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15

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF ALAMEDA**

18 ASSOCIATION OF FLIGHT ATTENDANTS-
19 COMMUNICATIONS WORKERS OF
AMERICA; and MARESA BACHE,

20 Plaintiffs,

21 v.

22 TWIN HILL ACQUISITION COMPANY, INC.;
23 ARAMARK UNIFORM & CAREER APPAREL
GROUP, INC.; ARAMARK UNIFORM &
24 CAREER APPAREL, LLC; PVH CORP.;
AMERICAN AIRLINES, INC.; DOES 1-50,

25 Defendants.
26
27
28

ENDORSED
FILED
ALAMEDA COUNTY
JAN 27 2020
CLERK OF THE SUPERIOR COURT
By Jessica Flores Deputy

Case No. RG18911165

**FOURTH AMENDED COMPLAINT FOR
CIVIL PENALTIES AND INJUNCTIVE
RELIEF**

Unlimited Civil Case

(Health & Safety Code section 25249.5 *et seq.*)

INTRODUCTION

1
2 1. California's Safe Drinking Water and Toxic Enforcement Act ("Proposition 65" or
3 "the Act"), Health & Safety Code section 25249.5, *et seq.*, prohibits any person in the course of do-
4 ing business from knowingly and intentionally exposing any individual to a chemical known to the
5 State of California to cause cancer, without first giving clear and reasonable warning of such expo-
6 sure. (Health & Saf. Code, § 25249.6.)

7 2. This is a representative action in the public interest to protect the citizens of the State
8 of California and airline employees from highly toxic formaldehyde (gas) that is present in certain
9 garments, including uniform pieces sold and distributed to and then worn by flight attendants and
10 other airline employees.

11 3. Formaldehyde (gas) is a colorless, flammable, pungent gas. In 1987, the U.S. Envi-
12 ronmental Protection Agency ("EPA") classified formaldehyde (gas) as a probable human carcino-
13 gen, and in 1988, the State of California added it to Proposition 65's list of chemicals known by the
14 State to cause cancer. Since that time, both the International Agency for Research on Cancer
15 ("IARC") and the National Toxicology Program, an interagency program of the Department of
16 Health and Human Services, have named formaldehyde (gas) as a known human carcinogen.

17 4. Exposure from a formaldehyde (gas)-treated garment occurs by inhalation from
18 wearing, storing, and close contact with garment pieces treated with formaldehyde. Formaldehyde
19 (gas) is released from treated garments when they are worn and used in the intended manner. The
20 primary route of exposure for the violations is inhalation while wearing the garment(s), but expo-
21 sure can also occur through dermal contact and ingestion. These exposures occur in homes, cars,
22 hotels, restaurants, airports, airplanes, and workplaces throughout California where the garments
23 are used. Human exposures to formaldehyde (gas) result from the reasonably foreseeable use of the
24 garments and from exposure to the garments. Those who wear these garments and citizens of Cali-
25 fornia have the right to be informed of the presence of formaldehyde (gas) in garments, including
26 airline uniforms, which are distributed, sold, or offered for sale in California, or which are worn by
27 airline employees in their employment in California.
28

5. Notwithstanding that formaldehyde (gas) is a chemical known to the State of California to cause cancer, each defendant has failed to provide a clear and reasonable warning that the use of certain garments that they have distributed or sold, or which they direct employees to wear as uniforms, will result in exposure to formaldehyde (gas).

6. Accordingly, by this complaint, plaintiffs seek an order requiring that defendants either (1) discontinue any use, distribution, or sale of the garments containing formaldehyde, or (2) provide a clear, reasonable warning to all persons using the garments that their use will result in exposure to a chemical known to the State of California to cause cancer. Plaintiffs also seek civil penalties as provided for under the Act and other appropriate relief.

PARTIES

7. Plaintiff ASSOCIATION OF FLIGHT ATTENDANTS-COMMUNICATIONS WORKERS OF AMERICA (“AFA-CWA”) is a non-profit labor organization representing flight attendants employed by airlines across the country. AFA-CWA brings this action in the public interest as a private attorney general pursuant to Health & Safety Code section 25249.7, subdivision (d).

