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10 Consumer Advocacy Group, Inc.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**

ENDORSED
FILED
ALAMEDA COUNTY

MAR 27 2019

CLERK OF THE SUPERIOR COURT
By AMBIT KHAN Deputy

RG 19012558

11 CONSUMER ADVOCACY GROUP, INC.,
12 in the public interest,

13 Plaintiff,

14 v.

15 ROSS STORES, INC., a Delaware
16 Corporation;
17 ROSS DRESS FOR LESS, INC., a Virginia
18 Corporation;
19 ROSS STORES, INC., DBA DD'S
20 DISCOUNTS, a Delaware Corporation;
21 ROSS PROCUREMENT, INC., a Delaware
22 Corporation;
23 ROSS ACQUISITION, INC., a Virginia
24 Corporation;
25 and DOES 1-190;

26 Defendants.

CASE NO.

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)

27 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges nineteen causes of action
28 against defendants ROSS STORES, INC.; ROSS DRESS FOR LESS, INC.; ROSS STORES,

INC. DBA DD’S DISCOUNTS; ROSS PROCUREMENT, INC.; ROSS ACQUISITION, INC.;
and DOES 1-190 as follows:

THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).
2. Defendant ROSS STORES, INC. (“ROSS”) is a Delaware corporation doing business in the State of California at all relevant times herein.
3. Defendant ROSS DRESS FOR LESS, INC. (“ROSS DRESS”) is a Virginia corporation doing business in the State of California at all relevant times herein.
4. Defendant ROSS STORES, INC., DBA DD’S DISCOUNTS (“DD’S DISCOUNTS”) is a Delaware corporation doing business in the State of California at all relevant times herein.
5. Defendant ROSS PROCUREMENT, INC. (“ROSS PROCUREMENT”) is a Delaware corporation doing business in the State of California at all relevant times herein.
6. Defendant ROSS ACQUISITION, INC. (“ROSS ACQUISITION”) is a Virginia corporation doing business in the State of California at all relevant times herein.
7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-190, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.

- 1 8. At all times mentioned herein, the term “Defendants” includes ROSS, ROSS DRESS,
2 DD’S DISCOUNTS, ROSS PROCUREMENT, ROSS ACQUISITION and DOES 1-
3 190.
- 4 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
5 times mentioned herein have conducted business within the State of California.
- 6 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
7 including DOES 1-190, was an agent, servant, or employee of each of the other
8 Defendants. In conducting the activities alleged in this Complaint, each of the
9 Defendants was acting within the course and scope of this agency, service, or
10 employment, and was acting with the consent, permission, and authorization of each of
11 the other Defendants. All actions of each of the Defendants alleged in this Complaint
12 were ratified and approved by every other Defendant or their officers or managing
13 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
14 alleged wrongful conduct of each of the other Defendants.
- 15 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
16 Defendants was a person doing business within the meaning of Health and Safety Code
17 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
18 employees at all relevant times.

19 **JURISDICTION**

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

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

BACKGROUND AND PRELIMINARY FACTS

15. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.
16. Proposition 65 requires the Governor of California to publish a list of chemicals known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code* § 25249.8. The list, which the Governor updates at least once a year, contains over 700 chemicals and chemical families. Proposition 65 imposes warning requirements and other controls that apply to Proposition 65-listed chemicals.
17. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of

1 drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
2 reasonable” warnings before exposing a person, knowingly and intentionally, to a
3 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

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

10 19. Plaintiff identified certain practices of manufacturers and distributors of products
11 bearing Di (2-ethylhexyl) phthalate, also known as Bis (2-ethylhexyl) phthalate
12 (“DEHP”), Dibutyl Phthalate, also known as Di-n-butyl phthalate (“DBP”), and Di
13 Isononyl Phthalate (“DINP”) of exposing, knowingly and intentionally, persons in
14 California to the Proposition 65-listed chemicals of such products without first providing
15 clear and reasonable warnings of such to the exposed persons prior to the time of
16 exposure. Plaintiff later discerned that Defendants engaged in such practice.

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

24 21. On December 2, 2005, the Governor of California added DBP to the list of chemicals
25 known to the State to cause reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)).
26 DBP is known to the State to cause developmental, female, and male toxicity.
27 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months
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1 after addition of DBP to the list of chemicals known to the State to cause reproductive
2 toxicity, DBP became fully subject to Proposition 65 warning requirements and
3 discharge prohibitions.

- 4 22. On December 20, 2013, the Governor of California added DINP to the list of chemicals
5 known to the State to cause cancer. Pursuant to Health and Safety Code sections
6 25249.9 and 25249.10, twenty (20) months after addition of DINP to the list of
7 chemicals known to the State to cause cancer, DINP became fully subject to Proposition
8 65 warning requirements and discharge prohibitions.

9 **SATISFACTION OF PRIOR NOTICE**

- 10 23. On or about August 8, 2018, Plaintiff gave notice of alleged violations of Health and
11 Safety Code section 25249.6, concerning consumer products exposures, subject to a
12 private action to ROSS, ROSS DRESS, DD'S DISCOUNTS and to the California
13 Attorney General, County District Attorneys, and City Attorneys for each city containing
14 a population of at least 750,000 people in whose jurisdictions the violations allegedly
15 occurred, concerning the Brown Pleather/ Vinyl Storage Ottoman ("Storage Ottoman")
16 containing DEHP.
- 17 24. On or about August 8, 2018, Plaintiff gave notice of alleged violations of Health and
18 Safety Code section 25249.6, concerning consumer products exposures, subject to a
19 private action to ROSS, and to the California Attorney General, County District
20 Attorneys, and City Attorneys for each city containing a population of at least 750,000
21 people in whose jurisdictions the violations allegedly occurred, concerning the Soft
22 Vinyl Seat ("Vinyl Toilet Seat") containing DEHP.
- 23 25. On or about August 10, 2018, Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a
25 private action to DD'S DISCOUNTS, ROSS DRESS, and to the California Attorney
26 General, County District Attorneys, and City Attorneys for each city containing a
27 population of at least 750,000 people in whose jurisdictions the violations allegedly
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1 occurred, concerning the Retractable Dog Leash with Pleather/Vinyl Components
2 (“Leashes”) containing DEHP.

