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11 Consumer Advocacy Group, Inc.

ENDORSED
FILED
ALAMEDA COUNTY
AUG 10 2018

CLERK OF THE SUPERIOR COURT,
By Lanette Buffin, 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;
20 ROSS STORES INC dba ROSS DRESS
21 FOR LESS INC., a Virginia Corporation;
22 ROSS DRESS FOR LESS INC., a Virginia
23 Corporation;
24 ROSS DRESS FOR LESS INC., STORE
25 #0269, Business Entity Form Unknown;
26 ROSS STORES, INC., dba DD'S
27 DISCOUNTS, a Delaware Corporation;
28 DD'S DISCOUNTS, Business Entity Form
Unknown;
ROSS DRESS FOR LESS STORE #1376,
Business Entity Form Unknown, and
DOES 1-100;

Defendants.

CASE NO. *RG* 18916330

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)

FAXED

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against Defendants
2 ROSS STORES, INC.; ROSS STORES INC dba ROSS DRESS FOR LESS INC; ROSS DRESS
3 FOR LESS INC.; ROSS DRESS FOR LESS INC., STORE #0269; ROSS STORES, INC., dba
4 DD'S DISCOUNTS; DD'S DISCOUNTS; ROSS DRESS FOR LESS STORE #1376 and DOES
5 1-100 as follows:

6 **THE PARTIES**

- 7 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
8 organization qualified to do business in the State of California. CAG is a person within
9 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting
10 as a private attorney general, brings this action in the public interest as defined under
11 Health and Safety Code section 25249.7, subdivision (d).
- 12 2. Defendant ROSS STORES, INC., a Delaware Corporation ("ROSS") doing business in
13 the State of California at all relevant times herein.
- 14 3. Defendant ROSS STORES INC dba ROSS DRESS FOR LESS INC., a Virginia
15 Corporation ("ROSS DRESS FOR LESS") doing business in the State of California at all
16 relative times herein.
- 17 4. Defendant ROSS DRESS FOR LESS INC., a Virginia Corporation ("ROSS DRESS FOR
18 LESS 2") doing business in the State of California at all relative times herein.
- 19 5. Defendant ROSS DRESS FOR LESS INC., STORE #0269, Business Entity Form
20 Unknown ("ROSS STORE") doing business in the State of California at all relative times
21 herein.
- 22 6. Defendant ROSS DRESS FOR LESS INC., STORE #1376, Business Entity Form
23 Unknown ("ROSS STORE 2") doing business in the State of California at all relative
24 times herein.
- 25 7. Defendant ROSS STORES, INC., dba DD'S DISCOUNTS, a Delaware Corporation
26 (DD'S DISCOUNTS") doing business in the State of California at all relative times
27 herein.
- 28 8. Defendant DD'S DISCOUNTS, Business Entity Form Unknown ("DD'S DISCOUNTS
STORE") doing business in the State of California at all relative times herein.

- 1 9. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-
2 100, and therefore sues these defendants by such fictitious names. Plaintiff will amend
3 this complaint to allege their true names and capacities when ascertained. Plaintiff is
4 informed, believes, and thereon alleges that each fictitiously named defendant is
5 responsible in some manner for the occurrences herein alleged and the damages caused
6 thereby.
- 7 10. At all times mentioned herein, the term "Defendants" includes ROSS, ROSS DRESS
8 FOR LESS, ROSS DRESS FOR LESS 2, ROSS STORE , ROSS STORE 2, DD'S
9 DISCOUNT, DD'S DISCOUNTS STORE and DOES 1-100.
- 10 11. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
11 times mentioned herein have conducted business within the State of California.
- 12 12. Upon information and belief, at all times relevant to this action, each of the Defendants,
13 including DOES 1-100, was an agent, servant, or employee of each of the other
14 Defendants. In conducting the activities alleged in this Complaint, each of the
15 Defendants was acting within the course and scope of this agency, service, or
16 employment, and was acting with the consent, permission, and authorization of each of
17 the other Defendants. All actions of each of the Defendants alleged in this Complaint
18 were ratified and approved by every other Defendant or their officers or managing agents.
19 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
20 wrongful conduct of each of the other Defendants.
- 21 13. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
22 Defendants was a person doing business within the meaning of Health and Safety Code
23 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
24 employees at all relevant times.

