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8 *Attorneys for Plaintiff*

**ENDORSED
FILED
ALAMEDA COUNTY
SEP 28 2020**

CLERK OF THE SUPERIOR COURT
By JAME THOMAS, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 EMA BELL,

12 Plaintiff,

13 vs.

14 ROSS STORES, INC.,

Defendant.

Case No.:

RG20076554

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

15 Plaintiff Ema Bell ("Plaintiff"), by and through her attorneys, alleges the following cause
16 of action in the public interest of the citizens of the State of California.

17 **BACKGROUND OF THE CASE**

18 1. Plaintiff brings this representative action on behalf of all California citizens to
19 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
20 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
21 "[n]o person in the course of doing business shall knowingly and intentionally expose any
22 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
23 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

24 2. This complaint is a representative action brought by Plaintiff in the public interest
25 of the citizens of the State of California to enforce the People's right to be informed of the health
26 hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP) and/or diisononyl phthalate
27 (DINP), toxic chemicals found in bags/totes/cases sold and/or distributed by defendant Ross
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1 Stores, Inc. and/or Ross Stores, Inc. dba dd's Discounts (collectively, "Ross" or the "Defendant")
2 in California.

3 3. DEHP is a harmful chemical known to the State of California to cause cancer and
4 reproductive toxicity, and DINP is a harmful chemical known to the State of California to cause
5 cancer. On January 1, 1988 (DEHP) and on December 20, 2013 (DINP), the State of California
6 listed DEHP and DINP as chemicals known to the State to cause cancer and each chemical has
7 come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, §
8 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24, 2003, the State of
9 California listed DEHP as a chemical known to cause reproductive toxicity.

10 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
11 within California or sell products therein to comply with Proposition 65 regulations. Included in
12 such regulations is the requirement that businesses must label any product containing a Proposition
13 65-listed chemical with a "clear and reasonable" warning before "knowingly and intentionally"
14 exposing any person to any such listed chemical.

15 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
17 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
18 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
19 actions of a defendant which "violate or threaten to violate" the statute. Health & Safety Code §
20 25249.7.

21 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
22 without a requisite exposure warning, bags/totes/cases (the "Products") that expose persons to
23 DEHP and/or DINP.

24 7. Defendant's failure to warn consumers and other individuals in California of the
25 health hazards associated with exposure to DEHP/DINP in conjunction with the sale and/or
26 distribution of the Products is a violation of Proposition 65 and subjects Defendant to the
27 enjoinder and civil penalties described herein.

1 skin, mouthed, or ingested by the user. DEHP from the Products can absorb to clothes, bedding
2 and assorted other items placed inside the Products and these items will become a source of
3 DEHP/DINP dermal exposure when worn, handled, or used. If the Products are stored or
4 transported in a carrier, DEHP/DINP that leaches from the Products may contaminate other articles
5 contained within these closed spaces are subsequently handled, worn, mouthed, or consumed.
6 Finally, while direct mouthing of the Products does not seem likely, some amount of exposure
7 through ingestion can occur by touching of the user's hand to mouth.

8 24. Defendant has marketed, distributed, offered to sell and/or sold the Products in
9 California since at least October of 2019. The Products continue to be distributed and sold in
10 California without the requisite warning information.

11 25. At all times relevant to this action, Defendant has knowingly and intentionally
12 exposed users and/or consumers of the Products to DEHP/DINP without first giving a clear and
13 reasonable exposure warning to such individuals.

14 26. As a proximate result of acts by Defendant, as a person in the course of doing
15 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
16 California, including in Alameda County, have been exposed to DEHP/DINP without a clear and
17 reasonable warning on the Products. The individuals subject to the violative exposures include
18 normal and foreseeable users and consumers that use the Products, as well as all others exposed to
19 the Products.

