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10 Attorneys for Plaintiff,
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 I APPAREL GROUP LLC, a New York
19 Domestic Limited Liability Company; ROSS
20 STORES, INC. DBA ROSS DRESS FOR
21 LESS and DBA DD'S DISCOUNTS, a
22 Delaware Corporation; WHITE LINE
23 COLLECTIONS, INC., a New York
24 Domestic Business Corporation; TUFF
25 COOKIES, a business entity form unknown;
26 OCEANLINK INT'L, INC., a California
27 Corporation; OCEANLINK
28 INTERNATIONAL, INC., a California
Corporation; and DOES 1-50;

Defendants.

CASE NO. *B* 7852093

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)

BY FAX

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action against
Defendants I APPAREL GROUP LLC; ROSS STORES, INC. DBA ROSS DRESS FOR LESS
and DD'S DISCOUNTS; WHITE LINE COLLECTIONS, INC.; TUFF COOKIES;

ENDORSED
FILED
ALAMEDA COUNTY
MAR - 7 2017
CLERK OF THE SUPERIOR COURT
By Lanette Buffin, Deputy

OCEANLINK INT'L, INC.; OCEANLINK INTERNATIONAL, INC.; and DOES 1-50 as follows:

THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).
2. Defendant I APPAREL GROUP LLC ("APPAREL GROUP") is a New York Domestic Limited Liability Company, doing business in the State of California at all relevant times herein.
3. Defendant ROSS STORES, INC. DBA ROSS DRESS FOR LESS and DBA DD'S DISCOUNTS ("ROSS") is a Delaware Corporation, doing business in the State of California at all relevant times herein.
4. Defendant WHITE LINE COLLECTIONS, INC. ("WHITE LINE") is a New York Domestic Business Corporation, doing business in the State of California at all relevant times herein.
5. Defendant TUFF COOKIES ("TUFF") is a business entity form unknown, doing business in the State of California at all relevant times herein.
6. Defendant OCEANLINK INT'L, INC. ("OCEANLINK INT'L") is a business entity form unknown, doing business in the State of California at all relevant times herein.
7. Defendant OCEANLINK INTERNATIONAL, INC. ("OCEANLINK") is a business entity form unknown, doing business in the State of California at all relevant times herein.
8. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is

1 responsible in some manner for the occurrences herein alleged and the damages caused
2 thereby.

3 9. At all times mentioned herein, the term "Defendants" includes APPAREL GROUP,
4 ROSS, WHITE LINE, TUFF, OCEANLINK INT'L, OCEANLINK, and DOES 1-50.

5 10. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
6 times mentioned herein have conducted business within the State of California.

7 11. Upon information and belief, at all times relevant to this action, each of the Defendants,
8 including DOES 1-50, was an agent, servant, or employee of each of the other
9 Defendants. In conducting the activities alleged in this Complaint, each of the
10 Defendants was acting within the course and scope of this agency, service, or
11 employment, and was acting with the consent, permission, and authorization of each of
12 the other Defendants. All actions of each of the Defendants alleged in this Complaint
13 were ratified and approved by every other Defendant or their officers or managing
14 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated
15 the alleged wrongful conduct of each of the other Defendants.

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

20 JURISDICTION

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

26 14. This Court has jurisdiction over Defendants named herein because Defendants either
27 reside or are located in this State or are foreign corporations authorized to do business in
28 California, are registered with the California Secretary of State, or who do sufficient

1 business in California, have sufficient minimum contacts with California, or otherwise
2 intentionally avail themselves of the markets within California through their
3 manufacture, distribution, promotion, marketing, or sale of their products within
4 California to render the exercise of jurisdiction by the California courts permissible
5 under traditional notions of fair play and substantial justice.

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

10 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

reasonable” warnings before exposing a person, knowingly and intentionally, to a Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

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

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

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

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

1 23. On December 20, 2013, the Governor of California added DINP to the list of chemicals
2 known to the State to cause cancer. Pursuant to Health and Safety Code sections
3 25249.9 and 25249.10, twenty (20) months after addition of DINP to the list of
4 chemicals known to the State to cause cancer, DINP became fully subject to Proposition
5 65 warning requirements and discharge prohibitions.