8. Plaintiff MARESA BACHE is a flight attendant and member of AFA-CWA. Plaintiff BACHE brings this action in the public interest as a private attorney general pursuant to Health & Safety Code section 25249.7, subdivision (d).

9. Defendant TWIN HILL ACQUISITION COMPANY, INC., doing business as Twin Hill Corporate Apparel, is a business entity with 10 or more employees doing business within the scope of Proposition 65. TWIN HILL ACQUISITION COMPANY, INC., distributes, sells, and/or offers for sale in California garments treated with formaldehyde, and in the course of doing business in California has knowingly and intentionally exposed individuals to formaldehyde (gas) without first giving clear and reasonable warning to such individuals.

10. Defendant ARAMARK UNIFORM & CAREER APPAREL GROUP, INC., is a business entity with 10 or more employees doing business within the scope of Proposition 65. ARAMARK UNIFORM & CAREER APPAREL GROUP, INC., distributes, sells, and/or offers for sale in California garments treated with formaldehyde, and in the course of doing business in

1 California has knowingly and intentionally exposed individuals to formaldehyde (gas) without first
2 giving clear and reasonable warning to such individuals.

3 11. Defendant ARAMARK UNIFORM & CAREER APPAREL, LLC, is a business en-
4 tity with 10 or more employees doing business within the scope of Proposition 65. Defendant
5 ARAMARK UNIFORM & CAREER APPAREL, LLC, is a subsidiary of Defendant ARAMARK
6 UNIFORM & CAREER APPAREL GROUP, INC. ARAMARK UNIFORM & CAREER
7 APPAREL, LLC, distributes, sells, and/or offers for sale in California garments treated with for-
8 maldehyde, and in the course of doing business in California has knowingly and intentionally ex-
9 posed individuals to formaldehyde (gas) without first giving clear and reasonable warning to such
10 individuals.

11 12. Defendant PVH CORP. is a business entity with 10 or more employees doing busi-
12 ness within the scope of Proposition 65. PVH CORP. distributes, sells, and/or offers for sale in Cal-
13 ifornia garments treated with formaldehyde, and in the course of doing business in California has
14 knowingly and intentionally exposed individuals to formaldehyde (gas) without first giving clear
15 and reasonable warning to such individuals.

16 13. Defendant AMERICAN AIRLINES, INC. is a business entity with 10 or more em-
17 ployees doing business within the scope of Proposition 65. AMERICAN AIRLINES, INC. causes
18 its employees and employees of regional airlines for which it controls uniform choice in California
19 to be exposed to formaldehyde (gas), and causes its flight attendants and other employees, and em-
20 ployees of regional airlines for which it controls uniform choices, to wear garments that result in
21 exposure to formaldehyde (gas) in California. In the course of doing business in California,
22 AMERICAN AIRLINES, INC. has knowingly and intentionally exposed individuals to formalde-
23 hyde (gas) without first giving clear and reasonable warning to such individuals.

24 14. Each of defendants DOES 1-25 is a person in the course of doing business within the
25 meaning of Health & Safety Code sections 25249.6 and 25249.11, subdivision (b), which manufac-
26 tures, distributes, sells, and/or offers for sale in California garments treated with formaldehyde
27 (gas). Each of DOES 26-60 is a person in the course of doing business within the meaning of
28 Health & Safety Code sections 25249.6 and 25249.11, subdivision (b), which causes employees to

1 be exposed to formaldehyde (gas). At this time, the true names and capacities of defendants DOES
2 1 through 50 are unknown to plaintiffs, who, therefore, sue said defendants by their fictitious names
3 pursuant to Code of Civil Procedure section 474. Plaintiffs are informed and believe, and on that
4 basis allege, that each of the fictitiously named defendants is responsible for the acts and occur-
5 rences alleged herein. Plaintiffs will amend this complaint and include these Doe defendants' true
6 names and capacities when they are ascertained.

