

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Rupert Byrdsong

Reuben Yeroushalmi (SBN 193981)
Peter T. Sato (SBN 238486)
YEROUSHALMI & YEROUSHALMI
An Association of Independent Law Corporations
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, California 90212
Telephone: (310) 623-1926
Facsimile: (310) 623-1930

Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

THE TJX COMPANIES, INC.; a Delaware
Corporation;
THE TJX OPERATING COMPANIES,
INC.; a Delaware Corporation;
T.J. MAXX OF CA, LLC, a Virginia Limited
Liability Company;
MIWOLRD ACCESSORIES, LLC, a New
York Corporation;
and DOES 1-40,

Defendants.

CASE NO. **19STCV45711**

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action against
Defendants THE TJX COMPANIES, INC.; THE TJX OPERATING COMPANIES, INC.; T.J.
MAXX OF CA, LLC; MIWORLD ACCESSORIES, LLC and DOES 1-40 as follows:

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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 THE TJX COMPANIES, INC. (“TJX”) is a Delaware Corporation, doing business in the State of California at all relevant times herein.
3. Defendant THE TJX OPERATING COMPANIES, INC. (“TJX OP”) is a Delaware Corporation, doing business in the State of California at all relevant times herein.
4. Defendant T.J. MAXX OF CA, LLC (“TJ MAXX”) is a Virginia Limited Liability Company, doing business in the State of California at all relevant times herein.
5. Defendant MIWORLD ACCESSORIES, LLC (“MIWORLD”) is a New York Limited Liability Company, doing business in the State of California at all relevant times herein.
6. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, 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.
7. At all times mentioned herein, the term “Defendants” includes TJX, TJX OP, TJ MAXX, MIWORLD, and DOES 1-40.
8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
9. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the

1 Defendants was acting within the course and scope of this agency, service, or
2 employment, and was acting with the consent, permission, and authorization of each of
3 the other Defendants. All actions of each of the Defendants alleged in this Complaint
4 were ratified and approved by every other Defendant or their officers or managing agents.
5 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
6 wrongful conduct of each of the other Defendants.

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

11 **JURISDICTION**

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

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

25 13. Venue is proper in the County of Los Angeles because one or more of the instances of
26 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
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1 because Defendants conducted, and continue to conduct, business in the County of Los
2 Angeles with respect to the consumer product that is the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 14. In 1986, California voters approved an initiative to address growing concerns about
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
10 from contamination, to allow consumers to make informed choices about the products
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see
12 fit.

13 15. Proposition 65 requires the Governor of California to publish a list of chemicals known to
14 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
15 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
16 chemicals and chemical families. Proposition 65 imposes warning requirements and
17 other controls that apply to Proposition 65-listed chemicals.

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

24 17. Proposition 65 provides that any person “violating or threatening to violate” the statute
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.
26 “Threaten to violate” means “to create a condition in which there is a substantial
27 probability that a violation will occur.” *Health & Safety Code* § 25249.11(e).

1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

3 18. Plaintiff identified certain practices of manufacturers and distributors of exposing,
4 knowingly and intentionally, persons in California to Di(2-ethylhexyl)phthalate
5 (“DEHP”) and Diisononyl Phthalate (“DINP”) products without first providing clear and
6 reasonable warnings of such to the exposed persons prior to the time of exposure.

7 Plaintiff later discerned that Defendants engaged in such practice.

8 19. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
9 known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to
10 Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
11 addition of DEHP to the list of chemicals known to the State to cause cancer, DEHP
12 became fully subject to Proposition 65 warning requirements and discharge prohibitions.

13 20. On October 24, 2003, the Governor of California added DEHP to the list of chemicals
14 known to the State to cause reproductive and developmental toxicity (*Cal. Code Regs.* tit.
15 27, § 27001(c)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
16 twenty (20) months after addition of DEHP to the list of chemicals known to the State to
17 cause reproductive and developmental toxicity, DEHP became fully subject to
18 Proposition 65 warning requirements and discharge prohibitions.

19 21. On December 20, 2013, the Governor of California added DINP to the list of chemicals
20 known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to
21 Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
22 addition of DINP to the list of chemicals known to the State to cause cancer, DINP
23 became fully subject to Proposition 65 warning requirements and discharge prohibitions.

24 **SATISFACTION OF PRIOR NOTICE**

25 22. On or about March 21, 2019, Plaintiff gave notice of alleged violations of Health and
26 Safety Code section 25249.6, concerning consumer products exposures, subject to a
27 private action to TJX OP, TJ MAXX, and to the California Attorney General, County
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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 product Clear PVC Zipper Storage.

23. On or about June 17, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to TJX, TJX OP, TJ MAXX, 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 product Purses with Plastic Components.

24. On or about July 17, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to TJX, TJX OP, TJ MAXX, 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 product Clear PVC Zipper Storage.

25. On or about July 17, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to TJX, TJX OP, TJ MAXX, 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 product Cosmetic Bag with Plastic Components.

26. On or about August 12, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to TJX, TJX OP, MIWORLD, 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 product Travel Bottle Kit with Plastic Components.