25 **JURISDICTION**

- 26 14. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
27 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
28 those given by statute to other trial courts. This Court has jurisdiction over this action

1 pursuant to Health and Safety Code section 25249.7, which allows enforcement of
2 violations of Proposition 65 in any Court of competent jurisdiction.

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

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

15 **BACKGROUND AND PRELIMINARY FACTS**

16 17. In 1986, California voters approved an initiative to address growing concerns about
17 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
18 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
19 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
20 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
21 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
22 from contamination, to allow consumers to make informed choices about the products
23 they buy, and to enable persons to protect themselves from toxic chemicals as they see
24 fit.

25 18. Proposition 65 requires the Governor of California to publish a list of chemicals known to
26 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
27 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
28

1 chemicals and chemical families. Proposition 65 imposes warning requirements and
2 other controls that apply to Proposition 65-listed chemicals.

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

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

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

23 22. On December 2, 2005, the Governor of California added Di-n-Butyl Phthalate, also
24 known as Dibutyl Phthalate (“DBP”) to the list of chemicals known to the State to cause
25 developmental, female, and male reproductive toxicity. Pursuant to Health and Safety
26 Code sections 25249.9 and 25249.10, twenty (20) months after addition of DBP to the list
27 of chemicals known to the State to cause reproductive toxicity, DBP became fully subject
28 to Proposition 65 warning requirements and discharge prohibitions.

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

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

12 **SATISFACTION OF PRIOR NOTICE**

13 25. On or about February 7, 2018, Plaintiff gave notice of alleged violations of Health and
14 Safety Code section 25249.6, concerning consumer products exposures subject to a
15 private action to ROSS, ROSS STORE 2 and to the California Attorney General, County
16 District Attorneys, and City Attorneys for each city containing a population of at least
17 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
18 product Booster Cables, containing DEHP.

19 26. On or about February 15, 2018, Plaintiff gave 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, DD’S DISCOUNTS and to the California Attorney General,
22 County District Attorneys, and City Attorneys for each city containing a population of at
23 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
24 the product Footwear, containing DEHP.

25 27. On or about February 15, 2018, Plaintiff gave notice of alleged violations of Health and
26 Safety Code section 25249.6, concerning consumer products exposures subject to a
27 private action to ROSS DRESS FOR LESS, ROSS STORE and to the California
28 Attorney General, County District Attorneys, and City Attorneys for each city containing

1 a population of at least 750,000 people in whose jurisdictions the violations allegedly
2 occurred, concerning the product Dash Cam, containing DEHP.

3 28. On or about February 28, 2018, 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, ROSS DRESS FOR LESS 2 and to the California Attorney
6 General, County District Attorneys, and City Attorneys for each city containing a
7 population of at least 750,000 people in whose jurisdictions the violations allegedly
8 occurred, concerning the product Exercise Accessories, containing DEHP.

9 29. On or about April 3, 2018, Plaintiff gave notice of alleged violations of Health and Safety
10 Code section 25249.6, concerning consumer products exposures subject to a private
11 action to DD'S DISCOUNTS and to the California Attorney General, County District
12 Attorneys, and City Attorneys for each city containing a population of at least 750,000
13 people in whose jurisdictions the violations allegedly occurred, concerning the product
14 Footwear, containing DBP.

15 30. On or about April 3, 2018, Plaintiff gave notice of alleged violations of Health and Safety
16 Code section 25249.6, concerning consumer products exposures subject to a private
17 action to ROSS, DD'S DISCOUNT and to the California Attorney General, County
18 District Attorneys, and City Attorneys for each city containing a population of at least
19 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
20 product Footwear, containing DEHP, DBP and DINP.

21 31. On or about April 3, 2018, Plaintiff gave notice of alleged violations of Health and Safety
22 Code section 25249.6, concerning consumer products exposures subject to a private
23 action to ROSS, DD'S DISCOUNT and to the California Attorney General, County
24 District Attorneys, and City Attorneys for each city containing a population of at least
25 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
26 product Umbrella, containing DEHP.

27 32. On or about April 13, 2018, 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 DRESS FOR LESS and to the California Attorney General,
2 County District Attorneys, and City Attorneys for each city containing a population of at
3 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
4 the product Backpack, containing DEHP.