7 15. TWIN HILL ACQUISITION COMPANY, INC., ARAMARK UNIFORM &
8 CAREER APPAREL GROUP, INC., ARAMARK UNIFORM & CAREER APPAREL, LLC, PVH
9 CORP., AMERICAN AIRLINES, INC., and DOES 1-50 are collectively referred to herein as "de-
10 fendants."

11 **VENUE AND JURISDICTION**

12 16. The court has jurisdiction over this action pursuant to Health & Safety Code section
13 25249.7, subdivision (a), which allows enforcement in any court of competent jurisdiction, and pur-
14 suant to California Constitution, article VI, section 10, because this case does not present a cause
15 given by statute to other trial courts.

16 17. This court has jurisdiction over defendants because each of them has sufficient mini-
17 mum contacts in the State of California, and/or otherwise purposefully avails itself of the California
18 market.

19 18. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil
20 Procedure sections 393 and 395, because this court is a court of competent jurisdiction, because
21 plaintiffs seek civil penalties against defendants, because one or more instances of wrongful con-
22 duct occurred, and continue to occur, in Alameda County, and/or because defendants conducted,
23 and continue to conduct, business in this county with respect to the garments at issue.

24 **NOTICES**

25 **CONSUMER EXPOSURE NOTICE (March 2018)**

26 19. On March 23, 2018, plaintiffs' sixty-day notice of violation ("CONSUMER
27 EXPOSURE NOTICE") was provided to TWIN HILL ACQUISITION COMPANY, ARAMARK
28 UNIFORM & CAREER APPAREL GROUP, INC., and PVH CORP. (the "Initial Consumer

Products Defendants”), and to each of those public enforcement agencies to which Proposition 65 requires notice be given, with respect to various pieces of uniform apparel containing formaldehyde (gas), including those items listed in the table below, and other uniform apparel items manufactured of the same material as those items listed in the table (“GARMENTS”).

Identified Brand	Item	Style no.
Twin Hill	Female LS blouse, blue check	460-0191-202
Twin Hill	Serving garment, charcoal	740-0080-204
Twin Hill	Female LS blouse, white	460-0200-202
Van Heusen/Aramark	Women’s LS pinpoint white shirt	6172
Eagle/Aramark	Women’s LS pinpoint white shirt	6173
Twin Hill	Female pant – slim, dark charcoal	320-0145-202
Twin Hill	Female pant – classic, dark charcoal	320-0144-202

20. The CONSUMER EXPOSURE NOTICE stated that use of the GARMENTS, including “items manufactured of the same material as those listed [in the notice and above],” results in “consumer and occupational exposures to formaldehyde (gas)” primarily inhalation by flight attendants when the GARMENTS are “worn and used in the intended manner over the life and use of the garment(s). . . . These exposures occur in homes, cars, airports, airplanes, and workplaces throughout California where the products are used” and without a “clear and reasonable warning,” as required by Proposition 65.

21. The CONSUMER EXPOSURE NOTICE included, *inter alia*, the following information: the name, address, and telephone number of the noticing individual; the name of the alleged violator; the statute violated; the approximate time period during which violations occurred; and descriptions of the violations, including the chemical involved, the routes of toxic exposure,

1 and the specific type of product causing the violations. Each of the Initial Consumer Products De-
2 fendants was sent a copy of the CONSUMER EXPOSURE NOTICE by mail. Additionally, the Ini-
3 tial Consumer Products Defendants were each provided with a document titled, “The Safe Drinking
4 Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary,” which is also known as
5 Appendix A to title 27 of California Code of Regulations (“CCR”) section 25903.

6 **AA EXPOSURE NOTICE (June 2018)**

7 22. On June 20, 2018, plaintiffs provided a sixty-day notice of violation to defendant
8 AMERICAN AIRLINES, INC. (“AA EXPOSURE NOTICE”), and to each of those public enforce-
9 ment agencies to which Proposition 65 requires notice be given, with respect to consumer and occu-
10 pational exposures caused by AMERICAN AIRLINES, INC.

