

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Holly Fujie

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9 Attorneys for Plaintiff,
10 Consumer Advocacy Group, Inc.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

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

15 Plaintiff,

16 v.

17 PEGASUS TRUCKING, LLC DBA
18 FALLAS DISCOUNT STORES, a Delaware
19 Limited Liability Company; and
20 DOES 1-220.

21 Defendants.

CASE NO.

20STCV21370

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.*)

UNLIMITED CIVIL ACTION

22 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges twenty two causes of action
23 against defendants PEGASUS TRUCKING, LLC DBA FALLAS DISCOUNT STORES and
24 DOES 1-220 as follows:

25 **THE PARTIES**

- 26 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
27 organization qualified to do business in the State of California. CAG is a person within
28 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).

- 1 2. Defendant PEGASUS TRUCKING, LLC DBA FALLAS DISCOUNT STORES
2 (“PEGASUS”) is a Delaware Limited Liability Company doing business in the State of
3 California at all relevant times herein.
- 4 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-
5 220, and therefore sues these defendants by such fictitious names. Plaintiff will amend
6 this complaint to allege their true names and capacities when ascertained. Plaintiff is
7 informed, believes, and thereon alleges that each fictitiously named defendant is
8 responsible in some manner for the occurrences herein alleged and the damages caused
9 thereby.
- 10 4. At all times mentioned herein, the term “Defendants” includes PEGASUS, and DOES 1-
11 220.
- 12 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
13 times mentioned herein have conducted business within the State of California.
- 14 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
15 including DOES 1-220, was an agent, servant, or employee of each of the other
16 Defendants. In conducting the activities alleged in this Complaint, each of the
17 Defendants was acting within the course and scope of this agency, service, or
18 employment, and was acting with the consent, permission, and authorization of each of
19 the other Defendants. All actions of each of the Defendants alleged in this Complaint
20 were ratified and approved by every other Defendant or their officers or managing agents.
21 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
22 wrongful conduct of each of the other Defendants.
- 23 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
24 Defendants was a person doing business within the meaning of Health and Safety Code
25 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
26 employees at all relevant times.
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1 **JURISDICTION**

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

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

15 10. Venue is proper in the County of Los Angeles because one or more of the instances of
16 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
17 because Defendants conducted, and continue to conduct, business in the County of Los
18 Angeles with respect to the consumer product that is the subject of this action.

19 **BACKGROUND AND PRELIMINARY FACTS**

20 11. In 1986, California voters approved an initiative to address growing concerns about
21 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
22 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
23 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
24 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
25 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
26 from contamination, to allow consumers to make informed choices about the products
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1 they buy, and to enable persons to protect themselves from toxic chemicals as they see
2 fit.

3 12. Proposition 65 requires the Governor of California to publish a list of chemicals known to
4 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
5 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
6 chemicals and chemical families. Proposition 65 imposes warning requirements and
7 other controls that apply to Proposition 65-listed chemicals.

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

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

20 15. Plaintiff identified certain practices of manufacturers and distributors of products bearing
21 Di (2-ethylhexyl) phthalate, also known as Diethyl Hexyl Phthalate and Bis (2-
22 ethylhexyl) phthalate (“DEHP”); Diisononyl Phthalate (“DINP”); and Di-n-Butyl
23 Phthalate, also known as Dibutyl Phthalate (“DBP”) of exposing, knowingly and
24 intentionally, persons in California to the Proposition 65-listed chemicals of such
25 products without first providing clear and reasonable warnings of such to the exposed
26 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged
27 in such practice.

1 16. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
2 known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP
3 to the list of chemicals known to the State to cause developmental male reproductive
4 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)
5 months after addition of DEHP to the list of chemicals known to the State to cause
6 reproductive toxicity, DEHP became fully subject to Proposition 65 warning
7 requirements and discharge prohibitions.

8 17. On December 2, 2005, the Governor of California added DBP to the list of chemicals
9 known to the State to cause developmental, female, and male reproductive toxicity.
10 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months
11 after addition of DBP to the list of chemicals known to the State to cause developmental
12 and reproductive toxicity, DBP became fully subject to Proposition 65 warning
13 requirements and discharge prohibitions.

14 18. On December 20, 2013, the Governor of California added DINP to the list of chemicals
15 known to the State to cause cancer. Pursuant to Health and Safety Code sections 25249.9
16 and 25249.10, twenty (20) months after addition of DINP to the list of chemicals known
17 to the State to cause cancer, DINP became fully subject to Proposition 65 warning
18 requirements and discharge prohibitions.

19 **SATISFACTION OF PRIOR NOTICE**

20 19. On or about May 30, 2019, Plaintiff gave notice of alleged violations of Health and
21 Safety Code section 25249.6, concerning consumer products exposures, subject to a
22 private action to PEGASUS and to the California Attorney General, County District
23 Attorneys, and City Attorneys for each city containing a population of at least 750,000
24 people in whose jurisdictions the violations allegedly occurred, concerning Wallets with
25 PVC Components containing DEHP.

26 20. On or about June 17, 2019, Plaintiff gave notice of alleged violations of Health and
27 Safety Code section 25249.6, concerning consumer products exposures, subject to a
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1 private action to PEGASUS and to the California Attorney General, County District
2 Attorneys, and City Attorneys for each city containing a population of at least 750,000
3 people in whose jurisdictions the violations allegedly occurred, concerning Polymer
4 Sandals containing DEHP and DBP.