20 **SATISFACTION OF NOTICE REQUIREMENTS**

21 ***The Alleged Violations of Health and Safety Code § 25249.6 to Ross***

22 27. On October 31, 2019, Plaintiff gave notice of alleged violation of Health and Safety
23 Code § 25249.6 (a "Notice of Violation") to Defendant concerning the exposure of California
24 citizens to DEHP contained in the Justine & Taylor rope tote with dd's Discounts identifying tag
25 #s D5145, C4950, 400199856363, 1086630 without proper warning, subject to a private action to
26 Defendant and to the California Attorney General's office and the offices of the County District
27 attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein
28

1 the herein violations allegedly occurred. See attached at Exhibit “A” a true and correct copy of the
2 October 31, 2019 Notice of Violation.

3 28. On December 3, 2019, Plaintiff gave notice of alleged violation of Health and
4 Safety Code § 25249.6 to Defendant concerning the exposure of California citizens to DINP
5 contained in the Olivia Miller fanny pack, UPC # 657486577641, RN # 105469 without proper
6 warning, subject to a private action to Defendant and to the California Attorney General’s office
7 and the offices of the County District attorneys and City Attorneys for each city with a population
8 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at
9 Exhibit “B” a true and correct copy of the December 3, 2019 Notice of Violation.

10 29. On January 10, 2020, Plaintiff gave notice of alleged violation of Health and Safety
11 Code § 25249.6 to Defendant concerning the exposure of California citizens to DEHP contained
12 in the JLB 10 pc. Blender Collection case with Ross identifying tag #s 400198320735, D111,
13 C5800 without proper warning, subject to a private action to Defendant and to the California
14 Attorney General’s office and the offices of the County District attorneys and City Attorneys for
15 each city with a population greater than 750,000 persons wherein the herein violations allegedly
16 occurred. See attached at Exhibit “C” a true and correct copy of the January 10, 2020 Notice of
17 Violation.

18 30. On January 22, 2020, Plaintiff gave notice of alleged violation of Health and Safety
19 Code § 25249.6 to Defendant concerning the exposure of California citizens to DEHP contained
20 in the Kathy Ireland Luxury Collection, UPC # 6 89528 51106 1 – zippered storage/handling
21 case/bag without proper warning, subject to a private action to Defendant and to the California
22 Attorney General’s office and the offices of the County District attorneys and City Attorneys for
23 each city with a population greater than 750,000 persons wherein the herein violations allegedly
24 occurred. See attached at Exhibit “D” a true and correct copy of the January 22, 2020 Notice of
25 Violation.

26 31. On February 5, 2020, Plaintiff gave notice of alleged violation of Health and Safety
27 Code § 25249.6 to Defendant concerning the exposure of California citizens to DINP contained in
28 the Alessia Capri handbag with Ross tag identifying #s D1523, C5583, 400198647504, ART.2177

1 without proper warning, subject to a private action to Defendant and to the California Attorney
2 General's office and the offices of the County District attorneys and City Attorneys for each city
3 with a population greater than 750,000 persons wherein the herein violations allegedly occurred.
4 See attached at Exhibit "E" a true and correct copy of the February 5, 2020 Notice of Violation.

5 32. On February 13, 2020, Plaintiff gave notice of alleged violation of Health and
6 Safety Code § 25249.6 to Defendant concerning the exposure of California citizens to DEHP
7 contained in the Chloe Bedding quilt, UPC # 8 85359 78372 5, RN # 135640 – zippered
8 storage/handling case/bag without proper warning, subject to a private action to Defendant and to
9 the California Attorney General's office and the offices of the County District attorneys and City
10 Attorneys for each city with a population greater than 750,000 persons wherein the herein
11 violations allegedly occurred. See attached at Exhibit "F" a true and correct copy of the February
12 13, 2020 Notice of Violation.

13 33. The Notices of Violation described herein are collectively referred to as, the
14 "Notices."

15 34. The Notices complied with all procedural requirements of Proposition 65 including
16 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at
17 least one person with relevant and appropriate expertise who reviewed relevant data regarding
18 DEHP/DINP exposure, and that counsel believed there was meritorious and reasonable cause for
19 a private action.