11 23. The AA EXPOSURE NOTICE stated that AMERICAN AIRLINES, INC.’s flight
12 attendants were and are exposed to formaldehyde (gas) from uniform apparel, primarily via inhala-
13 tion by flight attendants, while wearing the garments “in homes, cars, airports, airplanes and work-
14 places throughout California” without a “clear and reasonable warning,” as required by Proposition
15 65.

16 24. The AA EXPOSURE NOTICE included, *inter alia*, the following information: the
17 name, address, and telephone number of the noticing individual; the name of the alleged violator;
18 the statute violated; the approximate time period during which violations occurred; and descriptions
19 of the violations, including the chemical involved, the routes of toxic exposure, a description of the
20 occupation of the exposed persons, a description of the GARMENTS causing the exposures, and
21 the following language, as required by title 8 CCR section 338, subdivision (b), and title 27 CCR
22 section 25903, subdivision (b)(2)(E):

23 This notice alleges the violation of Proposition 65 with respect to
24 occupational exposures governed by the California State Plan for
25 Occupational Safety and Health. The State Plan incorporates the
26 provisions of Proposition 65, as approved by Federal OSHA on June
27 6, 1997. This approval specifically placed certain conditions with
28 regard to occupational exposures on Proposition 65, including that
it does not apply to the conduct of manufacturers occurring outside
the State of California. The approval also provides that an employer
may use the means of compliance in the general hazard communi-
cation requirements to comply with Proposition 65. It also requires
that supplemental enforcement is subject to the supervision of the

California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

(8 CCR, § 338, subd. (b).) AMERICAN AIRLINES, INC. was sent a copy of the AA EXPOSURE NOTICE by mail. Additionally, AMERICAN AIRLINES, INC. was provided with the document titled, “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.”

THIRD EXPOSURE NOTICE (October 2018)

25. On October 30, 2018, plaintiffs sent a third sixty-day notice of violation (“THIRD EXPOSURE NOTICE”) to each of the defendants other than ARAMARK UNIFORM & CAREER APPAREL, LLC, and to each of those public enforcement agencies to which Proposition 65 requires notice be given, with respect to consumer, occupational, and environmental exposures caused by the reasonably foreseeable use of the GARMENTS by “flight attendants and others.” Others who are exposed include other employees of AMERICAN AIRLINES, INC., who wear the uniform apparel, including gate agents and customer service agents, but not pilots. The THIRD EXPOSURE NOTICE states that the primary route of exposure is inhalation and that exposure can also occur through dermal contact and ingestion.

ARAMARK UNIFORM & CAREER APPAREL, LLC, EXPOSURE NOTICE (Nov. 2019)

26. On November 18, 2019, plaintiffs sent a fourth sixty-day notice of violation (“FOURTH EXPOSURE NOTICE” and collectively with the CONSUMER EXPOSURE NOTICE, AA EXPOSURE NOTICE, and THIRD EXPOSURE NOTICE, “NOTICES”) to defendant ARAMARK UNIFORM & CAREER APPAREL, LLC, and to each of those public enforcement agencies to which Proposition 65 requires notice be given, with respect to consumer, occupational, and environmental exposures caused by the reasonably foreseeable use of the GARMENTS by “flight attendants and others.” The FOURTH EXPOSURE NOTICE contains substantially the same information as set forth above with respect to the CONSUMER EXPOSURE NOTICE and the THIRD EXPOSURE NOTICE.

27. Each of the NOTICES included a certificate of merit executed by plaintiffs’ attorneys stating that the person executing the certificate had consulted with one or more persons with

1 relevant and appropriate experience or expertise who has reviewed the facts, studies, or other data
2 regarding exposure to the listed chemical that is the subject of the notice, and that, based on that in-
3 formation, the person executing the certificate believes that there is a reasonable and meritorious
4 case for this private action. Factual information sufficient to establish the basis of the certificates of
5 merit was attached to the certificates of merit served on the California Attorney General.

6 28. No public prosecutors have commenced prosecuting or are diligently prosecuting an
7 action against the violations at issue herein, although the notice period provided in Health & Safety
8 Code, section 25249.7 has elapsed.

