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11 Consumer Advocacy Group, Inc.

ENDORSED
FILED
ALAMEDA COUNTY
FEB - 8 2013

CLERK OF THE SUPERIOR COURT,
By Loretta Duffin, Deputy

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., a Delaware
19 Corporation; ROSS DRESS FOR LESS,
20 INC., a Virginia Corporation; ROSS
21 STORES, INC. DBA DD'S DISCOUNTS, a
22 business entity form unknown; and DOES 1-
23 30;

24 Defendants.

CASE NO.

Handwritten: 18892440

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

25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against
26 Defendants ROSS STORES, INC., ROSS DRESS FOR LESS, INC., ROSS STORES, INC.
27 DBA DD'S DISCOUNTS, and DOES 1-20 as follows:

28 **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 ROSS STORES, INC. ("ROSS"), is a Delaware Corporation doing business in the State of California at all relevant times herein.
3. Defendant ROSS DRESS FOR LESS, INC. ("ROSS DFL") is a Virginia Corporation doing business in the State of California at all relevant times herein.
4. Defendant ROSS STORES, INC. DBA DD'S DISCOUNTS ("ROSS DDS") is a business entity form unknown doing business in the State of California at all relevant times herein.
5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20, 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 responsible in some manner for the occurrences herein alleged and the damages caused thereby.
6. At all times mentioned herein, the term "Defendants" includes ROSS, ROSS DFL, ROSS DDS, and DOES 1-20.
7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
8. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-20, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

5 **JURISDICTION**

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

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

19 12. Venue is proper in the County of Alameda because one or more of the instances of
20 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or
21 because Defendants conducted, and continue to conduct, business in the County of
22 Alameda with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 13. In 1986, California voters approved an initiative to address growing concerns about
25 exposure to toxic chemicals and declared their right "[t]o be informed about exposures to
26 chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Pamp.,
27 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
28 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections

25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.

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

15. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of 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).

16. 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).

17. On December 2, 2005, the Governor of California added Dibutyl Phthalate ("DBP") to the list of chemicals known to the State to cause developmental, female, 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 18. On February 27, 1987, the Governor of California added lead to the list of chemicals
2 known to the State to cause reproductive toxicity (Cal. Code Regs. tit. 27, § 27001(c)).
3 lead is known to the State to cause developmental, female, and male reproductive
4 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)
5 months after addition of lead to the list of chemicals known to the State to cause
6 reproductive toxicity, lead became fully subject to Proposition 65 warning requirements
7 and discharge prohibitions.

8 19. On October 1, 1992, the Governor of California added lead and lead compounds
9 (“LEAD”) to the list of chemicals known to the State to cause cancer (Cal. Code Regs.
10 tit. 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
11 twenty (20) months after addition of lead and lead compounds to the list of chemicals
12 known to the State to cause cancer, lead and lead compounds became fully subject to
13 Proposition 65 warning requirements and discharge prohibitions.

14 20. On January 1, 1988, the Governor of California added Di (2-ethylhexyl) phthalate
15 (“DEHP”) to the list of chemicals known to the State to cause cancer, and on October 24,
16 2003, the Governor added DEHP to the list of chemicals known to the State to cause
17 developmental male reproductive toxicity. Pursuant to Health and Safety Code sections
18 25249.9 and 25249.10, twenty (20) months after addition of DEHP to the list of
19 chemicals known to the State to cause reproductive toxicity, DEHP became fully subject
20 to Proposition 65 warning requirements and discharge prohibitions.

21 21. Plaintiff identified certain practices of manufacturers and distributors of products bearing
22 DBP, Lead, and DEHP of exposing, knowingly and intentionally, persons in California to
23 the Proposition 65-listed chemicals of such products without first providing clear and
24 reasonable warnings of such to the exposed persons prior to the time of exposure.
25 Plaintiff later discerned that Defendants engaged in such practice.

26 **SATISFACTION OF PRIOR NOTICE**

27 22. On or about November 17, 2016 Plaintiff gave notice of alleged violations of Health and
28 Safety Code section 25249.6, concerning consumer products exposures subject to a

1 private action to ROSS, ROSS DDS, and to the California Attorney General, County
2 District Attorneys, and City Attorneys for each city containing a population of at least
3 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
4 product Fashion Accessories, containing DEHP.

5 23. On or about March 7, 2017, 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, ROSS DDS, and to the California Attorney General, County
8 District Attorneys, and City Attorneys for each city containing a population of at least
9 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
10 product Fashion Accessories, containing DEHP.

11 24. On or about April 26, 2017 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, ROSS DFL, and to the California Attorney General, County
14 District Attorneys, and City Attorneys for each city containing a population of at least
15 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
16 product String Lights, containing LEAD.

