

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Jon Takasugi

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9 CONSUMER ADVOCACY GROUP, INC.

10  
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 THE TJX COMPANIES, INC., a Delaware  
18 Corporation;

19 MYSTIC APPAREL, LLC, a New York

20 Limited Liability Company;

21 and DOES 1-90,

22 Defendants.

CASE NO. **20STCV32288**

COMPLAINT FOR PENALTY AND  
INJUNCTION

Violation of Proposition 65, the Safe  
Drinking Water and Toxic Enforcement  
Act of 1986 (*Health & Safety Code*, §  
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL  
CASE (exceeds \$25,000)

23 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges nine causes of action  
24 against defendants THE TJX COMPANIES, INC., MYSTIC APPAREL, LLC, and DOES 1-90  
25 as follows:

## **THE PARTIES**

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant THE TJX COMPANIES, INC., (“TJX”) is a Delaware Corporation doing business in the State of California at all relevant times herein.
3. Defendant MYSTIC APPAREL, LLC, (“MYSTIC”) is a New York Limited Liability Company doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-90, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
5. At all times mentioned herein, the term “Defendants” includes TJX, MYSTIC, and DOES 1-90.
6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-90, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing

agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

### **JURISDICTION**

9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other trial courts. This Court has jurisdiction over this action pursuant to Health and Safety Code Section 25249.7, which allows enforcement of violations of Proposition 65 in any Court of competent jurisdiction.
10. This Court has jurisdiction over Defendants named herein because Defendants either reside or are located in this State or are foreign corporations authorized to do business in California, are registered with the California Secretary of State, or who do sufficient business in California, have sufficient minimum contacts with California, or otherwise intentionally avail themselves of the markets within California through their manufacture, distribution, promotion, marketing, or sale of their products within California to render the exercise of jurisdiction by the California courts permissible under traditional notions of fair play and substantial justice.
11. Venue is proper in the County of Los Angeles because one or more of the instances of wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or because Defendants conducted, and continue to conduct, business in the County of Los Angeles with respect to the consumer product that is the subject of this action.

### **BACKGROUND AND PRELIMINARY FACTS**

12. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to

chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.

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

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

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

16. Plaintiff identified certain practices of manufacturers and distributors of consumer products of exposing, knowingly and intentionally, persons in California to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, Diisononyl Phthalate, and/or Lead and

1 Lead Compounds of such products without first providing clear and reasonable warnings  
2 of such to the exposed persons prior to the time of exposure. Plaintiff later discerned  
3 that Defendants engaged in such practice.

4 17. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis  
5 (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause  
6 cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor  
7 added DEHP to the list of chemicals known to the State to cause developmental male  
8 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and  
9 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP  
10 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became  
11 fully subject to Proposition 65 warning requirements and discharge prohibitions.

12 18. On December 20, 2013, the Governor of California added Diisononyl Phthalate  
13 (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
14 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,  
15 twenty (20) months after addition of DINP to the list of chemicals known to the State to  
16 cause cancer, DINP became fully subject to Proposition 65 warning requirements and  
17 discharge prohibitions.

18 19. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
19 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
20 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
21 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
22 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
23 discharge prohibitions.

24 20. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
25 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
26 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
27 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
28

1 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
2 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
3 Proposition 65 warning requirements and discharge prohibitions.

4 **SATISFACTION OF PRIOR NOTICE**

5 21. Plaintiff served the following notices for alleged violations of Health and Safety Code  
6 Section 25249.6, concerning consumer products exposures:

- 7 a. On or about August 29, 2019 Plaintiff gave notice of alleged violations of  
8 Health and Safety Code Section 25249.6, concerning consumer products  
9 exposures subject to a private action to TJX, and to the California Attorney  
10 General, County District Attorneys, and City Attorneys for each city containing  
11 a population of at least 750,000 people in whose jurisdictions the violations  
12 allegedly occurred, concerning the Tote Bags with Plastic Components.
- 13 b. On or about October 11, 2019 Plaintiff gave notice of alleged violations of  
14 Health and Safety Code Section 25249.6, concerning consumer products  
15 exposures subject to a private action to TJX, and to the California Attorney  
16 General, County District Attorneys, and City Attorneys for each city containing  
17 a population of at least 750,000 people in whose jurisdictions the violations  
18 allegedly occurred, concerning the Paddle Ball Set with Plastic Carrying Case.
- 19 c. On or about November 12, 2019 Plaintiff gave notice of alleged violations of  
20 Health and Safety Code Section 25249.6, concerning consumer products  
21 exposures subject to a private action to TJX, and to the California Attorney  
22 General, County District Attorneys, and City Attorneys for each city containing  
23 a population of at least 750,000 people in whose jurisdictions the violations  
24 allegedly occurred, concerning the Cosmetic Cases with Plastic Components.
- 25 d. On or about November 15, 2019 Plaintiff gave notice of alleged violations of  
26 Health and Safety Code Section 25249.6, concerning consumer products  
27 exposures subject to a private action to TJX, and to the California Attorney  
28

