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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.

ROSS DRESS FOR LESS, INC., a Virginia
 Corporation;
 ROSS STORES, INC., dba DD'S
 DISCOUNTS a Delaware Corporation;
 ROSS PROCUREMENT INC., a Delaware
 Corporation;
 BADIA SPICES, INC., a Florida
 Corporation;
 and DOES 1-80,

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges eight causes of action
 against defendants ROSS DRESS FOR LESS, ROSS STORES, INC., dba DD'S DISCOUNTS,
 INC., ROSS PROCUREMENT INC., BADIA SPICES, INC., and DOES 1-80 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 DRESS FOR LESS, INC. (“ROSS DRESS”) is a Virginia Corporation, qualified to do business in Virginia, and doing business in the State of California at all relevant times herein.
3. Defendant ROSS STORES, INC., dba DD’S DISCOUNTS (“ROSS”) is a Delaware Corporation, qualified to do business in Delaware, and doing business in the State of California at all relevant times herein.
4. Defendant ROSS PROCUREMENT INC. (“ROSS PRO”) is a Delaware Corporation, qualified to do business in Delaware, and doing business in the State of California at all relevant times herein.
5. Defendant BADIA SPICES, INC. (“BADIA”) is a Florida Corporation, qualified to do business in Florida, and 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 1-80, 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 ROSS DRESS, ROSS, ROSS PRO, BADIA, and DOES 1-80.

- 1 8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
2 times mentioned herein have conducted business within the State of California.
- 3 9. Upon information and belief, at all times relevant to this action, each of the Defendants,
4 including DOES 1-80, was an agent, servant, or employee of each of the other
5 Defendants. In conducting the activities alleged in this Complaint, each of the
6 Defendants was acting within the course and scope of this agency, service, or
7 employment, and was acting with the consent, permission, and authorization of each of
8 the other Defendants. All actions of each of the Defendants alleged in this Complaint
9 were ratified and approved by every other Defendant or their officers or managing agents.
10 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
11 wrongful conduct of each of the other Defendants.
- 12 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
13 Defendants was a person doing business within the meaning of Health and Safety Code
14 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
15 employees at all relevant times.

16 **JURISDICTION**

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

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

7 **BACKGROUND AND PRELIMINARY FACTS**

8 14. In 1986, California voters approved an initiative to address growing concerns about
9 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
10 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
11 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
12 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
13 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
14 from contamination, to allow consumers to make informed choices about the products
15 they buy, and to enable persons to protect themselves from toxic chemicals as they see
16 fit.

17 15. Proposition 65 requires the Governor of California to publish a list of chemicals known to
18 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
19 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
20 chemicals and chemical families. Proposition 65 imposes warning requirements and
21 other controls that apply to Proposition 65-listed chemicals.

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

- 1 17. Proposition 65 provides that any person "violating or threatening to violate" the statute
2 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.
3 "Threaten to violate" means "to create a condition in which there is a substantial
4 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
5 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
6 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 7 18. Plaintiff identified certain practices of manufacturers and distributors of exposing,
8 knowingly and intentionally, persons in California to Di(2-ethylhexyl)phthalate
9 ("DEHP"), Lead and Lead Compounds ("Lead"), and Diisononyl Phthalate ("DINP")
10 without first providing clear and reasonable warnings of such to the exposed persons
11 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such
12 practice.
- 13 19. On February 27, 1987, the Governor of California added Lead 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 Lead to the list of chemicals known to the State to
17 cause reproductive and developmental toxicity, Lead became fully subject to Proposition
18 65 warning requirements and discharge prohibitions.
- 19 20. On January 1, 1988, the Governor of California added DEHP 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 DEHP to the list of chemicals known to the State to cause cancer, DEHP
23 became fully subject to Proposition 65 warning requirements and discharge prohibitions.
- 24 21. On October 1, 1992, the Governor of California added Lead to the list of chemicals
25 known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to
26 Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
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1 addition of Lead to the list of chemicals known to the State to cause cancer, Lead became
2 fully subject to Proposition 65 warning requirements and discharge prohibitions.