5 21. On or about June 17, 2019, Plaintiff gave notice of alleged violations of Health and
6 Safety Code section 25249.6, concerning consumer products exposures, subject to a
7 private action to PEGASUS 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 Backpacks
10 with Plastic Components containing DEHP.

11 22. On or about June 28, 2019, Plaintiff gave notice of alleged violations of Health and
12 Safety Code section 25249.6, concerning consumer products exposures, subject to a
13 private action to PEGASUS 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 Wallets with
16 Plastic Components containing DEHP.

17 23. On or about June 28, 2019, Plaintiff gave notice of alleged violations of Health and
18 Safety Code section 25249.6, concerning consumer products exposures, subject to a
19 private action to PEGASUS and to the California Attorney General, County District
20 Attorneys, and City Attorneys for each city containing a population of at least 750,000
21 people in whose jurisdictions the violations allegedly occurred, concerning Backpack
22 with Plastic Components containing DEHP.

23 24. On or about July 2, 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 PEGASUS and to the California Attorney General, County District Attorneys,
26 and City Attorneys for each city containing a population of at least 750,000 people in
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1 whose jurisdictions the violations allegedly occurred, concerning Plastic Handbags
2 containing DEHP.

3 25. On or about July 15, 2019, Plaintiff gave notice of alleged violations of Health and Safety
4 Code section 25249.6, concerning consumer products exposures, subject to a private
5 action to PEGASUS and to the California Attorney General, County District Attorneys,
6 and City Attorneys for each city containing a population of at least 750,000 people in
7 whose jurisdictions the violations allegedly occurred, concerning Backpacks with Plastic
8 Components containing DEHP.

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

15 27. On or about August 26, 2019, Plaintiff gave notice of alleged violations of Health and
16 Safety Code section 25249.6, concerning consumer products exposures, subject to a
17 private action to PEGASUS and to the California Attorney General, County District
18 Attorneys, and City Attorneys for each city containing a population of at least 750,000
19 people in whose jurisdictions the violations allegedly occurred, concerning Backpack
20 with Plastic Components containing DBP.

21 28. On or about September 13, 2019, Plaintiff gave notice of alleged violations of Health and
22 Safety Code section 25249.6, concerning consumer products exposures, subject to a
23 private action to PEGASUS and to the California Attorney General, County District
24 Attorneys, and City Attorneys for each city containing a population of at least 750,000
25 people in whose jurisdictions the violations allegedly occurred, concerning Handbag with
26 Plastic Components containing DEHP.

1 29. On or about September 13, 2019, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures, subject to a
3 private action to PEGASUS and to the California Attorney General, County District
4 Attorneys, and City Attorneys for each city containing a population of at least 750,000
5 people in whose jurisdictions the violations allegedly occurred, concerning Sandals with
6 Plastic Components containing DBP.

7 30. On or about September 17, 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 PEGASUS and to the California Attorney General, County District
10 Attorneys, and City Attorneys for each city containing a population of at least 750,000
11 people in whose jurisdictions the violations allegedly occurred, concerning Sandals with
12 Plastic Straps containing DBP.

13 31. On or about October 11, 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 PEGASUS and to the California Attorney General, County District
16 Attorneys, and City Attorneys for each city containing a population of at least 750,000
17 people in whose jurisdictions the violations allegedly occurred, concerning Sandals with
18 Plastic Components containing DEHP.

19 32. On or about October 11, 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 PEGASUS and to the California Attorney General, County District
22 Attorneys, and City Attorneys for each city containing a population of at least 750,000
23 people in whose jurisdictions the violations allegedly occurred, concerning Backpacks
24 with Plastic Components containing DEHP.

25 33. On or about October 23, 2019, Plaintiff gave notice of alleged violations of Health and
26 Safety Code section 25249.6, concerning consumer products exposures, subject to a
27 private action to PEGASUS and to the California Attorney General, County District
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1 Attorneys, and City Attorneys for each city containing a population of at least 750,000
2 people in whose jurisdictions the violations allegedly occurred, concerning Wallets
3 containing DEHP.

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

10 35. On or about December 9, 2019, Plaintiff gave notice of alleged violations of Health and
11 Safety Code section 25249.6, concerning consumer products exposures, subject to a
12 private action to PEGASUS and to the California Attorney General, County District
13 Attorneys, and City Attorneys for each city containing a population of at least 750,000
14 people in whose jurisdictions the violations allegedly occurred, concerning High Heels
15 with Plastic Components containing DEHP.

16 36. On or about December 9, 2019, Plaintiff gave notice of alleged violations of Health and
17 Safety Code section 25249.6, concerning consumer products exposures, subject to a
18 private action to PEGASUS and to the California Attorney General, County District
19 Attorneys, and City Attorneys for each city containing a population of at least 750,000
20 people in whose jurisdictions the violations allegedly occurred, concerning Women's
21 Sandals with Plastic Components containing DEHP.

22 37. On or about December 16, 2019, Plaintiff gave notice of alleged violations of Health and
23 Safety Code section 25249.6, concerning consumer products exposures, subject to a
24 private action to PEGASUS and to the California Attorney General, County District
25 Attorneys, and City Attorneys for each city containing a population of at least 750,000
26 people in whose jurisdictions the violations allegedly occurred, concerning School Bags
27 with Plastic Components containing DINP.

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1 38. On or about January 16, 2020, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures, subject to a
3 private action to PEGASUS and to the California Attorney General, County District
4 Attorneys, and City Attorneys for each city containing a population of at least 750,000
5 people in whose jurisdictions the violations allegedly occurred, concerning Plastic
6 Sandals containing DBP.