1 General, County District Attorneys, and City Attorneys for each city containing  
2 a population of at least 750,000 people in whose jurisdictions the violations  
3 allegedly occurred, concerning the Cosmetic Bags with Plastic Components.

4 e. On or about February 10, 2020 Plaintiff gave notice of alleged violations of  
5 Health and Safety Code Section 25249.6, concerning consumer products  
6 exposures subject to a private action to TJX, and to the California Attorney  
7 General, County District Attorneys, and City Attorneys for each city containing  
8 a population of at least 750,000 people in whose jurisdictions the violations  
9 allegedly occurred, concerning the Cosmetic Cases with PVC Components.

10 f. On or about February 12, 2020 Plaintiff gave notice of alleged violations of  
11 Health and Safety Code Section 25249.6, concerning consumer products  
12 exposures subject to a private action to TJX, and to the California Attorney  
13 General, County District Attorneys, and City Attorneys for each city containing  
14 a population of at least 750,000 people in whose jurisdictions the violations  
15 allegedly occurred, concerning the Turmeric Golden Blend Latte.

16 g. On or about February 12, 2020 Plaintiff gave notice of alleged violations of  
17 Health and Safety Code Section 25249.6, concerning consumer products  
18 exposures subject to a private action to TJX, MYSTIC and to the California  
19 Attorney General, County District Attorneys, and City Attorneys for each city  
20 containing a population of at least 750,000 people in whose jurisdictions the  
21 violations allegedly occurred, concerning the Rolling Luggage Owl Design.

22 h. On or about February 18, 2020 Plaintiff gave notice of alleged violations of  
23 Health and Safety Code Section 25249.6, concerning consumer products  
24 exposures subject to a private action to TJX, and to the California Attorney  
25 General, County District Attorneys, and City Attorneys for each city containing  
26 a population of at least 750,000 people in whose jurisdictions the violations  
27 allegedly occurred, concerning the Handbags with Plastic Components.

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i. On or about March 13, 2020 Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to TJX, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Headphones with Plastic Components.

22. Before sending the notice of alleged violations, Plaintiff investigated the consumer products involved, the likelihood that such products would cause users to suffer significant exposures to DEHP, DINP, and Lead, and the corporate structure of each of the Defendants.

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

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

25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff gave notice of the alleged violations to TJX, MYSTIC, and the public prosecutors referenced in Paragraph 21.



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

4 **FIRST CAUSE OF ACTION**

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

8 **Fashion Accessories**

9 27. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint  
10 as though fully set forth herein.

11 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Tote Bags with Plastic Components (“Tote Bags”),  
13 including but not limited to “JUICY COUTURE, los angeles, California;” “CRYSTAL  
14 CLEAR WEEKENDER;” “CLEAR; “11PVE70JS-CL;” “8 85919 61348 6;”  
15 “Marshalls;” “1219-087286555-003999-16;”

16 29. Tote Bags contains DEHP.

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

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

1 32. Plaintiff is informed, believes, and thereon alleges that between August 29, 2016 and the  
2 present, each of the Defendants knowingly and intentionally exposed California  
3 consumers and users of Tote Bags, which Defendants manufactured, distributed, or sold  
4 as mentioned above, to DEHP, without first providing any type of clear and reasonable  
5 warning of such to the exposed persons before the time of exposure. Defendants have  
6 distributed and sold Tote Bags in California. Defendants know and intend that  
7 California consumers will use and consume Tote Bags, thereby exposing them to DEHP.  
8 Defendants thereby violated Proposition 65.

