 the present, each of the Defendants knowingly and intentionally exposed their  
22 employees, California consumers and users of CUTLERY TRAYS, which Defendants  
23 manufactured, distributed, or sold as mentioned above, to DEHP, without first providing  
24 any type of clear and reasonable warning of such to the exposed persons before the time  
25 of exposure. Defendants have distributed and sold CUTLERY TRAYS in California.  
26 Defendants know and intend that California consumers will use CUTLERY TRAYS,  
27 thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

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

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

24  
25 **SECOND CAUSE OF ACTION**

26 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, OCEANLINK,  
27 OCEANLINK INT'L, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking  
28 Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

**Children's Footwear**

1 47. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
2 reference paragraphs 1 through 46 of this complaint as though fully set forth herein.  
3 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Children's footwear, which includes but is not  
5 limited to, "Purple infant shoes, decorated with a large polymer butterfly on the strap,  
6 ribbons, dots, and a polymer outsole with butterflies and flowers; white insole displaying  
7 "21/5" (encircled) and "chulis" in cursive font; size 5, "D5211 C937" "19  
8 Infant/Toddler", "COMPARABLE VALUE \$8.99" "REDUCED \$4.99" "DV19 D5211  
9 C0937" SKU# 400135830778" ("PURPLE INFANT SHOES").

10 48. PURPLE INFANT SHOES contain DEHP and DINP.

11 49. Defendants knew or should have known that DEHP and DINP has been identified by the  
12 State of California as a chemical known to cause cancer and reproductive toxicity and  
13 therefore was subject to Proposition 65 warning requirements. Defendants were also  
14 informed of the presence of DEHP and DINP in PURPLE INFANT SHOES within  
15 Plaintiff's notice of alleged violations further discussed above at Paragraphs 25 and 26.

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

23 51. Plaintiff's allegations regarding PURPLE INFANT SHOES also concern Occupational  
24 Exposures, which "means an exposure to any employee in his or her employer's  
25 workplace." *Cal. Code Regs. tit. 27, § 25602(f)*. Exposures of DEHP and DINP to  
26 Defendants' employees occurred through the course of their employment in their  
27 employers' workplaces.

1 52. Plaintiff is informed, believes, and thereon alleges that between April 20, 2013 and the  
2 present, each of the Defendants knowingly and intentionally exposed their employees,  
3 California consumers and users of PURPLE INFANT SHOES, which Defendants  
4 manufactured, distributed, or sold as mentioned above, to DEHP and DINP, without first  
5 providing any type of clear and reasonable warning of such to the exposed persons  
6 before the time of exposure. Defendants have distributed and sold PURPLE INFANT  
7 SHOES in California. Defendants know and intend that California consumers will use  
8 PURPLE INFANT SHOES, thereby exposing them to DEHP and DINP. Defendants  
9 thereby violated Proposition 65.

10 53. The principal routes of exposure are through dermal contact, ingestion, and inhalation.  
11 Persons sustain exposures by wearing or handling PURPLE INFANT SHOES without  
12 wearing gloves or any other personal protective equipment, or by touching bare skin or  
13 mucous membranes with gloves after handling PURPLE INFANT SHOES, as well as  
14 through direct and indirect hand to mouth contact, hand to mucous membrane, or  
15 breathing in particulate matter dispersed from PURPLE INFANT SHOES. And as to  
16 Defendants' employees, employees may be exposed to DEHP and DINP in the course of  
17 their employment by handling, distributing, and selling PURPLE INFANT SHOES.

18 54. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
19 Proposition 65 as to PURPLE INFANT SHOES have been ongoing and continuous to  
20 the date of the signing of this complaint, as Defendants engaged and continue to engage  
21 in conduct which violates Health and Safety Code section 25249.6, including the  
22 manufacture, distribution, promotion, and sale of PURPLE INFANT SHOES, so that a  
23 separate and distinct violation of Proposition 65 occurred each and every time a person  
24 was exposed to DEHP and DINP by PURPLE INFANT SHOES as mentioned herein.

25 55. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
26 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
27 violations alleged herein will continue to occur into the future.  
28

1 56. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to DEHP and DINP from PURPLE INFANT  
3 SHOES, pursuant to Health and Safety Code section 25249.7(b).