3 22. On October 24, 2003, the Governor of California added DEHP to the list of chemicals
4 known to the State to cause reproductive and developmental toxicity (*Cal. Code Regs.* tit.
5 27, § 27001(c)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
6 twenty (20) months after addition of DEHP to the list of chemicals known to the State to
7 cause reproductive and developmental toxicity, DEHP became fully subject to
8 Proposition 65 warning requirements and discharge prohibitions.

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

14 **SATISFACTION OF PRIOR NOTICE**

15 24. On or about April 12, 2019, 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, BADIA, and to the California Attorney General, County District
18 Attorneys, and City Attorneys for each city containing a population of at least 750,000
19 people in whose jurisdictions the violations allegedly occurred, concerning the product
20 Ground Turmeric.

21 25. On or about June 28, 2019, Plaintiff gave notice of alleged violations of Health and
22 Safety Code section 25249.6, concerning consumer products exposures, subject to a
23 private action to ROSS, ROSS DRESS, ROSS PRO, and to the California Attorney
24 General, County District Attorneys, and City Attorneys for each city containing a
25 population of at least 750,000 people in whose jurisdictions the violations allegedly
26 occurred, concerning the product Jewelry Organizer with Vinyl Exterior.

1 26. On or about June 28, 2019, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures, subject to a
3 private action to ROSS and to the California Attorney General, County District
4 Attorneys, and City Attorneys for each city containing a population of at least 750,000
5 people in whose jurisdictions the violations allegedly occurred, concerning the product
6 Handbag with Plastic Components.

7 27. On or about July 15, 2019, Plaintiff gave notice of alleged violations of Health and Safety
8 Code section 25249.6, concerning consumer products exposures, subject to a private
9 action to ROSS, ROSS DRESS, and to the California Attorney General, County District
10 Attorneys, and City Attorneys for each city containing a population of at least 750,000
11 people in whose jurisdictions the violations allegedly occurred, concerning the product
12 Handbag with Plastic Components.

13 28. On or about July 17, 2019, Plaintiff gave notice of alleged violations of Health and Safety
14 Code section 25249.6, concerning consumer products exposures, subject to a private
15 action to ROSS, ROSS DRESS, and to the California Attorney General, County District
16 Attorneys, and City Attorneys for each city containing a population of at least 750,000
17 people in whose jurisdictions the violations allegedly occurred, concerning the product
18 Hangers.

19 29. On or about July 17, 2019, Plaintiff gave notice of alleged violations of Health and Safety
20 Code section 25249.6, concerning consumer products exposures, subject to a private
21 action to ROSS, ROSS DRESS, and to the California Attorney General, County District
22 Attorneys, and City Attorneys for each city containing a population of at least 750,000
23 people in whose jurisdictions the violations allegedly occurred, concerning the product
24 Dual Compartment Clear Handbag with Polymer Components.

25 30. On or about August 2, 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 ROSS and to the California Attorney General, County District
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1 Attorneys, and City Attorneys for each city containing a population of at least 750,000
2 people in whose jurisdictions the violations allegedly occurred, concerning the product
3 Backpack with Plastic Components.

4 31. On or about August 12, 2019, Plaintiff gave notice of alleged violations of Health and
5 Safety Code section 25249.6, concerning consumer products exposures, subject to a
6 private action to ROSS, ROSS DRESS, and to the California Attorney General, County
7 District Attorneys, and City Attorneys for each city containing a population of at least
8 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
9 product Fanny Pack with Plastic Components.

10 32. Before sending the notices of alleged violation, Plaintiff investigated the consumer
11 products involved, the likelihood that such products would cause users to suffer
12 significant exposures to Lead, DEHP, and DINP and the corporate structure of each of
13 the Defendants.

14 33. Plaintiff's notice of alleged violation included Certificates of Merit executed by the
15 attorney for the noticing party, CAG. The Certificates of Merit stated that the attorney
16 for Plaintiff who executed the certificate had consulted with at least one person with
17 relevant and appropriate expertise who reviewed data regarding the exposures to Lead,
18 DEHP, and DINP, the subject Proposition 65-listed chemical of this action. Based on that
19 information, the attorney for Plaintiff who executed the Certificates of Merit believed
20 there was a reasonable and meritorious case for this private action. The attorney for
21 Plaintiff attached to the Certificate of Merit served on the Attorney General the
22 confidential factual information sufficient to establish the basis of the Certificate of
23 Merit.