17 25. On or about May 8, 2017 Plaintiff gave notice of alleged violations of Health and Safety
18 Code section 25249.6, concerning consumer products exposures subject to a private
19 action to ROSS, ROSS DFL, and to the California Attorney General, County District
20 Attorneys, and City Attorneys for each city containing a population of at least 750,000
21 people in whose jurisdictions the violations allegedly occurred, concerning the product
22 String Lights, containing LEAD.

23 26. On or about November 6, 2017 Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures subject to a
25 private action to ROSS, ROSS DDS, and to the California Attorney General, County
26 District Attorneys, and City Attorneys for each city containing a population of at least
27 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
28 product Fashion Accessories, containing DEHP.

1 27. On or about November 13, 2017 Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures subject to a
3 private action to ROSS, ROSS DDS, and to the California Attorney General, County
4 District Attorneys, and City Attorneys for each city containing a population of at least
5 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
6 product Fashion Accessories, containing DEHP.

7 28. On or about November 13, 2017 Plaintiff gave notice of alleged violations of Health and
8 Safety Code section 25249.6, concerning consumer products exposures subject to a
9 private action to ROSS, ROSS DDS, and to the California Attorney General, County
10 District Attorneys, and City Attorneys for each city containing a population of at least
11 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
12 product Footwear, containing DBP and DEHP.

13 29. Before sending the notice of alleged violations, Plaintiff investigated the consumer
14 products involved, the likelihood that such products would cause users to suffer
15 significant exposures to DBP, LEAD, and DEHP and the corporate structure of each of
16 the Defendants.

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

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

32. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff gave notices of the alleged violation to ROSS, ROSS DFL, ROSS DDS, and the public prosecutors referenced in Paragraph 22 to 28.

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

FIRST CAUSE OF ACTION

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

Plastic Clutch Purses

34. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 33 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 Plastic Clutch Purses, which includes but is not limited to (1) Black clutch purse with gold colored accents; textured plastic surface; Importaciones y Abastecimientos del Pacifico, S.A. de C.V. Calza. José Limón 2031 Nte. Humaya Infonavit Culiacán, Sinaloa MEXICO 80020; MADE IN CHINA; MODELO: WP-2201;dd's DISCOUNTS; 400136141699; \$8.99; DV14; D5502; C5506; (2) "dd'sSM DISCOUNTS", Double Zippered Rectangular Shape Dark Brown Plastic Purse, "0030", "400150451712", "D5301 C1990", "14 Sm Lthr Goods", "COMPARABLE VALUES \$7.99", "YOU PAY \$3.99", "BLACK 001 642 K SIZE", "MADE IN CHINA"; (3) "dd'sSM DISCOUNTS", Double Zippered Rectangular Shape Black Plastic Purse with Pink to Purple Flower Burst Decorations, "703 SIZE", "400151127302", "D5301 C1990 14 Sm Lthr Goods", "BLCPINK311", "COMPARABLE VALUE \$7.99", "YOU PAY \$3.99", "MADE IN CHINA" ("PLASTIC CLUTCH PURSES").

1 35. PLASTIC CLUTCH PURSES contains DEHP.

2 36. Defendants knew or should have known that DEHP has been identified by the State of
3 California as a chemical known to cause cancer and reproductive toxicity and therefore
4 was subject to Proposition 65 warning requirements. Defendants were also informed of
5 the presence of DEHP in PLASTIC CLUTCH PURSES within Plaintiff's notice of
6 alleged violations further discussed above at Paragraphs 22, 23, 26, and 27.

7 37. Plaintiff's allegations regarding PLASTIC CLUTCH PURSES concern "[c]onsumer
8 products exposure[s]," which "is an exposure that results from a person's acquisition,
9 purchase, storage, consumption, or other reasonably foreseeable use of a consumer good,
10 or any exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27,
11 § 25602(b). PLASTIC CLUTCH PURSES is a consumer product, and, as mentioned
12 herein, exposures to DEHP took place as a result of such normal and foreseeable
13 consumption and use.

14 38. Plaintiff is informed, believes, and thereon alleges that between November 17, 2013, and
15 the present, each of the Defendants knowingly and intentionally exposed their employees,
16 California consumers of PLASTIC CLUTCH PURSES, which Defendants manufactured,
17 distributed, or sold as mentioned above, to DEHP without first providing any type of
18 clear and reasonable warning of such to the exposed persons before the time of exposure.
19 Defendants have distributed and sold PLASTIC CLUTCH PURSES in California.
20 Defendants know and intend that California consumers will use and consume PLASTIC
21 CLUTCH PURSES, thereby exposing them to DEHP. Defendants thereby violated
22 Proposition 65.

23 39. The principal routes of exposure are through dermal contact and ingestion, including
24 hand to mouth pathways. Persons sustain exposures by handling the PLASTIC CLUTCH
25 PURSES without wearing gloves or by touching bare skin or mucous membranes with or
26 without gloves after handling PLASTIC CLUTCH PURSES, as well as direct and
27 indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or
28 even breathing in particulate matter emanating from the PLASTIC CLUTCH PURSES

1 during wear and general use, as well as through environmental mediums that carry the
2 DEHP once contained within the PLASTIC CLUTCH PURSES.