3 26. On or about August 10, 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, DD’S DISCOUNTS, and to the California Attorney General,
6 County District Attorneys, and City Attorneys for each city containing a population of at
7 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
8 the Car Dash Cams with Polymer Components (“Car Dash Cams”) containing DEHP.

9 27. On or about August 17, 2018, Plaintiff gave notice of alleged violations of Health and
10 Safety Code section 25249.6, concerning consumer products exposures, subject to a
11 private action to ROSS, DD’S DISCOUNTS, ROSS DRESS, and to the California
12 Attorney General, County District Attorneys, and City Attorneys for each city containing
13 a population of at least 750,000 people in whose jurisdictions the violations allegedly
14 occurred, concerning the Rivet Gun With Plastic Components (“Rivet Gun”) containing
15 DEHP.

16 28. On or about August 21, 2018, Plaintiff gave notice of alleged violations of Health and
17 Safety Code section 25249.6, concerning consumer products exposures, subject to a
18 private action to ROSS DRESS, DD’S DISCOUNTS and to the California Attorney
19 General, County District Attorneys, and City Attorneys for each city containing a
20 population of at least 750,000 people in whose jurisdictions the violations allegedly
21 occurred, concerning the Tire Repair Kit With Plastic Components (“Tire Kit”) containing
22 DEHP.

23 29. On or about August 22, 2018, Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a
25 private action to ROSS DRESS, DD’S DISCOUNTS and to the California Attorney
26 General, County District Attorneys, and City Attorneys for each city containing a
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population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Plastic Knee Pads (“Knee Pads”) containing DEHP.

30. On or about August 22, 2018, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to ROSS, ROSS DRESS, DD’S DISCOUNTS and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Magnetic Tools with Vinyl/PVC Components (“Magnetic Tools”) containing DEHP.

31. On or about August 24, 2018, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to ROSS, ROSS DRESS, ROSS PROCUREMENT, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Storage Chest With Polymer Veneer (“Storage Chest”) containing DEHP.

32. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to ROSS, DD’S DISCOUNTS, ROSS DRESS, ROSS PROCUREMENT, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the PVC/Vinyl Backpacks (“Backpacks”) containing DEHP.

33. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to ROSS, ROSS DRESS, DD’S DISCOUNTS, and to the California 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 Plastic Makeup Bag Set (“Makeup Bag”) containing DEHP.
- 3 34. On or about August 29, 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 DRESS, DD’S DISCOUNTS, 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 Women’s Wallet containing DEHP.
- 9 35. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
10 Safety Code section 25249.6, concerning consumer products exposures, subject to a
11 private action to ROSS, DD’S DISCOUNTS, ROSS DRESS, and to the California
12 Attorney General, County District Attorneys, and City Attorneys for each city containing
13 a population of at least 750,000 people in whose jurisdictions the violations allegedly
14 occurred, concerning the Stereo Bluetooth Headphone (“Headphone”) containing DEHP.
- 15 36. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
16 Safety Code section 25249.6, concerning consumer products exposures, subject to a
17 private action to ROSS, ROSS DRESS, ROSS PROCUREMENT, ROSS
18 ACQUISITION, and to the California Attorney General, County District Attorneys, and
19 City Attorneys for each city containing a population of at least 750,000 people in whose
20 jurisdictions the violations allegedly occurred, concerning the Storage Boxes with
21 Polymer Components (“Boxes”) containing DBP.
- 22 37. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
23 Safety Code section 25249.6, concerning consumer products exposures, subject to a
24 private action to ROSS DRESS, DD’S DISCOUNTS, and to the California Attorney
25 General, County District Attorneys, and City Attorneys for each city containing a
26 population of at least 750,000 people in whose jurisdictions the violations allegedly
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1 occurred, concerning the Vinyl-Coated Dumbbell Set (“Dumbbell Set”) containing
2 DEHP.

3 38. On or about August 29, 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, DD’S DISCOUNTS, ROSS DRESS, and to the California
6 Attorney General, County District Attorneys, and City Attorneys for each city containing
7 a population of at least 750,000 people in whose jurisdictions the violations allegedly
8 occurred, concerning the Plastic Bathmat with Suction Cups (“Bathmat”) containing
9 DINP.

10 39. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
11 Safety Code section 25249.6, concerning consumer products exposures, subject to a
12 private action to ROSS, ROSS PROCUREMENT, ROSS DRESS, ROSS
13 ACQUISITION and to the California Attorney General, County District Attorneys, and
14 City Attorneys for each city containing a population of at least 750,000 people in whose
15 jurisdictions the violations allegedly occurred, concerning the Tools with Vinyl/ PVC
16 Grip (“Tools”) containing DEHP.

17 40. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
18 Safety Code section 25249.6, concerning consumer products exposures, subject to a
19 private action to ROSS DRESS, DD’S DISCOUNTS, and to the California Attorney
20 General, County District Attorneys, and City Attorneys for each city containing a
21 population of at least 750,000 people in whose jurisdictions the violations allegedly
22 occurred, concerning the Plastic/ vinyl Tote Bags (“Tote Bags”) containing DEHP.

23 41. On or about August 29, 2018, Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a
25 private action to ROSS, DD’S DISCOUNTS, ROSS DRESS, and to the California
26 Attorney General, County District Attorneys, and City Attorneys for each city containing
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1 a population of at least 750,000 people in whose jurisdictions the violations allegedly
2 occurred, concerning the Socks with Polymer/Plastic Bags containing DINP.

3 42. Before sending the notices of alleged violation, Plaintiff investigated the consumer
4 products involved, the likelihood that such products would cause users to suffer
5 significant exposures to DEHP, DBP, and DINP, and the corporate structure of each of
6 the Defendants.

