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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

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

11 Plaintiff,

12 v.

13 ROSS STORES, INC., dba DD's
14 DISCOUNTS, a Delaware Corporation;
15 ROSS DRESS FOR LESS, INC., a
16 Virginia Corporation;
17 ROSS PROCUREMENT, INC., a
18 Delaware Corporation;
19 NICOLE MILLER LTD. SOHO, a New
20 York Corporation;
21 ENCHANTE ACCESSORIES, INC., a
22 New York Corporation;
23 OLIVIA MILLER, INC., a New York
24 Corporation;
25 ABG JUICY COUTURE, LLC, a Delaware
26 Company;
27 TRI COASTAL DESIGN GROUP, INC., a
28 New Jersey Corporation;
MANN & BROS., INC., dba IMPERIAL
HANDKERCHIEFS, a New York
Corporation;
ARGENTO SC BY SICURA, INC., a New
York Corporation;
and DOES 1-120;

Defendants.

CASE NO. 19STCV25883

FIRST AMENDED 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)

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against
2 defendants ROSS STORES, INC., dba DD's DISCOUNTS, ROSS DRESS FOR LESS, INC.,
3 ROSS PROCUREMENT, INC., NICOLE MILLER LTD. SOHO, ENCHANTE
4 ACCESSORIES, INC., OLIVIA MILLER, INC., ABG JUICY COUTURE, LLC, TRI
5 COASTAL DESIGN GROUP, INC., MANN & BROS., INC., dba IMPERIAL
6 HANDKERCHIEFS, ARGENTO SC BY SICURA, INC., and DOES 1-120 as follows:

7 **THE PARTIES**

- 8 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
9 organization qualified to do business in the State of California. CAG is a person within
10 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting
11 as a private attorney general, brings this action in the public interest as defined under
12 Health and Safety Code section 25249.7, subdivision (d).
- 13 2. Defendant ROSS STORES, INC., dba DD's DISOCUNTS ("ROSS") is a Delaware
14 Corporation, qualified to do business in Delaware, and doing business in the State of
15 California at all relevant times herein.
- 16 3. Defendant ROSS DRESS FOR LESS, INC. ("ROSS DRESS") is a Virginia Corporation,
17 qualified to do business in Virginia, and doing business in the State of California at all
18 relevant times herein.
- 19 4. Defendant ROSS PROCUREMENT, INC. ("ROSS PROCURE") is a Delaware
20 Corporation, qualified to do business in Delaware, and doing business in the State of
21 California at all relevant times herein.
- 22 5. Defendant NICOLE MILLER LTD. SOHO ("NICOLE") is a New York Corporation,
23 qualified to do business in New York, and doing business in the State of California at all
24 relevant times herein.
- 25 6. Defendant ENCHANTE ACCESSORIES, INC. ("ENCHANTE") is a New York
26 Corporation, qualified to do business in New York, and doing business in the State of
27 California at all relevant times herein.

1 7. Defendant OLIVIA MILLER, INC. (“OLIVIA”) is a New York Corporation, qualified to
2 do business in New York, and doing business in the State of California at all relevant
3 times herein.

4 8. Defendant ABG JUICY COUTURE, LLC (“ABG”) is a Delaware Company, qualified to
5 do business in Delaware, and doing business in the State of California at all relevant
6 times herein.

7 9. Defendant TRI COASTAL DESIGN GROUP, INC. (“TRI COAST”) is a New Jersey
8 Corporation, qualified to do business in New Jersey, and doing business in the State of
9 California at all relevant times herein.

10 10. Defendant MANN & BROS., INC., dba IMPERIAL HANDKERCHIEFS (“MANN”) is
11 a New York Corporation, qualified to do business in New York, and doing business in
12 the State of California at all relevant times herein.

13 11. ARGENTO SC BY SICURA, INC. (“ARGENTO”) is a New York corporation doing
14 business in the State of California at all relevant times herein.

