

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

Attorneys for Plaintiff,
 Consumer Advocacy Group, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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

Plaintiff,

v.

DOLLAR KINGS, INC., a California
 Corporation;
 DIME ENTERPRISES INCORPORATED, a
 California Corporation;
 DOLLAR KING LOS FELIZ, a business
 entity form unknown;
 KOOBA, LLC, a Delaware Limited Liability
 Company;
 and DOES 1-100,

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 causes of action against
 defendants DOLLAR KINGS, INC., DIME ENTERPRISES INCORPORATED, DOLLAR
 KINGS LOS FELIZ, KOOBA LLC, and DOES 1-100 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 DOLLAR KINGS, INC. (“DOLLAR KINGS”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant DIME ENTERPRISES INCORPORATED (“DIME”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Defendant DOLLAR KING LOS FELIZ (“DOLLAR LOS”) is a business entity form unknown doing business in the State of California at all relevant times herein.
5. Defendant KOOBA, LLC (“KOOBA”) is a Delaware Limited Liability Company, qualified to do business in Delaware, 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 1-100, 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 DOLLAR KINGS, DIME, DOLLAR LOS, KOOBA, and DOES 1-100.
8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.

- 1 9. Upon information and belief, at all times relevant to this action, each of the Defendants,
2 including DOES 1-100, was an agent, servant, or employee of each of the other
3 Defendants. In conducting the activities alleged in this Complaint, each of the
4 Defendants was acting within the course and scope of this agency, service, or
5 employment, and was acting with the consent, permission, and authorization of each of
6 the other Defendants. All actions of each of the Defendants alleged in this Complaint
7 were ratified and approved by every other Defendant or their officers or managing agents.
8 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
9 wrongful conduct of each of the other Defendants.
- 10 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
11 Defendants was a person doing business within the meaning of Health and Safety Code
12 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
13 employees at all relevant times.

14 **JURISDICTION**

- 15 11. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
16 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
17 those given by statute to other trial courts. This Court has jurisdiction over this action
18 pursuant to Health and Safety Code section 25249.7, which allows enforcement of
19 violations of Proposition 65 in any Court of competent jurisdiction.
- 20 12. This Court has jurisdiction over Defendants named herein because Defendants either
21 reside or are located in this State or are foreign corporations authorized to do business in
22 California, are registered with the California Secretary of State, or who do sufficient
23 business in California, have sufficient minimum contacts with California, or otherwise
24 intentionally avail themselves of the markets within California through their manufacture,
25 distribution, promotion, marketing, or sale of their products within California to render
26 the exercise of jurisdiction by the California courts permissible under traditional notions
27 of fair play and substantial justice.
- 28

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

5 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

26 17. Proposition 65 provides that any person "violating or threatening to violate" the statute
27 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.
28

1 "Threaten to violate" means "to create a condition in which there is a substantial
2 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

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

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

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

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

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

SATISFACTION OF PRIOR NOTICE

22. On or about March 28, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to DOLLAR KINGS and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the product Shower Caddies with Polymer Suction Cups.

23. On or about March 28, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to DOLLAR KINGS, DOLLAR LOS, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the product Women's Plastic/Vinyl Wallets.

24. On or about April 5, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to DOLLAR KINGS and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the product Plastic Wallet.

25. On or about April 22, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a private action to DOLLAR KINGS, DOLLAR LOS, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the product Plastic Accessory Bags.

26. On or about April 23, 2019, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6, concerning consumer products exposures, subject to a

1 private action to DOLLAR KINGS, DIME, and to the California Attorney General,
2 County District Attorneys, and City Attorneys for each city containing a population of at
3 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
4 the product Sunglasses with Polymer Nose Pieces.

5 27. On or about July 2, 2019, Plaintiff gave notice of alleged violations of Health and Safety
6 Code section 25249.6, concerning consumer products exposures, subject to a private
7 action to DOLLAR KINGS and to the California Attorney General, County District
8 Attorneys, and City Attorneys for each city containing a population of at least 750,000
9 people in whose jurisdictions the violations allegedly occurred, concerning the product
10 Soap Dishes with Plastic Suction Cups.

11 28. On or about July 2, 2019, Plaintiff gave notice of alleged violations of Health and Safety
12 Code section 25249.6, concerning consumer products exposures, subject to a private
13 action to DOLLAR LOS, and to the California Attorney General, County District
14 Attorneys, and City Attorneys for each city containing a population of at least 750,000
15 people in whose jurisdictions the violations allegedly occurred, concerning the product
16 Toddler's Flip Flops with Plastic Straps.