5 33. On or about May 7, 2018, Plaintiff gave notice of alleged violations of Health and Safety
6 Code section 25249.6, concerning consumer products exposures subject to a private
7 action to ROSS DRESS FOR LESS, ROSS DRESS FOR LESS 2 and to the California
8 Attorney General, County District Attorneys, and City Attorneys for each city containing
9 a population of at least 750,000 people in whose jurisdictions the violations allegedly
10 occurred, concerning the product Purse, containing DEHP.

11 34. On or about May 30, 2018, 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, DD'S DISCOUNTS and to the California Attorney General,
14 County District Attorneys, and City Attorneys for each city containing a population of at
15 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
16 the product Footwear, containing DBP.

17 35. Before sending the notice of alleged violations, Plaintiff investigated the consumer
18 products involved, the likelihood that such products would cause users to suffer
19 significant exposures to DEHP, DBP and DINP, and the corporate structure of each of the
20 Defendants.

21 36. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
22 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
23 Plaintiff who executed the certificate had consulted with at least one person with relevant
24 and appropriate expertise who reviewed data regarding the exposures to DEHP, DBP and
25 DINP the subject Proposition 65-listed chemicals of this action. Based on that
26 information, the attorney for Plaintiff who executed the Certificate of Merit believed
27 there was a reasonable and meritorious case for this private action. The attorney for
28 Plaintiff attached to the Certificate of Merit served on the Attorney General the

1 confidential factual information sufficient to establish the basis of the Certificate of
2 Merit.

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

6 38. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
7 gave notices of the alleged violation to ROSS, ROSS DRESS FOR LESS, ROSS DRESS
8 FOR LESS 2, ROSS STORE, DD'S DISCOUNT, DD'S DISCOUNTS STORE and the
9 public prosecutors referenced in Paragraph 25-34.

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

13 FIRST CAUSE OF ACTION

14 (By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS FOR LESS,
15 ROSS STORE 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.*))

16 **BOOSTER CABLES**

17 40. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
18 reference paragraphs 1 through 39 of this complaint as though fully set forth herein. Each
19 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
20 promoter, or retailer of Booster Cables, which includes but is not limited to "GREASE
21 MONKEY"; "250 AMP"; "AUTO ESSENTIALS"; "EMERGENCY"; "8'
22 BOOSTER CABLES"; "FEATURES Suitable for 12v & 24v systems Length: 8.2
23 feet, 2.5 meters 8 gauge copper, 80 strands x 0.3mm Convenient carry bag for easy
24 storage"; "Roadside convenience"; "WARNING NOT A TOY Intended for adult
25 use only. Keep out of small children's reach." [same in Spanish]; "Made in China";
26 "Distributed by Ponte Vedra Gifts & Accessories Co. 5150 Palm Valley Road, Suite
27 102 Ponte Vedra Beach, FL 32082"; "www. Pvgaco.com";
28

1 “customersupport@pvga.com”; “1-800-405-3410”; “©2017 PVGA Co.”
2 (“BOOSTER CABLES”).

3 41. BOOSTER CABLES contains DEHP.

4 42. 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 BOOSTER CABLES within Plaintiff's notice of alleged
8 violations further discussed above at Paragraph 25.

9 43. Plaintiff's allegations regarding BOOSTER CABLES concern “[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). BOOSTER CABLES is a consumer product, and, as mentioned herein,
14 exposures to DEHP took place as a result of such normal and foreseeable consumption
15 and use.

16 44. Plaintiff is informed, believes, and thereon alleges that between February 7, 2015, and the
17 present, each of the Defendants knowingly and intentionally exposed California
18 consumers of BOOSTER CABLES, which Defendants manufactured, distributed, or sold
19 as mentioned above, to DEHP without first providing any type of clear and reasonable
20 warning of such to the exposed persons before the time of exposure. Defendants have
21 distributed and sold BOOSTER CABLES in California. Defendants know and intend
22 that California consumers will use and consume BOOSTER CABLES, thereby exposing
23 them to DEHP. Defendants thereby violated Proposition 65.

24 45. The principal routes of exposure were through dermal contact and ingestion. Persons
25 sustain exposures by using BOOSTER CABLES to jumpstart dead batteries in cars, by
26 handling the BOOSTER CABLES without wearing gloves, or by touching bare skin or
27 mucous membranes with or without gloves after handling BOOSTER CABLES, as well
28 as direct and indirect hand to mouth contact, hand to mucous membrane, trans-dermal

1 absorption, or breathing in particulate matter emanating from the BOOSTER CABLES
2 during use, as well as through environmental mediums that carry the DEHP once
3 contained within the BOOSTER CABLES.