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

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

20 45. Plaintiff is commencing this action more than sixty (60) days from the dates that
21 Plaintiff gave notices of the alleged violations to ROSS, ROSS DRESS, ROSS
22 PROCUREMENT, ROSS ACQUISITION, DD'S DISCOUNTS and the public
23 prosecutors referenced in Paragraphs 23-41.

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

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1 **FIRST CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
3 **DD'S DISCOUNTS and DOES 1-10 for Violations of Proposition 65, The Safe**
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
5 **25249.5, *et seq.*))**

6 **Storage Ottoman**

- 7 47. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 46 of this complaint as though fully set forth herein.
- 9 48. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Storage Ottoman, including but not limited to:
11 "FOLDING STORAGE OTTOMAN;" "Brown" "15x15x15" "FRESH HOME
12 ELEMENTS" "UPC#696870005209" "N745" "D1044C6066" "741" "400167042002"
13 "BROWN020" "COMPARABLE VALUE \$19.99" "ROSS PRICE \$11.99" ("Storage
14 Ottoman").
- 15 49. Storage Ottoman contains DEHP.
- 16 50. Defendants knew or should have known that DEHP has been identified by the State of
17 California as a chemical known to cause cancer, developmental, and reproductive
18 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
19 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
20 further discussed above at Paragraph 23.
- 21 51. Plaintiff's allegations regarding Storage Ottoman concerns "[c]onsumer products
22 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
23 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
24 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
25 25602(b). Storage Ottoman are consumer products, and, as mentioned herein, exposures
26 to DEHP took place as a result of such normal and foreseeable consumption and use.
- 27 52. Plaintiff is informed, believes, and thereon alleges that between August 8, 2015 and the
28 present, each of the Defendants knowingly and intentionally exposed California
consumers and users of Storage Ottoman, which Defendants manufactured, distributed,

1 or sold as mentioned above, to DEHP, without first providing any type of clear and
2 reasonable warning of such to the exposed persons before the time of exposure.

3 Defendants have distributed and sold Storage Ottoman in California. Defendants know
4 and intend that California consumers will use Storage Ottoman. thereby exposing them
5 to DEHP. Defendants thereby violated Proposition 65.

6 53. The principal routes of exposure were through dermal contact, ingestion and inhalation.

7 Persons sustain exposures by using and/ or handling the Storage Ottoman without
8 wearing gloves or by touching bare skin or mucous membranes with or without gloves
9 after handling Storage Ottoman, as well as through direct and indirect hand to mouth
10 contact, hand to mucous membrane, or trans-dermal absorption, or breathing in
11 particulate matter dispersed from the Storage Ottoman, as well as through environmental
12 mediums that carry the DEHP once contained within the Storage Ottoman.

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

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

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

26 57. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
27 filing this Complaint.
28

1 **SECOND CAUSE OF ACTION**

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

5 **Soft Vinyl Toilet Seat**

6 58. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 57 of this complaint as though fully set forth herein.

8 59. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Soft Vinyl Toilet Seat including but not limited to:
10 “SOFT VINYL TOILET SEAT”; “DURABLE, LONG LASTING & EASY TO
11 CLEAN”; “EARTH FRIENDLY, HOME FRIENDLY” “RN#144642 MADE IN
12 CHINA” (“Vinyl Toilet Seat”).

13 60. Vinyl Toilet Seat contain DEHP.

14 61. Defendants knew or should have known that DEHP has been identified by the State of
15 California as a chemical known to cause cancer, developmental and reproductive
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of DEHP in Vinyl Toilet Seat within Plaintiff's
18 notice of alleged violations further discussed above at Paragraph 24.

19 62. Plaintiff's allegations regarding Vinyl Toilet Seat concerns “[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). Vinyl Toilet Seat are consumer products, and, as mentioned herein, exposures
24 to DEHP took place as a result of such normal and foreseeable consumption and use.

25 63. Plaintiff is informed, believes, and thereon alleges that between August 8, 2015 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Vinyl Toilet Seat, which Defendants manufactured, distributed,
28 or sold as mentioned above, to DEHP, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Vinyl Toilet Seat in California. Defendants know
3 and intend that California consumers will use Vinyl Toilet Seat, thereby exposing them
4 to DEHP. Defendants thereby violated Proposition 65.

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

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

19 66. 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 67. 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 Vinyl Toilet Seat, pursuant to
24 Health and Safety Code section 25249.7(b).

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

1 **THIRD CAUSE OF ACTION**

2 **By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS, DD'S**
3 **DISCOUNTS, and DOES 21-30 for Violations of Proposition 65, The Safe Drinking**
4 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
5 ***seq.*))**

6 **Retractable Dog Leash with Pleather/Vinyl Components**

7 69. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 68 of this complaint as though fully set forth herein.

9 70. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Retractable Dog Leash with Pleather/Vinyl
11 Components including but not limited to: "EXECUTIVE RETRACTABLE LEASH;"
12 "WWW.NANDOG.COM;" "HAND-CRAFTED DESIGNER WRAPPED CASING;"
13 "MADE IN CHINA;" "EXCLUSIVELY FOR NANDOG PET GEAR;" "843646
14 004021" ("Leashes").

15 71. Leashes contain DEHP.

16 72. Defendants knew or should have known that DEHP has been identified by the State of
17 California as a chemical known to cause cancer, developmental and reproductive
18 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
19 were also informed of the presence of DEHP in Leashes within Plaintiff's notice of
20 alleged violations further discussed above at Paragraph 25.