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

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

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

24 36. Based on the allegations herein, Defendants are liable for civil penalties of up to  
25 \$2,500.00 per day per individual exposure to DEHP from Tote Bags, pursuant to Health  
26 and Safety Code Section 25249.7(b).

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

3  
4 **SECOND CAUSE OF ACTION**

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

8 **Paddle Ball Set**

9 38. Plaintiff repeats and incorporates by reference paragraphs 1 through 37 of this complaint  
10 as though fully set forth herein.

11 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Paddle Ball Set with Reusable Plastic Carrying Case  
13 (“Paddle Ball Set”), including but not limited to “o “WANDERLUST COLLECTIVE;”  
14 “Complete 5-piece sports set!;” “1005188;” “(2309927);” “6 94202 28236 6;” “Made in  
15 China;” “59465A9050;” “MerchSource, LLC. Irvine, CA 92618;”  
16 “www.merchsource.com;” “T.J.maxx;” “59-5609-864676-000599-17-1;”

17 40. Paddle Ball Sets contains DEHP.

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

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

1 43. Plaintiff is informed, believes, and thereon alleges that between October 11,2016 and the  
2 present, each of the Defendants knowingly and intentionally exposed California  
3 consumers and users of Paddle Ball Sets, which Defendants manufactured, distributed, or  
4 sold as mentioned above, to DEHP, without first providing any type of clear and  
5 reasonable warning of such to the exposed persons before the time of exposure.  
6 Defendants have distributed and sold Paddle Ball Sets in California. Defendants know  
7 and intend that California consumers will use and consume Paddle Ball Sets, thereby  
8 exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

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

24 47. Based on the allegations herein, Defendants are liable for civil penalties of up to  
25 \$2,500.00 per day per individual exposure to DEHP from Paddle Ball Sets, pursuant to  
26 Health and Safety Code Section 25249.7(b).

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

3  
4 **THIRD CAUSE OF ACTION**

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

8 **Cosmetic Bags**

9 49. Plaintiff repeats and incorporates by reference paragraphs 1 through 48 of this complaint  
10 as though fully set forth herein.

11 50. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Cosmetic Cases with plastic Components ("Plastic  
13 Cosmetic Bags"), including but not limited to "• "GLOW;" "Imo ACCESSORIES;"  
14 "imoshionusa.com;" "PO#: 1160;" "STYLE: 900597;" "COLOR: SILVER;" "T.J.mxx;"  
15 "87-6006-358703-000799-20-2;" "MADE IN CHINA;" Silver Cosmetic Case

16 51. Plastic Cosmetic Bags contains DINP.

17 52. Defendants knew or should have known that DINP has been identified by the State of  
18 California as a chemical known to cause cancer, and therefore was subject to Proposition  
19 65 warning requirements. Defendants were also informed of the presence of DINP in  
20 Plastic Cosmetic Bags within Plaintiff's notice of alleged violations further discussed  
21 above at Paragraph 21c.

22 53. Plaintiff's allegations regarding Plastic Cosmetic Bags 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)*. Plastic Cosmetic Bags are consumer products, and, as mentioned herein,  
27 exposures to DINP took place as a result of such normal and foreseeable consumption  
28 and use.

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

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

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

22 57. 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 58. Based on the allegations herein, Defendants are liable for civil penalties of up to  
26 \$2,500.00 per day per individual exposure to DINP from Plastic Cosmetic Bags,  
27 pursuant to Health and Safety Code Section 25249.7(b).  
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1 59. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
2 filing this Complaint.

3  
4 **FOURTH CAUSE OF ACTION**

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

8 **Paddle Ball Set**

9 60. Plaintiff repeats and incorporates by reference paragraphs 1 through 59 of this complaint  
10 as though fully set forth herein.

11 61. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Cosmetic Bags with Plastic Components (“Plastic  
13 Cosmetic Bags II”), including but not limited to ““imo ACCESSORIES;”  
14 “imoshionusa.com;” “PO# 1065;” “STYLE: 920007;” “COLOR: SMOKY;”  
15 “Marshalls;” “1287-089399907-000699-20-2;” “8760-6004-324802-81;” “MANMADE  
16 MATERIAL;” “MADE IN CHINA;” Metallic Dark Gray Cosmetic Bag.

17 62. Plastic Cosmetic Bags II contains DEHP.