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

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

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

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

19 **SECOND CAUSE OF ACTION**

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

23 **FOOTWEAR**

24 50. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
25 reference paragraphs 1 through 49 of this complaint as though fully set forth herein. Each
26 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
27 promoter, or retailer of Footwear, which includes but is not limited to **Black Plastic**
28 **Flats, "MAN MADE MATERIAL", "MADE IN CHINA", "10", "10 USA 39 BRA**
41 EUR 251/2 JPN, "YOU PAY \$6.99" ("FLATS").

1 51. FLATS contains DEHP.

2 52. 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 FLATS within Plaintiff's notice of alleged violations further
6 discussed above at Paragraph 26.

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

13 54. Plaintiff is informed, believes, and thereon alleges that between February 15, 2015, and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers of FLATS, which Defendants manufactured, distributed, or sold as mentioned
16 above, to DEHP without first providing any type of clear and reasonable warning of such
17 to the exposed persons before the time of exposure. Defendants have distributed and sold
18 FLATS in California. Defendants know and intend that California consumers will use
19 and consume FLATS, thereby exposing them to DEHP. Defendants thereby violated
20 Proposition 65.

21 55. The principal routes of exposure were through dermal contact and indirect ingestion.
22 Persons sustain exposures by using and by handling the FLATS without wearing gloves
23 or by touching bare skin or mucous membranes with or without gloves after handling
24 FLATS, as well as direct and indirect hand to mouth contact, hand to mucous membrane,
25 trans-dermal absorption, or breathing in particulate matter emanating from the FLATS
26 during use, as well as through environmental mediums that carry the DEHP once
27 contained within the FLATS.

28

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

8 57. 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 58. 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 from FLATS, pursuant to Health and
13 Safety Code section 25249.7(b).

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

16 **THIRD CAUSE OF ACTION**

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

20 **CAR ACCESSORIES**

21 60. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 59 of this complaint as though fully set forth herein. Each
23 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
24 promoter, or retailer of Car Accessories, which includes but is not limited to **Aduro**
25 **Black DVR Road Dash Video Camcorder "With 2.5" TFT LED Screen"; "100⁰**
26 **View Captures Full View Of The Road"; "6 Infra Red LED's For Night Vision**
27 **Recording"; "Strong Suction Mount"; "Screen Rotates 270⁰"; "Supports Up To 32**
28 **GM Memory Cards"; "Made in China" UPC "8 49813 00786 4" ("DASH CAM").**

1 61. DASH CAM contains DEHP.

2 62. 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 DASH CAM within Plaintiff's notice of alleged violations
6 further discussed above at Paragraph 24.

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

13 64. Plaintiff is informed, believes, and thereon alleges that between February 15, 2015, and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers of DASH CAM, which Defendants manufactured, distributed, or sold as
16 mentioned above, to DEHP without first providing any type of clear and reasonable
17 warning of such to the exposed persons before the time of exposure. Defendants have
18 distributed and sold DASH CAM in California. Defendants know and intend that
19 California consumers will use and consume DASH CAM, thereby exposing them to
20 DEHP. Defendants thereby violated Proposition 65.

21 65. The principal routes of exposure were through dermal contact and ingestion. Persons
22 sustain exposures by using, by handling, or by installing the DASH CAM without
23 wearing gloves or by touching bare skin or mucous membranes with or without gloves
24 after handling DASH CAM, as well as direct and indirect hand to mouth contact, hand to
25 mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating
26 from the DASH CAM during use, as well as through environmental mediums that carry
27 the DEHP once contained within the DASH CAM

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

8 67. 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 68. 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 from DASH CAM, pursuant to
13 Health and Safety Code section 25249.7(b).

14 69. 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 DRESS FOR LESS 2,**
18 **ROSS and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and**
19 **Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

20 **EXERCISE ACCESSORIES**

21 70. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 69 of this complaint as though fully set forth herein. Each
23 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
24 promoter, or retailer of Exercise Accessories, which includes but is not limited **“HIGH**
25 **SIERRA®”**; **Blue Plastic Hydration Reservoir**; **“2 Liter”**; **“UPC 040176984605”**
26 **(“HYDRATION PACK”)**.

27 71. HYDRATION PACK contains DEHP.