1 27. Before sending the notices of alleged violation, Plaintiff investigated the consumer
2 products involved, the likelihood that such products would cause users to suffer
3 significant exposures to DEHP and/or DINP, and the corporate structure of each of the
4 Defendants.

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

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

18 30. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
19 gave notices of the alleged violations to TJX, TJX OP, TJ MAXX, and the public
20 prosecutors referenced in Paragraphs 22-26.

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

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1 **FIRST CAUSE OF ACTION**

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

5 **Travel Accessories**

6 32. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 31 of this Complaint as though fully set forth herein.

8 33. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Clear PVC Zipper Storage including but not limited
10 to: (i) G Force Explore Excellence”; “Set of 3 Packing Cubes”; “Water-Resistant
11 Design”; “Super Clear PVC Zipper Storage”; “Style #6056”; “UPC 6 33125 12547 3”;
12 Made in China”; “Manufactured and Distributed by Kennedy International, Inc.”, and (ii)
13 “G FORCE EXPLORE EXCELLENCE;” “SET OF 3 PACKING CUBES;” “SUPER
14 CLEAR PVC ZIPPER STORAGE;” STYLE# 6056;” “MADE IN CHINA;”
15 “MANUFACTURED AND DISTRIBUTED BY KENNEDY INTERNATIONAL,
16 INC;” “RN 96306;” “KENNEDY INTL., INC OLD BRIDGE, NJ 08857;” “6 33125
17 12547 3” (“PVC Storage”).

18 34. PVC Storage contains DEHP.

19 35. Defendants knew or should have known that DEHP has been identified by the State of
20 California as a chemical known to cause cancer and reproductive and developmental
21 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
22 were also informed of the presence of DEHP in PVC Storage within Plaintiff’s notice of
23 alleged violations further discussed above at Paragraphs 22 and 24.

24 36. Plaintiff’s allegations regarding PVC Storage concerns “[c]onsumer products
25 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
26 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
27 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
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1 25602(b). PVC Storage are consumer products, and, as mentioned herein, exposures to
2 DEHP took place as a result of such normal and foreseeable use.

3 37. Plaintiff is informed, believes, and thereon alleges that between March 21, 2016 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of PVC Storage, which Defendants manufactured, distributed, or
6 sold as mentioned above, to DEHP, without first providing any type of clear and
7 reasonable warning of such to the exposed persons before the time of exposure.
8 Defendants have distributed and sold PVC Storage in California. Defendants know and
9 intend that California consumers will use PVC Storage, thereby exposing them to DEHP.
10 Defendants thereby violated Proposition 65.

11 38. The principal routes of exposure are through dermal contact and ingestion. Persons
12 sustain exposures by using, handling, or carrying PVC Storage without wearing gloves or
13 by touching bare skin or mucous membranes with or without gloves after handling PVC
14 Storage, as well as through direct and indirect hand to mouth contact, hand to mucous
15 membrane, or breathing in particulate matter emanating from the PVC Storage during
16 use, as well as through environmental mediums that carry the DEHP once contained
17 within the PVC Storage.

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

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

1 41. 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 PVC Storage, pursuant to
3 Health and Safety Code section 25249.7(b).

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

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7 **SECOND CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against TJX, TJX OP, TJ
9 MAXX, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water
10 and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

11 **Fashion Accessories**

12 43. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
13 reference paragraphs 1 through 42 of this Complaint as though fully set forth herein.

14 44. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Purse with Plastic Components including but not
16 limited to: "POMPOM Tutti BY DISASTER;" "T.J.maxx;" "87-6001-222041-000399-
17 13-8;" "PT MUP HRT;" "www.disasterdesigns.co.uk;" "MADE IN CHINA;" "5 055265
18 915861" ("Purses").

19 45. Purses contain DEHP.

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

25 47. Plaintiff's allegations regarding Purses concerns "[c]onsumer products exposure[s],"
26 which "is an exposure that results from a person's acquisition, purchase, storage,
27 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
28 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).

1 Purses are consumer products, and, as mentioned herein, exposures to DEHP took place
2 as a result of such normal and foreseeable use.

3 48. Plaintiff is informed, believes, and thereon alleges that between June 17, 2016 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Purses, which Defendants manufactured, distributed, or sold as
6 mentioned above, to DEHP, without first providing any type of clear and reasonable
7 warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold Purses in California. Defendants know and intend that California
9 consumers will use Purses, thereby exposing them to DEHP. Defendants thereby
10 violated Proposition 65.

11 49. The principal routes of exposure are through dermal contact and ingestion. Persons
12 sustain exposures by using, handling, or carrying Purses without wearing gloves or by
13 touching bare skin or mucous membranes with or without gloves after handling Purses, as
14 well as through direct and indirect hand to mouth contact, hand to mucous membrane, or
15 breathing in particulate matter emanating from the Purses during use, as well as through
16 environmental mediums that carry the DEHP once contained within the Purses.

17 50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
18 Proposition 65 as to Purses have been ongoing and continuous, as Defendants engaged
19 and continue to engage in conduct which violates Health and Safety Code section
20 25249.6, including the manufacture, distribution, promotion, and sale of Purses, so that a
21 separate and distinct violation of Proposition 65 occurred each and every time a person
22 was exposed to DEHP by Purses as mentioned herein.