6 **SATISFACTION OF PRIOR NOTICE**

7 24. On or about September 16, 2016, Plaintiff served notice of alleged violations of Health
8 and Safety Code section 25249.6, concerning consumer products exposures, subject to a
9 private action to APPAREL GROUP, ROSS, and to the California Attorney General,
10 County District Attorneys, and City Attorneys for each city containing a population of at
11 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
12 the product Children's Flip Flops with Plastic Straps containing DBP.

13 25. On or about September 16, 2016, Plaintiff served notice of alleged violations of Health
14 and Safety Code section 25249.6, concerning consumer products exposures, subject to a
15 private action to ROSS, WHITE LINE, TUFF, and to the California Attorney General,
16 County District Attorneys, and City Attorneys for each city containing a population of at
17 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
18 the product Pink Infant Sandals with Polymer Straps containing DBP.

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

25 27. On or about November 17, 2016, Plaintiff served notice of alleged violations of Health
26 and Safety Code section 25249.6, concerning consumer products exposures, subject to a
27 private action to ROSS and to the California Attorney General, County District
28 Attorneys, and City Attorneys for each city containing a population of at least 750,000

1 people in whose jurisdictions the violations allegedly occurred, concerning the product
2 Soft Plastic Children's Sandals containing DEHP.

3 28. On or about December 13, 2016, Plaintiff served notice of alleged violations of Health
4 and Safety Code section 25249.6, concerning consumer products exposures, subject to a
5 private action to ROSS, OCEANLINK INT'L, OCEANLINK, and to the California
6 Attorney General, County District Attorneys, and City Attorneys for each city containing
7 a population of at least 750,000 people in whose jurisdictions the violations allegedly
8 occurred, concerning the product Infant's Shoes containing DEHP.

9 29. Before sending the notice of alleged violations, Plaintiff investigated the consumer
10 products involved, the likelihood that such products would cause users to suffer
11 significant exposures to DBP, DEHP, and DINP, and the corporate structure of each of
12 the Defendants.

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

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

26 32. Plaintiff is commencing this action more than sixty (60) days from the dates that
27 Plaintiff gave notices of the alleged violation to APPAREL GROUP, ROSS, WHITE
28

1 LINE, TUFF, OCEANLINK INT'L, OCEANLINK, and the public prosecutors
2 referenced in Paragraphs 24-28.

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

6
7 **FIRST CAUSE OF ACTION**

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

11 **Children's Flip Flops with Plastic Straps**

12 34. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
13 reference paragraphs 1 through 33 of this complaint as though fully set forth herein.
14 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Children's Flip Flops with Plastic Straps, which
16 includes but is not limited to, (1) Navy blue flip flops with popsicle decorations on
17 insoles and pink plastic straps. "All Man Made Materials"; "Made in China";
18 "RN#125663"; "CA#820483887IRM0001"; "(164mm)"; "400136813916" and (2) Light
19 grey flip flops with snakeskin pattern on insoles and red plastic straps.; "All Man Made
20 Materials"; "Made in China"; "RN#125663"; "CA#820483887IRM0001"; "(152mm)";
21 "400090574434" ("NAVY AND GREY FLIP FLOPS").

22 35. NAVY AND GREY FLIP FLOPS contain DBP.

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

28 37. Plaintiff's allegations regarding NAVY AND GREY FLIP FLOPS concerns
"[c]onsumer products exposure[s]," which "is an exposure that results from a person's

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

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

15 39. The principal routes of exposure were through trans-dermal absorption, ingestion,
16 including hand to mouth pathways, and inhalation. Persons sustained exposures by
17 wearing NAVY AND GREY FLIP FLOPS, handling NAVY AND GREY FLIP FLOPS
18 without wearing gloves or by touching bare skin or mucus membranes with gloves after
19 handling NAVY AND GREY FLIP FLOPS, or through direct and indirect hand to
20 mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to
21 mucous membrane, or breathing in particulate matter emanating from NAVY AND
22 GREY FLIP FLOPS, as well as through environmental mediums that carry the DBP
23 once contained within the NAVY AND GREY FLIP FLOPS.

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

1 FLIP FLOPS, so that a separate and distinct violation of Proposition 65 occurred each
2 and every time a person was exposed to DBP by NAVY AND GREY FLIP FLOPS as
3 mentioned herein.