28 72. 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

1 was subject to Proposition 65 warning requirements. Defendants were also informed of
2 the presence of DEHP in HYDRATION PACK within Plaintiff's notice of alleged
3 violations further discussed above at Paragraph 28.

4 73. Plaintiff's allegations regarding HYDRATION PACK concern "[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). HYDRATION PACK is a consumer product, and, as mentioned herein,
9 exposures to DEHP took place as a result of such normal and foreseeable consumption
10 and use.

11 74. Plaintiff is informed, believes, and thereon alleges that between April 3, 2015, and the
12 present, each of the Defendants knowingly and intentionally exposed California
13 consumers of HYDRATION PACK, which Defendants manufactured, distributed, or sold
14 as mentioned above, to DEHP without first providing any type of clear and reasonable
15 warning of such to the exposed persons before the time of exposure. Defendants have
16 distributed and sold HYDRATION PACK in California. Defendants know and intend
17 that California consumers will use and consume HYDRATION PACK, thereby exposing
18 them to DEHP. Defendants thereby violated Proposition 65.

19 75. The principal routes of exposure with regard to the HYDRATION PACK are and were
20 through dermal contact and ingestion. Persons sustain exposures by using, drinking from,
21 cleaning, and handling the HYDRATION PACK without wearing gloves or any other
22 personal protective equipment, or by touching bare skin or mucous membranes after
23 handling the HYDRATION PACK as well as through direct and indirect hand to mouth
24 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
25 HYDRATION PACK.

26 76. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
27 Proposition 65 as to HYDRATION PACK have been ongoing and continuous to the date
28 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 HYDRATION PACK, so that a
3 separate and distinct violation of Proposition 65 occurred each and every time a person
4 was exposed to DEHP by HYDRATION PACK as mentioned herein.

5 77. 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 78. Based on the allegations herein, Defendants are liable for civil penalties of up to
9 \$2,500.00 per day per individual exposure to DEHP from HYDRATION PACK,
10 pursuant to Health and Safety Code section 25249.7(b).

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

13 **FIFTH CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against DD'S DISCOUNTS and DOES**
15 **41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**
16 **Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

17 **FOOTWEAR**

18 80. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
19 reference paragraphs 1 through 79 of this complaint as though fully set forth herein. Each
20 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
21 promoter, or retailer of Footwear, which includes but is not limited to **"Shopkins Girls**
22 **Sandals"; "Made in China"; "Care instructions Spot Treat Stains with mild soap,**
23 **Do not bleach, Air dry"; "BN#SK1003"; "58073-0317 Ashko Group, LLC New**
24 **York, NY 10001"; "Size: 2/3"; "MEI - Global"; "Under license by" Moose**
25 **Enterprise (INT) PTY LTD, 2013 29 Grange Road, Cheltenham, VIC 3192,**
26 **Australia"; UPC 7 52229 10179 1" ("FLIP FLOPS").**

27 81. FLIP FLOPS contains DBP.
28

1 82. 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 FLIP FLOPS within Plaintiff's notice of alleged violations further
5 discussed above at Paragraph 29.

6 83. Plaintiff's allegations regarding FLIP FLOPS concern "[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). FLIP FLOPS is a consumer product, and, as mentioned herein, exposures to
11 DBP took place as a result of such normal and foreseeable consumption and use.

12 84. Plaintiff is informed, believes, and thereon alleges that between April 3, 2015, and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers of FLIP FLOPS, which Defendants manufactured, distributed, or sold as
15 mentioned above, to DBP without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold FLIP FLOPS in California. Defendants know and intend that
18 California consumers will use and consume FLIP FLOPS, thereby exposing them to
19 DBP. Defendants thereby violated Proposition 65.

20 85. The principal routes of exposure were through dermal contact, ingestion, including hand
21 to mouth pathways, and inhalation. Persons sustain exposures by wearing or handling the
22 FLIP FLOPS without wearing gloves or by touching bare skin or mucous membranes
23 with or without gloves after handling FLIP FLOPS, as well as direct and indirect hand to
24 mouth contact, direct contact to food then to mouth, hand to mucous membrane, trans-
25 dermal absorption, or breathing in particulate matter emanating from the FLIP FLOPS
26 during use, as well as through environmental mediums that carry the DBP once contained
27 within the FLIP FLOPS.

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

8 87. 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 88. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DBP from FLIP FLOPS, pursuant to Health
13 and Safety Code section 25249.7(b).