7 39. On or about February 14, 2020, 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 PEGASUS and to the California Attorney General, County District
10 Attorneys, and City Attorneys for each city containing a population of at least 750,000
11 people in whose jurisdictions the violations allegedly occurred, concerning Back
12 Scratchers containing DEHP.

13 40. Before sending the notices of alleged violation, Plaintiff investigated the consumer
14 products involved, the likelihood that such products would cause users to suffer
15 significant exposures to DEHP, DINP, and DBP, and the corporate structure of each of
16 the Defendants.

17 41. Plaintiff's notices of alleged violation included Certificates of Merit executed by the
18 attorney for the noticing party, CAG. The Certificates of Merit stated that the attorney
19 for Plaintiff who executed the certificate had consulted with at least one person with
20 relevant and appropriate expertise who reviewed data regarding the exposures to Lead,
21 the subject Proposition 65-listed chemical of this action. Based on that information, the
22 attorney for Plaintiff who executed the Certificates of Merit believed there was a
23 reasonable and meritorious case for this private action. The attorney for Plaintiff attached
24 to the Certificates of Merit served on the Attorney General the confidential factual
25 information sufficient to establish the basis of the Certificate of Merit.
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1 42. Plaintiff's notices of alleged violations also included a Certificate of Service and a
2 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
3 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

4 43. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
5 gave notices of the alleged violations to PEGASUS and the public prosecutors referenced
6 in Paragraphs 19-39.

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

10 **FIRST CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
12 **1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
13 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Fashion Accessories**

15 45. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
16 reference paragraphs 1 through 44 of this complaint as though fully set forth herein.
17 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Wallets with PVC Components, which includes but is
19 not limited to: "Vieta Est. 1994" "EA1596-2 Pink"; "Designed in U.S.A."; "Fold-over
20 wallet;" "Made in China"; "NO UPC, (Wallets").

21 46. Wallets contain DEHP.

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

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

7 49. Plaintiff is informed, believes, and thereon alleges that between May 30, 2016 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Wallets, which Defendants manufactured, distributed, or sold as
10 mentioned above, to DEHP, without first providing any type of clear and reasonable
11 warning of such to the exposed persons before the time of exposure. Defendants have
12 distributed and sold Wallets in California. Defendants know and intend that California
13 consumers will use Wallets, thereby exposing them to DEHP. Defendants thereby
14 violated Proposition 65.

15 50. The principal routes of exposure are through dermal contact, ingestion, and inhalation.
16 Persons sustain exposures by handling Wallets without wearing gloves or any other
17 personal protective equipment, or by touching bare skin or mucous membranes with
18 gloves after handling Wallets, as well as through hand to mouth contact, hand to mucous
19 membrane, or breathing in particulate matter dispersed from the Wallets.

20 51. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Wallets have been ongoing and continuous, as Defendants engaged
22 and continue to engage in conduct which violates Health and Safety Code section
23 25249.6, including the manufacture, distribution, promotion, and sale of Wallets, so that a
24 separate and distinct violation of Proposition 65 occurred each and every time a person
25 was exposed to DEHP by Wallets as mentioned herein.
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1 52. 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 53. 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 Wallets, pursuant to Health and
6 Safety Code section 25249.7(b).

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

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10 **SECOND CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
12 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
13 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Footwear**

15 55. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
16 reference paragraphs 1 through 54 of this complaint as though fully set forth herein.
17 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Polymer Sandals, which includes but is not limited
19 to: "BP;" Black and Green sandals; "MADEIN CHINA;" "MANMADE
20 MATERIAL;" "38;" "NO;828;" "071-710-140;" "JELLYNVY;" "1155237" ("Sandals").

21 56. Sandals contain DEHP.

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

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

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

3 Sandals are a consumer product, and, as mentioned herein, exposures to DEHP took place
4 as a result of such normal and foreseeable use.

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

13 60. The principal routes of exposure are through dermal contact, ingestion, and inhalation.
14 Persons sustain exposures by handling Sandals without wearing gloves or any other
15 personal protective equipment, or by touching bare skin or mucous membranes with
16 gloves after handling Sandals, as well as through hand to mouth contact, hand to mucous
17 membrane, or breathing in particulate matter dispersed from the Sandals.

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

24 62. 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 63. 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 Sandals, pursuant to Health and
3 Safety Code section 25249.7(b).

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

6 **THIRD CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS, and DOES**
8 **21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
9 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

10 **Footwear**

11 65. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 64 of this complaint as though fully set forth herein.
13 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Polymer Sandals, which includes but is not limited
15 to: "BP;"Black and Green sandals; "MADEIN CHINA;"MANMADE
16 MATERIAL;"38;"NO;828;"071-710-140;"JELLYNVY;"1155237" ("Sandals").

17 66. Sandals contain DBP.

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

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

1 Sandals are a consumer product, and, as mentioned herein, exposures to DBP took place
2 as a result of such normal and foreseeable use.

3 69. Plaintiff is informed, believes, and thereon alleges that between June 17, 2016 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Sandals, which Defendants manufactured, distributed, or sold as
6 mentioned above, to DBP, 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 Sandals in California. Defendants know and intend that California
9 consumers will use Sandals, thereby exposing them to DBP. Defendants thereby violated
10 Proposition 65.

11 70. The principal routes of exposure are through dermal contact, ingestion, and inhalation.
12 Persons sustain exposures by handling Sandals without wearing gloves or any other
13 personal protective equipment, or by touching bare skin or mucous membranes with
14 gloves after handling Sandals, as well as through hand to mouth contact, hand to mucous
15 membrane, or breathing in particulate matter dispersed from the Sandals.