15 12. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-
16 120, and therefore sues these defendants by such fictitious names. Plaintiff will amend
17 this complaint to allege their true names and capacities when ascertained. Plaintiff is
18 informed, believes, and thereon alleges that each fictitiously named defendant is
19 responsible in some manner for the occurrences herein alleged and the damages caused
20 thereby.

21 13. At all times mentioned herein, the term “Defendants” includes ROSS, ROSS DRESS,
22 ROSS PROCURE, NICOLE, ENCHANTE, OLIVIA, ABG, TRI COAST, MANN,
23 ARGENTO, and DOES 1-120.

24 14. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
25 times mentioned herein have conducted business within the State of California.

26 15. Upon information and belief, at all times relevant to this action, each of the Defendants,
27 including DOES 1-120, was an agent, servant, or employee of each of the other
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1 Defendants. In conducting the activities alleged in this Complaint, each of the
2 Defendants was acting within the course and scope of this agency, service, or
3 employment, and was acting with the consent, permission, and authorization of each of
4 the other Defendants. All actions of each of the Defendants alleged in this Complaint
5 were ratified and approved by every other Defendant or their officers or managing agents.
6 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
7 wrongful conduct of each of the other Defendants.

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

12 **JURISDICTION**

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

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

26 19. Venue is proper in the County of Los Angeles because one or more of the instances of
27 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 products that are the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 20. 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 21. 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 22. 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 23. 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 24. Plaintiff identified certain practices of manufacturers and distributors of exposing,
4 knowingly and intentionally, persons in California to the Proposition 65-listed chemicals
5 to products without first providing clear and reasonable warnings of such to the exposed
6 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged
7 in such practice.

8 25. On January 1, 1988, the Governor of California added Di(2-ethylhexyl)phthalate
9 (“DEHP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
10 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
11 twenty (20) months after addition of DEHP to the list of chemicals known to the State to
12 cause cancer, DEHP became fully subject to Proposition 65 warning requirements and
13 discharge prohibitions.

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

20 27. On December 2, 2005, the Governor of California added Di-n-butyl Phthalate (“DBP”) to
21 the list of chemicals known to the State to cause reproductive and developmental toxicity
22 (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and Safety Code sections
23 25249.9 and 25249.10, twenty (20) months after addition of DBP to the list of chemicals
24 known to the State to cause reproductive and developmental toxicity, DBP became fully
25 subject to Proposition 65 warning requirements and discharge prohibitions.

26 28. On December 20, 2013, the Governor of California added Diisononyl Phthalate (“DINP”)
27 to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, §
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1 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty
2 (20) months after addition of DINP to the list of chemicals known to the State to cause
3 cancer, DINP became fully subject to Proposition 65 warning requirements and discharge
4 prohibitions.

5 **SATISFACTION OF PRIOR NOTICE**

6 29. On or about January 18, 2019, Plaintiff gave notice of alleged violations of Health and
7 Safety Code section 25249.6, concerning consumer products exposures, subject to a
8 private action to NICOLE, ROSS, ENCHANTE, and to the California Attorney General,
9 County District Attorneys, and City Attorneys for each city containing a population of at
10 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
11 the product Cosmetic Bags.

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

18 31. On or about February 4, 2019, Plaintiff gave notice of alleged violations of Health and
19 Safety Code section 25249.6, concerning consumer products exposures, subject to a
20 private action to ROSS, ROSS PROCURE, and to the California Attorney General,
21 County District Attorneys, and City Attorneys for each city containing a population of at
22 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
23 the product Sandals.

24 32. On or about February 26, 2019, Plaintiff gave notice of alleged violations of Health and
25 Safety Code section 25249.6, concerning consumer products exposures, subject to a
26 private action to ROSS, ENCHANTE, and to the California Attorney General, County
27 District Attorneys, and City Attorneys for each city containing a population of at least
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1 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
2 product Notebooks.

3 33. On or about March 28, 2019, 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, TRI COAST, ABG, 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 product Jump Ropes.

9 34. On or about March 28, 2019, 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, ROSS DRESS, ROSS PROCURE, 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 product Hair Rollers.