20 35. After receiving the Notices, and to Plaintiff's best information and belief, none of
21 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
22 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
23 the subject of the Notices.

24 36. Plaintiff is commencing this action more than sixty (60) days from the date of the
25 Notices to Defendant, as required by law.

26 37. On April 6, the Judicial Council first adopted emergency rule 9 to suspend statutes
27 of limitation on all civil cases until 90 days after Governor Newsom lifts the state of emergency
28 related to the COVID-19 pandemic. On May 29, 2020 the Judicial Council approved a revision to

1 emergency rule 9 regarding the statutes of limitations for filing civil cases during the COVID-19
2 pandemic. The Council amended emergency rule 9 by circulating order so that it is no longer tied
3 to the state of emergency declaration. The new rule suspends from April 6, 2020 to October 1,
4 2020 the statutes of limitations and repose for civil causes of action that exceed 180 days. The rule
5 is broad in scope and applies to all civil causes of action.

6 **FIRST CAUSE OF ACTION**

7 **(By Plaintiff against Defendant for the Violation of Proposition 65)**

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

10 39. Defendant has, at all times mentioned herein, acted as distributor and/or retailer of
11 the Product.

12 40. The Products contain DEHP/DINP, hazardous chemicals found on the Proposition
13 65 list of chemicals known to be hazardous to human health.

14 41. The Products do not comply with the Proposition 65 warning requirements.

15 42. Plaintiff, based on her best information and belief, avers that at all relevant times
16 herein, and at least since October 31, 2019, continuing until the present, that Defendant has
17 continued to knowingly and intentionally expose California users and consumers of the Product to
18 DEHP/DINP without providing required warnings under Proposition 65.

19 43. The exposures that are the subject of the Notices result from the purchase,
20 acquisition, handling and recommended use of the Products. Consequently, the primary route of
21 exposure to these chemicals is through dermal absorption. are faster than neat DEHP/DINP
22 permeation. Items placed inside the Products can absorb DEHP/DINP that can be subsequently
23 handled, held in direct contact with skin, mouthed, or ingested by the user. DEHP/DINP from the
24 Products can absorb to clothes, bedding and assorted other items placed inside the Products and
25 these items will become a source of DEHP/DINP dermal exposure when worn, handled, or used.
26 If the Products are stored or transported in a carrier, DEHP/DINP that leaches from the Products
27 may contaminate other articles contained within these closed spaces are subsequently handled,
28

1 worn, mouthed, or consumed. Finally, while direct mouthing of the Products does not seem likely,
2 some amount of exposure through ingestion can occur by touching of the user's hand to mouth.

3 44. Plaintiff, based on her best information and belief, avers that such exposures will
4 continue every day until clear and reasonable warnings are provided to purchasers and users of the
5 Products or until this known toxic chemical is removed from the Products.

6 45. Defendant has knowledge that the normal and reasonably foreseeable use of the
7 Products will expose individuals to DEHP/DINP, and Defendant intends that exposures to
8 DEHP/DINP will occur by its deliberate, non-accidental participation in the importation,
9 distribution, sale and offering of the Products to consumers in California

10 46. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
11 Complaint.

12 47. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
13 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

14 48. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
15 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
18 relief:

19 A. That the court assess civil penalties against each Defendant in the amount of \$2,500
20 per day for each violation for up to 365 days (up to a maximum civil penalty amount per
21 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

22 B. That the court preliminarily and permanently enjoin Defendant mandating
23 Proposition 65 compliant warnings on the Product;

24 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
25 amount of \$50,000.00.