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

22 72. 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 73. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DBP from Sandals, pursuant to Health and
27 Safety Code section 25249.7(b).

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

3 **FOURTH CAUSE OF ACTION**

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

7 **Fashion Accessories**

8 75. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
9 reference paragraphs 1 through 74 of this complaint as though fully set forth herein.
10 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Backpacks with Plastic Components, which includes
12 but is not limited to: “KISS ME COUTURE;” “STYLE:KMCBP3009;”
13 “COLOR:BLACK;” “MADE IN CHINA”, (“Backpacks”).

14 76. Backpacks contain DEHP.

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

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

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

7 80. The principal routes of exposure are through dermal contact, ingestion, and inhalation.
8 Persons sustain exposures by handling Backpacks without wearing gloves or any other
9 personal protective equipment, or by touching bare skin or mucous membranes with
10 gloves after handling Backpacks, as well as through hand to mouth contact, hand to
11 mucous membrane, or breathing in particulate matter dispersed from the Backpacks.

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

18 82. 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 83. 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 Backpacks, pursuant to Health
23 and Safety Code section 25249.7(b).

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

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **41-50 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 85. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 84 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Wallets with Plastic Components, which includes but
10 is not limited to: “WOMENS ACCESSORIES WALLETS NON BRANDED
11 WALLETS;” “CW122602MMPK;” “S18 12/18;” “MERMARID CELL PHONE ZIP
12 WALLET;” “123485;”, (Wallets II”).

13 86. Wallets II contain DEHP.

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

19 88. Plaintiff’s allegations regarding Wallets IV 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 II are a consumer product, and, as mentioned herein, exposures to DEHP took
24 place as a result of such normal and foreseeable use.

25 89. Plaintiff is informed, believes, and thereon alleges that between June 28, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Wallets II, 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 Wallets II in California. Defendants know and intend that California
3 consumers will use Wallets II, thereby exposing them to DEHP. Defendants thereby
4 violated Proposition 65.

5 90. The principal routes of exposure are through dermal contact, ingestion, and inhalation.
6 Persons sustain exposures by handling Wallets II without wearing gloves or any other
7 personal protective equipment, or by touching bare skin or mucous membranes with
8 gloves after handling Wallets II, as well as through hand to mouth contact, hand to
9 mucous membrane, or breathing in particulate matter dispersed from the Wallets II.

10 91. 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 92. 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 93. 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 94. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
23 filing this Complaint.

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1 **SIXTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **51-60 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 95. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 94 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Backpacks with Plastic Components, which includes
10 but is not limited to: “GLITTER CLR BACKPACK;” “015-311-710;” “1320925;”
11 “\$14.99;” “MADE IN CHINA”, (“Backpacks II”).

12 96. Backpacks II contain DEHP.

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

18 98. Plaintiff's allegations regarding Backpacks II 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)*. Backpacks II are a consumer product, and, as mentioned herein, exposures to
23 DEHP took place as a result of such normal and foreseeable use.

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

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

4 100. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Backpacks II without wearing gloves
6 or any other personal protective equipment, or by touching bare skin or mucous
7 membranes with gloves after handling Backpacks II, as well as through hand to mouth
8 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
9 Backpacks II.

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

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

19 103. 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 Backpacks II, pursuant to
21 Health and Safety Code section 25249.7(b).

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

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1 **SEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **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 **Fashion Accessories**

6 105. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 104 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Plastic Handbags, which includes but is not limited
10 to: ""DOT DASH;""MADEIN CHINA;""WOMENS ACCESSORIES;""HANDBAGS;""
11 ""HOLOGRAM CLEAR CRO;""1326813"" (“Handbags”).

12 106. Handbags contain DEHP.

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

18 108. Plaintiff's allegations regarding Handbags 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)*. Handbags are a consumer product, and, as mentioned herein, exposures to
23 DEHP took place as a result of such normal and foreseeable use.

24 109. 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 Handbags, 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

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.

4 110. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Handbags without wearing gloves or
6 any other personal protective equipment, or by touching bare skin or mucous membranes
7 with gloves after handling Handbags, as well as through hand to mouth contact, hand to
8 mucous membrane, or breathing in particulate matter dispersed from the Handbags.

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

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

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

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

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1 **EIGHTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **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 **Fashion Accessories**

6 115. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 1114 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Backpacks with Plastic Components, which includes
10 but is not limited to: “Odiva;” “MADE IN CHINA;” “1341998”, (“Backpacks III”).

11 116. Backpacks III contain DEHP.

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

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

23 119. Plaintiff is informed, believes, and thereon alleges that between July 15, 2016 and
24 the present, each of the Defendants knowingly and intentionally exposed California
25 consumers and users of Backpacks III, which Defendants manufactured, distributed, or
26 sold as mentioned above, to DEHP, without first providing any type of clear and
27 reasonable warning of such to the exposed persons before the time of exposure.

28 Defendants have distributed and sold Backpacks III in California. Defendants know and

1 intend that California consumers will use Backpacks, thereby exposing them to DEHP.
2 Defendants thereby violated Proposition 65.

3 120. The principal routes of exposure are through dermal contact, ingestion, and
4 inhalation. Persons sustain exposures by handling Backpacks III without wearing gloves
5 or any other personal protective equipment, or by touching bare skin or mucous
6 membranes with gloves after handling Backpacks III, as well as through hand to mouth
7 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
8 Backpacks III.