15 35. On or about April 5, 2019, Plaintiff gave notice of alleged violations of Health and Safety
16 Code section 25249.6, concerning consumer products exposures, subject to a private
17 action to ROSS, ROSS DRESS, ROSS PROCURE, and to the California Attorney
18 General, County District Attorneys, and City Attorneys for each city containing a
19 population of at least 750,000 people in whose jurisdictions the violations allegedly
20 occurred, concerning the product Multi-Purpose Boxes.

21 36. On or about April 5, 2019, Plaintiff gave notice of alleged violations of Health and Safety
22 Code section 25249.6, concerning consumer products exposures, subject to a private
23 action to ROSS, ROSS DRESS, ROSS PROCURE, 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 Steering Wheel Covers.

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

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

13 39. On or about April 12, 2019, Plaintiff gave notice of alleged violations of Health and
14 Safety Code section 25249.6, concerning consumer products exposures, subject to a
15 private action to ROSS, ROSS DRESS, ROSS PROCURE, and to the California
16 Attorney General, County District Attorneys, and City Attorneys for each city containing
17 a population of at least 750,000 people in whose jurisdictions the violations allegedly
18 occurred, concerning the product Crossbody Bags.

19 40. On or about April 22, 2019, Plaintiff gave notice of alleged violations of Health and
20 Safety Code section 25249.6, concerning consumer products exposures, subject to a
21 private action to ROSS DRESS, MANN, and to the California Attorney General, County
22 District Attorneys, and City Attorneys for each city containing a population of at least
23 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
24 product Steering Wheel Covers.

25 41. Before sending the notices of alleged violation, Plaintiff investigated the consumer
26 products involved, the likelihood that such products would cause users to suffer
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1 significant exposures to DEHP, DBP, and DINP, and the corporate structure of each of
2 the Defendants.

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

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

16 44. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
17 gave notices of the alleged violations to ROSS, ROSS DRESS, ROSS PROCURE,
18 NICOLE, ENCHANTE, OLIVIA, ABG, TRI COAST, MANN, ARGENTO and the
19 public prosecutors referenced in Paragraphs 29-40.

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

23 **FIRST CAUSE OF ACTION**

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

Beauty Accessories

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2 46. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
3 reference paragraphs 1 through 45 of this complaint as though fully set forth herein.

4 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Cosmetic Bags, including but not limited to “Nicole
6 miller NEW YORK;” “ENCHANTEACCESSORIES.COM;” “MADE IN CHINA;”
7 100% Polyvinyl chloride;” “RN# 99605;” “40018267551;” “D1139 C5760” (“Cosmetic
8 Bags”).

9 48. Cosmetic Bags contain DEHP.

10 49. Defendants knew or should have known that DEHP has been identified by the State of
11 California as a chemical known to cause cancer and reproductive and developmental
12 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
13 were also informed of the presence of DEHP in Cosmetic Bags within Plaintiff's notice of
14 alleged violations further discussed above at Paragraph 29.

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

21 51. Plaintiff is informed, believes, and thereon alleges that between January 18, 2016 and the
22 present, each of the Defendants knowingly and intentionally exposed California
23 consumers and users of Cosmetic Bags, which Defendants manufactured, distributed, or
24 sold as mentioned above, to DEHP, without first providing any type of clear and
25 reasonable warning of such to the exposed persons before the time of exposure.

26 Defendants have distributed and sold Cosmetic Bags in California. Defendants know and
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1 intend that California consumers will use Cosmetic Bags, thereby exposing them to
2 DEHP. Defendants thereby violated Proposition 65.

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

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

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

19 55. Based on the allegations herein, Defendants are liable for civil penalties of up to
20 \$2,500.00 per day per individual exposure to DEHP from Cosmetic Bags, pursuant to
21 Health and Safety Code section 25249.7(b).

22 56. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
23 filing this Complaint.
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26 **SECOND CAUSE OF ACTION**

27 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,
28 ROSS PROCURE, OLIVIA, and DOES 11-20 for Violations of Proposition 65, The**

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

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

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

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

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

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

1 **THIRD CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS**
3 **PROCURE, 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 **Women’s Footwear**

7 68. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 67 of this complaint as though fully set forth herein.