26 D. That the court grant any further relief as may be just and proper.

27 Dated: September 25, 2020

BRODSKY & SMITH, LLC

28 By:  _____

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Evan J. Smith (SBN242352)
Ryan P. Cardona (SBN302113)
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Attorneys for Plaintiff

EXHIBIT “A”

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October 31, 2019

esmith@brodskysmith.com

President/CEO Justin Taylor, Inc. c/o Charles Lee 1456 S. San Pedro St., Unit 209 Los Angeles, CA 90015	Charles Lee t/a Justin & Taylor 13300 S. Figueroa Street Los Angeles, CA 90061
President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Ross Stores, Inc. dba dd's Discounts c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this

notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

Alleged Violator(s): The name of the companies covered by this notice that Violated Proposition 65 (hereinafter “the Violators”) are:

Justin Taylor, Inc.
Charles Lee t/a Justin & Taylor
Ross Stores, Inc.
Ross Stores, Inc. dba dd's Discounts

Product Category/Type: The type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Justin & Taylor Rope Tote – blue iridescent plastic exterior D5145 C4950 400199856363 1086630	Ross Stores, Inc. Ross Stores, Inc. dba dd's Discounts	Justin Taylor, Inc. Charles Lee t/a Justin & Taylor

Listed Chemicals: This violation involves exposure to the chemical Di(2-ethylhexyl) phthalate (DEHP). On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer. On October 24, 2003, the State of California listed Di(2-ethylhexyl) phthalate (DEHP) as a chemical known to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before Bell served this Notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Di(2-ethylhexyl) phthalate (DEHP) at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause both cancer and reproductive toxicity, developmental, male.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Users can be exposed to DEHP by dermal absorption through direct skin contact with the iridescent white plastic during routine use when the tote bag is handled with bare hands. If the tote bag is stored or transported in a carrier, DEHP that leaches from the item may contaminate other articles contained within these closed spaces that are subsequently handled, worn, mouthed, or ingested by the user. Finally, while mouthed or the product does not seem likely, some amount of exposure through ingestion can occur by touching the product with subsequent touching of the user's hand to mouth.

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product.” Further, it is Bell's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

Duration of the Violations: Each of these ongoing violations has occurred on every day since at least September 14, 2019; as well as every day since the product was introduced to the California marketplace and following the one-year anniversary date of the listing at issue; and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Ema Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:


I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 510, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On October 31, 2019, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Justin Taylor, Inc. c/o Charles Lee 1456 S. San Pedro St. Unit 209 Los Angeles, CA 90015	Charles Lee t/a Justin & Taylor 13300 S. Figueroa Street Los Angeles, CA 90061
President/CEO Ross Stores, Inc. c/o The Corporation trust Company Corporation trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO/Owner Ross Stores, Inc. dba dd's Discounts c/o The Corporation Trust Company Corporation trust Center 1209 Orange Street Wilmington, DE 19801

On October 31, 2019, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on October 31, 2019, in Bala Cynwyd, Pennsylvania.



Evan J. Smith

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Ema Bell.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 31, 2019



Evan J. Smith
Attorney for Ema Bell

EXHIBIT “B”

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December 3, 2019

esmith@brodskysmith.com

President/CEO Olivia Miller, Inc. c/o Arvee Claravall 1 West 34 th Street, 10 th Floor New York, NY 10001	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. d/b/a dd's Discounts c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this

notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

Alleged Violator(s): The name of the company's covered by this notice that Violated Proposition 65 (hereinafter "the Violators") are:

Olivia Miller, Inc.
Ross Stores, Inc.
Ross Stores, Inc. d/b/a dd's Discounts

Product Category/Type: The specific type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Olivia Miller Girl Fanny Pack UPC# 657486577641 Style# OMZJ-1484K RN# 105469	Ross Stores, Inc. Ross Stores, Inc. d/b/a dd's Discounts	Olivia Miller, Inc.

Listed Chemicals: This violation involves exposure to the chemical Diisononyl phthalate (DINP). On December 20, 2013, the State of California listed Diisononyl phthalate (DINP) as a chemical known to cause cancer. This addition took place more than twelve (12) months before Bell served this notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Diisononyl phthalate (DINP) without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause cancer.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Users can be exposed to DINP by dermal absorption through direct skin contact with the clear plastic during routine use when the clear plastic is handled with bare hands. Concentrations of DINP can be expected to build within the interior of the fanny pack. This DINP can absorb to the surface of the interior contents that are subsequently handled, held in direct contact with skin, mouthed, or ingested by the user. If the fanny pack is stored or transported in a carrier, DINP that leaches from the item may contaminate other articles contained within these closed spaces that are subsequently handled, worn, mouthed, or ingested by the user. Finally, while mouthing of the product does not seem likely, some amount of exposure through ingestion can occur by touching the product with subsequent touching of the user's hand to mouth.