17 29. On or about July 15, 2019, Plaintiff gave notice of alleged violations of Health and Safety
18 Code section 25249.6, concerning consumer products exposures, subject to a private
19 action to DOLLAR KINGS, KOOPA, and to the California Attorney General, County
20 District Attorneys, and City Attorneys for each city containing a population of at least
21 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
22 product Dress for Kids with Plastic Components.

23 30. On or about July 15, 2019, Plaintiff gave notice of alleged violations of Health and Safety
24 Code section 25249.6, concerning consumer products exposures, subject to a private
25 action to DOLLAR LOS, and to the California Attorney General, County District
26 Attorneys, and City Attorneys for each city containing a population of at least 750,000
27
28

1 people in whose jurisdictions the violations allegedly occurred, concerning the product
2 Toddler's Flip Flops with Plastic Straps.

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

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

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

20 34. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
21 gave notices of the alleged violations to DOLLAR KINGS, DIME, DOLLAR LOS,
22 KOOBA, and the public prosecutors referenced in Paragraphs 22-30.

23 35. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
24 any applicable district attorney or city attorney has commenced and is diligently
25 prosecuting an action against the Defendants.
26
27
28

1 **FIRST CAUSE OF ACTION**

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

5 **Bathroom Accessories**

6 36. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 34 of this Complaint as though fully set forth herein.

8 37. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Shower Caddies with Polymer Suction Cups including
10 but not limited to: “Ultimate Home”; “Ideal for Showers”; “Shower Caddy”; UPC 4
11 22052 96210 3”; “Distributed by Urban Imports Los Angeles, CA 90058”; “Made In
12 China” (“Shower Caddies”).

13 38. Shower Caddies contain DEHP.

14 39. 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 toxicity and therefore
16 was subject to Proposition 65 warning requirements. Defendants were also informed of
17 the presence of DEHP in Shower Caddies within Plaintiff's notice of alleged violations
18 further discussed above at Paragraph 22.

19 40. Plaintiff's allegations regarding Shower Caddies 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). Shower Caddies are consumer products, and, as mentioned herein, exposures
24 to DEHP took place as a result of such normal and foreseeable use.

25 41. Plaintiff is informed, believes, and thereon alleges that between March 28, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Shower Caddies, which Defendants manufactured, distributed, or
28 sold as mentioned above, to DEHP, without first providing any type of clear and

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

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

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

6 Persons sustain exposures by handling Shower Caddies without wearing gloves or by
7 touching bare skin or mucous membranes with or without gloves after handling Shower
8 Caddies, 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 Shower Caddies during use, as well as through environmental mediums that carry the
11 DEHP once contained within the Shower Caddies.

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

18 44. 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 45. 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 Shower Caddies, pursuant to
23 Health and Safety Code section 25249.7(b).

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

1 **SECOND CAUSE OF ACTION**

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

5 **Bathroom Accessories**

6 47. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 45 of this Complaint as though fully set forth herein.

8 48. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Shower Caddies with Polymer Suction Cups including
10 but not limited to: “Ultimate Home”; “Ideal for Showers”; “Shower Caddy”; UPC 4
11 22052 96210 3”; “Distributed by Urban Imports Los Angeles, CA 90058”; “Made In
12 China” (“Shower Caddies”).

13 49. Shower Caddies contain DBP.

14 50. Defendants knew or should have known that DBP has been identified by the State of
15 California as a chemical known to cause reproductive toxicity and therefore was subject
16 to Proposition 65 warning requirements. Defendants were also informed of the presence
17 of DBP in Shower Caddies within Plaintiff’s notice of alleged violations further discussed
18 above at Paragraph 22.

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

25 52. Plaintiff is informed, believes, and thereon alleges that between March 28, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Shower Caddies, which Defendants manufactured, distributed, or
28 sold as mentioned above, to DBP, without first providing any type of clear and

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

2 Defendants have distributed and sold Shower Caddies in California. Defendants know
3 and intend that California consumers will use Shower Caddies, thereby exposing them to
4 DBP. Defendants thereby violated Proposition 65.

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

6 Persons sustain exposures by handling Shower Caddies without wearing gloves or by
7 touching bare skin or mucous membranes with or without gloves after handling Shower
8 Caddies, 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 Shower Caddies during use, as well as through environmental mediums that carry the
11 DBP once contained within the Shower Caddies.

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

18 55. 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 56. 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 Shower Caddies, pursuant to
23 Health and Safety Code section 25249.7(b).