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

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

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

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

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1 **NINTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **81-90 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**

6 125. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 124 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Wallets with Plastic Components, which includes but
10 is not limited to: "BEVERLYHILLSPOLOCLUB;" "3WAYS;" "Wallet Wristlet Cross
11 Body;" "TO WEAR;" "Style WT566VA;" "Color ROSE GOLD;" "Manufactured under
12 license from: BHPC ASSOCIATES LLC;" "www.bhpc.com;" "1320276" (Wallets III").

13 126. Wallets III contain DINP.

14 127. Defendants knew or should have known that DINP has been identified by the
15 State of California as a chemical known to cause cancer and therefore was subject to
16 Proposition 65 warning requirements. Defendants were also informed of the presence of
17 relevant chemical in Product within Plaintiff's notice of alleged violations further
18 discussed above at Paragraph 26.

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

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

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

5 130. The principal routes of exposure are through dermal contact, ingestion, and
6 inhalation. Persons sustain exposures by handling Wallets III without wearing gloves or
7 any other personal protective equipment, or by touching bare skin or mucous membranes
8 with gloves after handling Wallets III, as well as through hand to mouth contact, hand to
9 mucous membrane, or breathing in particulate matter dispersed from the Wallets III.

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

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

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

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

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1 **TENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **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 **Fashion Accessories**

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 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Backpacks with Plastic Components, which includes
10 but is not limited to: “Odiva;” “MADE IN CHINA;” “1342015”, (“Backpacks IV”).

11 136. Backpacks IV contain DBP.

12 137. Defendants knew or should have known that DBP has been identified by the State
13 of California as a chemical known to cause developmental and reproductive toxicity and
14 therefore was subject to Proposition 65 warning requirements. Defendants were also
15 informed of the presence of relevant chemical in Product within Plaintiff’s notice of
16 alleged violations further discussed above at Paragraph 27.

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

23 139. Plaintiff is informed, believes, and thereon alleges that August 26, 2016 and the
24 present, each of the Defendants knowingly and intentionally exposed California
25 consumers and users of Backpacks IV, which Defendants manufactured, distributed, or
26 sold as mentioned above, to DBP, without first providing any type of clear and
27 reasonable warning of such to the exposed persons before the time of exposure.

28 Defendants have distributed and sold Backpacks IV in California. Defendants know and

1 intend that California consumers will use Backpacks, thereby exposing them to DBP.
2 Defendants thereby violated Proposition 65.

3 140. The principal routes of exposure are through dermal contact, ingestion, and
4 inhalation. Persons sustain exposures by handling Backpacks IV without wearing gloves
5 or any other personal protective equipment, or by touching bare skin or mucous
6 membranes with gloves after handling Backpacks IV, as well as through hand to mouth
7 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
8 Backpacks IV.

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

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

18 143. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to DBP from Backpacks IV, pursuant to
20 Health and Safety Code section 25249.7(b).

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

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1 **ELEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **101-110 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Handbag**

6 145. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 144 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Handbag with Plastic Components, which includes
10 but is not limited to: ""DOT DASH;" "MADEIN CHINA;""WOMENS
11 ACCESSORIES;" "HANDBAG;" "NON-BRANDED;" "CROSSBOD;" "1326814"
12 ("Handbags II").

13 146. Handbags II contain DEHP.

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

19 148. Plaintiff's allegations regarding Handbags II 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)*. Handbags II are a consumer product, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable use.

25 149. Plaintiff is informed, believes, and thereon alleges that between September 13,
26 2016 and the present, each of the Defendants knowingly and intentionally exposed
27 California consumers and users of Handbags II, which Defendants manufactured,
28 distributed, or sold as mentioned above, to DEHP, without first providing any type of

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

5 150. The principal routes of exposure are through dermal contact, ingestion, and
6 inhalation. Persons sustain exposures by handling Handbags II without wearing gloves
7 or any other personal protective equipment, or by touching bare skin or mucous
8 membranes with gloves after handling Handbags II, as well as through hand to mouth
9 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
10 Handbags II.

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

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

20 153. 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 II, pursuant to
22 Health and Safety Code section 25249.7(b).

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

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1 **TWELFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **111-120 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**

6 155. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 154 of this complaint as though fully set forth herein.

8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sandals with Plastic Components which includes but
10 is not limited to: "Pink Crush;" "ALL MAN MADE MATERIA;" "MADE IN CHINA;"
11 "4 UK 37 EUR 6 USA;" "1345551", ("Sandals III").

12 156. Sandals III contain DBP.

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

18 158. Plaintiff's allegations regarding Sandals III 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)*. Sandals III are a consumer product, and, as mentioned herein, exposures to
23 DBP took place as a result of such normal and foreseeable use.

24 159. Plaintiff is informed, believes, and thereon alleges that between September 13,
25 2016 and the present, each of the Defendants knowingly and intentionally exposed
26 California consumers and users of Sandals III, which Defendants manufactured,
27 distributed, or sold as mentioned above, to DBP, without first providing any type of clear
28 and reasonable warning of such to the exposed persons before the time of exposure.

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

4 160. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Sandals III without wearing gloves or
6 any other personal protective equipment, or by touching bare skin or mucous membranes
7 with gloves after handling Sandals III, as well as through hand to mouth contact, hand to
8 mucous membrane, or breathing in particulate matter dispersed from the Sandals III.

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

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

18 163. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to DBP from Sandals III, pursuant to Health
20 and Safety Code section 25249.7(b).

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

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1 **THIRTEENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **121-130 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Sandals**

6 165. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 164 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sandals with Plastic Straps which includes but is not
10 limited to: White "Pink Crush;" "ALL MAN MADE MATERIA;" "MADE IN CHINA;"
11 "1 USA; 32 EUR; 12 UK;" "1346455", ("Sandals IV").