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

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

1 65. Plaintiff is informed, believes, and thereon alleges that between November 15, 2016 and  
2 the present, each of the Defendants knowingly and intentionally exposed California  
3 consumers and users of Plastic Cosmetic Bags II, which Defendants manufactured,  
4 distributed, or sold as mentioned above, to DEHP, without first providing any type of  
5 clear and reasonable warning of such to the exposed persons before the time of exposure.  
6 Defendants have distributed and sold Plastic Cosmetic Bags II in California. Defendants  
7 know and intend that California consumers will use and consume Plastic Cosmetic Bags  
8 II, thereby exposing them to DEHP. Defendants thereby violated Proposition 65.

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

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

22 68. 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 69. Based on the allegations herein, Defendants are liable for civil penalties of up to  
26 \$2,500.00 per day per individual exposure to DEHP from Plastic Cosmetic Bags II,  
27 pursuant to Health and Safety Code Section 25249.7(b).

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

3  
4 **FIFTH CAUSE OF ACTION**

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

8 **Cosmetic Cases**

9 71. Plaintiff repeats and incorporates by reference paragraphs 1 through 70 of this complaint  
10 as though fully set forth herein.

11 72. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Cosmetic Cases with PVC Components (“PVC  
13 Cosmetic Bags”), including but not limited to the exemplar of the violations caused by  
14 Cosmetic Cases containing DINP includes but is not limited to:

15 • “imo ACCESSORIES”; “imoshionusa.com”; “T.J.maxx”; “87-6022-370817-000899-  
16 21-2”; “PO: 1272”; “STYLE: 800069”; “COLOR: WHITE”; “MANMADE  
17 MATERIAL”; “MADE IN CHINA”; Black and White Cosmetic Case;

18 An exemplar of the violations caused by Cosmetic Cases containing DEHP includes but  
19 is not limited to:

20 • “imo ACCESSORIES”; “imoshionusa.com”; “PO#: CT0063”; “STYLE: 20-00006”;  
21 “COLOR: BLUSH”; ” “T.J.MAXX”; “87-6025-367472-000999-21-2”; “MANMADE  
22 MATERIAL”; “MADE IN CHINA”; Travel Box With Stamp Prints; and • “imo  
23 ACCESSORIES”; “imoshionusa.com”; “T.J.maxx”; “87-6022-365480-000999-21-2”;  
24 “PO:CT0064”; “STYLE:20-00012”; “COLOR: PINK”; “MADE IN CHINA”;  
25 “MANMADE MATERIAL”; Pink Cosmetic Case with Cat Print

26 73. PVC Cosmetic Bags contains DEHP and DINP.

27 74. Defendants knew or should have known that DEHP AND DINP has been identified by  
28 the State of California as a chemical known to cause cancer, and reproductive toxicity  
and therefore was subject to Proposition 65 warning requirements. Defendants were also

1 informed of the presence of DEHP AND DINP in PVC Cosmetic Bags within Plaintiff's  
2 notice of alleged violations further discussed above at Paragraph 21e.

3 75. Plaintiff's allegations regarding PVC Cosmetic Bags concerns "[c]onsumer products  
4 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
5 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
6 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
7 *25602(b)*. PVC Cosmetic Bags are consumer products, and, as mentioned herein,  
8 exposures to DEHP AND DINP took place as a result of such normal and foreseeable  
9 consumption and use.

10 76. Plaintiff is informed, believes, and thereon alleges that between February 10, 2017 and  
11 the present, each of the Defendants knowingly and intentionally exposed California  
12 consumers and users of PVC Cosmetic Bags, which Defendants manufactured,  
13 distributed, or sold as mentioned above, to DEHP AND DINP, without first providing  
14 any type of clear and reasonable warning of such to the exposed persons before the time  
15 of exposure. Defendants have distributed and sold PVC Cosmetic Bags in California.  
16 Defendants know and intend that California consumers will use and consume PVC  
17 Cosmetic Bags, thereby exposing them to DEHP AND DINP. Defendants thereby  
18 violated Proposition 65.

19 77. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
20 Persons sustain exposures by handling PVC Cosmetic Bags without wearing gloves or  
21 any other personal protective equipment, or by touching bare skin or mucous membranes  
22 with gloves after handling PVC Cosmetic Bags, as well as through direct and indirect  
23 hand to mouth contact, hand to mucous membrane, or breathing in particulate matter  
24 dispersed from PVC Cosmetic Bags.