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

35. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff gave notices of the alleged violations to ROSS DRESS, ROSS, ROSS PRO, BADIA, and the public prosecutors referenced in Paragraphs 24-31.

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

FIRST CAUSE OF ACTION

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

Ground Spices

37. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 36 of this Complaint as though fully set forth herein.

38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Ground Turmeric including but not limited to: “BADIA;” “GROUND TURMERIC;” “CURCUMA MOLIDA;” “NET WT. 16 OZ (453.6 G);” “BADIA SPICES, INC., P.O. BOX 226497, DORAL, FL 33222-6497;” “PACKED IN U.S.A.;” “06:33:47;” “LOT 180211;” “BEST BY 08/2023;” “0 33844 00563 4;” “400184242218” (“Ground Turmeric”).

39. Ground Turmeric contains Lead.

40. Defendants knew or should have known that Lead has been identified by the State of California as a chemical known to cause cancer and reproductive and developmental toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead in Ground Turmeric within Plaintiff’s notice of alleged violations further discussed above at Paragraph 24.

41. Plaintiff’s allegations regarding Ground Turmeric 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

1 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
2 25602(b). Ground Turmeric is a consumer product, and, as mentioned herein, exposures
3 to Lead took place as a result of such normal and foreseeable consumption and use.

4 42. Plaintiff is informed, believes, and thereon alleges that between April 12, 2016 and the
5 present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Ground Turmeric, which Defendants manufactured, distributed,
7 or sold as mentioned above, to Lead, without first providing any type of clear and
8 reasonable warning of such to the exposed persons before the time of exposure.
9 Defendants have distributed and sold Ground Turmeric in California. Defendants know
10 and intend that California consumers will use and consume Ground Turmeric, thereby
11 exposing them to Lead. Defendants thereby violated Proposition 65.

12 43. The principal routes of exposure are through ingestion, including hand to mouth
13 pathways, inhalation, and trans-dermal absorption. Persons sustain exposures primarily
14 by eating and consuming Turmeric, and additionally by handling Ground Turmeric
15 without wearing gloves or any other personal protective equipment, or by touching bare
16 skin or mucous membranes with gloves after handling Ground Turmeric, as well as
17 through direct and indirect hand to mouth contact, hand to mucous membrane, or
18 breathing in particulate matter dispersed from Ground Turmeric.

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

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

1 46. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to Lead from Ground Turmeric, pursuant to
3 Health and Safety Code section 25249.7(b).

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

6 **SECOND CAUSE OF ACTION**

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

10 **Jewelry Organizer**

11 48. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 47 of this Complaint as though fully set forth herein.

13 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Jewelry Organizer with Vinyl Exterior including but
15 not limited to: “MADE IN CHINA;” “JEWELRY ORG;” “ROSS;” “D1074 C6093;”
16 “400183499972” (“Jewelry Organizer”).

17 50. Jewelry Organizer contains DEHP.

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

23 52. Plaintiff’s allegations regarding Jewelry Organizer 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, §
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25602(b). Jewelry Organizer is a consumer product, and, as mentioned herein, exposures to DEHP took place as a result of such normal and foreseeable use.

53. Plaintiff is informed, believes, and thereon alleges that between June 28, 2016 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Jewelry Organizer, 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 Jewelry Organizer in California. Defendants know and intend that California consumers will use Jewelry Organizer, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

55. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Jewelry Organizer have been ongoing and continuous, 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 Jewelry Organizer, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DEHP by Jewelry Organizer as mentioned herein.

56. 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.

57. 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 Jewelry Organizer, pursuant to Health and Safety Code section 25249.7(b).

