

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroshalmi.com

3 **YEROUSHALMI & YEROUSHALMI***

9100 Wilshire Boulevard, Suite 240W

3 Beverly Hills, California 90212

4 Telephone: (310) 623-1926

4 Facsimile: (310) 623-1930

5 Attorneys for Plaintiff,

6 CONSUMER ADVOCACY GROUP, INC.

ELECTRONICALLY FILED

Superior Court of California,

County of Alameda

01/04/2023 at 03:09:22 PM

By: Angela Linhares,

Deputy Clerk

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF ALAMEDA**

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

13 Plaintiff,

14 v.

15 YOKI FASHION INTERNATIONAL LLC,
16 a New York Limited Liability Company;
17 and DOES 1-50,

18 Defendants.

CASE NO. **23CV025175**

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)

19
20
21
22 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action
23 against defendants YOKI FASHION INTERNATIONAL LLC and DOES 1-50 as follows:

24 **THE PARTIES**

- 25 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
26 organization qualified to do business in the State of California. CAG is a person within
27 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
28

1 as a private attorney general, brings this action in the public interest as defined under
2 Health and Safety Code Section 25249.7, subdivision (d).

3 2. Defendant YOKI FASHION INTERNATIONAL LLC (“YOKI”) is a New York Limited
4 Liability Company qualified to do business in California and doing business in the State
5 of California at all relevant times herein.

6 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50,
7 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
8 Complaint to allege their true names and capacities when ascertained. Plaintiff is
9 informed, believes, and thereon alleges that each fictitiously named defendant is
10 responsible in some manner for the occurrences herein alleged and the damages caused
11 thereby.

12 4. At all times mentioned herein, the term “Defendants” includes YOKI and DOES 1-50.

13 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
14 times mentioned herein have conducted business within the State of California.

15 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
16 including DOES 1-50, was an agent, servant, or employee of each of the other
17 Defendants. In conducting the activities alleged in this Complaint, each of the
18 Defendants was acting within the course and scope of this agency, service, or
19 employment, and was acting with the consent, permission, and authorization of each of
20 the other Defendants. All actions of each of the Defendants alleged in this Complaint
21 were ratified and approved by every other Defendant or their officers or managing
22 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
23 alleged wrongful conduct of each of the other Defendants.

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

28

1 **JURISDICTION**

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

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

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

19 **BACKGROUND AND PRELIMINARY FACTS**

20 11. In 1986, California voters approved an initiative to address growing concerns about
21 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
22 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
23 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
24 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
25 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
26 from contamination, to allow consumers to make informed choices about the products
27
28

1 they buy, and to enable persons to protect themselves from toxic chemicals as they see
2 fit.

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

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

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

20 15. Plaintiff identified certain practices of manufacturers and distributors of consumer
21 products of exposing, knowingly and intentionally, persons in California Diethyl Hexyl
22 Phthalate and Bis (2-ethylhexyl) phthalate of such products without first providing clear
23 and reasonable warnings of such to the exposed persons prior to the time of exposure.
24 Plaintiff later discerned that Defendants engaged in such practice.

25 16. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis
26 (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause
27 cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor
28

1 added DEHP to the list of chemicals known to the State to cause developmental male
2 reproductive toxicity (*Cal. Code Regs. tit. 27, § 27001(c)*). Pursuant to Health and
3 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP
4 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became
5 fully subject to Proposition 65 warning requirements and discharge prohibitions.

6 **SATISFACTION OF PRIOR NOTICE**

7 17. Plaintiff served the following notices for alleged violations of Health and Safety Code
8 Section 25249.6, concerning consumer products exposures:

- 9 a. On or about August 26, 2019, Plaintiff gave notice of alleged violations of
10 Health and Safety Code Section 25249.6, concerning consumer products
11 exposures subject to a private action to YOKI, and to the California Attorney
12 General, County District Attorneys, and City Attorneys for each city containing
13 a population of at least 750,000 people in whose jurisdictions the violations
14 allegedly occurred, concerning the Dual Compartment Clear and Pink Handbag
15 with Polymer Components.
- 16 b. On or about September 17, 2019, 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 YOKI, and to the California Attorney
19 General, County District Attorneys, and City Attorneys for each city containing
20 a population of at least 750,000 people in whose jurisdictions the violations
21 allegedly occurred, concerning the Handbag with PVC Components.
- 22 c. On or about October 4, 2019, 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 YOKI 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 Kid's Backpack with Plastic Components.