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

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

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

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

18 **SECOND CAUSE OF ACTION**

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

22 **Solar Powered LED String Lights**

23 44. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
24 reference paragraphs 1 through 43 of this complaint as though fully set forth herein. Each
25 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
26 promoter, or retailer of Solar Powered LED String Lights, which includes but is not
27 limited to "100 Solar Powered LED String Lights"; "Oasis living"; "Ultra Bright L.E.D
28 Light Emitting Diode"; "Dual Function Static Flashing"; "Complete with remote solar

1 panel; auto-on at dusk; 1 AA rechargeable battery included; Lead wire 65”; last up to 8
2 hrs”; “No Wiring Required Install Anywhere”; Ross; D1075 C6659; Comparable Value
3 \$20.00; Ross Price \$9.99; 925; 400146078381; No UPC Code (“STRING LIGHTS”).

4 45. STRING LIGHTS contains LEAD.

5 46. Defendants knew or should have known that LEAD has been identified by the State of
6 California as a chemical known to cause cancer and reproductive toxicity and therefore
7 was subject to Proposition 65 warning requirements. Defendants were also informed of
8 the presence of LEAD in STRING LIGHTS within Plaintiff's notice of alleged violations
9 further discussed above at Paragraphs 24 and 25.

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

16 48. Plaintiff is informed, believes, and thereon alleges that between April 26, 2014, and the
17 present, each of the Defendants knowingly and intentionally exposed their employees,
18 California consumers of STRING LIGHTS, which Defendants manufactured, distributed,
19 or sold as mentioned above, to LEAD without first providing any type of clear and
20 reasonable warning of such to the exposed persons before the time of exposure.

21 Defendants have distributed and sold STRING LIGHTS in California. Defendants know
22 and intend that California consumers will use and consume STRING LIGHTS, thereby
23 exposing them to LEAD. Defendants thereby violated Proposition 65.

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

as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed from STRING LIGHTS.

50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to STRING LIGHTS have been ongoing and continuous to the date of the signing of this complaint, as Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of STRING LIGHTS, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to LEAD by STRING LIGHTS as mentioned herein.

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

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

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

THIRD CAUSE OF ACTION

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

Plastic Sandals with Polymer Straps

54. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 53 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 Plastic Sandals with Polymer Straps, which includes but is not limited to "dd'sSM DISCOUNTS", "Forever", Fuzzy Fur Ball Type Decoration, "D5201 C922 400153750652", "PINK467 H 649 19 JR H 0127", "YOU PAY \$7.99",

1 “COMPARABLE VALUE \$12.99”, “400153750652”, “38EU 5UK 7US”, “STYLE:
2 IZZY-16 ALL MANMADE MATERIALS MADE IN CHINA” (“PLASTIC
3 SANDALS”).

4 55. PLASTIC SANDALS contain DBP and DEHP.

5 56. Defendants knew or should have known that DBP and DEHP has been identified by the
6 State of California as a chemical known to cause cancer and reproductive toxicity and
7 therefore was subject to Proposition 65 warning requirements. Defendants were also
8 informed of the presence of DBP and DEHP in PLASTIC SANDALS within Plaintiff’s
9 notice of alleged violations further discussed above at Paragraph 28.

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

17 58. Plaintiff is informed, believes, and thereon alleges that between November 13, 2014, and
18 the present, each of the Defendants knowingly and intentionally exposed their employees,
19 California consumers of PLASTIC SANDALS, which Defendants manufactured,
20 distributed, or sold as mentioned above, to DBP and DEHP without first providing any
21 type of clear and reasonable warning of such to the exposed persons before the time of
22 exposure. Defendants have distributed and sold PLASTIC SANDALS in California.
23 Defendants know and intend that California consumers will use and consume PLASTIC
24 SANDALS, thereby exposing them to DBP and DEHP. Defendants thereby violated
25 Proposition 65.

26 59. The principal routes of exposure are through dermal contact and ingestion, including
27 hand to mouth pathways. Persons sustain exposures by handling the PLASTIC
28 SANDALS without wearing gloves or by touching bare skin or mucous membranes with

1 or without gloves after handling PLASTIC SANDALS, as well as direct and indirect
2 hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or even
3 breathing in particulate matter emanating from the PLASTIC SANDALS during wear
4 and general use, as well as through environmental mediums that carry the DBP and
5 DEHP once contained within the PLASTIC SANDALS.

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

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

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

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

1 **PRAYER FOR RELIEF**

2 Plaintiff demands against each of the Defendants as follows:

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

8
9 Dated: February 7, 2018

YEROUSHALMI & YEROUSHLAMI

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11 BY: 

12 Reuben Yeroushalmi
13 Attorney for Plaintiff,
14 Consumer Advocacy Group, Inc.
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