12 166. Sandals IV contain DBP.

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

18 168. Plaintiff's allegations regarding Sandals III 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)*. Sandals IV are a consumer product, and, as mentioned herein, exposures to
23 DBP took place as a result of such normal and foreseeable use.

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

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

4 170. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Sandals IV without wearing gloves or
6 any other personal protective equipment, or by touching bare skin or mucous membranes
7 with gloves after handling Sandals IV, as well as through hand to mouth contact, hand to
8 mucous membrane, or breathing in particulate matter dispersed from the Sandals IV.

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

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

18 173. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to DBP from Sandals IV, pursuant to Health
20 and Safety Code section 25249.7(b).

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

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1 **FOURTEENTH CAUSE OF ACTION**

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

5 **Sandals**

6 175. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 174 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sandals with Plastic Components, which includes but
10 is not limited to: “YOKI;” “STYLE: GIAN-181;” “SIZE: 8;” “ALLMAN MADE
11 MATERIAL;” “MADE IN CHINA;” Sandals with Plastic Straps (“Sandals V”).

12 176. Sandals V contain DEHP.

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

18 178. Plaintiff's allegations regarding Sandals V 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)*. Sandals V are a consumer product, and, as mentioned herein, exposures to
23 DEHP took place as a result of such normal and foreseeable use.

24 179. Plaintiff is informed, believes, and thereon alleges that between October 11, 2016
25 and the present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Sandals V, 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

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

4 180. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Sandals V without wearing gloves or
6 any other personal protective equipment, or by touching bare skin or mucous membranes
7 with gloves after handling Sandals V, as well as through hand to mouth contact, hand to
8 mucous membrane, or breathing in particulate matter dispersed from the Sandals V.

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

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

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

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

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FIFTHTEENTH CAUSE OF ACTION

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

Backpacks

185. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 184 of this complaint as though fully set forth herein. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Backpacks with Plastic Components, which includes but is not limited to: “YOUR VIBE;” “T-Shirt & Jeans;” “1322740;” “WWW.TSHIRTANDJEANS.COM; MADE IN CHINA;” “STYLE:285056-PNK;” “842461131288;” Pink and Clear Backpack (“Backpacks V”).

186. Backpacks V contain DEHP.

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

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

189. Plaintiff is informed, believes, and thereon alleges that between October 11, 2016 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Backpacks V, which Defendants manufactured, distributed, or sold as mentioned above, to DEHP, without first providing any type of clear and

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

2 Defendants have distributed and sold Backpacks V in California. Defendants know and
3 intend that California consumers will use Backpacks, thereby exposing them to DEHP.

4 Defendants thereby violated Proposition 65.

5 190. The principal routes of exposure are through dermal contact, ingestion, and
6 inhalation. Persons sustain exposures by handling Backpacks V without wearing gloves
7 or any other personal protective equipment, or by touching bare skin or mucous
8 membranes with gloves after handling Backpacks V, as well as through hand to mouth
9 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
10 Backpacks V.

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

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

20 193. 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 Backpacks V, pursuant to
22 Health and Safety Code section 25249.7(b).

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

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1 **SIXTEETH CAUSE OF ACTION**

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

5 **Sandals**

6 195. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 194 of this complaint as though fully set forth herein.

8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Plastic Sandals, which includes but is not limited to:

10 (i) “coXist;” “SIZE 13; Manufactured by: a Division of Orly Shoe Corp. 15 W 34th
11 Street, 7th Floor New York, NY 10001; “RN 150855;” “Made in China; “6 91466
12 64204 2;” “1327400;” “071-714-140; BSSSCHBSBLK;” “03/9 S 19”; and (ii) “coXist;”
13 “SIZE 11;” “Manufactured by: a Division of Orly Shoe Corp. 15 W 34th
14 Street, 7th Floor New York, NY 10001;” “RN 150855;” “Made in China;” “6 91466
15 64190 8;” “1330207;” “STYLE: ATHLETIC SLIDE;” “UPPER MATERIAL: PVC;
16 SOLE MATERIAL: EVA;” “042-110-110;” “1005XNVY;” “03/9 S19 DR;” “1330207”,
17 (“Sandals VI”).

18 196. Sandals VI contain DBP.

19 197. Defendants knew or should have known that DBP has been identified by the State
20 of California as a chemical known to cause developmental and reproductive toxicity and
21 therefore was subject to Proposition 65 warning requirements. Defendants were also
22 informed of the presence of relevant chemical in Product within Plaintiff’s notice of
23 alleged violations further discussed above at Paragraph 33.

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

3 199. Plaintiff is informed, believes, and thereon alleges that between October 23, 2016
4 and the present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Sandals VI, which Defendants manufactured, distributed, or sold
6 as mentioned above, to DBP, 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 Sandals VI in California. Defendants know and intend that
9 California consumers will use Backpacks, thereby exposing them to DBP. Defendants
10 thereby violated Proposition 65.

11 200. The principal routes of exposure are through dermal contact, ingestion, and
12 inhalation. Persons sustain exposures by handling Sandals VI without wearing gloves or
13 any other personal protective equipment, or by touching bare skin or mucous membranes
14 with gloves after handling Sandals VI, as well as through hand to mouth contact, hand to
15 mucous membrane, or breathing in particulate matter dispersed from the Sandals II.

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

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

25 203. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DBP from Sandals VI, pursuant to Health
27 and Safety Code section 25249.7(b).