9 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Women’s Decorated Plastic Sandals, including but not
11 limited to “P&W New York”; “1 29380 13001 2”; “2938 Made in China”, “babe ® 8
12 Made in China”; “dd’s discounts 400182512726”; “40/250 MZS-885A” (“Sandals”).

13 70. Sandals contain DBP.

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

19 72. Plaintiff’s allegations regarding Sandals 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 Sandals are consumer products, and, as mentioned herein, exposures to DBP took place
24 as a result of such normal and foreseeable use.

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

5 74. The principal routes of exposure are through dermal contact and ingestion. Persons
6 sustain exposures by using, handling, or carrying Sandals without wearing gloves or any
7 or by touching bare skin or mucous membranes with or without gloves after handling
8 Sandals, 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 the
10 Sandals during use, as well as through environmental mediums that carry the DBP once
11 contained within the Sandals.

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

18 76. 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 77. 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 Sandals, pursuant to Health and
23 Safety Code section 25249.7(b).

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

1 **FOURTH CAUSE OF ACTION**

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

5 **Office and School Supplies**

6 79. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 78 of this complaint as though fully set forth herein.

8 80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Plastic Covered Notebooks, including but not limited
10 to Pink Unicorn Notebook, “MANUFACTURED FOR AND DISTRIBUTED BY EAI
11 NEW YORK, NY 10016;” “MADE IN CHINA;” “D1060 C6421;” “400181144393”
12 (“Notebooks”).

13 81. Notebooks contain DEHP.

14 82. 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 reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of DEHP in Notebooks within Plaintiff’s notice of
18 alleged violations further discussed above at Paragraph 32.

19 83. Plaintiff’s allegations regarding Notebooks 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 Notebooks are consumer products, and, as mentioned herein, exposures to DEHP took
24 place as a result of such normal and foreseeable use.

25 84. Plaintiff is informed, believes, and thereon alleges that between February 26, 2016 and
26 the present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Notebooks, 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 Notebooks in California. Defendants know and intend that
3 California consumers will use Notebooks, thereby exposing them to DEHP. Defendants
4 thereby violated Proposition 65.

5 85. The principal routes of exposure are through dermal contact and ingestion. Persons
6 sustain exposures by using, handling, or carrying Notebooks without wearing gloves or
7 any or by touching bare skin or mucous membranes with or without gloves after handling
8 Notebooks, 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 the
10 Notebooks during use, as well as through environmental mediums that carry the DEHP
11 once contained within the Notebooks.

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

18 87. 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 88. 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 Notebooks, pursuant to Health
23 and Safety Code section 25249.7(b).

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

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ABG, TRI**
3 **COAST, and DOES 41-50 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 **Fitness Accessories**

7 90. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 89 of this complaint as though fully set forth herein.

9 91. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Plastic Weighted Jump Ropes, including but not
11 limited to “JUICY SPORT;” “WEIGHTED JUMP ROPE;” “110’/279cm L;” “1/4LB.
12 REMOVABLE WEIGHTS;” “JUICY COUTURE IS A TRADEMARK OF ABG JUICY
13 COUTURE, LLC.,” “JUICYCOUTURE.COM;” “LICENSED TO TRI-COASTAL
14 DESIGN GROUP, INC. WHARTON, NJ 07885.,” “MADE IN CHINA;”
15 “400186168011;” “1 92040 27155 4;” (“Jump Ropes”).

16 92. Jump Ropes contain DEHP.

17 93. 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 reproductive and developmental
19 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
20 were also informed of the presence of DEHP in Jump Ropes within Plaintiff's notice of
21 alleged violations further discussed above at Paragraph 33.

22 94. Plaintiff's allegations regarding Jump Ropes 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). Jump Ropes are consumer products, and, as mentioned herein, exposures to
27 DEHP took place as a result of such normal and foreseeable use.
28

1 95. Plaintiff is informed, believes, and thereon alleges that between March 28, 2016 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Jump Ropes, 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 Jump Ropes in California. Defendants know and
7 intend that California consumers will use Jump Ropes, thereby exposing them to DEHP.
8 Defendants thereby violated Proposition 65.