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

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

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

12 **SECOND CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, WHITE LINE, TUFF,**
14 **and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

16 **Pink Infant Sandals with Polymer Straps**

17 44. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
18 reference paragraphs 1 through 43 of this complaint as though fully set forth herein.
19 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Pink Infant Sandals with Polymer Straps, which
21 includes but is not limited to, "Spoiled Angel™" Infant's pink polymer sandals; gold
22 insole, pink straps with gold and pink floral decoration; "Made in China"; "Spoiled
23 Angel™" in black script; "INFANT"; tag attached reads "Style# QUEENIE"; UPC:
24 789949494568" ("PINK SANDALS").

25 45. PINK SANDALS contain DBP.

26 46. Defendants knew or should have known that DBP has been identified by the State of
27 California as a chemical known to cause reproductive toxicity and therefore was subject
28 to Proposition 65 warning requirements. Defendants were also informed of the presence

1 of DBP in PINK SANDALS within Plaintiff's notice of alleged violations further
2 discussed above at Paragraph 25.

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

9 48. Plaintiff is informed, believes, and thereon alleges that between September 16, 2013 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of PINK SANDALS, which Defendants manufactured, distributed,
12 or sold as mentioned above, to DBP, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.

14 Defendants have distributed and sold PINK SANDALS in California. Defendants know
15 and intend that California consumers will use PINK SANDALS, thereby exposing them
16 to DBP. Defendants thereby violated Proposition 65.

17 49. The principal routes of exposure were through trans-dermal absorption, ingestion,
18 including hand to mouth pathways, and inhalation. Persons sustained exposures by
19 wearing PINK SANDALS, handling PINK SANDALS without wearing gloves or by
20 touching bare skin or mucus membranes with gloves after handling PINK SANDALS,
21 or through direct and indirect hand to mouth contact, hand to food to mouth, direct
22 contact to food then to mouth, hand to mucous membrane, or breathing in particulate
23 matter emanating from PINK SANDALS, as well as through environmental mediums
24 that carry the DBP once contained within the PINK SANDALS.

25 50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
26 Proposition 65 as to PINK SANDALS have been ongoing and continuous to the date of
27 the signing of this complaint, as Defendants engaged and continue to engage in conduct
28 which violates Health and Safety Code section 25249.6, including the manufacture,

1 distribution, promotion, and sale of PINK SANDALS, so that a separate and distinct
2 violation of Proposition 65 occurred each and every time a person was exposed to DBP
3 by PINK SANDALS as mentioned herein.

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

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

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

12 **THIRD CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, OCEANLINK INT'L,**
14 **OCEANLINK, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water**
15 **and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

16 **Infant's Shoes**

17 54. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
18 reference paragraphs 1 through 53 of this complaint as though fully set forth herein.
19 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Infant's footwear with polymer parts, which includes
21 but is not limited to, "Pink infant shoes, decorated with a large polymer butterfly on the
22 strap, and a polymer outsole decorated with flowers and happy faces; white insole
23 displaying "18/2" (encircled) and "chulis" in cursive font; size 2, "AST999" "19
24 Infant/Toddler", "COMPARABLE VALUE \$8.99" "REDUCED \$6.99" "D5211 C937"
25 SKU# 400142867606" ("PINK INFANT SHOES").

26 55. PINK INFANT SHOES contain DEHP and DINP.

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

1 therefore was subject to Proposition 65 warning requirements. Defendants were also
2 informed of the presence of DEHP and DINP in PINK INFANT SHOES within
3 Plaintiff's notice of alleged violations further discussed above at Paragraph 26.

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

10 58. Plaintiff is informed, believes, and thereon alleges that between October 21, 2013 and
11 the present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of PINK INFANT SHOES, which Defendants manufactured,
13 distributed, or sold as mentioned above, to DEHP and DINP, without first providing any
14 type of clear and reasonable warning of such to the exposed persons before the time of
15 exposure. Defendants have distributed and sold PINK INFANT SHOES in California.
16 Defendants know and intend that California consumers will use PINK INFANT SHOES,
17 thereby exposing them to DEHP and DINP. Defendants thereby violated Proposition
18 65.