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

16 **SIXTH CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S DISCOUNTS and**
18 **DOES 51-60 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
19 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

20 **FOOTWEAR**

21 90. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 89 of this complaint as though fully set forth herein. Each
23 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,
24 promoter, or retailer of Footwear, which includes but is not limited to **Grey plastic flop**
25 **flops with sparkling stones on the plastic strap, "SBUP", "5", "K-818", "dd's**
26 **DISCOUNTS", "FASHION ME910", "H 706 K", "D5201 C922", "0007",**
27 **"400157853021" ("SANDALS").**

28 91. SANDALS contains DBP, DEHP and DINP.

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

6 93. Plaintiff's allegations regarding SANDALS concern "[c]onsumer products exposure[s],"
7 which "is an exposure that results from a person's acquisition, purchase, storage,
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
9 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).

10 SANDALS is a consumer product, and, as mentioned herein, exposures to DBP, DEHP
11 and DINP took place as a result of such normal and foreseeable consumption and use.

12 94. Plaintiff is informed, believes, and thereon alleges that between April 3, 2015, and the
13 present, each of the Defendants knowingly and intentionally exposed their employees,
14 California consumers of SANDALS, which Defendants manufactured, distributed, or
15 sold as mentioned above, to DBP, DEHP and DINP without first providing any type of
16 clear and reasonable warning of such to the exposed persons before the time of exposure.
17 Defendants have distributed and sold SANDALS in California. Defendants know and
18 intend that California consumers will use and consume SANDALS, thereby exposing
19 them to DBP, DEHP and DINP. Defendants thereby violated Proposition 65.

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

1 96. Violators caused occupational exposures, to their respective product, in violation of
2 Proposition 65 by allowing employees to handle the SANDALS in the course of
3 packaging, shipping, distributing, promoting, and selling the SANDALS without having
4 first given clear and reasonable warnings to such employees that, by handling the Sandals
5 such employees would suffer exposures to DBP, DEHP and DINP. Violators' employees
6 were exposed to DBP, DEHP and DINP by touching the SANDALS with their bare skin
7 at Violators' premises located at dd's Discounts, 2616 W Imperial Hwy, Inglewood, CA
8 90303-3137, among other locations where these activities take place including but not
9 limited to other distributing, shipping, warehousing, packaging, and retail centers.
10 Violators did not provide any Proposition 65-compliant warning on the product, signs, or
11 system of signs within the workplace to warn of the danger.

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

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

22 99. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to DBP, DEHP and DINP from SANDALS,
24 pursuant to Health and Safety Code section 25249.7(b).

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

1 SEVENTH CAUSE OF ACTION

2 (By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S DISCOUNTS
3 STORE and DOES 61-70 for Violations of Proposition 65, The Safe Drinking Water and
4 Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

5 NOVELTY ACCESSORIES

6 101. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 100 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Novelty Accessories, which includes but is not limited
10 to "Susino"; "46" "Auto Open Umbrella"; "Fiberglass Ribs, 100% Polyester";
11 "Hunta, Inc. NY"; "Susino North America Agent"; "U.S RN #94538"; "Item: Short
12 Shadow UV"; "Made in China"; "UPC 0 42959 75037 7" ("UMBRELLA").

13 102. UMBRELLA contains DEHP.

14 103. Defendants knew or should have known that DEHP have been identified by the
15 State of California as a chemical known to cause cancer and reproductive toxicity and
16 therefore was subject to Proposition 65 warning requirements. Defendants were also
17 informed of the presence of DEHP in UMBRELLA within Plaintiff's notice of alleged
18 violations further discussed above at Paragraph 31.

19 104. Plaintiff's allegations regarding UMBRELLA concern "[c]onsumer products
20 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
21 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
22 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
23 25602(b). UMBRELLA is a consumer product, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable consumption and use.

25 105. Plaintiff is informed, believes, and thereon alleges that between April 3, 2015, and
26 the present, each of the Defendants knowingly and intentionally exposed California
27 consumers of UMBRELLA, which Defendants manufactured, distributed, or sold as
28 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

1 distributed and sold UMBRELLA in California. Defendants know and intend that
2 California consumers will use and consume UMBRELLA, thereby exposing them to
3 DEHP. Defendants thereby violated Proposition 65.