25 78. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
26 Proposition 65 as to PVC Cosmetic Bags have been ongoing and continuous, as  
27 Defendants engaged and continue to engage in conduct which violates Health and Safety  
28

Code Section 25249.6, including the manufacture, distribution, promotion, and sale of PVC Cosmetic Bags, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DEHP AND DINP by PVC Cosmetic Bags as mentioned herein.

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

80. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to DEHP AND DINP from PVC Cosmetic Bags, pursuant to Health and Safety Code Section 25249.7(b).

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

#### **SIXTH CAUSE OF ACTION**

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

#### **Turmeric Drink Mix**

82. Plaintiff repeats and incorporates by reference paragraphs 1 through 81 of this complaint as though fully set forth herein.

83. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Turmeric Golden Blend Latte (“Golden Blend”), including but not limited to “Kintra FOODS;” “TURMERIC GOLDEN BLEND LATTE;” “40 SERVES PER PACK;” “3.6 oz (100g) NET WEIGHT;” “Manufactured in Australia from imported ingredients by Kintra Foods Unit 2, 22 Tepko Road, Terrey Hills NSW Australia 2084;” “www.kintrafoods.com.au;” “9 341709 000610;” “BEST BEFORE L18288 OCT 2021;” “T.J.maxx 85-5494-966271-000599-14-8;” “COMPARE AT \$10.00;” “\$5.99;”

84. Golden Blend contains LEAD.

1 85. Defendants knew or should have known that LEAD has been identified by the State of  
2 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
3 was subject to Proposition 65 warning requirements. Defendants were also informed of  
4 the presence of LEAD in Golden Blend within Plaintiff's notice of alleged violations  
5 further discussed above at Paragraph 21f.

6 86. Plaintiff's allegations regarding Golden Blend concerns "[c]onsumer products  
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
9 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §  
10 25602(b). Golden Blend are consumer products, and, as mentioned herein, exposures to  
11 LEAD took place as a result of such normal and foreseeable consumption and use.

12 87. Plaintiff is informed, believes, and thereon alleges that between February 12, 2017 and  
13 the present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of Golden Blend, which Defendants manufactured, distributed, or  
15 sold as mentioned above, to LEAD, without first providing any type of clear and  
16 reasonable warning of such to the exposed persons before the time of exposure.  
17 Defendants have distributed and sold Golden Blend in California. Defendants know and  
18 intend that California consumers will use and consume Golden Blend, thereby exposing  
19 them to LEAD. Defendants thereby violated Proposition 65.

20 88. The principal routes of exposure are through direct ingestion, dermal contact, and  
21 inhalation. Persons sustain exposures by consuming Golden Blend and by handling  
22 Golden Blend without wearing gloves or any other personal protective equipment, or by  
23 touching bare skin or mucous membranes with gloves after handling Golden Blend, as  
24 well as through direct and indirect hand to mouth contact, hand to mucous membrane, or  
25 breathing in particulate matter dispersed from Golden Blend.

26 89. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
27 Proposition 65 as to Golden Blend have been ongoing and continuous, as Defendants  
28

engaged and continue to engage in conduct which violates Health and Safety Code Section 25249.6, including the manufacture, distribution, promotion, and sale of Golden Blend, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to LEAD by Golden Blend as mentioned herein.

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

91. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to LEAD from Golden Blend, pursuant to Health and Safety Code Section 25249.7(b).

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

#### **SEVENTH CAUSE OF ACTION**

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

#### **Luggage**

93. Plaintiff repeats and incorporates by reference paragraphs 1 through 92 of this complaint as though fully set forth herein.

94. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Rolling Luggage Owl Design (“Luggage”), including but not limited to •“Blue Rolling Luggage with Owl design; “Limited Too”; “72- 95 155044-002999”; “72-95 155044-001600 35”

95. Luggage contains DINP.

96. Defendants knew or should have known that DINP has been identified by the State of California as a chemical known to cause cancer, and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of DINP in

Luggage within Plaintiff's notice of alleged violations further discussed above at Paragraph 21g.