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

1 **THIRD CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR KINGS,**
3 **DOLLAR LOS, and DOES 21-30 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 **Fashion Accessories**

7 58. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 56 of this Complaint as though fully set forth herein.

9 59. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Women's Plastic/Vinyl Wallets including but not
11 limited to: "Rectangle shape black shiny wallet. "UPC 6 826200 120133"; "Made in
12 China" ("Wallets").

13 60. Wallets contain DEHP.

14 61. Defendants knew or should have known that DEHP has been identified by the State of
15 California as a chemical known to cause cancer and reproductive toxicity and therefore
16 was subject to Proposition 65 warning requirements. Defendants were also informed of
17 the presence of DEHP in Wallets within Plaintiff's notice of alleged violations further
18 discussed above at Paragraph 23.

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

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

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

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

66. 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.

67. 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 Wallets, pursuant to Health and Safety Code section 25249.7(b).

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

//

//

1 **FOURTH CAUSE OF ACTION**

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

5 **Fashion Accessories**

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

8 70. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Plastic Wallet including but not limited to: “Black
10 Wallet with Checkered Imprint” (“Wallets II”).

11 71. Wallets II contain DEHP.

12 72. Defendants knew or should have known that DEHP has been identified by the State of
13 California as a chemical known to cause cancer and reproductive toxicity and therefore
14 was subject to Proposition 65 warning requirements. Defendants were also informed of
15 the presence of DEHP in Wallets II within Plaintiff’s notice of alleged violations further
16 discussed above at Paragraph 24.

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

23 74. Plaintiff is informed, believes, and thereon alleges that between April 5, 2016 and the
24 present, each of the Defendants knowingly and intentionally exposed California
25 consumers and users of Wallets II, which Defendants manufactured, distributed, or sold
26 as mentioned above, to DEHP, without first providing any type of clear and reasonable
27 warning of such to the exposed persons before the time of exposure. Defendants have
28 distributed and sold Wallets II in California. Defendants know and intend that California

1 consumers will use Wallets II, thereby exposing them to DEHP. Defendants thereby
2 violated Proposition 65.

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

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

10 76. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
11 Proposition 65 as to Wallets II 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 Wallets
14 II, so that a separate and distinct violation of Proposition 65 occurred each and every time
15 a person was exposed to DEHP by Wallets II as mentioned herein.

16 77. 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 78. 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 Wallets II, pursuant to Health
21 and Safety Code section 25249.7(b).

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

24 //

25 //

26 //

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR KINGS,**
3 **DOLLAR LOS, and DOES 41-50 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 **Travel Accessories**

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

9 81. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Plastic Accessory Bags including but not limited to:
11 Plastic bag with yellow edging (“Bags”).

12 82. Bags contain DEHP.

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

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

24 85. Plaintiff is informed, believes, and thereon alleges that between April 22, 2016 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Bags, which Defendants manufactured, distributed, or sold as
27 mentioned above, to DEHP, 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 Bags in California. Defendants know and intend that California

1 consumers will use Bags, thereby exposing them to DEHP. Defendants thereby violated
2 Proposition 65.

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

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

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

16 88. 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 89. 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 Bags, pursuant to Health and
21 Safety Code section 25249.7(b).

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

24 //

25 //

26 //

1 **SIXTH CAUSE OF ACTION**

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

5 **Eyewear**

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

8 92. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sunglasses with Polymer Nose Pieces including but
10 not limited to: Aviator with chrome frame and brown temple tip. “Sunglasses UV400
11 Maximum Protection”; UPC “7 39042 42184 8” (“Sunglasses”).

12 93. Sunglasses contain DEHP.

13 94. Defendants knew or should have known that DEHP has been identified by the State of
14 California as a chemical known to cause cancer and reproductive toxicity and therefore
15 was subject to Proposition 65 warning requirements. Defendants were also informed of
16 the presence of DEHP in Sunglasses within Plaintiff’s notice of alleged violations further
17 discussed above at Paragraph 26.

18 95. Plaintiff’s allegations regarding Sunglasses 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 Sunglasses are consumer products, and, as mentioned herein, exposures to DEHP took
23 place as a result of such normal and foreseeable use.

24 96. Plaintiff is informed, believes, and thereon alleges that between April 23, 2016 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Sunglasses, which Defendants manufactured, distributed, or sold
27 as mentioned above, to DEHP, 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 Sunglasses in California. Defendants know and intend that California consumers will use Sunglasses, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

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

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

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

//

//

//

1 **SEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR KINGS, and**
3 **DOES 61-70 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

5 **Bath Accessories**

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

8 103. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Soap Dishes with Plastic Suction Cups including but
10 not limited to: "CORNER SOAP TRAY WITH SUCTION," "ITEM# : 16014," Bar Code
11 Number "8 74619 16014 7," "BATH COLLECTION," "Distributed By: TCB Imports,
12 Inc. Los Angeles, CA 90023," "Made in China." ("Soap Dishes").