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

THIRD CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against ROSS 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.*))

Fashion Accessories

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

60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Handbag with Plastic Components including but not limited to: "HANDBAG;" "ROSS;" "ONE SIZE;" "MADE IN CHINA;" "love trove;" "LOS ANGELES;" "400186774786" ("Handbag I").

61. Handbag I contains DINP.

62. 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 Handbag I within Plaintiff's notice of alleged violations further discussed above at Paragraph 26.

63. Plaintiff's allegations regarding Handbag I 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). Handbag I is a consumer product, and, as mentioned herein, exposures to DINP took place as a result of such normal and foreseeable use.

1 64. Plaintiff is informed, believes, and thereon alleges that between June 28, 2016 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Handbag I, which Defendants manufactured, distributed, or sold
4 as mentioned above, to DINP, without first providing any type of clear and reasonable
5 warning of such to the exposed persons before the time of exposure. Defendants have
6 distributed and sold Handbag I in California. Defendants know and intend that California
7 consumers will use Handbag I, thereby exposing them to DINP. Defendants thereby
8 violated Proposition 65.

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

16 66. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
17 Proposition 65 as to Handbag I 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 Handbag
20 I, so that a separate and distinct violation of Proposition 65 occurred each and every time
21 a person was exposed to DINP by Handbag I as mentioned herein.

22 67. 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 68. 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 Handbag I, pursuant to Health
27 and Safety Code section 25249.7(b).
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69. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to filing this Complaint.

FOURTH CAUSE OF ACTION

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

Handbag

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

71. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Handbag with Plastic Components including but not limited to: ““PERFECT IMAGE NEW YORK;” “HANDBAG;” “400188245154” (“Handbag II”).

72. Handbag II contains DEHP.

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

74. Plaintiff’s allegations regarding Handbag II 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). Handbag II is a consumer product, and, as mentioned herein, exposures to DEHP took place as a result of such normal and foreseeable use.

75. Plaintiff is informed, believes, and thereon alleges that between July 15, 2016 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Handbag II, 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 Handbag II in California. Defendants know and intend that California consumers will use Handbag II, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

77. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Handbag II have been ongoing and continuous, 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 Handbag II, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DEHP by Handbag II as mentioned herein.

78. 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.

79. 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 Handbag II, pursuant to Health and Safety Code section 25249.7(b).

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

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
3 **and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and**
4 **Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

5 **Home Accessories**

6 81. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 80 of this Complaint as though fully set forth herein.

8 82. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Hangers including but not limited to: “Olivia Thomas
10 3- Pack Skirt & Trouser Hangers”; “Gel grips gently holds clothes in place”; “UPC 7
11 48186 93203 5”: “Made in China” (“Hangers”).

12 83. Hangers contain DINP.

13 84. Defendants knew or should have known that DINP has been identified by the State of
14 California as a chemical known to cause cancer and therefore was subject to Proposition
15 65 warning requirements. Defendants were also informed of the presence of DINP in
16 Hangers within Plaintiff’s notice of alleged violations further discussed above at
17 Paragraph 28.

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

24 86. Plaintiff is informed, believes, and thereon alleges that between July 17, 2016 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Hangers, which Defendants manufactured, distributed, or sold as
27 mentioned above, to DINP, without first providing any type of clear and reasonable
28 warning of such to the exposed persons before the time of exposure. Defendants have

distributed and sold Hangers in California. Defendants know and intend that California consumers will use Hangers, thereby exposing them to DINP. Defendants thereby violated Proposition 65.

87. The principal routes of exposure are through dermal contact, inhalation, and ingestion.

Persons sustain exposures by handling or carrying Hangers without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling Hangers, as well as through direct and indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating from Handbag I during use, as well as through environmental mediums that carry the DINP once contained within the Hangers.

88. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Hangers have been ongoing and continuous, 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 Hangers, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DINP by Hangers as mentioned herein.

89. 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.

90. 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 Hangers, pursuant to Health and Safety Code section 25249.7(b).

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

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1 **SIXTH CAUSE OF ACTION**

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

5 **Women's Accessories**

6 92. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 91 of this Complaint as though fully set forth herein.