97. Plaintiff's allegations regarding Luggage 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)*.

Luggage are consumer products, and, as mentioned herein, exposures to DINP took place as a result of such normal and foreseeable consumption and use.

98. Plaintiff is informed, believes, and thereon alleges that between February 12, 2017 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Luggage, which Defendants manufactured, distributed, or sold as mentioned above, to DINP, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure. Defendants have distributed and sold Luggage in California. Defendants know and intend that California consumers will use and consume Luggage, thereby exposing them to DINP. Defendants thereby violated Proposition 65.

99. The principal routes of exposure are through dermal contact, ingestion and inhalation. Persons sustain exposures by handling Luggage without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling Luggage, as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed from Luggage.

100. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Luggage have been ongoing and continuous, as Defendants engaged and continue to engage in conduct which violates Health and Safety Code Section 25249.6, including the manufacture, distribution, promotion, and sale of

Luggage, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to DINP by Luggage as mentioned herein.

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

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

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

#### **EIGHTH CAUSE OF ACTION**

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

#### **Handbags with Plastic Components**

104. Plaintiff repeats and incorporates by reference paragraphs 1 through 103 of this complaint as though fully set forth herein.

105. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Handbags with Plastic Components ("Handbags"), including but not limited to "• "Kitson LA;" "AUTHENTIC;" "MADE IN CHINA;" "Marshalls;" "1272-085938249-01999-17-6;" "1122I;" "1272 085933249 01500 31;"

106. Handbags contains DEHP.

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

1 108. Plaintiff's allegations regarding Handbags 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 Handbags are consumer products, and, as mentioned herein, exposures to DEHP took  
6 place as a result of such normal and foreseeable consumption and use.

7 109. Plaintiff is informed, believes, and thereon alleges that between February 18, 2017 and  
8 the present, each of the Defendants knowingly and intentionally exposed California  
9 consumers and users of Handbags, which Defendants manufactured, distributed, or sold  
10 as 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 Handbags in California. Defendants know and intend that California  
13 consumers will use and consume Handbags, thereby exposing them to DEHP.  
14 Defendants thereby violated Proposition 65.

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

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



1 112. 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.

4 113. 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 Handbags, pursuant to Health  
6 and Safety Code Section 25249.7(b).

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

9  
10 **NINTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against TJX, and DOES 81-90**  
12 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
13 **Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Headphones**

15 115. Plaintiff repeats and incorporates by reference paragraphs 1 through 114 of this  
16 complaint as though fully set forth herein.

17 116. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
18 distributor, promoter, or retailer of Headphones with Plastic Components  
19 (“Headphones”), including but not limited to “photive...,” “BTH6;” “WIRELESS  
20 BLUETOOTH 5.0 HEADPHONE WITH SUPERIOR SOUND;” “Marshalls;” “1259-  
21 036068133-001699-19-2;” “COMPARE AT \$24.00 \$16.99;” “5937-3718-995407-81;”  
22 “www.photive.com;” “Photive Edison, NJ 08837;” “BTH6-White;” “8 53363 00838 7;”

23 117. Headphones contains DEHP and DINP.

24 118. Defendants knew or should have known that DEHP AND DINP has been identified by  
25 the State of California as a chemical known to cause cancer, and reproductive toxicity  
26 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
27 informed of the presence of DEHP AND DINP in Headphones within Plaintiff's notice  
28 of alleged violations further discussed above at Paragraph 21i.

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

8 120. Plaintiff is informed, believes, and thereon alleges that between March 13, 2017 and the  
9 present, each of the Defendants knowingly and intentionally exposed California  
10 consumers and users of Headphones, which Defendants manufactured, distributed, or  
11 sold as mentioned above, to DEHP AND DINP, without first providing any type of clear  
12 and reasonable warning of such to the exposed persons before the time of exposure.  
13 Defendants have distributed and sold Headphones in California. Defendants know and  
14 intend that California consumers will use and consume Headphones, thereby exposing  
15 them to DEHP AND DINP. Defendants thereby violated Proposition 65.

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

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

every time a person was exposed to DEHP AND DINP by Headphones as mentioned herein.

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

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

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

#### **PRAYER FOR RELIEF**

Plaintiff demands against each of the Defendants as follows:

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

Dated: August 24, 2020

YEROUSHALMI & YEROUSHALMI\*



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Reuben Yeroushalmi  
Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.