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

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

22 98. 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 99. 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 Jump Ropes, pursuant to
27 Health and Safety Code section 25249.7(b).

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

3 **SIXTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
5 **ROSS PROCURE, and DOES 51-60 for Violations of Proposition 65, The Safe**
6 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
7 **25249.5, *et seq.*))**

8 **Beauty Accessories**

9 101. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
10 reference paragraphs 1 through 100 of this complaint as though fully set forth herein.

11 102. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Hair Rollers, including but not limited to “The
13 beautylist self-holding rollers, Set of 9, 2 ½ big curls”; “400176901161”; “Made in
14 China” (“Hair Rollers”).

15 103. Hair Rollers contain DINP.

16 104. 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 cancer and therefore was subject to
18 Proposition 65 warning requirements. Defendants were also informed of the presence of
19 DINP in Hair Rollers within Plaintiff’s notice of alleged violations further discussed
20 above at Paragraph 34.

21 105. Plaintiff’s allegations regarding Hair Rollers 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)*. Hair Rollers are consumer products, and, as mentioned herein, exposures to
26 DINP took place as a result of such normal and foreseeable use.

27 106. Plaintiff is informed, believes, and thereon alleges that between March 28, 2016 and the
28 present, each of the Defendants knowingly and intentionally exposed California

1 consumers and users of Hair Rollers, which Defendants manufactured, distributed, or
2 sold as mentioned above, to DINP, without first providing any type of clear and
3 reasonable warning of such to the exposed persons before the time of exposure.

4 Defendants have distributed and sold Hair Rollers in California. Defendants know and
5 intend that California consumers will use Hair Rollers, thereby exposing them to DINP.
6 Defendants thereby violated Proposition 65.

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

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

20 109. 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.

23 110. 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 Hair Rollers, pursuant to
25 Health and Safety Code section 25249.7(b).

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

1 **SEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
3 **ROSS PROCURE, and DOES 61-70 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 **Home Décor and Organization Accessories**

7 112. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 111 of this complaint as though fully set forth herein.

9 113. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Silver Multi-Purpose Storage Boxes with Polymer
11 Exteriors, including but not limited to Rectangular silver mutli-purpose box with hinged
12 lid. With translucent inlay decoration. “Fuzhou Rirong Import & Export Co. Ltd.”;
13 “400183906777”; “Made in China” (“Multi-Purpose Boxes”).

14 114. Multi-Purpose Boxes contain DEHP.

15 115. Defendants knew or should have known that DEHP has been identified by the State of
16 California as a chemical known to cause cancer and reproductive and developmental
17 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
18 were also informed of the presence of DEHP in Multi-Purpose Boxes within Plaintiff's
19 notice of alleged violations further discussed above at Paragraph 35.

20 116. Plaintiff's allegations regarding Multi-Purpose Boxes 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). Multi-Purpose Boxes are consumer products, and, as mentioned herein,
25 exposures to DEHP took place as a result of such normal and foreseeable use.

26 117. Plaintiff is informed, believes, and thereon alleges that between April 5, 2016 and the
27 present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Multi-Purpose Boxes, which Defendants manufactured,

1 distributed, or sold as mentioned above, to DEHP, without first providing any type of
2 clear and reasonable warning of such to the exposed persons before the time of
3 exposure. Defendants have distributed and sold Multi-Purpose Boxes in California.
4 Defendants know and intend that California consumers will use Multi-Purpose Boxes,
5 thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

24 121. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DEHP from Multi-Purpose Boxes,
26 pursuant to Health and Safety Code section 25249.7(b).

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

3 **EIGHTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
5 **ROSS PROCURE, and DOES 71-80 for Violations of Proposition 65, The Safe**
6 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
7 **25249.5, *et seq.*))**

8 **Auto Accessories**

9 123. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
10 reference paragraphs 1 through 122 of this complaint as though fully set forth herein.