19 59. The principal routes of exposure were through trans-dermal absorption, ingestion,
20 including hand to mouth pathways, and inhalation. Persons sustained exposures by
21 wearing PINK INFANT SHOES, handling PINK INFANT SHOES without wearing
22 gloves or by touching bare skin or mucus membranes with gloves after handling PINK
23 INFANT SHOES, or through direct and indirect hand to mouth contact, hand to food to
24 mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in
25 particulate matter emanating from PINK INFANT SHOES, as well as through
26 environmental mediums that carry the DEHP and DINP once contained within the PINK
27 INFANT SHOES.
28

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

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

11 62. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DEHP and DINP from PINK INFANT
13 SHOES, pursuant to Health and Safety Code section 25249.7(b).

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

16 **FOURTH CAUSE OF ACTION**

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

20 **Soft Plastic Children's Sandals**

21 64. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 63 of this complaint as though fully set forth herein.
23 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Soft Plastic Children's Sandals, which includes but is
25 not limited to, "Pink and turquoise infant sandals with pink, yellow, and purple flower
26 decorations. Sandals are composed of two pieces of soft plastic pressed together – pink
27 layer on top and turquoise layer beneath the pink layer – and with a turquoise strap
28 behind the heel decorated with arrows; dd's DISCOUNTS; 0032; AST999; 614 SIZE 1;

D5211 C935; 19 Infant/Toddler; 400144081543; "COMPARABLE VALUE \$4.99";
"YOU PAY \$3.99" ("TURQUOISE INFANT SANDALS").

65. TURQUOISE INFANT SANDALS contain DEHP.

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

67. Plaintiff's allegations regarding TURQUOISE INFANT SANDALS concerns

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

68. Plaintiff is informed, believes, and thereon alleges that between November 17, 2013 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of TURQUOISE INFANT SANDALS, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold TURQUOISE INFANT SANDALS in California. Defendants know and intend that California consumers will use TURQUOISE INFANT SANDALS, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

69. The principal routes of exposure were through trans-dermal absorption, ingestion, including hand to mouth pathways, and inhalation. Persons sustained exposures by wearing TURQUOISE INFANT SANDALS, handling TURQUOISE INFANT SANDALS without wearing gloves or by touching bare skin or mucus membranes with

1 gloves after handling TURQUOISE INFANT SANDALS, or through direct and indirect
2 hand to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand
3 to mucous membrane, or breathing in particulate matter emanating from TURQUOISE
4 INFANT SANDALS, as well as through environmental mediums that carry the DEHP
5 once contained within the TURQUOISE INFANT SANDALS.

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

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

17 72. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to DEHP from TURQUOISE INFANT
19 SANDALS, pursuant to Health and Safety Code section 25249.7(b).

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

22 **FIFTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, OCEANLINK INT'L,**
24 **OCEANLINK, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water**
25 **and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

26 **Infant's Shoes**

27 74. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
28 reference paragraphs 1 through 73 of this complaint as though fully set forth herein.

Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Infant's footwear with polymer parts, which includes but is not limited to, "Purple infant shoes, decorated with a large polymer flower on the strap; polymer outsole decorated with flowers and happy faces; white insole displaying "23/1" (encircled) and "chulis" in cursive font; "AST999"; "Infant/Toddler"; "D5211 C937" SKU# 400139121070" ("PURPLE INFANT SHOES").

75. PURPLE INFANT SHOES contain DEHP.

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

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

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

1 79. The principal routes of exposure were through trans-dermal absorption, ingestion,
2 including hand to mouth pathways, and inhalation. Persons sustained exposures by
3 wearing PURPLE INFANT SHOES, handling PURPLE INFANT SHOES without
4 wearing gloves or by touching bare skin or mucus membranes with gloves after handling
5 PURPLE INFANT SHOES, or through direct and indirect hand to mouth contact, hand
6 to food to mouth, direct contact to food then to mouth, hand to mucous membrane, or
7 breathing in particulate matter emanating from PURPLE INFANT SHOES, as well as
8 through environmental mediums that carry the DEHP once contained within the
9 PURPLE INFANT SHOES.

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

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

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

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

25 **PRAYER FOR RELIEF**

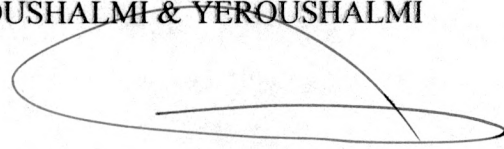
26 Plaintiff demands against each of the Defendants as follows:

- 27 1. A permanent injunction mandating Proposition 65-compliant warnings;
28 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);

3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: March 7, 2017

YEROUSHALMI & YEROUSHALMI

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