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

27 74. Plaintiff is informed, believes, and thereon alleges that between August 10, 2015 and the
28 present, each of the Defendants knowingly and intentionally exposed California
consumers and users of Leashes, which Defendants manufactured, distributed, or sold as

mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Leashes in California. Defendants know and intend that California consumers will use Leashes, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

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

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

1 **FOURTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S**
3 **DISCOUNTS and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
4 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
5 ***seq.))***

6 **Car Dash Cams with Polymer Components**

- 7 80. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 79 of this complaint as though fully set forth herein.
- 9 81. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Car Dash Cams with Polymer Components, including
11 but not limited to: "Dashcam Pro"; "Your Personal Eyewitness On & Off the Road";
12 "Portable HD Video & Audio Recorder"; "It's like having a 'Black Box' for your car";
13 "Your Personal Eyewitness On & Off the Road"; UPC "858256003371"; "Item: DCP-
14 MC6/2"; "Distributed by InvenTel Products, LLC 300 Round Hill Drive Ste.1
15 Rockaway NJ 07866"; "dd's DISCOUNTS"; "806 d 5309 C4303"; "0137";
16 "4001755564831" ("Car Dash Cams").
- 17 82. Car Dash Cams contain DEHP.
- 18 83. Defendants knew or should have known that DEHP has been identified by the State of
19 California as a chemical known to cause cancer, developmental, and reproductive
20 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
21 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
22 further discussed above at Paragraph 26.
- 23 84. Plaintiff's allegations regarding Car Dash Cams concerns "[c]onsumer products
24 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
25 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
26 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
27 25602(b). Car Dash Cams are consumer products, and, as mentioned herein, exposures
28 to DEHP took place as a result of such normal and foreseeable consumption and use.

- 1 85. Plaintiff is informed, believes, and thereon alleges that between August 10, 2015 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Car Dash Cams, which Defendants manufactured, distributed, or
4 sold as mentioned above, to DEHP, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.
6 Defendants have distributed and sold Car Dash Cams in California. Defendants know
7 and intend that California consumers will use Car Dash Cams. thereby exposing them to
8 DEHP. Defendants thereby violated Proposition 65.
- 9 86. The principal routes of exposure were through dermal contact and ingestion. Persons
10 sustain exposures by using and by handling the Car Dash Cams without wearing gloves
11 or by touching bare skin or mucous membranes with or without gloves after handling
12 Car Dash Cams, as well as direct and indirect hand to mouth contact, hand to mucous
13 membrane, trans-dermal absorption, or breathing in particulate matter emanating from
14 the Car Dash Cams during use, as well as through environmental mediums that carry the
15 DEHP once contained within the Car Dash Cams.
- 16 87. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
17 Proposition 65 as to Car Dash Cams have been ongoing and continuous to the date of the
18 signing of this complaint, as Defendants engaged and continue to engage in conduct
19 which violates Health and Safety Code section 25249.6, including the manufacture,
20 distribution, promotion, and sale of Car Dash Cams, so that a separate and distinct
21 violation of Proposition 65 occurred each and every time a person was exposed to DEHP
22 by Car Dash Cams as mentioned herein.
- 23 88. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
24 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
25 violations alleged herein will continue to occur into the future.
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1 89. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to DEHP from Car Dash Cams, pursuant to
3 Health and Safety Code section 25249.7(b).

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

6
7 **FIFTH CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S**
9 **DISCOUNTS, ROSS DRESS and DOES 41-50 for Violations of Proposition 65, The**
10 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
11 **25249.5, *et seq.*))**

12 **Rivet Gun with Plastic Components**

13 91. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
14 reference paragraphs 1 through 90 of this complaint as though fully set forth herein.

15 92. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Rivet Gun with Polymer Components, including but
17 not limited to: "TOUGH GEAR"; "9.5" Rivet Gun Swivel With 100 Rivets"; "Rugged
18 all-steel construction, Durable black wrinkle finish, Nonslip cushioned handle grips,
19 Rivet heads and wrench store in handle, 100pc rust-proof aluminum rivets"; "dd's
20 DISCOUNTS"; "D5311 C4410"; "COMPARABLE VALUE \$13.00"; "YOU PAY
21 \$4.99"; "HOME IMPRV"; "400168659629" ("Rivet Gun").

22 93. Rivet Gun contain DEHP.

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

28 95. Plaintiff's allegations regarding Rivet Gun concerns "[c]onsumer products exposure[s],"
which "is an exposure that results from a person's acquisition, purchase, storage,

consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).

Rivet Gun are consumer products, and, as mentioned herein, exposures to DEHP took place as a result of such normal and foreseeable consumption and use.

96. Plaintiff is informed, believes, and thereon alleges that between August 17, 2015 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Rivet Gun, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Rivet Gun in California. Defendants know and intend that California consumers will use Rivet Gun, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

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

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

SIXTH CAUSE OF ACTION

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

Tire Repair Kit with Plastic Components

102. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 101 of this complaint as though fully set forth herein.

103. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Tire Kit with Polymer Components, including but not limited to: "14 PC TIRE REPAIR KIT"; "Pistol Grip Split Eye Plugger"; "Firestone"; "Heavy-Duty Pliers"; "Portable & Convenient For All Purposes"; "EASY & SAFE COMFORT GRIP"; "dd's DISCOUNTS"; "COMPARABLE VALUE \$12.00"; "YOU PAY \$4.99"; "D 5171 C4215"; "Distributed By: Argento SC ®, New York, NY 10018"; "191205009902" ("Tire Kit").

104. Tire Kit contain DEHP.

105. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer, developmental, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

Defendants were also informed of the presence of DEHP in Plaintiff's notice of alleged violations further discussed above at Paragraph 28.

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

107. Plaintiff is informed, believes, and thereon alleges that between August 21, 2015 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Tire Kit, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Tire Kit in California. Defendants know and intend that California consumers will use Tire Kit. thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

distribution, promotion, and sale of Tire Kit, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DEHP by Tire Kit as mentioned herein.

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

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

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

SEVENTH CAUSE OF ACTION

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

Plastic Knee Pads

113. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 112 of this complaint as though fully set forth herein.

114. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Plastic Knee Pads, including but not limited to: “TOUGH GEAR”; “ACCORDION KNEE PAD”; “PROTECT YOUR KNEES WITH ACCORDION CONSTRUCTION THAT FOLLOWS YOUR KNEES’ MOVEMENTS FOR ACCOMMODATING COMFORT”; “STRAPS WITH HOOK AND LOOP CLOSURES ADJUST TO FIT”; “EXTRA CUSHIONING KEEPS YOU COMFORTABLE WHILE YOU WORK”; “DD’S DISCOUNTS D5311 C4419”;

1 “COMPARABLE VALUE \$13.00”; “YOU PAY \$6.99”; “Made in China”;
2 “400159055546” (“Knee Pads”).

3 115. Knee Pads contain DEHP.

4 116. Defendants knew or should have known that DEHP has been identified by the State of
5 California as a chemical known to cause cancer, developmental, and reproductive
6 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
7 were also informed of the presence of DEHP in Plaintiff’s notice of alleged violations
8 further discussed above at Paragraph 29.

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

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

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

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

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

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

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

18 **EIGHTH CAUSE OF ACTION**

19 (By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S
20 DISCOUNTS, ROSS DRESS and DOES 71-80 for Violations of Proposition 65, The
21 Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§
22 25249.5, *et seq.*))

23 **Magnetic Tools with Vinyl/PVC Components**

24 124. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
25 reference paragraphs 1 through 123 of this complaint as though fully set forth herein.

26 125. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Magnetic Tools with Polymer Components, including
28 but not limited to: "Magnetic Tool"; "Illinois industrial Tool"; "iit"; www.iittool.com;

“Manufactured Exclusively for Illinois Industrial Tool Bolingbrook, IL 60440”; “Made in China”; “#17230”; “4001777704082”; “UPC: 0 39593 17230 6” (“Magnetic Tools”).

126. Magnetic Tools contain DEHP.

127. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer, developmental, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DEHP in Plaintiff’s notice of alleged violations further discussed above at Paragraph 30.

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

129. Plaintiff is informed, believes, and thereon alleges that between August 22, 2015 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Magnetic Tools, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Magnetic Tools in California. Defendants know and intend that California consumers will use Magnetic Tools. thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

130. The principal routes of exposure were through dermal contact, ingestion including hand to mouth pathways, and inhalation. Persons sustain exposures by using and by handling the Magnetic Tools without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling Magnetic Tools, as well as direct and indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or

breathing in particulate matter emanating from the Magnetic Tools during use, as well as through environmental mediums that carry the DEHP once contained within the Magnetic Tools.

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

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

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

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

NINTH CAUSE OF ACTION

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

Storage Chest with Polymer Veneer

135. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 134 of this complaint as though fully set forth herein.

136. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Storage Chest with Polymer Components, including

1 but not limited to: Textured TEAL Storage Box With Gold Colored Hardware;
2 “FUZHOU RIRONG IMPORT & EXPORT CO. Ltd.”; “Lot number January 10, 2018”;
3 “California 93120 compliant for formaldehyde Phase 2”; “TCP-014”; “MADE IN
4 CHINA”; “TEAL-TURQU046”; “ROSS”; “D1074 C6462”; “400171208517”; “ROSS
5 PRICE \$13.99” “COMPARABLE VALUE \$26.00” (“Storage Chest”).

6 137. Storage Chest contain DEHP.

7 138. Defendants knew or should have known that DEHP has been identified by the State of
8 California as a chemical known to cause cancer, developmental, and reproductive
9 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
10 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
11 further discussed above at Paragraph 31.

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

18 140. Plaintiff is informed, believes, and thereon alleges that between August 24, 2015 and the
19 present, each of the Defendants knowingly and intentionally exposed California
20 consumers and users of Storage Chest, which Defendants manufactured, distributed, or
21 sold as mentioned above, to DEHP, without first providing any type of clear and
22 reasonable warning of such to the exposed persons before the time of exposure.
23 Defendants have distributed and sold Storage Chest in California. Defendants know and
24 intend that California consumers will use Storage Chest. thereby exposing them to
25 DEHP. Defendants thereby violated Proposition 65.

26 141. The principal routes of exposure were through dermal contact, ingestion, and inhalation.
27 Persons sustain exposures by using and/or handling the Storage Chest without wearing
28

1 gloves or by touching bare skin or mucous membranes with or without gloves after
2 handling Storage Chest, as well as direct and indirect hand to mouth contact, hand to
3 mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating
4 from the Storage Chest during use, as well as through environmental mediums that carry
5 the DEHP once contained within the Storage Chest.

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

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

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

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

21 **TENTH CAUSE OF ACTION**

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

25 **PVC/Vinyl Backpacks**

26 146. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
27 reference paragraphs 1 through 145 of this complaint as though fully set forth herein.
28

1 147. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Backpacks with Polymer Components, including but
3 not limited to: "BEBE;" "BEBE LOS ANGELES;" "E07-1100;" "US:1SZ;" "KYLIE
4 BACKPACK;" "SILVER;" "MADE IN CHINA;" "6 46726 95779 4" ("Backpacks").

5 148. Backpacks contain DEHP.

6 149. Defendants knew or should have known that DEHP has been identified by the State of
7 California as a chemical known to cause cancer, developmental, and reproductive
8 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
9 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
10 further discussed above at Paragraph 32.

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

17 151. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
18 present, each of the Defendants knowingly and intentionally exposed California
19 consumers and users of Backpacks, which Defendants manufactured, distributed, or sold
20 as mentioned above, to DEHP, without first providing any type of clear and reasonable
21 warning of such to the exposed persons before the time of exposure. Defendants have
22 distributed and sold Backpacks in California. Defendants know and intend that
23 California consumers will use Backpacks. thereby exposing them to DEHP. Defendants
24 thereby violated Proposition 65.

