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Superior Court of C.	A Page 6 of 10 2019-08-05 21	:31:51 (GMT) 16193741930 From: Noam Glick	
4 5 6 7 8 9	NICHOLAS & TOMASEVIC, LLP Craig M. Nicholas (SBN 178444) Shaun Markley (SBN 291785) Jake Schulte (SBN 293888) 225 Broadway, 19th Floor San Diego, California 92101 Telephone: (619) 325-0492 Facsimile: (619) 325-0496 Email: cnicholas@nicholaslaw.org Email: smarkley@nicholaslaw.org Email: jschulte@nicholaslaw.org GLICK LAW GROUP, P.C. Noam Glick (SBN 251582) 225 Broadway, Suite 2100 San Diego, CA 92101 Telephone: (619) 382-3400 Facsimile: (619) 615-2193 Email: noam@glicklawgroup.com	FILED BY FAX ALAMEDA COUNTY August 05, 2019 CLERK OF THE SUPERIOR COURT By Xian-Xii Bowie, Deputy CASE NUMBER: RG19030012	
12	Automoys for Frankfir Ann Enfory		
12	SUPERIOR COURT O	OF THE STATE OF CALIFORNIA	
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15	KIM EMBRY, an individual,	Case No.:	
16	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES	
17	V.	AND INJUNCTIVE RELIEF	
18	COQUETTE INTERNATIONAL, INC., DOES 1 through 100, inclusive	and (Cal. Health & Safety Code § 25249.6 et seq.)	
19	Does Fundagi Foo, inclusive Defendants.		
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	COMPLAINT		

1	I. <u>INTRODUCTION</u>				
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3	1. This Complaint is a representative action brought by the Plaintiff in the public				
4	interest of the citizens of the State of California. Plaintiff seeks to enforce the People's right to be				
5	informed of the presence of di(2-ethylhexyl) phthalate ("DEHP"), lead, and nickel (collectively				
6	"Listed Chemicals") prior to exposure. Coquette International, Inc. ("Coquette" or "Defendant")				
7	exposes consumers to the Listed Chemicals by manufacturing, importing, selling, and/or				
8	distributing Darque Women's Rubber Bra, Darque Black Skirt, Darque Black Dress, and Darque				
9	Black Bustier containing Listed Chemicals (collectively "Products").				
10	2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986,				
11	California Health & Safety Code Section 25249.6 et seq. ("Proposition 65"), "[n]o person in the				
12	course of doing business shall knowingly and intentionally expose any individual to a chemical				
13	known to the state to cause cancer or reproductive toxicity without first giving clear and				
14	reasonable warning to such individual" (Cal. Health & Safety Code, § 25249.6.)				
15	3. California identified and listed DEHP as a chemical known to cause birth defects				
16	or other reproductive harm, as well as cancer, as early as January 1, 1988.				
17	4. California identified and listed lead as a chemical known to cause birth defects or				
18	other reproductive harm, as well as cancer, as early as February 27, 1987.				
19	5. California identified and listed nickel as a chemical known to cause cancer as early				
20	as October 10, 1989.				
21	6. Each of the Defendant's Products manufactured, imported, sold, or distributed in				
22	California contains prohibited levels of at least one of the Listed Chemicals.				
23	7. Defendant failed to sufficiently warn consumers and individuals in California				
24	about potential exposure to the Listed Chemicals in connection with Defendant's manufacture,				
25	import, sale, or distribution of Products. This is a violation of Proposition 65.				
26	8. Plaintiff seeks injunctive relief compelling Defendant to cease exposing consumers				
27	in California to the Listed Chemicals through its Products and/or sufficiently warn consumers in				
28	California before exposing them to the Listed Chemicals in Products pursuant to Proposition 65				
	2 COMPLAINT				

and related regulations. (Cal. Health & Safety Code, § 25249.7(a).) Plaintiff also seeks civil
 penalties against Defendant for its violations of Proposition 65, attorney's fees and costs. (Cal.
 Health & Safety Code, § 25249.7.)

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## II. <u>PARTIES</u>

9. Plaintiff is a citizen of the State of California dedicated to protecting the health of
California citizens through the elimination or reduction of toxic exposure from consumer
products. She brings this action in the public interest pursuant to California Health and Safety
Code section 25249.7.