- 1 d. On or about December 9, 2019, Plaintiff gave notice of alleged violations of
2 Health and Safety Code Section 25249.6, concerning consumer products
3 exposures subject to a private action to YOKI and to the California Attorney
4 General, County District Attorneys, and City Attorneys for each city containing
5 a population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Clear Plastic Handbag.
- 7 e. On or about January 20, 2021, 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 YOKI, 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 Sneakers.

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

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

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

28

1 21. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notice of the alleged violations to YOKI and the public prosecutors referenced in
3 Paragraph 17.

4 22. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
5 any applicable district attorney or city attorney has commenced and is diligently
6 prosecuting an action against the Defendants.

7
8 **FIRST CAUSE OF ACTION**

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

12 **Women's Accessories I**

13 23. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
14 as though fully set forth herein.

15 24. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Dual Compartment Clear and Pink Handbag with
17 Polymer Components ("Handbag"), including but not limited to Dual Compartment
18 Clear and Pink handbag. "Yoki"; "Style: YKCB9093, Color Blush, Made in China";
19 "SKU 400192081243".

20 25. Handbag contains DEHP.

21 26. Defendants knew or should have known that DEHP has been identified by the State of
22 California as a chemical known to cause cancer and reproductive and therefore was
23 subject to Proposition 65 warning requirements. Defendants were also informed of the
24 presence of DEHP in Handbag within Plaintiff's notice of alleged violations further
25 discussed above at Paragraph 17a.

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

1 Handbag is consumer products, and, as mentioned herein, exposures to DEHP took place
2 as a result of such normal and foreseeable consumption and use.

3 28. Plaintiff is informed, believes, and thereon alleges that between August 26, 2016 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Handbag, which Defendants manufactured, distributed, or sold
6 as mentioned above, to DEHP, without first providing any type of clear and reasonable
7 warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold Handbag in California. Defendants know and intend that California
9 consumers will use and consume Handbag, thereby exposing them to DEHP. Further,
10 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Handbag
11 under a brand or trademark that is owned or licensed by the Defendants or an entity
12 affiliated thereto; have knowingly introduced DEHP into Handbag or knowingly caused
13 DEHP to be created in Handbag; have covered, obscured or altered a warning label that
14 has been affixed to Handbag by the manufacturer, producer, packager, importer, supplier
15 or distributor of Handbag; have received a notice and warning materials for exposure
16 from Handbag without conspicuously posting or displaying the warning materials; and/or
17 have actual knowledge of potential exposure to DEHP from Handbag. Defendants
18 thereby violated Proposition 65.

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

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

1 25249.6, including the manufacture, distribution, promotion, and sale of Handbag, so
2 that a separate and distinct violation of Proposition 65 occurred each and every time a
3 person was exposed to DEHP by Handbag as mentioned herein.

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

7 32. Based on the allegations herein, Defendants are liable for civil penalties of up to
8 \$2,500.00 per day per individual exposure to DEHP from Handbag, pursuant to Health
9 and Safety Code Section 25249.7(b).

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

12 **SECOND CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against YOKI and DOES 11-**
14 **20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

16 **Women's Accessories II**

17 34. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
18 as though fully set forth herein.

19 35. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Handbag with PVC Components ("Handbag II"),
21 including but not limited to "Yoki Style: YKD1167, Color: Black, Made in China";
22 "400190102889 YK Blk Saff Cat Ha".

23 36. Handbag II contains DEHP.

24 37. Defendants knew or should have known that DEHP has been identified by the State of
25 California as a chemical known to cause cancer and reproductive toxicity and therefore
26 was subject to Proposition 65 warning requirements. Defendants were also informed of
27 the presence of DEHP in Handbag II within Plaintiff's notice of alleged violations further
28 discussed above at Paragraph 17b.