Duration of the Violations: Each of these ongoing violations has occurred on every day since at least September 14, 2019; as well as every day since the product was introduced to the California marketplace and following the one-year anniversary date of the listing at issue; and will continue every day

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product." Further, it is Bell's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.


until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 510, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On December 3, 2019, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Olivia Miller, Inc. c/o Arvee Claravall 1 West 34 th Street, 10 th Floor New York, NY 10001	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. d/b/a dd's Discounts c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

On December 3, 2019, I served the following documents: **Notice of Violation of California Health & Safety Code §2529.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on December 3, 2019, in Bala Cynwyd, Pennsylvania.



Evan J. Smith

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Ema Bell.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: December 3, 2019



Evan J. Smith
Attorney for Ema Bell

EXHIBIT “C”

LAW OFFICES
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MINEOLA, NY 11501
516.741.4977

CALIFORNIA OFFICE
9595 WILSHIRE BLVD., SUITE 900
BEVERLY HILLS, CA 90212
877.534.2590

January 10, 2020

esmith@brodskysmith.com

President/CEO D & C International, Inc. c/o Christine Chan 6625 N. Calle Eva Miranda, Suite B Irwindale, CA 91702	President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO D & C International, Inc. d/b/a Jasmine La Belle c/o Christine Chan 6625 N. Calle Eva Miranda, Suite B Irwindale, CA 91702	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this

notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

Alleged Violator(s): The name of the companies covered by this notice that Violated Proposition 65 (hereinafter "the Violators") are:

D & C International, Inc.
D & C International, Inc. d/b/a Jasmine La Belle
Ross Stores, Inc.

Product Category/Type: The type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
JLB 10 pc. Blender Collection Pack Case 400198320735 D111 C5800	Ross Stores, Inc.	D & C International, Inc. D & C International, Inc. d/b/a Jasmine La Belle

Listed Chemicals: This violation involves exposure to the chemical Di(2-ethylhexyl) phthalate (DEHP). On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer. On October 24, 2003, the State of California listed Di(2-ethylhexyl) phthalate (DEHP) as a chemical known to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before Bell served this Notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Di(2-ethylhexyl) phthalate (DEHP) at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause both cancer and reproductive toxicity, developmental, male.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Users can be exposed to DEHP by dermal absorption through direct skin contact with the clear plastic during routine use when the blender tote bag is handled with bare hands. DEHP from the clear plastic can absorb to the surface of the interior contents (including but not limited to the manufacturer's makeup blender sponges) that are subsequently handled, held in direct contact with skin, or mouthed by the user. If the clear tote is stored or transported in a carrier, DEHP that leaches from the item may contaminate other articles contained within these closed spaces that are subsequently handled, worn, mouthed, or ingested by the user. Finally, while mouthing of the product

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product." Further, it is Bell's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

does not seem likely, some amount of exposure through ingestion can occur by touching the product with subsequent touching of the user's hand to mouth.


Duration of the Violations: Each of these ongoing violations has occurred on every day since at least November 21, 2019; as well as every day since the product was introduced to the California marketplace and following the one-year anniversary date of the listing at issue; and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 510, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On January 10, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO D & C International, Inc. c/o Christine Chan 6625 N. Calle Eva Miranda, Suite B Irwindale, CA 91702	President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO D & C International, Inc. d/b/a Jasmine La Belle c/o Christine Chan 6625 N. Calle Eva Miranda, Suite B Irwindale, CA 91702	

On January 10, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on January 10, 2020, in Bala Cynwyd, Pennsylvania.