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

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

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

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

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

20 **ELEVENTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
22 **DD'S DISCOUNTS, and DOES 101-110 for Violations of Proposition 65, The Safe**
23 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
25249.5, *et seq.*))

24 **Plastic Makeup Bag Set**

25 157. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
26 reference paragraphs 1 through 156 of this complaint as though fully set forth herein.
27
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1 158. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Plastic Makeup Bag Set, including but not limited to:
3 “Hey Bae!” “dd’s Discounts, MULTII982 0056 K D5473 C5429”; “400177740516
4 PCARE ORG”; COMPARABLE VALUE \$10.00 YOU PAY \$5.99”; “MADE IN
5 CHINA” (“Makeup Bag Set”).

6 159. Makeup Bag Set contains DEHP.

7 160. Defendants knew or should have known that DEHP has been identified by the State of
8 California as a chemical known to cause cancer, developmental, and reproductive
9 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
10 were also informed of the presence of DEHP in Plaintiff’s notice of alleged violations
11 further discussed above at Paragraph 33.

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

18 162. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
19 present, each of the Defendants knowingly and intentionally exposed California
20 consumers and users of Makeup Bag Set, which Defendants manufactured, distributed,
21 or sold as mentioned above, to DEHP, without first providing any type of clear and
22 reasonable warning of such to the exposed persons before the time of exposure.
23 Defendants have distributed and sold Makeup Bag Set in California. Defendants know
24 and intend that California consumers will use Makeup Bag Set. thereby exposing them
25 to DEHP. Defendants thereby violated Proposition 65.

26 163. The principal routes of exposure were through dermal contact and ingestion. Persons
27 sustain exposures by using and by handling the Makeup Bag Set without wearing gloves
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1 or by touching bare skin or mucous membranes with or without gloves after handling
2 Makeup Bag Set, as well as direct and indirect hand to mouth contact, consuming food
3 stored in the Makeup Bag Set, hand to mucous membrane, trans-dermal absorption, or
4 breathing in particulate matter emanating from the Makeup Bag Set during use, as well
5 as through environmental mediums that carry the DEHP once contained within the
6 Makeup Bag Set.

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

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

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

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

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1 **TWELFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS, DD'S**
3 **DISCOUNTS, and DOES 111-120 for Violations of Proposition 65, The Safe**
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
5 **25249.5, *et seq.*))**

6 **Women's Wallet**

7 168. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 167 of this complaint as though fully set forth herein.

9 169. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Women's Wallet, including but not limited to: "14
11 SM LTHR GOODS" "ONE SIZE" "D5301" "C1995" "BLACK001" "746 SIZE"
12 "400171079827" "dd's DISCOUNTS" "COMPARABLE VALUE \$5.99" "YOU PAY
13 \$3.99" "JUSTIN & TAYLOR" "CWW-0076 BLACK" ("Women's Wallet").

14 170. Women's Wallet contains DEHP.

15 171. Defendants knew or should have known that DEHP has been identified by the State of
16 California as a chemical known to cause cancer, developmental, and reproductive
17 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
18 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
19 further discussed above at Paragraph 34.

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

26 173. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Women's Wallet, which Defendants manufactured, distributed,
or sold as mentioned above, to DEHP, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Women's Wallet in California. Defendants know
3 and intend that California consumers will use Women's Wallet. thereby exposing them
4 to DEHP. Defendants thereby violated Proposition 65.

5 174. The principal routes of exposure were through dermal contact, ingestion, and inhalation.

6 Persons sustain exposures by using and/or handling the Women's Wallet without
7 wearing gloves or by touching bare skin or mucous membranes with or without gloves
8 after handling Women's Wallet, as well as direct and indirect hand to mouth contact,
9 hand to mucous membrane, trans-dermal absorption, or breathing in particulate matter
10 emanating from the Women's Wallet during use, as well as through environmental
11 mediums that carry the DEHP once contained within the Women's Wallet.

12 175. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Women's Wallet have been ongoing and continuous to the date of
14 the 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 Women's Wallet, so that a separate and distinct
17 violation of Proposition 65 occurred each and every time a person was exposed to DEHP
18 by Women's Wallet as mentioned herein.

19 176. 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.

22 177. 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 Women's Wallet, pursuant to
24 Health and Safety Code section 25249.7(b).

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

THIRTEENTH CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS, DD'S DISCOUNTS, and DOES 121-130 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Stereo Bluetooth Headphone

179. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 178 of this complaint as though fully set forth herein.

180. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Headphone, including but not limited to: "OB All of the Best"; "Stereo Bluetooth Headphone A12-B88-6"; "HIGH SOUD QUALITY, COLLAPSIBLE DESIGN, RECHARGEABLE LITHIUM BATTERY, SOFT AIR CUSHIONS"; "MADE IN CHINA UPC 1 90418 00423 0" ("Headphone").

181. Headphone contains DEHP.

182. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer, developmental, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DEHP in Plaintiff's notice of alleged violations further discussed above at Paragraph 35.

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

184. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Headphone, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Headphone in California. Defendants know and intend that
3 California consumers will use Headphone. thereby exposing them to DEHP. Defendants
4 thereby violated Proposition 65.

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

12 186. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Headphone 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 Headphone, so that a separate and distinct violation
17 of Proposition 65 occurred each and every time a person was exposed to DEHP by
18 Headphone as mentioned herein.

19 187. 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.

22 188. 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 Headphone, pursuant to Health
24 and Safety Code section 25249.7(b).

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

1 **FOURTEENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
3 **ROSS PROCUREMENT, ROSS ACQUISITION, and DOES 131-140 for Violations**
4 **of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
5 **(Health & Safety Code, §§ 25249.5, et seq.))**

6 **Storage Boxes with Polymer Components**

7 190. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 189 of this complaint as though fully set forth herein.

9 191. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Storage Boxes with Polymer Components, including
11 but not limited to: Textured BROWN Storage Box with Gold Colored Hardware;
12 “ROSS;” “DEC BOX TR;” “BRONZE-AMB027;” “COMPARABLE VALUE \$30.00;”
13 “D1074 C6462;” “400168962538” (“Boxes”).