4 106. The principal routes of exposure were through dermal contact and ingestion.
5 Persons sustain exposures by handling or using the UMBRELLA without wearing gloves,
6 or by touching bare skin or mucous membranes with UMBRELLA after handling
7 Umbrella, as well as direct and indirect hand to mouth contact, hand to food to mouth,
8 direct contact to food then to mouth, hand to mucous membrane, or breathing in
9 particulate matter emanating from the Umbrella during installation and use, as well as
10 through environmental mediums that carry the DEHP once contained within the
11 UMBRELLA.

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

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

22 109. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to DEHP from UMBRELLA, pursuant to
24 Health and Safety Code section 25249.7(b).

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

1 EIGHTH CAUSE OF ACTION

2 (By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS FOR
3 LESS, and DOES 71-80 for Violations of Proposition 65, The Safe Drinking Water and
4 Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

5 FASHION ACCESSORIES

6 111. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 110 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Fashion Accessories, which includes but is not limited
10 to **Gold backpack with pink rose; "GOLD-YELLO070", "400164660049", "D1523**
11 **C5770", "07 HANDBAG", "0507", "ROSS", "738 SIZE M" ("BACKPACK").**

12 112. BACKPACK contains DEHP.

13 113. Defendants knew or should have known that DEHP and have been identified by
14 the State of California as a chemical known to cause cancer and reproductive toxicity and
15 therefore was subject to Proposition 65 warning requirements. Defendants were also
16 informed of the presence of DEHP in BACKPACK within Plaintiff's notice of alleged
17 violations further discussed above at Paragraph 32.

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

24 115. Plaintiff is informed, believes, and thereon alleges that between April 13, 2015,
25 and the present, each of the Defendants knowingly and intentionally exposed their
26 employees, California consumers of BACKPACK, which Defendants manufactured,
27 distributed, or sold as mentioned above, to DEHP without first providing any type of
28 clear and reasonable warning of such to the exposed persons before the time of exposure.
Defendants have distributed and sold BACKPACK in California. Defendants know and

1 intend that California consumers will use and consume BACKPACK, thereby exposing
2 them to DEHP. Defendants thereby violated Proposition 65.

3 116. The principal routes of exposure were through dermal contact and ingestion.
4 Persons sustain exposures by using and by wearing or handling the BACKPACK without
5 wearing gloves or by touching bare skin or mucous membranes with or without gloves
6 after handling BACKPACK, as well as direct and indirect hand to mouth contact, hand to
7 mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating
8 from the Backpack during use, as well as through environmental mediums that carry the
9 DEHP once contained within the BACKPACK.

10 117. Violators caused occupational exposures, to their respective product, in violation
11 of Proposition 65 by allowing employees to handle the BACKPACK in the course of
12 packaging, shipping, distributing, promoting, and selling the BACKPACK without
13 having first given clear and reasonable warnings to such employees that, by handling the
14 Backpack such employees would suffer exposures to DEHP. Violators' employees were
15 exposed to DEHP by touching the BACKPACK at Ross Dress for Less, 6298 W 3rd St,
16 Los Angeles, CA 90036, among other locations where these activities take place
17 including but not limited to other distributing, shipping, warehousing, packaging, and
18 retail centers. Violators did not provide any Proposition 65-compliant warning on the
19 product, signs, or system of signs within the workplace to warn of the danger.

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

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

4 120. 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 BACKPACK, pursuant to
6 Health and Safety Code section 25249.7(b).

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

9 **NINTH CAUSE OF ACTION**

10 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS FOR LESS,**
11 **ROSS DRESS FOR LESS 2 and DOES 81-90 for Violations of Proposition 65, The Safe**
12 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
13 ***seq.*))**

14 **FASHION ACCESSORIES**

15 122. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
16 reference paragraphs 1 through 121 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 Fashion Accessories, which includes but is not limited
19 to **Shiny handbag with a small purse, "THE STORAGE YOU NEED", "THE**
20 **PERFECT BACKPACK", "WITH THE STYLE YOU CRAVE", "UNDER ONE**
21 **SKY", "IG:@UNDER1SKYBRAND", "ROSS", "DRESS FOR LESS", "K**
22 **SILVER007", "736 SIZE ONE SIZE D2011 C5765", "07 HANDBAG",**
23 **"400166967412", "DV07 D2011 C5765" ("PURSE")**

24 123. PURSE contains DEHP.