9 10. Defendant Coquette International, Inc. ("Coquette") is registered to do and does
10 business in California, County of Alameda, within the meaning of California Health and Safety
11 Code section 25249.11. Defendant manufactures, imports, sells, or distributes the Products in
12 California and Alameda County.

13 11. Plaintiff does not know the true names and/or capacities, whether individual, 14 partners, or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for 15 that reason sues said defendants under fictitious names. Plaintiff will seek leave to amend this 16 Complaint when the true names and capacities of these defendants have been ascertained. 17 Plaintiff is informed and believes and thereon alleges that these defendants are responsible in 18 whole or in part for Plaintiffs' alleged damages.

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## III. VENUE AND JURISDICTION

12. California Constitution Article VI, Section 10, grants the Superior Court original
 jurisdiction in all cases except those given by statute to other trial courts. The Health & Safety
 Code statute upon which this action is based does not give jurisdiction to any other court. As
 such, this Court has jurisdiction.

13. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
Procedure sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
County. Defendant conducted and continues to conduct business in this County as it relates to the
Products.

14. Defendant has sufficient minimum contacts in the State of California or otherwise 1 purposefully avails itself of the California market. Exercising jurisdiction over Defendant would 2 be consistent with traditional notions of fair play and substantial justice. 3 4 IV. **CAUSES OF ACTION** 5 FIRST CAUSE OF ACTION 6 (Violation of Proposition 65 – Against all Defendants) Plaintiff incorporates by reference each and every allegation contained above. 15. 7 16. 8 Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm. 9 17. 10 Defendant manufactured, imported, sold, and/or distributed Products containing the Listed Chemicals in violation of California Health and Safety Code section 25249.6 et seq. 11 Plaintiff is informed and believes such violations have continued after receipt of the Notice 12 (defined *infra*) and will continue to occur into the future. 13 18. In manufacturing, importing, selling, and/or distributing Products, Defendant 14 failed to provide a clear and reasonable warning to consumers and individuals in California who 15 may be exposed to the Listed Chemicals through reasonably foreseeable use of the Products. 16 19. The presence of the Listed Chemicals in the Products exposes individuals to the 17 18 Listed Chemicals. 20. Defendant knew or should have known that the Products contained the Listed 19 Chemicals and exposed individuals to the Listed Chemicals in the ways provided above. The 20 21 Notice informed Defendants of the presence of the Listed Chemicals in the Products. Likewise, 22 media coverage concerning the Listed Chemicals and related chemicals in consumer products, 23 provided constructive notice to Defendant. 21. Defendant's actions in this regard were deliberate and not accidental. 24 22. More than sixty days prior to naming the Defendant in this lawsuit, Plaintiff issued 25 a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. 26 Plaintiff provided the Notice to the various required public enforcement agencies along with a 27 28 certificate of merit. The Notices alleged that the Defendant violated Proposition 65 by failing to 4

1	sufficiently warn consumers in California of the health hazards associated with exposures to the
2	Listed Chemicals contained in the Products.

3 23. The appropriate public enforcement agencies provided with the Notice failed to
4 commence and diligently prosecute a cause of action against Defendant.

5 24. Individuals exposed to the Listed Chemicals contained in the Products resulting
6 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable
7 harm. There is no other plain, speedy, or adequate remedy at law.

8 25. Defendant is liable for a maximum civil penalty of \$2,500 per day for each
9 violation of Proposition 65 pursuant to California Health and Safety Code section 252497(b).
10 Injunctive relief is also appropriate pursuant to California Health and Safety Code section
11 25249.7(a).

## V. PRAYER FOR RELIEF

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Wherefore, Plaintiff prays for judgment against Defendant as follows:					
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		ting Products in California without providing a			
		quired by Proposition 65 and related regulations;			
3.					
	Such other and further relief as may be just and proper.				
Respectfully	submitted:				
		GLICK LAW GROUP			
Datearriaga	, 2017				
	By:	Noam Slich			
	By.	Noam Glick			
		Attorney for Plaintiff			
		Kim Embry			
COMPLAINT					
	<ol> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>Respectfully statements</li> </ol>	<ol> <li>Civil penalties in the amount of \$2.</li> <li>A preliminary and permanent inju importing, selling, and/or distribut clear and reasonable warning as rea</li> <li>Reasonable attorney's fees and cos</li> <li>Such other and further relief as may</li> </ol> Respectfully submitted: Dated: August 5, 2019 By:			