1 38. Plaintiff's allegations regarding Handbag II 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)*. Handbag II is consumer products, and, as mentioned herein, exposures to
6 DEHP took place as a result of such normal and foreseeable consumption and use.

7 39. Plaintiff is informed, believes, and thereon alleges that between September 17, 2016 and
8 the present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Handbag II, 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 Handbag II in California. Defendants know and intend that
13 California consumers will use and consume Handbag II, thereby exposing them to
14 DEHP. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are
15 selling Handbag II under a brand or trademark that is owned or licensed by the
16 Defendants or an entity affiliated thereto; have knowingly introduced DEHP into
17 Handbag II or knowingly caused DEHP to be created in Handbag II; have covered,
18 obscured or altered a warning label that has been affixed to Handbag II by the
19 manufacturer, producer, packager, importer, supplier or distributor of Handbag II; have
20 received a notice and warning materials for exposure from Handbag II without
21 conspicuously posting or displaying the warning materials; and/or have actual
22 knowledge of potential exposure to DEHP from Handbag II. Defendants thereby
23 violated Proposition 65.

24 40. The principal routes of exposure are through dermal contact, ingestion and inhalation.
25 Persons sustain exposures by handling Handbag II without wearing gloves or any other
26 personal protective equipment, or by touching bare skin or mucous membranes with
27 gloves after handling Handbag II, as well as through direct and indirect hand to mouth
28

1 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
2 Handbag II.

3 41. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Handbag II have been ongoing and continuous, as Defendants
5 engaged and continue to engage in conduct which violates Health and Safety Code
6 Section 25249.6, including the manufacture, distribution, promotion, and sale of
7 Handbag II, so that a separate and distinct violation of Proposition 65 occurred each and
8 every time a person was exposed to DEHP by Handbag II as mentioned herein.

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

12 43. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to DEHP from Handbag II, pursuant to Health
14 and Safety Code Section 25249.7(b).

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

17 **THIRD CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against YOKI and DOES 21-**
19 **30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
20 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

21 **Kid's Accessories**

22 45. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
23 as though fully set forth herein.

24 46. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Kid's Backpack with Plastic Components
26 ("Backpacks"), including but not limited to Clear Pink Backpack. "Kiss Me Couture";
27 "Style: KMC1615, Color: Pink"; SKU 400186183649, "Made in China".

28 47. Backpack contains DEHP.

1 48. Defendants knew or should have known that DEHP has been identified by the State of
2 California as a chemical known to cause cancer and reproductive and therefore was
3 subject to Proposition 65 warning requirements. Defendants were also informed of the
4 presence of DEHP in Backpack within Plaintiff's notice of alleged violations further
5 discussed above at Paragraph 17c.

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

12 50. Plaintiff is informed, believes, and thereon alleges that between October 4, 2016 and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Backpack, which Defendants manufactured, distributed, or sold
15 as mentioned above, to DEHP, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Backpack in California. Defendants know and intend that California
18 consumers will use and consume Backpack, thereby exposing them to DEHP. Further,
19 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Backpack
20 under a brand or trademark that is owned or licensed by the Defendants or an entity
21 affiliated thereto; have knowingly introduced DEHP into Backpack or knowingly caused
22 DEHP to be created in Backpack; have covered, obscured or altered a warning label that
23 has been affixed to Backpack by the manufacturer, producer, packager, importer,
24 supplier or distributor of Backpack; have received a notice and warning materials for
25 exposure from Backpack without conspicuously posting or displaying the warning
26 materials; and/or have actual knowledge of potential exposure to DEHP from Backpack.
27 Defendants thereby violated Proposition 65.

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

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

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

16 54. Based on the allegations herein, Defendants are liable for civil penalties of up to
17 \$2,500.00 per day per individual exposure to DEHP from Backpack, pursuant to Health
18 and Safety Code Section 25249.7(b).