25 124. Defendants knew or should have known that DEHP have been identified by the
26 State of California as a chemical known to cause cancer and reproductive toxicity and
27 therefore was subject to Proposition 65 warning requirements. Defendants were also
28 informed of the presence of DEHP in PURSE within Plaintiff's notice of alleged
violations further discussed above at Paragraph 33.

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

7 126. Plaintiff is informed, believes, and thereon alleges that between May 7, 2015, and
8 the present, each of the Defendants knowingly and intentionally exposed California
9 consumers of PURSE, which Defendants manufactured, distributed, or sold as mentioned
10 above, to DEHP without first providing any type of clear and reasonable warning of such
11 to the exposed persons before the time of exposure. Defendants have distributed and sold
12 PURSE in California. Defendants know and intend that California consumers will use
13 and consume PURSE, thereby exposing them to DEHP. Defendants thereby violated
14 Proposition 65.

15 127. The principal routes of exposure were through dermal contact and ingestion.
16 Persons sustain exposures by using and by wearing or handling the PURSE without
17 wearing gloves or by touching bare skin or mucous membranes with or without gloves
18 after handling PURSE, as well as direct and indirect hand to mouth contact, hand to
19 mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating
20 from the PURSE during use, as well as through environmental mediums that carry the
21 DEHP once contained.

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

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

4 130. 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 PURSE, pursuant to Health and
6 Safety Code section 25249.7(b).

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

9 **TENTH CAUSE OF ACTION**

10 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S DISCOUNTS and**
11 **DOES 91-100 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
12 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**
13 **FOOTWEAR**

14 132. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
15 reference paragraphs 1 through 131 of this complaint as though fully set forth herein.
16 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
17 distributor, promoter, or retailer of Footwear, which includes but is not limited to **Black**
18 **polymer sandals with black and silver rhinestones; "Blue [in script] BLUE SUEDE**
19 **SHOES ®"; "9"; "USA 9BRA 25 EUR 27"; "NO-608"; "dd's DISCOUNTS 0024";**
20 **"K AST99"; "710"; "D5211 C940"; "19 Infant/Toddler"; "COMPARABLE**
21 **VALUE *****"; "YOU PAY \$3.99"; "400157193554" ("KIDS SANDALS").**

22 133. KIDS SANDALS contain DBP.

23 134. Defendants knew or should have known that DBP have been identified by the
24 State of California as a chemical known to cause cancer and reproductive toxicity and
25 therefore was subject to Proposition 65 warning requirements. Defendants were also
26 informed of the presence of DBP in KIDS SANDALS within Plaintiff's notice of alleged
27 violations further discussed above at Paragraph 34.

28 135. Plaintiff's allegations regarding KIDS SANDALS concern "[c]onsumer products
exposure[s]," which "is an exposure that results from a person's acquisition, purchase,

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

5 136. Plaintiff is informed, believes, and thereon alleges that between May 7, 2015, and
6 the present, each of the Defendants knowingly and intentionally exposed California
7 consumers of KIDS SANDALS, which Defendants manufactured, distributed, or sold as
8 mentioned above, to DBP without first providing any type of clear and reasonable
9 warning of such to the exposed persons before the time of exposure. Defendants have
10 distributed and sold KIDS SANDALS in California. Defendants know and intend that
11 California consumers will use and consume KIDS SANDALS, thereby exposing them to
12 DBP. Defendants thereby violated Proposition 65.

13 137. The principal routes of exposure were through dermal contact and ingestion.
14 Persons sustain exposures by wearing, handling, or otherwise using the KIDS SANDALS
15 with bare skin, by handling the KIDS SANDALS without wearing gloves, or by touching
16 bare skin or mucous membranes with the Sandals after handling and/or wearing the
17 Sandals, as well as direct and indirect hand to mouth contact, hand to food to mouth,
18 direct contact to food then to mouth, hand to mucous membrane, or breathing in
19 particulate matter emanating from the KIDS SANDALS during installation and use, as
20 well as through environmental mediums that carry the DBP once contained within the
21 Sandals.

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

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

4 140. 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 KIDS SANDALS, pursuant to
6 Health and Safety Code section 25249.7(b).

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


11 **PRAYER FOR RELIEF**

12 Plaintiff demands against each of the Defendants as follows:

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

19 Dated: August 9, 2018

YEROUSHALMI & YEROUSHALMI

20
21 BY: 
22 Reuben Yeroushalmi
23 Attorney for Plaintiff,
24 Consumer Advocacy Group, Inc.
25
26
27
28