13 104. Soap Dishes contain DEHP.

14 105. Defendants knew or should have known that DEHP has been identified by the
15 State of California as a chemical known to cause cancer and reproductive toxicity and
16 therefore was subject to Proposition 65 warning requirements. Defendants were also
17 informed of the presence of DEHP in Soap Dishes within Plaintiff's notice of alleged
18 violations further discussed above at Paragraph 27.

19 106. Plaintiff's allegations regarding Soap Dishes 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). Soap Dishes are consumer products, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable use.

25 107. Plaintiff is informed, believes, and thereon alleges that between July 2, 2016 and
26 the present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Soap Dishes, which Defendants manufactured, distributed, or
28 sold as mentioned above, to DEHP, without first providing any type of clear and

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

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

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

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

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

21 111. 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 Soap Dishes, pursuant to
23 Health and Safety Code section 25249.7(b).

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

1 **EIGHTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR LOS and**
3 **DOES 71-80 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

5 **Footwear**

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

8 114. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Toddler's Flip Flops with Plastic Straps including but
10 not limited to: Infant's Purple Flip Flops with Purple Straps, Fruit Pattern; Size 10; NO
11 UPC ("Flip Flops").

12 115. Flip Flops contain DEHP.

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

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

24 118. Plaintiff is informed, believes, and thereon alleges that between July 2, 2016 and
25 the present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Flip Flops, which Defendants manufactured, distributed, or sold
27 as mentioned above, to DEHP, 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 Flip Flops in California. Defendants know and intend that California consumers will use Flip Flops, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

119. The principal routes of exposure are through dermal contact, ingestion and inhalation. Persons sustain exposures by handling Flip Flops without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling Flip Flops, 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 Flip Flops during use, as well as through environmental mediums that carry the DEHP once contained within the Flip Flops.

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

121. 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.

122. 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 Flip Flops, pursuant to Health and Safety Code section 25249.7(b).

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

//

//

1 **NINETH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR KINGS,**
3 **KOOBA, and DOES 81-90 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 **Kids Clothing**

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

9 125. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Dress for Kids with Plastic Components including but
11 not limited to: “kooba kids;” “RN# 119132;” “MADE IN CHINA;” “STYLE#
12 FF178309K;” “MYSTICAPPELLLC.NY;” “STYLE: FF178309K;” “SIZE: 5/6;”
13 “COLOR: BLACK;” “GIRLS FASHION DRESS;” “8 83332 42638 6” (“Dresses”).

14 126. Dresses contain DEHP.

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

20 128. Plaintiff’s allegations regarding Dresses 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). Dresses are consumer products, and, as mentioned herein, exposures to DEHP
25 took place as a result of such normal and foreseeable use.

26 129. Plaintiff is informed, believes, and thereon alleges that between July 15, 2016 and
27 the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Dresses, which Defendants manufactured, distributed, or sold as
mentioned above, to DEHP, without first providing any type of clear and reasonable

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

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

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

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

21 133. 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 Dresses, pursuant to Health and
23 Safety Code section 25249.7(b).

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

1 **TENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against DOLLAR LOS and**
3 **DOES 91-100 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

5 **Footwear**

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

8 136. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Toddler's Flip Flops with Plastic Straps including but
10 not limited to: Infant's Black Flip Flops with Black Plastic Straps, Fruit Pattern; Size 10;
11 NO UPC ("Flip Flops").

12 137. Flip Flops contain DEHP.

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

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

24 140. Plaintiff is informed, believes, and thereon alleges that between July 15, 2016 and
25 the present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Flip Flops, which Defendants manufactured, distributed, or sold
27 as mentioned above, to DEHP, 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 Flip Flops in California. Defendants know and intend that California consumers will use Flip Flops, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

141. The principal routes of exposure are through dermal contact, ingestion and inhalation. Persons sustain exposures by handling Flip Flops without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling Flip Flops, 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 Flip Flops during use, as well as through environmental mediums that carry the DEHP once contained within the Flip Flops.

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

143. 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.

144. 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 Flip Flops, pursuant to Health and Safety Code section 25249.7(b).

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

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

1. A permanent injunction mandating Proposition 65-compliant warnings;

2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: October 16, 2019

YEROUSHALMI & YEROUSHALMI

BY: 

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