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

6 **THIRD CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, WHITE LINE INC,**  
8 **TUFF, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and**  
9 **Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

10 **Infant White Polymer Sandals**

11 58. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
12 reference paragraphs 1 through 57 of this complaint as though fully set forth herein.  
13 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
14 distributor, promoter, or retailer of Infant White Polymer Sandals, which includes but is  
15 not limited to, ““Spoiled Angel™” Infant’s white polymer sandals; gold upper soles,  
16 shiny white polymer toe straps with gold and white floral decoration and additional strap  
17 behind the ankle; sticker on bottom reads “Made in China”; upper surfaces of sandal  
18 read “Spoiled Angel™” in black script; additional tag attached reads “Style#  
19 JENNIFER-X”; UPC 7 89949 49450 6” (“SPOILED ANGEL SANDALS”).

20 59. SPOILED ANGEL SANDALS contain DBP.

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

26 61. Plaintiff’s allegations regarding SPOILED ANGEL SANDALS concerns “[c]onsumer  
27 products exposure[s],” which “is an exposure that results from a person’s acquisition,  
28 purchase, storage, consumption, or other reasonably foreseeable use of a consumer

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

5 62. Plaintiff is informed, believes, and thereon alleges that between July 7, 2013 and the  
6 present, each of the Defendants knowingly and intentionally exposed California  
7 consumers and users of SPOILED ANGEL SANDALS, which Defendants  
8 manufactured, distributed, or sold as mentioned above, to DBP, without first providing  
9 any type of clear and reasonable warning of such to the exposed persons before the time  
10 of exposure. Defendants have distributed and sold SPOILED ANGEL SANDALS in  
11 California. Defendants know and intend that California consumers will use SPOILED  
12 ANGEL SANDALS, thereby exposing them to DBP. Defendants thereby violated  
13 Proposition 65.

14 63. The principal routes of exposure are through dermal contact, ingestion, and inhalation.  
15 Persons sustain exposures by wearing or handling SPOILED ANGEL SANDALS  
16 without wearing gloves or any other personal protective equipment, or by touching bare  
17 skin or mucous membranes with gloves after handling SPOILED ANGEL SANDALS,  
18 as well as through direct and indirect hand to mouth contact, hand to mucous membrane,  
19 or breathing in particulate matter dispersed from SPOILED ANGEL SANDALS.

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

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

4 66. Based on the allegations herein, Defendants are liable for civil penalties of up to  
5 \$2,500.00 per day per individual exposure to DBP from SPOILED ANGEL SANDALS,  
6 pursuant to Health and Safety Code section 25249.7(b).

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

9  
10 **FOURTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 31-40 for**  
12 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**  
13 **(Health & Safety Code, §§ 25249.5, et seq.))**

14 **Infant/Toddler Shoes with Polymer Components**

15 68. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
16 reference paragraphs 1 through 67 of this complaint as though fully set forth herein.  
17 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
18 distributor, promoter, or retailer of Infant/Toddler Shoes with Polymer Components,  
19 which includes but is not limited to, "Little Berry" Pink Infant/Toddler shoe with hook-  
20 and-loop fasteners; "ASST COLOR992 546"; "D5211 C937" "19 Infant/Toddler";  
21 400134567545; "REDUCED Original \$7.99 DV19 D5211 C0937 \$5.49" ("LITTLE  
22 BERRY SHOES").

23 69. LITTLE BERRY SHOES contain DEHP.

24 70. Defendants knew or should have known that DEHP has been identified by the State of  
25 California as a chemical known to cause cancer and reproductive toxicity and therefore  
26 was subject to Proposition 65 warning requirements. Defendants were also informed of  
27 the presence of DEHP in LITTLE BERRY SHOES within Plaintiff's notice of alleged  
28 violations further discussed above at Paragraphs 28.