9 **STATUTORY AND REGULATORY BACKGROUND**

10 29. In 1986, the voters of California overwhelmingly enacted Proposition 65.

11 30. Proposition 65 declares the People’s right to be “informed about exposures to chemi-
12 cals that cause cancer, birth defects, or other reproductive harm.” Health & Safety Code Division
13 20, Chapter 6.6 Note, section l(b). Under Proposition 65:

14 No person in the course of doing business shall knowingly and in-
15 tentiously expose any individual to a chemical known to the state
16 to cause cancer or reproductive toxicity without first giving clear
and reasonable warning to such individual, except as provided in
section 25249.10.

17 (Health & Saf. Code, § 25249.6.)

18 31. Proposition 65 helps to protect California’s drinking water sources from contamina-
19 tion, to allow consumers make informed choices about the products they buy, and to enable persons
20 to protect themselves from toxic chemicals, including those to which they are exposed in the work-
21 place.

22 32. Proposition 65 provides that any person who “violates or threatens to violate” the
23 statute may be enjoined in any court of competent jurisdiction. (*Id.* at § 25249.7.) “Threaten to vio-
24 late” is defined to mean “to create a condition in which there is a substantial probability that a vio-
25 lation will occur.” (*Id.* at § 25249.11, subd. (e).)

26 33. On January 1, 1988, California identified and listed formaldehyde (gas) as a chemi-
27 cal known to the State of California to cause cancer. Formaldehyde (gas) became subject to
28

1 Proposition 65's "clear and reasonable warning" requirement one year later or January 1, 1999.
2 (Health & Saf. Code, §§ 25249.8 & 25249.10, subd. (b); 27 CCR, § 27001, subd. (b).)

3 34. An exposure to a chemical in a consumer product includes one that "results from a
4 person's acquisition, purchase, storage, consumption," or "reasonably foreseeable use" of a con-
5 sumer good/product (former 27 CCR, § 25602, subd. (b); current 27 CCR, § 25600.1, subd. (e).)

6 35. An occupational exposure means "an exposure to any employee" in the workplace.
7 (former 27 CCR §, 25602 subd. (f); current 27 CCR, § 25600.1, subd. (k).)

8 36. An environmental exposure means "an exposure that occurs as the result of contact
9 with an environmental source, such as ambient air, indoor air, drinking water, standing water, run-
10 ning water, soil, vegetation, or manmade or natural substances or objects, through inhalation, inges-
11 tion, or skin or other contact with the body. All exposures that are not consumer product exposures
12 or occupational exposures are environmental exposures." (former 27 CCR §, 25602 subd. (c); 27
13 CCR, § 25600.1, subd. (f).)

14 37. Proposition 65 is incorporated into the Occupational Safety and Health Act through
15 California's State Standard on Hazard Communication. (8 CCR, § 5194 subd. (b)(6).)

16 38. An employer, which is a person in the course of doing business within the meaning
17 of Health and Safety Code section 25249.11, subdivision (a) and (b), is subject to Proposition 65
18 and shall comply with the Act.

19 39. An employer subject to the Act, before knowingly and intentionally exposing any
20 employee to any hazardous substance, shall provide a warning to employees. (8 CCR, § 5194 subd.
21 (b)(6).)

22 40. Under Proposition 65, an exposure is "knowing" where the party responsible for
23 such exposure has:

24 knowledge of the fact that a discharge of, release of, or exposure to
25 a chemical listed pursuant to Section 25249.8(a) of the Act is occur-
26 ring. No knowledge that the discharge, release or exposure is unlaw-
27 ful is required.

28 (27 CCR, § 25102, subd. (n).) This knowledge may be actual or constructive. (See, e.g., Final State-
ment of Reasons Revised (November 4, 1988) for former 22 CCR, § 12201.)

1 41. Violators of Proposition 65 are liable for civil penalties of up to \$2,500.00 per day
2 per violation, recoverable in a civil action. (Health & Saf. Code, § 25249.7, subd. (b).)

3 42. Private parties are entitled to bring an action in the public interest to enforce the Act
4 under Health & Safety Code section 25249.7, subdivision (d).