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

3 **SEVENTEENTH CAUSE OF ACTION**

4 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
5 **161-170 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
6 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

7 **Footwear**

8 205. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
9 reference paragraphs 1 through 204 of this complaint as though fully set forth herein.
10 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Women’s Sandals with Plastic Components, which
12 includes but is not limited to: (i) Rose Gold Sandals embellished with jeweled stones.
13 “Pink Crush”; “12 UK, 32 EUR, 1 USA”; “071-715-140 G124RGSL 25/9 09”;
14 “1346456”; and (ii) White Sandals embellished with jeweled stones. “Pink Crush”; “7”;
15 “All Man Made Material”; “5 UK 38EUR 7USA”; “Made in China”, (“Sandals VII”).

16 206. Sandals VII contain DBP.

17 207. Defendants knew or should have known that DBP has been identified by the State
18 of California as a chemical known to cause developmental and reproductive toxicity and
19 therefore was subject to Proposition 65 warning requirements. Defendants were also
20 informed of the presence of relevant chemical in Product within Plaintiff’s notice of
21 alleged violations further discussed above at Paragraph 34.

22 208. Plaintiff’s allegations regarding Sandals VII 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). Sandals VII are a consumer product, and, as mentioned herein, exposures to
27 DBP took place as a result of such normal and foreseeable use.

1 209. Plaintiff is informed, believes, and thereon alleges that between November 12,
2 2016 and the present, each of the Defendants knowingly and intentionally exposed
3 California consumers and users of Sandals VII, which Defendants manufactured,
4 distributed, or sold as mentioned above, to DBP, without first providing any type of clear
5 and reasonable warning of such to the exposed persons before the time of exposure.
6 Defendants have distributed and sold Sandals VII in California. Defendants know and
7 intend that California consumers will use Sandals VII, thereby exposing them to DBP.
8 Defendants thereby violated Proposition 65.

9 210. The principal routes of exposure are through dermal contact, ingestion, and
10 inhalation. Persons sustain exposures by handling Sandals VII without wearing gloves or
11 any other personal protective equipment, or by touching bare skin or mucous membranes
12 with gloves after handling Sandals VII, as well as through hand to mouth contact, hand to
13 mucous membrane, or breathing in particulate matter dispersed from the Sandals II.

14 211. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
15 violations of Proposition 65 as to Sandals VII 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 Sandals VII, so that a separate and distinct violation of Proposition 65 occurred each and
19 every time a person was exposed to DBP by Sandals VII as mentioned herein.

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

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

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

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1 **EIGHTEENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS and DOES**
3 **171-180 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Women’s Footwear**

6 215. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 214 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of High Heels with Plastic Components, which includes
10 but is not limited to: "Italina;" "DH7401;" "ALL MAN MADE MATERIAL;" "MADE
11 IN CHINA;" "8;" "01306822;" "1306823;" "071-710-120;" "DH7401;" "4578;" Silver
12 Metallic Heels (“High Heels”)

13 216. High Heels contain DEHP.

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

19 218. Plaintiff’s allegations regarding High Heels 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)*. High Heels are a consumer product, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable use.

25 219. Plaintiff is informed, believes, and thereon alleges that between December 9,
26 2016 and the present, each of the Defendants knowingly and intentionally exposed
27 California consumers and users of High Heels, which Defendants manufactured,
28 distributed, or sold as mentioned above, to DEHP, without first providing any type of

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

5 220. The principal routes of exposure are through dermal contact, ingestion, and
6 inhalation. Persons sustain exposures by handling High Heels without wearing gloves or
7 any other personal protective equipment, or by touching bare skin or mucous membranes
8 with gloves after handling High Heels, as well as through hand to mouth contact, hand to
9 mucous membrane, or breathing in particulate matter dispersed from the High Heels.

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

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

19 223. 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 High Heels, pursuant to Health
21 and Safety Code section 25249.7(b).

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

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1 **NINETEENTH THIRD CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against PEGASUS, and DOES**
3 **181-190 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**

6 225. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 224 of this complaint as though fully set forth herein.

8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Women’s Sandals with Plastic Components, which
10 includes but is not limited to: Pink Sandals embellished with jeweled stones. "Pink
11 Crush"; "5 UK, 38 EUR, 7 USA"; "071-710-140"; "PI87GRNFSDHI"; "25/9 UI9";
12 "1345555" (“Sandals VIII”).

13 226. Sandals VIII contain DEHP.

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

19 228. Plaintiff’s allegations regarding Sandals VIII 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)*. Sandals VIII are a consumer product, and, as mentioned herein, exposures to
24 DEHP took place as a result of such normal and foreseeable use.

25 229. Plaintiff is informed, believes, and thereon alleges that between December 9,
26 2016 and the present, each of the Defendants knowingly and intentionally exposed
27 California consumers and users of Sandals VIII, which Defendants manufactured,
28 distributed, or sold as mentioned above, to DEHP, without first providing any type of

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

5 230. The principal routes of exposure are through dermal contact, ingestion, and
6 inhalation. Persons sustain exposures by handling Sandals VIII without wearing gloves
7 or any other personal protective equipment, or by touching bare skin or mucous
8 membranes with gloves after handling Sandals VIII, as well as through hand to mouth
9 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
10 Sandals VIII.

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

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

20 233. 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 Sandals VIII, pursuant to
22 Health and Safety Code section 25249.7(b).