Evan J. Smith

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Ema Bell.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 10, 2020



Evan J. Smith
Attorney for Ema Bell

EXHIBIT “D”

LAW OFFICES
BRODSKY & SMITH, LLC

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BALA CYNWYD, PA 19004

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NEW YORK OFFICE
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516.741.4977

CALIFORNIA OFFICE
9595 WILSHIRE BLVD., SUITE 900
BEVERLY HILLS, CA 90212
877.534.2590

January 22, 2020

esmith@brodskysmith.com

President/CEO Kathy Ireland Worldwide, LLC c/o John P. Kenosian 10877 Wilshire Blvd., Suite 1550 Los Angeles, CA 90024	President/CEO Basic Trading, Inc. c/o A Registered Agent, Inc. 8 The Green, Suite A Dover, DE 19901
President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this

notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

Alleged Violator(s): The name of the companies covered by this notice that Violated Proposition 65 (hereinafter “the Violators”) are:

Kathy Ireland Worldwide, LLC
Basic Trading, Inc.
Ross Stores, Inc.

Product Category/Type: The type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Kathy Ireland Luxury Collection Queen Sheet Set – Case UPC# 6 89528 51106 1 400197065699 933 D1615 C4612	Ross Stores, Inc.	Kathy Ireland Worldwide, LLC Basic Trading, Inc.

Listed Chemicals: This violation involves exposure to the chemical Di(2-ethylhexyl) phthalate (DEHP). On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer. On October 24, 2003, the State of California listed Di(2-ethylhexyl) phthalate (DEHP) as a chemical known to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before Bell served this Notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Di(2-ethylhexyl) phthalate (DEHP) at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause both cancer and reproductive toxicity, developmental, male.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Initial exposure would result from directly touching or holding the item during normal use. For example, the user would be expected to touch the clear plastic material multiple times when removing or returning items to the reusable bag. Ingestion would occur from hand to mouth contact, for example, from eating after having handled the item.

Duration of the Violations: Each of these ongoing violations has occurred on every day since at least November 15, 2019; as well as every day since the product was introduced to the California marketplace and following the one-year anniversary date of the listing at issue; and will continue every day

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product.” Further, it is Bell’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient’s custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 510, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On January 22, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Kathy Ireland Worldwide, LLC c/o John P. Kenosian 10877 Wilshire Blvd., Suite 1550 Los Angeles, CA 90024	President/CEO Basic Trading, Inc. c/o A Registered Agent, Inc. 8 The Green, Suite A Dover, DE 19901
President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

On January 22, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on January 22, 2020, in Bala Cynwyd, Pennsylvania.




Evan J. Smith

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Ema Bell.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 22, 2020



Evan J. Smith
Attorney for Ema Bell

EXHIBIT “E”

LAW OFFICES
BRODSKY & SMITH, LLC

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856.795.7250

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516.741.4977

CALIFORNIA OFFICE
9595 WILSHIRE BLVD., SUITE 900
BEVERLY HILLS, CA 90212
877.534.2590

February 5, 2020

esmith@brodskysmith.com

President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange street Wilmington, DE 19801	
---	--

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

Alleged Violator(s): The name of the company's covered by this notice that Violated Proposition 65 (hereinafter "the Violators") are:

Ross Stores, Inc.

Product Category/Type: The specific type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
AlessiaCapri Handbag D1523 C5583 400198647504 ART.2177	Ross Stores, Inc.	Unknown

Listed Chemicals: This violation involves exposure to the chemical Diisononyl phthalate (DINP). On December 20, 2013, the State of California listed Diisononyl phthalate (DINP) as a chemical known to cause cancer. This addition took place more than twelve (12) months before Bell served this notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Diisononyl phthalate (DINP) without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause cancer.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Users can be exposed to DINP by dermal absorption through direct skin contact with the clear plastic during routine use when the clear plastic contacts bare hands during carrying and during item insertion or removal from the clear plastic pouch. Concentrations of DINP can be expected to build within the interior of the pouch. This DINP can absorb to the surface of the interior contents that are subsequently handled, held in direct contact with skin, mouthed, or ingested by the user. If the bag is stored or transported in a carrier, DINP that leaches from the item may contaminate other articles contained within these closed spaces that are subsequently handled, worn, mouthed or ingested by the user. Finally, while mouthing of the product does not seem likely, some amount of exposure through ingestion can occur by touching the product with subsequent touching of the user's hand to mouth.