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

7 72. Plaintiff is informed, believes, and thereon alleges that between August 9, 2013 and the  
8 present, each of the Defendants knowingly and intentionally exposed California  
9 consumers and users of LITTLE BERRY SHOES, which Defendants manufactured,  
10 distributed, or sold as mentioned above, to DEHP, without first providing any type of  
11 clear and reasonable warning of such to the exposed persons before the time of  
12 exposure. Defendants have distributed and sold LITTLE BERRY SHOES in California.  
13 Defendants know and intend that California consumers will use LITTLE BERRY  
14 SHOES, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

15 73. The principal routes of exposure are through dermal contact, ingestion, and inhalation.  
16 Persons sustain exposures by wearing or handling LITTLE BERRY SHOES without  
17 wearing gloves or any other personal protective equipment, or by touching bare skin or  
18 mucous membranes with gloves after handling LITTLE BERRY SHOES, as well as  
19 through direct and indirect hand to mouth contact, hand to mucous membrane, or  
20 breathing in particulate matter dispersed from LITTLE BERRY SHOES.

21 74. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
22 Proposition 65 as to LITTLE BERRY SHOES have been ongoing and continuous to the  
23 date of the signing of this complaint, as Defendants engaged and continue to engage in  
24 conduct which violates Health and Safety Code section 25249.6, including the  
25 manufacture, distribution, promotion, and sale of LITTLE BERRY SHOES, so that a  
26 separate and distinct violation of Proposition 65 occurred each and every time a person  
27 was exposed to DEHP by LITTLE BERRY SHOES as mentioned herein.  
28



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

4 76. Based on the allegations herein, Defendants are liable for civil penalties of up to  
5 \$2,500.00 per day per individual exposure to DEHP from LITTLE BERRY SHOES,  
6 pursuant to Health and Safety Code section 25249.7(b).

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

9  
10 **FIFTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, WHITE LINE INC,  
12 WHITE LINE, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water  
13 and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

14 **Flip Flops with Polymer Components**

15 78. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
16 reference paragraphs 1 through 77 of this complaint as though fully set forth herein.  
17 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
18 distributor, promoter, or retailer of Flip Flops with Polymer Components, which  
19 includes but is not limited to, ““Love University”; pink flip flops with flexible polymer  
20 straps; 1452; 8 USA 38 EUR 36 BRA; Style#: Selma; “Distributed by White Line  
21 Footwear”; www.whitelinefootwear.com; UPC:789949221430; “dd’s Discounts”; 611  
22 D5201 C921; 400140364497” (“UNIVERSITY FLIP FLOPS”).

23 79. UNIVERSITY FLIP FLOPS contain DBP.

24 80. Defendants knew or should have known that DBP has been identified by the State of  
25 California as a chemical known to cause cancer and reproductive toxicity and therefore  
26 was subject to Proposition 65 warning requirements. Defendants were also informed of  
27 the presence of DBP in UNIVERSITY FLIP FLOPS within Plaintiff's notice of alleged  
28 violations further discussed above at Paragraphs 29.

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

8 82. Plaintiff is informed, believes, and thereon alleges that between August 19, 2013 and the  
9 present, each of the Defendants knowingly and intentionally exposed California  
10 consumers and users of UNIVERSITY FLIP FLOPS, which Defendants manufactured,  
11 distributed, or sold as mentioned above, to DBP, without first providing any type of  
12 clear and reasonable warning of such to the exposed persons before the time of  
13 exposure. Defendants have distributed and sold UNIVERSITY FLIP FLOPS in  
14 California. Defendants know and intend that California consumers will use  
15 UNIVERSITY FLIP FLOPS, thereby exposing them to DBP. Defendants thereby  
16 violated Proposition 65.

17 83. The principal routes of exposure are through dermal contact, ingestion, and inhalation.  
18 Persons sustain exposures by wearing or handling UNIVERSITY FLIP FLOPS without  
19 wearing gloves or any other personal protective equipment, or by touching bare skin or  
20 mucous membranes with gloves after handling UNIVERSITY FLIP FLOPS, as well as  
21 through direct and indirect hand to mouth contact, hand to mucous membrane, or  
22 breathing in particulate matter dispersed from UNIVERSITY FLIP FLOPS.

23 84. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
24 Proposition 65 as to UNIVERSITY FLIP FLOPS have been ongoing and continuous to  
25 the date of the signing of this complaint, as Defendants engaged and continue to engage  
26 in conduct which violates Health and Safety Code section 25249.6, including the  
27 manufacture, distribution, promotion, and sale of UNIVERSITY FLIP FLOPS, so that a  
28

1 separate and distinct violation of Proposition 65 occurred each and every time a person  
2 was exposed to DBP by UNIVERSITY FLIP FLOPS as mentioned herein.