11 124. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Steering Wheel Covers, including but not limited to
13 “IMPACT;” “Steering Wheel Cover;” “Made In China;” “dd’s DISCOUNTS;” “D5171
14 C4195;” “400183007375” (“Steering Wheel Covers”).

15 125. Steering Wheel Covers contain DEHP.

16 126. Defendants knew or should have known that DEHP has been identified by the State of
17 California as a chemical known to cause cancer and reproductive and developmental
18 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
19 were also informed of the presence of DEHP in Steering Wheel Covers within Plaintiff’s
20 notice of alleged violations further discussed above at Paragraph 36.

21 127. Plaintiff’s allegations regarding Steering Wheel Covers 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)*. Steering Wheel Covers are consumer products, and, as mentioned herein,
26 exposures to DEHP took place as a result of such normal and foreseeable use.

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

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

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

24 131. 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.

1 132. 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 Steering Wheel Covers,
3 pursuant to Health and Safety Code section 25249.7(b).

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

6 **NINTH CAUSE OF ACTION**

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

11 **Fashion Accessories**

12 134. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
13 reference paragraphs 1 through 133 of this complaint as though fully set forth herein.

14 135. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Wallets, including but not limited to
16 “Justin&Taylor;” “CWW-1214-PINK;” “dd’s DISCOUNTS;” “D5301 C1995;”
17 “MADE IN CHINA;” “400181635778” (“Wallets”).

18 136. Wallets contain DEHP.

19 137. 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 Wallets within Plaintiff’s notice of
23 alleged violations further discussed above at Paragraph 37.

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

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

3 139. Plaintiff is informed, believes, and thereon alleges that between April 5, 2016 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Wallets, which Defendants manufactured, distributed, or sold
6 as 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 Wallets in California. Defendants know and intend that California
9 consumers will use Wallets, thereby exposing them to DEHP. Defendants thereby
10 violated Proposition 65.

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

18 141. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
19 of Proposition 65 as to Wallets 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
22 Wallets, so that a separate and distinct violation of Proposition 65 occurred each and
23 every time a person was exposed to DEHP by Wallets as mentioned herein.

24 142. 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.

1 143. 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 Wallets, pursuant to Health
3 and Safety Code section 25249.7(b).

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

6 **TENTH CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ARGENTO and**
8 **DOES 91-100 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
9 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

10 **Auto Accessories**

11 145. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 144 of this complaint as though fully set forth herein.

13 146. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Plastic Booster Cables, including but not limited to
15 “CAR AND DRIVER APPROVED SELECTION;” “12 FOOT BOOSTER CABLES;”
16 “125 AMP;” “8 GAUGE CABLES;” “CAR and DRIVER® is a registered trademark of
17 Hearst Communications, Inc. and used under License by Argento SC.,” “Distributed
18 by: Argento SC®, New York, Ny 100v18;” “www.argentosc.com;” “JC001-BKA;” “8
19 46816 03706 5” (“Booster Cables”).

20 147. Booster Cables contain DEHP.

21 148. Defendants knew or should have known that DEHP has been identified by the State of
22 California as a chemical known to cause cancer and reproductive and developmental
23 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
24 were also informed of the presence of DEHP in Booster Cables within Plaintiff’s notice
25 of alleged violations further discussed above at Paragraph 38.

26 149. Plaintiff’s allegations regarding Booster Cables concerns “[c]onsumer products
27 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
28

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

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

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

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

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

4 154. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from Booster Cables, pursuant to
6 Health and Safety Code section 25249.7(b).

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

9
10 **ELEVENTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, ROSS DRESS,**
12 **ROSS PROCURE and DOES 101-110 for Violations of Proposition 65, The Safe**
13 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
14 **25249.5, *et seq.*))**

15 **Women's Accessories**

16 156. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
17 reference paragraphs 1 through 155 of this complaint as though fully set forth herein.

18 157. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Clear Crossbody Bags, including but not limited to
20 Clear Handbag with black leather edging and gold circular handles; "Becool"; "7224-1
21 Black"; "7224000001"; "SKU 400188279159"; "Made in China" ("Crossbody Bags").