Duration of the Violations: Each of these ongoing violations has occurred on every day since at least November 15, 2019; as well as every day since the product was introduced to the California marketplace and following the one-year anniversary date of the listing at issue; and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product." Further, it is Bell's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 510, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On February 5, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Ross Stores, Inc. The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	
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On February 5, 2020, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on February 5, 2020, in Bala Cynwyd, Pennsylvania.




Evan J. Smith

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Ema Bell.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: February 5, 2020



Evan J. Smith
Attorney for Ema Bell

EXHIBIT "F"

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February 13, 2020

esmith@brodskysmith.com

Member/Manager CHD Home Textiles, LLC 255 5 th Avenue, Floor 5 New York, NY 10016	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. dba dd's Discounts c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Notice of Violation of California Health & Safety Code §25249.6, *et seq.*

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents Ema Bell ("Bell"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

With respect to the product identified below, Bell has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at Cal. Health & Safety Code §25249.5, *et seq.* This violation has occurred and continues to occur because the alleged Violator(s) identified below failed to provide required clear and reasonable warnings with this product. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

Please allow this letter to serve as notice of this violation to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Brodsky Smith intends to file a private enforcement action on behalf of Bell sixty (60) days after effective service of this

notice unless the public enforcement agencies¹ have commenced and are earnestly prosecuting an action to redress these violations.

Alleged Violator(s): The name of the companies covered by this notice that Violated Proposition 65 (hereinafter “the Violators”) are:

CHD Home Textiles, LLC
Ross Stores, Inc.
Ross Stores, Inc. dba dd’s Discounts

Product Category/Type: The type of product causing this violation is:

<i>Product²</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Chloe Bedding 3 Pieces Quilt Set – Case UPC# 8 85359 78372 5 BCSQ34786DDS 146 RN# 135640 4002000575542 D5341 C4407	Ross Stores, Inc. Ross Stores, Inc. dba dd’s Discounts	CHD Home Textiles, LLC

Listed Chemicals: This violation involves exposure to the chemical Di(2-ethylhexyl) phthalate (DEHP). On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer. On October 24, 2003, the State of California listed Di(2-ethylhexyl) phthalate (DEHP) as a chemical known to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before Bell served this Notice.

Violations: The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Di(2-ethylhexyl) phthalate (DEHP) at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause both cancer and reproductive toxicity, developmental, male.

Route of Exposure: The exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, the primary route of exposure to these chemicals is through dermal absorption. Initial exposure would result from directly touching or holding the item during normal use. For example, the user would be expected to touch the plastic when removing or replacing items from the bag. Ingestion would occur from hand to mouth contact, for example, from eating after having handled the item.

Duration of the Violations: Each of these ongoing violations has occurred on every day since at least December 17, 2019 ; as well as every day since the product was introduced to the California

¹ The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached distribution list accompanying the Certificate of Service.

² The specifically identified example of the type of product that is subject to this Notice is for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product.” Further, it is Bell’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient’s custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

marketplace and following the one-year anniversary date of the listing at issue; and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the product.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary" is also enclosed.

Consistent with the public interest goals of Proposition 65 and desire to have these ongoing violations of California law quickly rectified, Bell is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

Bell has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

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Member/Manager CHD Home Textiles, LLC 255 5 th Avenue, Floor 5 New York, NY 10016	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. dba dd's Discounts c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

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Evan J. Smith

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Dated: February 13, 2020



Evan J. Smith
Attorney for Ema Bell