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

6 86. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to DBP from UNIVERSITY FLIP FLOPS,  
8 pursuant to Health and Safety Code section 25249.7(b).

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

11 **SIXTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 51-60 for**  
13 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**  
14 **(Health & Safety Code, §§ 25249.5, et seq.))**

15 **Flip Flops with Polymer Components**

16 88. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
17 reference paragraphs 1 through 87 of this complaint as though fully set forth herein.  
18 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Flip Flops with Polymer Components, which  
20 includes but is not limited to, (1) Pink "Cammie" flip flops; phrase "I love the beach"  
21 and various nautical themed images decorating the sole; flexible polymer pink strap  
22 covered with glitter; UPC: 834577011813; KSY050; "dd's DISCOUNTS"; 601 D5210  
23 C925; 400139894691 and (2) White "Cammie" flip flops; phrase "I love the beach" and  
24 various nautical themed images decorating the sole; flexible gray polymer strap covered  
25 with silver glitter; "dd's DISCOUNTS"; 601 D5210 C925; 400139894691 ("CAMMIE  
26 FLIP FLOPS").

27 89. CAMMIE FLIP FLOPS contain DBP.  
28

1 90. Defendants knew or should have known that DBP has been identified by the State of  
2 California as a chemical known to cause cancer and reproductive toxicity and therefore  
3 was subject to Proposition 65 warning requirements. Defendants were also informed of  
4 the presence of DBP in CAMMIE FLIP FLOPS within Plaintiff's notice of alleged  
5 violations further discussed above at Paragraphs 30.

6 91. Plaintiff's allegations regarding CAMMIE FLIP FLOPS concerns "[c]onsumer products  
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
9 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
10 *25602(b)*. CAMMIE FLIP FLOPS are consumer products, and, as mentioned herein,  
11 exposures to DBP took place as a result of such normal and foreseeable use.

12 92. Plaintiff is informed, believes, and thereon alleges that between August 19, 2013 and the  
13 present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of CAMMIE FLIP FLOPS, which Defendants manufactured,  
15 distributed, or sold as mentioned above, to DBP, without first providing any type of  
16 clear and reasonable warning of such to the exposed persons before the time of  
17 exposure. Defendants have distributed and sold CAMMIE FLIP FLOPS in California.  
18 Defendants know and intend that California consumers will use CAMMIE FLIP FLOPS,  
19 thereby exposing them to DBP. Defendants thereby violated Proposition 65.

20 93. The principal routes of exposure are through dermal contact, ingestion, and inhalation.  
21 Persons sustain exposures by wearing or handling CAMMIE FLIP FLOPS without  
22 wearing gloves or any other personal protective equipment, or by touching bare skin or  
23 mucous membranes with gloves after handling CAMMIE FLIP FLOPS, as well as  
24 through direct and indirect hand to mouth contact, hand to mucous membrane, or  
25 breathing in particulate matter dispersed from CAMMIE FLIP FLOPS.

26 94. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
27 Proposition 65 as to CAMMIE FLIP FLOPS have been ongoing and continuous to the  
28 date of the signing of this complaint, as Defendants engaged and continue to engage in

1 conduct which violates Health and Safety Code section 25249.6, including the  
2 manufacture, distribution, promotion, and sale of CAMMIE FLIP FLOPS, so that a  
3 separate and distinct violation of Proposition 65 occurred each and every time a person  
4 was exposed to DBP by CAMMIE FLIP FLOPS as mentioned herein.

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

8 96. Based on the allegations herein, Defendants are liable for civil penalties of up to  
9 \$2,500.00 per day per individual exposure to DBP from CAMMIE FLIP FLOPS,  
10 pursuant to Health and Safety Code section 25249.7(b).

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

13 **PRAYER FOR RELIEF**

14 Plaintiff demands against each of the Defendants as follows:

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

21  
22 Dated: November 8, 2016

YEROUSHALMI & YEROUSHALMI

23  
24   
25 BY: \_\_\_\_\_

26 Reuben Yeroushalmi  
27 Attorneys for Plaintiff,  
28 Consumer Advocacy Group, Inc.