5 **ADDITIONAL FACTS**

6 43. Individuals in California other than flight attendants, including gate agents and cus-
7 tomer service agents, purchase and wear GARMENTS.

8 44. Employees of AMERICAN AIRLINES, INC. and other airline employees wear their
9 uniforms when not working (e.g., in private homes and cars, hotel rooms, and dining establish-
10 ments), and are exposed to formaldehyde (gas) through dermal contact, ingestion, and/or inhalation
11 when doing so.

12 45. To the extent pilots wear GARMENTS, plaintiffs do not seek relief on their behalf.

13 **FIRST CAUSE OF ACTION**

14 (Violation of Proposition 65 - Against All Defendants)

15 46. Plaintiffs reallege and incorporate each and every allegation contained in the preced-
16 ing paragraphs as though fully set forth herein.

17 47. Formaldehyde (gas) is present in the GARMENTS in such a way as to expose indi-
18 viduals in California to formaldehyde (gas) through reasonably foreseeable use of the
19 GARMENTS, as such exposures are defined by former 27 CCR section 25602, subdivision (b) and
20 current 27 CCR, § 25600.1, subdivision (e).

21 48. The GARMENTS distributed, sold, or offered for sale in California require a “clear
22 and reasonable” warning under Proposition 65.

23 49. Defendants knowingly and intentionally distributed, sold, and offered for sale
24 GARMENTS in California containing formaldehyde (gas), including because reasonably foreseea-
25 ble use of the GARMENTS will result in consumers’ exposure to formaldehyde (gas).

26 50. Defendants, in the course of doing business in California, knowingly and intention-
27 ally exposed individuals to formaldehyde (gas) without first giving a “clear and reasonable warn-
28 ing” to individuals in the State of California who were or who would become exposed to

1 formaldehyde (gas) through dermal contact, ingestion, and/or inhalation during the reasonably fore-
2 seeable uses of the GARMENTS.

3 51. Pursuant to Health & Safety Code section 25249.7, subdivision (b) as a consequence
4 of the above-described acts, Defendants are liable for a maximum civil penalty of \$2,500 per day
5 for each violation.

6 52. As a consequence of the above-described acts, Health & Safety Code section
7 25249.7, subdivision (a) also specifically authorizes the court to grant injunctive relief against De-
8 fendants.

9 **SECOND CAUSE OF ACTION**

10 (Violation of Proposition 65 - Against American Airlines, Inc. and DOES 26 to 50)

11 53. Plaintiffs reallege and incorporate each and every allegation contained in the preced-
12 ing paragraphs as though fully set forth herein.

13 54. AMERICAN AIRLINES, INC. and DOES 26 to 50's use of the GARMENTS cre-
14 ates occupational exposures, as defined by former 27 CCR section 25602, subdivision (f) and cur-
15 rent 27 CCR, § 25600.1, subdivision (k).

16 55. Workplace exposure to formaldehyde (gas) GARMENTS in California requires a
17 "clear and reasonable" warning under Proposition 65.

18 56. AMERICAN AIRLINES, INC. and DOES 26 to 50 knowingly and intentionally
19 caused workplace exposure to formaldehyde (gas) from the GARMENTS in California containing
20 formaldehyde (gas), including because reasonably foreseeable use of the GARMENTS will result
21 in employee exposure to formaldehyde (gas).

22 57. AMERICAN AIRLINES, INC. and DOES 26 to 50 failed to provide a "clear and
23 reasonable warning" to employees in the State of California who were or who would become ex-
24 posed to formaldehyde (gas) through dermal contact, ingestion, and/or inhalation in their workplace
25 during the reasonably foreseeable uses of the GARMENTS.

26 58. Pursuant to Health & Safety Code section 25249.7, subdivision (b) as a consequence
27 of the above-described acts, AMERICAN AIRLINES, INC. and DOES 26 to 50 are liable for a
28 maximum civil penalty of \$2,500 per day for each violation.