22 158. Crossbody Bags contain DEHP.

23 159. Defendants knew or should have known that DEHP has been identified by the State of
24 California as a chemical known to cause cancer and 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 Crossbody Bags within Plaintiff's
27 notice of alleged violations further discussed above at Paragraph 39.

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

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

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

23 163. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
24 of Proposition 65 as to Crossbody Bags have been ongoing and continuous, as
25 Defendants engaged and continue to engage in conduct which violates Health and
26 Safety Code section 25249.6, including the manufacture, distribution, promotion, and
27 sale of Crossbody Bags, so that a separate and distinct violation of Proposition 65
28

1 occurred each and every time a person was exposed to DEHP by Crossbody Bags as
2 mentioned herein.

3 164. 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.

6 165. 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 Crossbody Bags, pursuant to
8 Health and Safety Code section 25249.7(b).

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

11 **TWELFTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS DRESS, MANN,**
13 **and DOES 111-120 for Violations of Proposition 65, The Safe Drinking Water and**
14 **Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Auto Accessories**

16 167. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
17 reference paragraphs 1 through 166 of this complaint as though fully set forth herein.

18 168. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Steering Wheel Covers, including but not limited to:
20 (1) Beige Steering Wheel Cover “Wolverine®”; “BPA FREE, ODOR FREE”;
21 “Universal Steering Wheel Cover”; Fits most cars with steering wheels 14.5 – 15.5
22 inches diameter”; Manufactured by Imperial under license from wolverine”; “Made in
23 China RN18731”; “400178679419”; (2) Purple Grey Steering Wheel Cover
24 “Wolverine®”; “BPA FREE, ODOR FREE”; “Universal Steering Wheel Cover”; Fits
25 most cars with steering wheels 14.5 – 15.5 inches diameter”; Manufactured by Imperial
26 under license from wolverine”; “Made in China RN18731”; “400186638552”; and (3)
27 Brown Black Steering Wheel Cover “Wolverine®”; “BPA FREE, ODOR FREE”;

1 “Universal Steering Wheel Cover”; Fits most cars with steering wheels 14.5 – 15.5
2 inches diameter”; Manufactured by Imperial under license from wolverine”; “Made in
3 China RN18731”; “400178678887” (“Steering Wheel Covers”).

4 169. Steering Wheel Covers contain DEHP.

5 170. Defendants knew or should have known that DEHP has been identified by the State of
6 California as a chemical known to cause cancer and reproductive and developmental
7 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
8 were also informed of the presence of DEHP in Steering Wheel Covers within
9 Plaintiff’s notice of alleged violations further discussed above at Paragraph 340.

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

16 172. Plaintiff is informed, believes, and thereon alleges that between April 22, 2016 and the
17 present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Steering Wheel Covers, which Defendants manufactured,
19 distributed, or sold as mentioned above, to DEHP, without first providing any type of
20 clear and reasonable warning of such to the exposed persons before the time of
21 exposure. Defendants have distributed and sold Steering Wheel Covers in California.
22 Defendants know and intend that California consumers will use Steering Wheel Covers,
23 thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

24 173. The principal routes of exposure are through dermal contact and ingestion. Persons
25 sustain exposures by using, handling, or carrying Steering Wheel Covers without
26 wearing gloves or any or by touching bare skin or mucous membranes with or without
27 gloves after handling Steering Wheel Covers, as well as through direct and indirect

1 hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or
2 breathing in particulate matter emanating from the Steering Wheel Covers during use,
3 as well as through environmental mediums that carry the DEHP once contained within
4 the Steering Wheel Covers.

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

12 175. 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.

15 176. 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 Steering Wheel Covers,
17 pursuant to Health and Safety Code section 25249.7(b).

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

20 **PRAYER FOR RELIEF**

21 Plaintiff demands against each of the Defendants as follows:

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

1 Dated: 01-07-20

YEROUSHALMI & YEROUSHALMI

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4 BY: 

5 Reuben Yeroushalmi
6 Attorneys for Plaintiff,
7 Consumer Advocacy Group, Inc.

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