23 51. 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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52. 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 Purses, pursuant to Health and Safety Code section 25249.7(b).

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

THIRD CAUSE OF ACTION

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

Cosmetic Bags

54. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 53 of this Complaint as though fully set forth herein.

55. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Cosmetic Bag with Plastic Components including but not limited to: “LOLO;” “lolobag.com;” “MADE IN CHINA;” “T.Jmaxx;” “87-6003-272352-001499-15-2” (“Cosmetic Bags”).

56. Cosmetic Bags contain DINP.

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

58. Plaintiff’s allegations regarding Cosmetic Bags 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). Cosmetic Bags are consumer products, and, as mentioned herein, exposures to DINP took place as a result of such normal and foreseeable use.

1 59. Plaintiff is informed, believes, and thereon alleges that between July 17, 2016 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Cosmetic Bags, which Defendants manufactured, distributed, or
4 sold as mentioned above, to DINP, 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 Cosmetic Bags in California. Defendants know and
7 intend that California consumers will use Cosmetic Bags, thereby exposing them to
8 DINP. Defendants thereby violated Proposition 65.

9 60. The principal routes of exposure are through dermal contact and ingestion. Persons
10 sustain exposures by using, handling, or carrying Cosmetic Bags without wearing gloves
11 or by touching bare skin or mucous membranes with or without gloves after handling
12 Cosmetic Bags, as well as through direct and indirect hand to mouth contact, hand to
13 mucous membrane, or breathing in particulate matter emanating from the Cosmetic Bags
14 during use, as well as through environmental mediums that carry the DINP once
15 contained within the Cosmetic Bags.

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

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

25 63. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DINP from Cosmetic Bags, pursuant to
27 Health and Safety Code section 25249.7(b).
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1 64. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

3 **FOURTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against TJX, TJX OP,**
5 **MIWORLD, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
6 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
***seq.*))**

7 **Travel Bottle Kit**

8 65. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
9 reference paragraphs 1 through 64 of this Complaint as though fully set forth herein.

10 66. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Travel Bottle Kit with Plastic Components including
12 but not limited to: “bebe;” “12 PIECE TRAVEL BOTTLE KIT;” “Designed in the USA.;
13 “Made in China;” “Distributed by: Miworld Accessories LLC;” “The bebe trademarks,
14 names and logos are owned by BB Brand Holdings LLC.;” “BB-2152;” “8 42100 12702
15 3” “T.J.Maxx;” “74-9741-733570-000699-12-2” (“Travel Bottle Kits”).

16 67. Travel Bottle Kits contain DEHP.

17 68. Defendants knew or should have known that DEHP has been identified by the State of
18 California as a chemical known to cause cancer and developmental and reproductive
19 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
20 were also informed of the presence of DEHP in Travel Bottle Kits within Plaintiff's
21 notice of alleged violations further discussed above at Paragraph 26.

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

1 70. Plaintiff is informed, believes, and thereon alleges that between August 12, 2016 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Travel Bottle Kits, which Defendants manufactured, distributed,
4 or 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 Travel Bottle Kits in California. Defendants know
7 and intend that California consumers will use Travel Bottle Kits, thereby exposing them
8 to DEHP. Defendants thereby violated Proposition 65.

9 71. The principal routes of exposure are through dermal contact and ingestion. Persons
10 sustain exposures by using, handling, or carrying Travel Bottle Kits without wearing
11 gloves or by touching bare skin or mucous membranes with or without gloves after
12 handling Travel Bottle Kits, as well as through direct and indirect hand to mouth contact,
13 hand to mucous membrane, or breathing in particulate matter emanating from the Travel
14 Bottle Kits during use, as well as through environmental mediums that carry the DEHP
15 once contained within the Travel Bottle Kits.

16 72. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
17 Proposition 65 as to Travel Bottle Kits have been ongoing and continuous, as Defendants
18 engaged and continue to engage in conduct which violates Health and Safety Code
19 section 25249.6, including the manufacture, distribution, promotion, and sale of Travel
20 Bottle Kits, so that a separate and distinct violation of Proposition 65 occurred each and
21 every time a person was exposed to DEHP by Travel Bottle Kits as mentioned herein.

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

25 74. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DEHP from Travel Bottle Kits, pursuant to
27 Health and Safety Code section 25249.7(b).
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1 75. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

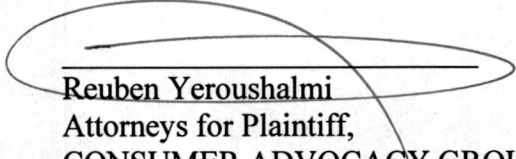
3 **PRAYER FOR RELIEF**

4 Plaintiff demands against each of the Defendants as follows:

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

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12 Dated: December 18, 2019

YEROUSHALMI & YEROUSHALMI

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16 Reuben Yeroushalmi
17 Attorneys for Plaintiff,
18 CONSUMER ADVOCACY GROUP, INC.
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