59. As a consequence of the above-described acts, Health & Safety Code section 25249.7, subdivision (a) also specifically authorizes the court to grant injunctive relief against AMERICAN AIRLINES, INC. and DOES 26 to 50.

THIRD CAUSE OF ACTION

(Violation of Proposition 65 - Against All Defendants)

[Note: Plaintiffs do not amend this cause of action but do not delete it in the event of an appeal.]

60. Plaintiffs reallege and incorporate each and every allegation contained in the preceding paragraphs as though fully set forth herein.

61. Formaldehyde (gas) is present in the GARMENTS in such a way as to expose individuals in California to formaldehyde (gas).

62. The GARMENTS distributed, sold, or offered for sale in California require a “clear and reasonable” warning under Proposition 65.

63. Defendants knowingly and intentionally distributed, sold, and offered for sale GARMENTS in California containing formaldehyde (gas), including because reasonably foreseeable use of the GARMENTS will result in exposure to formaldehyde (gas).

64. Defendants, in the course of doing business in California, have knowingly and intentionally exposed individuals to formaldehyde (gas) without first giving clear and reasonable warning to such individuals in the State of California who were or who would become exposed to formaldehyde (gas) through dermal contact, ingestion, and/or inhalation during the reasonably foreseeable uses of the GARMENTS in violation of Health & Safety Code section 25249.6.

65. Whether such exposure is classified as a consumer exposure, an occupational exposure, an environmental exposure, none of the above, all of the above, some of the above, or otherwise, an exposure in violation of Proposition 65 has occurred.

66. Pursuant to Health & Safety Code section 25249.7, subdivision (b) as a consequence of the above-described acts, Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation.

67. As a consequence of the above-described acts, Health & Safety Code section 25249.7, subdivision (a) also specifically authorizes the court to grant injunctive relief against Defendants.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that the court:

A. Grant civil penalties pursuant to Health & Safety Code section 25249.7, subdivision (b)(1) against defendants in the amount of \$2,500 per day for each violation;

B. Enter such injunctions or other orders as are necessary pursuant to Health & Safety Code section 25249.7, subdivision (a) to prevent defendants from exposing persons within the State of California to the carcinogen formaldehyde (gas) caused by the reasonably foreseeable use of the GARMENTS, including in the workplace, without providing clear and reasonable warnings;

C. Award plaintiff reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5 and as otherwise appropriate and costs; and

D. Grant such other and further relief as may be just and proper.

Dated: January 27, 2020

RESPECTFULLY SUBMITTED

Rachel S. Doughty
Rachel S. Doughty

1 **PROOF OF SERVICE**

2 I am employed in the County of Alameda. My business address is 2550 Ninth Street, Suite
3 204B, Berkeley, California 94710. I am over the age of 18 years and not a party to the above-
4 entitled action. Document(s) served:

- 5 • Fourth Amended Complaint for Civil Penalties and Injunctive Relief (14 Pages)

6 On January 27, 2020, I served the foregoing document(s) on the parties in this action,
7 located on the attached service list as designated below:

- 8 (x) By First Class Mail: Deposited the above documents in a sealed envelope with
9 the United States Postal Service, with the postage fully
10 paid.
- 11 () By Personal Service: I personally delivered each in a sealed envelope to the
12 office of the address on the date last written below.
- 13 () By Overnight Mail: I caused each to be placed in a sealed envelope and
14 placed the same in a box or other facility regularly
15 maintained by the express service carrier, or delivered to
16 an authorized courier or driver authorized by the express
17 service carrier to receive documents, in an envelope or
18 package designated by the express service carrier with
19 delivery fees paid or provided for.
- 20 (x) By Electronic Transmission: Based on an agreement of the parties to accept service by
21 electronic transmission, I caused the documents to be sent
22 to the person(s) at the e-mail addresses listed below. I did
23 not receive, within a reasonable time after the
24 transmission, any electronic message or other indication
25 that the transmission was unsuccessful.

26 I declare under penalty of perjury under the laws of the State of California that the above is
27 true and correct. Executed on January 27, 2020, in Berkeley, California.

28 

Adria Pinto-Quintanilla

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