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

21 **FOURTH CAUSE OF ACTION**

22 **(By CONSUMER ADVOCACY GROUP, INC. and against YOKI and DOES 31-**
23 **40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
24 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

25 **Fashion Accessories**

26 56. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
27 as though fully set forth herein.

1 57. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Clear Plastic Handbag (“Handbag III”), including but
3 not limited to • Clear Beige Plastic Shoulder Bag; “Yoki”; “Style: YK9004”; “Color:
4 Beige”; “400200634997”; “CLEAR BIB XB”; “Made in China”;
5 • Clear Blue Plastic Shoulder Bag; “Yoki”; “Style: K9004”; “Color: Navy”;
6 “400200634898”; “CLEAR BIB XB”; “Made in China”.

7 58. Handbag III contains DEHP.

8 59. Defendants knew or should have known that DEHP has been identified by the State of
9 California as a chemical known to cause cancer and reproductive and therefore was
10 subject to Proposition 65 warning requirements. Defendants were also informed of the
11 presence of DEHP in Handbag III within Plaintiff’s notice of alleged violations further
12 discussed above at Paragraph 17d.

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

19 61. Plaintiff is informed, believes, and thereon alleges that between December 9, 2016 and
20 the present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of Handbag III, which Defendants manufactured, distributed, or
22 sold as mentioned above, to DEHP, without first providing any type of clear and
23 reasonable warning of such to the exposed persons before the time of exposure.
24 Defendants have distributed and sold Handbag III in California. Defendants know and
25 intend that California consumers will use and consume Handbag III, thereby exposing
26 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
27 Defendants are selling Handbag III under a brand or trademark that is owned or licensed
28

1 by the Defendants or an entity affiliated thereto; have knowingly introduced DEHP into
2 Handbag III or knowingly caused DEHP to be created in Handbag III; have covered,
3 obscured or altered a warning label that has been affixed to Handbag III by the
4 manufacturer, producer, packager, importer, supplier or distributor of Handbag III; have
5 received a notice and warning materials for exposure from Handbag III without
6 conspicuously posting or displaying the warning materials; and/or have actual
7 knowledge of potential exposure to DEHP from Handbag III. Defendants thereby
8 violated Proposition 65.

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

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

21 64. 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 65. 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 Handbag III, pursuant to
26 Health and Safety Code Section 25249.7(b).

27
28

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

3 **FIFTH CAUSE OF ACTION**

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

7 **Shoes**

8 67. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
9 as though fully set forth herein.

10 68. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Sneakers, including but not limited to Multi-Color
12 Sneakers "Yoki"; "Style: CLINT-16, Size 9"; "Made in China".

13 69. Sneakers contains DEHP.

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

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

25 72. Plaintiff is informed, believes, and thereon alleges that between January 20, 2018 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Sneakers, which Defendants manufactured, distributed, or sold
28 as mentioned above, to DEHP, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Sneakers in California. Defendants know and intend that California
3 consumers will use and consume Sneakers, thereby exposing them to DEHP. Further,
4 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sneakers
5 under a brand or trademark that is owned or licensed by the Defendants or an entity
6 affiliated thereto; have knowingly introduced DEHP into Sneakers or knowingly caused
7 DEHP to be created in Sneakers; have covered, obscured or altered a warning label that
8 has been affixed to Sneakers by the manufacturer, producer, packager, importer, supplier
9 or distributor of Sneakers; have received a notice and warning materials for exposure
10 from Sneakers without conspicuously posting or displaying the warning materials; and/or
11 have actual knowledge of potential exposure to DEHP from Sneakers. Defendants
12 thereby violated Proposition 65.

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

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

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

28

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

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

6
7 **PRAYER FOR RELIEF**

8 Plaintiff demands against each of the Defendants as follows:

9 78. A permanent injunction mandating Proposition 65-compliant warnings;

10 79. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

11 80. Costs of suit;

12 81. Reasonable attorney fees and costs; and

13 82. Any further relief that the court may deem just and equitable.

14
15 Dated: January 4, 2023

YEROUSHALMI & YEROUSHALMI*

16
17
18 /s/ Reuben Yeroushalmi

Reuben Yeroushalmi

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.