8 93. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dual Compartment Clear Handbag with Polymer
10 Components including but not limited to: Dual Compartment Clear Handbag with black
11 edging and straps. Teal-turquoise colored inner bag. Dual compartment bag. SKU
12 400187505372; "Perfect Image New York"; "Made in China" ("Handbag III").

13 94. Handbag III contains DEHP.

14 95. Defendants knew or should have known that DEHP has been identified by the State of
15 California as a chemical known to cause cancer and developmental and reproductive
16 toxicity therefore was subject to Proposition 65 warning requirements. Defendants were
17 also informed of the presence of DEHP in Handbag III within Plaintiff's notice of alleged
18 violations further discussed above at Paragraph 29.

19 96. Plaintiff's allegations regarding Handbag III 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). Handbag III is a consumer product, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable use.

25 97. Plaintiff is informed, believes, and thereon alleges that between July 17, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Handbag III, which Defendants manufactured, distributed, or sold
28 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 Handbag III in California. Defendants know and intend that
3 California consumers will use Handbag III, thereby exposing them to DEHP. Defendants
4 thereby violated Proposition 65.

5 98. The principal routes of exposure are through dermal contact, inhalation, and ingestion.

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

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

18 100. 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.

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

24 102. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.
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1 **SEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 61-70**
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 **Fashion Accessories**

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

8 104. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Backpack with Plastic Components including but not
10 limited to: “two Girls accessories;” “STYLE#2GA1696MBP;” “GOLD POP MINI BP;”
11 “NEW YORK, NY 10018;” “MADE IN CHINA;” “8 50748 00712 6;” “400177291926;”
12 “D1329 C7765;” “18 Girls Basics;” (“Backpack”).

13 105. Backpack contains DEHP.

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

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

25 108. Plaintiff is informed, believes, and thereon alleges that between August 2, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Backpack, which Defendants manufactured, distributed, or sold
28 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 Backpack in California. Defendants know and intend that California
3 consumers will use Backpack, thereby exposing them to DEHP. Defendants thereby
4 violated Proposition 65.

5 109. The principal routes of exposure are through dermal contact, inhalation, and ingestion.

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

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

18 111. 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.

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

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

(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, 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.*))

Fanny Pack

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

115. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Fanny Pack with Plastic Components including but not limited to: “Odiva;” “A0763;” “MADE IN CHINA;” “dd’s DISCOUNTS;” “D5145 C4942;” “400192914534” (“Fanny Pack”).

116. Fanny Pack contains DINP.

117. 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 Fanny Pack within Plaintiff’s notice of alleged violations further discussed above at Paragraph 31.

118. Plaintiff’s allegations regarding Fanny Pack 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). Fanny Pack is a consumer product, and, as mentioned herein, exposures to DINP took place as a result of such normal and foreseeable use.

119. Plaintiff is informed, believes, and thereon alleges that between August 12, 2016 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Fanny Pack, which Defendants manufactured, distributed, or sold as mentioned above, to DINP, 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 Fanny Pack in California. Defendants know and intend that California consumers will use Fanny Pack, thereby exposing them to DINP. Defendants thereby violated Proposition 65.

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

121. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Fanny Pack have been ongoing and continuous, 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 Fanny Pack, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DINP by Fanny Pack as mentioned herein.

122. 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.

123. 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 Fanny Pack, pursuant to Health and Safety Code section 25249.7(b).

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

1 **PRAYER FOR RELIEF**

2 Plaintiff demands against each of the Defendants as follows:

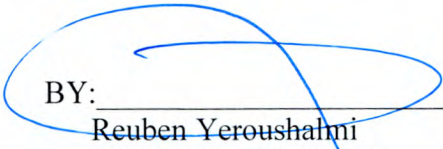
- 3 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 4 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
- 5 3. Costs of suit;
- 6 4. Reasonable attorney fees and costs; and
- 7 5. Any further relief that the court may deem just and equitable.

8

9 Dated: 10-29-30, 2019

YEROUSHALMI & YEROUSHALMI

10

11 BY: 
12 Reuben Yeroushalmi
13 Attorneys for Plaintiff,
14 Consumer Advocacy Group, Inc.

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