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

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TWENTIETH CAUSE OF ACTION

**(By CONSUMER ADVOCACY GROUP, INC. and against , PEGASUS, and DOES
191-200 for Violations of Proposition 65, The Safe Drinking Water and Toxic
Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

School Bags

235. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by reference paragraphs 1 through 234 of this complaint as though fully set forth herein. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of School Bags with Plastic Components, which includes but is not limited to: "BRATZ;" "The ONLY Girls With A Passion For Fashion;" "BHK000279/BBT;" "8 84239042655;" "083-915-120;" "ASSTMSSGBG;" "3119 BAS;" "1361082;" www.bratz.com; ••"TM & MGA Entertainment, Inc. All Rights Reserved. Used under license by Accessory Network.;" "Made in China;" "RN# 87429; ("School Bags").

236. School Bags contain DINP.

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

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

239. Plaintiff is informed, believes, and thereon alleges that between December 16, 2016 and the present, each of the Defendants knowingly and intentionally exposed

1 California consumers and users of School Bags, which Defendants manufactured,
2 distributed, or sold as mentioned above, to DINP, without first providing any type of
3 clear and reasonable warning of such to the exposed persons before the time of exposure.
4 Defendants have distributed and sold School Bags in California. Defendants know and
5 intend that California consumers will use School Bags thereby exposing them to DINP.
6 Defendants thereby violated Proposition 65.

7 240. The principal routes of exposure are through dermal contact, ingestion, and
8 inhalation. Persons sustain exposures by handling School Bags without wearing gloves
9 or any other personal protective equipment, or by touching bare skin or mucous
10 membranes with gloves after handling School Bags, as well as through hand to mouth
11 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
12 School Bags.

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

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

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

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

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1 **TWENTY FIRST CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against , PEGASUS, and DOES**
3 **201-210 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Sandals**

6 245. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 244 of this complaint as though fully set forth herein.
8 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Plastic Sandals, which includes but is not limited
10 to: “Simply Petals!;” “071-710-140;” “YH17XGFSCHS;” “13/9 S29 PG;” “1341993;
11 “OTHER STORES;” “OUR PRICE \$ 3.99;” “STYLE: YH17XGBLUE;” “COLOR:
12 BLUE; “SIZE: 3;” “6 91466 60088 2;” “Manufactured by: a Division of Orly Shoe Corp.
13 15 W 34th Street, 7th Floor New York, NY 10001; “(212) 695-0998;” RN 150855; “Made
in China;” (“Sandals IX”).

14 246. Sandals IX contain DBP.

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

20 248. Plaintiff’s allegations regarding Sandals IX 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)*. Sandals IX are a consumer product, and, as mentioned herein, exposures to
25 DBP took place as a result of such normal and foreseeable use.

26 249. Plaintiff is informed, believes, and thereon alleges that between January 16, 2017
27 and the present, each of the Defendants knowingly and intentionally exposed California
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1 consumers and users of Sandals IX, which Defendants manufactured, distributed, or sold
2 as mentioned above, to DBP, without first providing any type of clear and reasonable
3 warning of such to the exposed persons before the time of exposure. Defendants have
4 distributed and sold Sandals IX in California. Defendants know and intend that
5 California consumers will use Sandals IX, thereby exposing them to DBP. Defendants
6 thereby violated Proposition 65.

7 250. The principal routes of exposure are through dermal contact, ingestion, and
8 inhalation. Persons sustain exposures by handling Sandals IX without wearing gloves or
9 any other personal protective equipment, or by touching bare skin or mucous membranes
10 with gloves after handling Sandals IX, as well as through hand to mouth contact, hand to
11 mucous membrane, or breathing in particulate matter dispersed from the Sandals IX.

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

18 252. 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.

21 253. 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 IX, pursuant to Health
23 and Safety Code section 25249.7(b).

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

2 **(By CONSUMER ADVOCACY GROUP, INC. and against , PEGASUS, and DOES**
3 **211-220 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

4 **Back Scratcher**

5 255. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
6 reference paragraphs 1 through 254 of this complaint as though fully set forth herein.

7 Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
8 distributor, promoter, or retailer of Back Scratcher, which includes but is not limited to:
9 Black Back Scratcher. “FORCE”; “022-412-340” “10288” “15/9 BAS PQ;” “1341565”
10 (“Back Scratchers”).

11 256. Back Scratchers contain DEHP.

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

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

23 259. Plaintiff is informed, believes, and thereon alleges that between February 14,
24 2017 and the present, each of the Defendants knowingly and intentionally exposed
25 California consumers and users of Back Scratchers, which Defendants manufactured,
26 distributed, or sold as mentioned above, to DEHP, without first providing any type of
27 clear and reasonable warning of such to the exposed persons before the time of exposure.

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

4 260. The principal routes of exposure are through dermal contact, ingestion, and
5 inhalation. Persons sustain exposures by handling Back Scratchers without wearing
6 gloves or any other personal protective equipment, or by touching bare skin or mucous
7 membranes with gloves after handling Back Scratchers, as well as through hand to mouth
8 contact, hand to mucous membrane, or breathing in particulate matter dispersed from the
9 Back Scratchers.

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

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

19 263. 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 Back Scratchers, pursuant to
21 Health and Safety Code section 25249.7(b).

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

24 **PRAYER FOR RELIEF**

25 Plaintiff demands against each of the Defendants as follows:

- 26 1. A permanent injunction mandating Proposition 65-compliant warnings;
27 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);

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- 3. Costs of suit;
- 4. Reasonable attorney fees and costs; and
- 5. Any further relief that the court may deem just and equitable.

Dated: June 5, 2020

YEROUSHALMI & YEROUSHALMI

BY: _____



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