14 192. Boxes contain DBP.

15 193. Defendants knew or should have known that DBP has been identified by the State of
16 California as a chemical known to cause male and female reproductive, and
17 developmental toxicity and therefore was subject to Proposition 65 warning
18 requirements. Defendants were also informed of the presence of DBP in Plaintiff’s
19 notice of alleged violations further discussed above at Paragraph 36.

20 194. Plaintiff’s allegations regarding Boxes concerns “[c]onsumer products exposure[s],”
21 which “is an exposure that results from a person’s acquisition, purchase, storage,
22 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
23 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).
24 Boxes are consumer products, and, as mentioned herein, exposures to DBP took place as
25 a result of such normal and foreseeable consumption and use.

26 195. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Boxes, which Defendants manufactured, distributed, or sold as
mentioned above, to DBP, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Boxes in California. Defendants know and intend that California
3 consumers will use Boxes. thereby exposing them to DBP. Defendants thereby violated
4 Proposition 65.

5 196. The principal routes of exposure were through dermal contact, inhalation, and ingestion.
6 Persons sustain exposures by handling or using the Boxes without wearing gloves or by
7 touching bare skin or mucous membranes with gloves after handling the Boxes, as well
8 as direct and indirect hand to mouth contact, hand to food to mouth, hand to mucous
9 membrane, transdermal absorption from the Boxes during handling and use, as well as
10 through environmental mediums that carry the DBP once contained within the Boxes.

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

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

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

24 200. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.
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FIFTEENTH CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS, DD'S DISCOUNTS, and DOES 141-150 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Vinyl-Coated Dumbbell Set

201. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 200 of this complaint as though fully set forth herein.

202. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Vinyl-Coated Dumbbell Set, including but not limited to: "DUMBBELL SET" "4LBS (2X2 LB)"; "FILA" "ROSS D1066 C7021"; "COMPARABLE VALUE \$10.00"; "YOU PAY \$4.99"; "Made in China"; "400173375361" ("Dumbbell Set").

203. Dumbbell Set contains DEHP.

204. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer, reproductive and developmental toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DEHP in Plaintiff's notice of alleged violations further discussed above at Paragraph 37.

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

206. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Dumbbell Set, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Dumbbell Set in California. Defendants know and
3 intend that California consumers will use Dumbbell Set. thereby exposing them to
4 DEHP. Defendants thereby violated Proposition 65.

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

12 208. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Dumbbell Set 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 Dumbbell Set, so that a separate and distinct
17 violation of Proposition 65 occurred each and every time a person was exposed to DEHP
18 by Dumbbell Set as mentioned herein.

19 209. 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.

22 210. 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 Dumbbell Set, pursuant to
24 Health and Safety Code section 25249.7(b).

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

1 **SIXTEENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
3 **DD’S DISCOUNTS, and DOES 151-160 for Violations of Proposition 65, The Safe**
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
5 **25249.5, *et seq.*))**

6 **Plastic Bathmat with Suction Cups**

7 212. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 211 of this complaint as though fully set forth herein.

9 213. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Plastic Bathmat with Suction Cups, including but not
11 limited to: “Bath Mat;” “dd’s DISCOUNTS;” “N815;” “0342;” “D5155;”
12 “400178001524;” “C4322;” “Con-Tact Brand ®;” “28.25in. X 12.75in;” “Kittrich®
13 Corporation;” “BMAT-C3Q25-01;” “TEAL;” “UPC#790444024587;” “MADE IN
14 CHINA” (“Bathmat”).

15 214. Bathmat contains DINP.

16 215. Defendants knew or should have known that DINP has been identified by the State of
17 California as a chemical known to cause cancer and therefore was subject to Proposition
18 65 warning requirements. Defendants were also informed of the presence of DINP in
19 Plaintiff’s notice of alleged violations further discussed above at Paragraph 38.

20 216. Plaintiff’s allegations regarding Bathmat concerns “[c]onsumer products exposure[s],”
21 which “is an exposure that results from a person’s acquisition, purchase, storage,
22 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
23 that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).
24 Bathmat are consumer products, and, as mentioned herein, exposures to DINP took place
25 as a result of such normal and foreseeable consumption and use.

26 217. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Bathmat, which Defendants manufactured, distributed, or sold as
mentioned above, to DINP, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Bathmat in California. Defendants know and intend that California
3 consumers will use Bathmat. thereby exposing them to DINP. Defendants thereby
4 violated Proposition 65.

5 218. The principal routes of exposure were through dermal contact, inhalation and ingestion.

6 Persons sustain exposures by using, including standing or sitting on without wearing
7 protective footwear and/or with bare feet or handling the Bathmat without wearing
8 gloves or by touching bare skin or mucous membranes with or without gloves after using
9 or handling Bathmat, as well as direct and indirect hand to mouth contact, hand to food
10 to mouth, hand to mucous membrane, or breathing in particulate matter emanating from
11 the Bathmat during handling and use, as well as through environmental mediums that
12 carry the DINP once contained within the Bathmat.

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

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

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

26 222. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
27 filing this Complaint.
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SEVENTEENTH CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS, ROSS PROCUREMENT, ROSS ACQUISITION, and DOES 161-170 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Tools with Vinyl/PVC Grip

223. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 222 of this complaint as though fully set forth herein.

224. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Tools with Vinyl/PVC Grip, including but not limited to:

- a. “125mm (5 in.)” Plier contained in 5 piece Toolkit: “TACTIX;” “BH0731;” “#204903;” “MERIDIAN INTERNATIONAL CO., LTD.;” “ROSS;” “D1068 C6565;” “COMPARABLE VALUE \$25.00;” “HARDWARE;” “MADE IN CHINA;” “400167820020;” “6 942629 282181”
- b. “150mm (6 in.)” Plier contained in 5 piece Toolkit: “TACTIX;” “BH0731;” “#204903;” “MERIDIAN INTERNATIONAL CO., LTD.;” “ROSS;” “D1068 C6565;” “COMPARABLE VALUE \$25.00;” “HARDWARE;” “MADE IN CHINA;” “400167820020;” “6 942629 282181”
- c. “150mm (6 in.)” Wrench contained in 5 piece Toolkit: “TACTIX;” “BH0731;” “#204903;” “MERIDIAN INTERNATIONAL CO., LTD.;” “ROSS;” “D1068 C6565;” “COMPARABLE VALUE \$25.00;” “HARDWARE;” “MADE IN CHINA;” “400167820020;” “6 942629 282181” (“Tools”),

225. Tools contains DEHP.

226. Defendants knew or should have known that DEHP has been identified by the State of California as a chemical known to cause cancer, reproductive and developmental toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DEHP in Plaintiff’s notice of alleged violations further discussed above at Paragraph 39.

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

7 228. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Tools, which Defendants manufactured, distributed, or sold as
10 mentioned above, to DEHP, without first providing any type of clear and reasonable
11 warning of such to the exposed persons before the time of exposure. Defendants have
12 distributed and sold Tools in California. Defendants know and intend that California
13 consumers will use Tools. thereby exposing them to DEHP. Defendants thereby
14 violated Proposition 65.

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

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

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

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

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

11 **EIGHTEENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS, DD'S**
13 **DISCOUNTS and DOES 171-180 for Violations of Proposition 65, The Safe**
14 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**
25249.5, *et seq.*))

15 **Plastic/Vinyl Tote Bags**

16 234. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
17 reference paragraphs 1 through 233 of this complaint as though fully set forth herein.

18 235. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Plastic/Vinyl Tote Bags including but not limited to:
20 "FLORAL 4-PIECE TOTE BAG;" "ALFA BAGS;" "27.25 in. X 1.00 in;" "SKU#
21 400176264204." ("Tote Bags").

22 236. Tote Bags contains DEHP.

23 237. Defendants knew or should have known that DEHP has been identified by the State of
24 California as a chemical known to cause cancer, reproductive and developmental
25 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
26 were also informed of the presence of DEHP in Plaintiff's notice of alleged violations
27 further discussed above at Paragraph 40.

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

7 239. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Tote Bags, which Defendants manufactured, distributed, or sold
10 as mentioned above, to DEHP, without first providing any type of clear and reasonable
11 warning of such to the exposed persons before the time of exposure. Defendants have
12 distributed and sold Tote Bags in California. Defendants know and intend that California
13 consumers will use Tote Bags. thereby exposing them to DEHP. Defendants thereby
14 violated Proposition 65.

15 240. The principal routes of exposure were through dermal contact, ingestion, and inhalation.
16 Persons sustain exposures by using and/or handling the Tote Bags without wearing
17 gloves or by touching bare skin or mucous membranes with or without gloves after
18 handling Tote Bags, 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 Tote Bags during use, as well as through environmental mediums that carry the
21 DEHP once contained within the Tote Bags.

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

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

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

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

11 **NINETEENTH CAUSE OF ACTION**

12 (By CONSUMER ADVOCACY GROUP, INC. and against ROSS, DD'S
13 DISCOUNTS, ROSS DRESS, and DOES 181-190 for Violations of Proposition 65,
14 The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety*
15 *Code, §§ 25249.5, et seq.*))

16 **Socks with Polymer/Plastic Bags**

17 245. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
18 reference paragraphs 1 through 244 of this complaint as though fully set forth herein.

19 246. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Socks with Polymer/Plastic Bags including but not
21 limited to: "Clear bag with blue zipper;" "RN89888;" "701570797009;" "PLANET SOX
22 ® GBG SOCKS LLC;" "FROZEN IMAGES ON SOCKS;" "STICKER:
23 400162459737;" "43FZ091GCCZA-AOM" ("Socks with Polymer/Plastic Bags").

24 247. Socks with Polymer/Plastic Bags contains DINP.

25 248. Defendants knew or should have known that DINP has been identified by the State of
26 California as a chemical known to cause cancer and therefore was subject to Proposition
27 65 warning requirements. Defendants were also informed of the presence of DINP in
28 Plaintiff's notice of alleged violations further discussed above at Paragraph 41.

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

8 250. Plaintiff is informed, believes, and thereon alleges that between August 29, 2015 and the
9 present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Socks with Polymer/Plastic Bags, which Defendants
11 manufactured, distributed, or sold as mentioned above, to DINP, without first providing
12 any type of clear and reasonable warning of such to the exposed persons before the time
13 of exposure. Defendants have distributed and sold Socks with Polymer/Plastic Bags in
14 California. Defendants know and intend that California consumers will use Socks with
15 Polymer/Plastic Bags. thereby exposing them to DINP. Defendants thereby violated
16 Proposition 65.

17 251. The principal routes of exposure were through dermal contact, ingestion, and inhalation.
18 Persons sustain exposures by using and/or handling the Socks with Polymer/ Plastic
19 Bags without wearing gloves or by touching bare skin or mucous membranes with or
20 without gloves after handling Socks with Polymer/ Plastic Bags, as well as direct and
21 indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or
22 breathing in particulate matter emanating from the Socks with Polymer/ Plastic Bags
23 during use, as well as through environmental mediums that carry the DINP once
24 contained within the Socks with Polymer/ Plastic Bags.

25 252. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
26 Proposition 65 as to Socks with Polymer/Plastic Bags have been ongoing and continuous
27 to the date of the signing of this complaint, as Defendants engaged and continue to
28

engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of Socks with Polymer/Plastic Bags, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DINP by Socks with Polymer/Plastic Bags as mentioned herein.

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

254. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to DINP from Socks with Polymer/Plastic Bags, pursuant to Health and Safety Code section 25249.7(b).

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

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

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

Dated: March 26, 2019

YEROUSHALMI & YEROUSHALMI

BY: 

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