

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mark Mooney

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9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

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

14 Plaintiff,

15 v.

16 ROSS STORES, INC., a Delaware
17 Corporation;
18 MYSTIC APPAREL, LLC, a New York
19 Limited Liability Company;
20 SAKAR INTERNATIONAL, INC., a New
21 York Corporation;
22 and DOES 1-160,

23 Defendants.

CASE NO. **20STCV34003**

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)

24 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges sixteen causes of action
25 against defendants ROSS STORES, INC.; MYSTIC APPAREL, LLC; SAKAR
26 INTERNATIONAL, INC.; and DOES 1-160 as follows:
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THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant ROSS STORES, INC. (“ROSS”) is a Delaware Corporation qualified to do business in Delaware, and doing business in the State of California at all relevant times herein.
3. Defendant MYSTIC APPAREL, LLC (“MYSTIC”) is a New York Limited Liability Company qualified to do business in New York, and doing business in the State of California at all relevant times herein.
4. Defendant SAKAR INTERNATIONAL, INC. (“SAKAR”) is a New York Corporation qualified to do business in New York, and doing business in the State of California at all relevant times herein.
5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-160, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
6. At all times mentioned herein, the term “Defendants” includes ROSS, MYSTIC, SAKAR, and DOES 1-160.
7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
8. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-160, was an agent, servant, or employee of each of the other

1 Defendants. In conducting the activities alleged in this Complaint, each of the
2 Defendants was acting within the course and scope of this agency, service, or
3 employment, and was acting with the consent, permission, and authorization of each of
4 the other Defendants. All actions of each of the Defendants alleged in this Complaint
5 were ratified and approved by every other Defendant or their officers or managing
6 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
7 alleged wrongful conduct of each of the other Defendants.

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

12 **JURISDICTION**

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

3 **BACKGROUND AND PRELIMINARY FACTS**

4 13. In 1986, California voters approved an initiative to address growing concerns about
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
10 from contamination, to allow consumers to make informed choices about the products
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see
12 fit.

13 14. Proposition 65 requires the Governor of California to publish a list of chemicals known
14 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
15 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
16 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
17 other controls that apply to Proposition 65-listed chemicals.

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

24 16. Proposition 65 provides that any person "violating or threatening to violate" the statute
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
26 25249.7. "Threaten to violate" means "to create a condition in which there is a
27 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

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1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

3 17. Plaintiff identified certain practices of manufacturers and distributors of consumer
4 products of exposing, knowingly and intentionally, persons in California to Diethyl
5 Hexyl Phthalate and Bis (2-ethylhexyl) phthalate (“DEHP”) and Diisononyl Phthalate
6 (“DINP”) without first providing clear and reasonable warnings of such to the exposed
7 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged
8 in such practice.

9 18. On January 1, 1988, the Governor of California added DEHP to the list of chemicals
10 known to the State to cause cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October
11 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause
12 developmental male reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)).
13 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months
14 after addition of DEHP to the list of chemicals known to the State to cause cancer and
15 toxicity, DEHP became fully subject to Proposition 65 warning requirements and
16 discharge prohibitions.

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

22 **SATISFACTION OF PRIOR NOTICE**

23 20. Plaintiff served the following notices for alleged violations of Health and Safety Code
24 Section 25249.6, concerning consumer products exposures:

- 25 a. On or about October 31, 2019 Plaintiff gave notice of alleged violations of
26 Health and Safety Code Section 25249.6, concerning consumer products
27 exposures subject to a private action to ROSS and to the California Attorney
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1 General, County District Attorneys, and City Attorneys for each city containing
2 a population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning Plastic Wallets.

4 b. On or about November 19, 2019 Plaintiff gave notice of alleged violations of
5 Health and Safety Code Section 25249.6, concerning consumer products
6 exposures subject to a private action to ROSS and to the California Attorney
7 General, County District Attorneys, and City Attorneys for each city containing
8 a population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning Satchel Bags with Plastic Components.

10 c. On or about December 11, 2019 Plaintiff gave notice of alleged violations of
11 Health and Safety Code Section 25249.6, concerning consumer products
12 exposures subject to a private action to ROSS. SAKAR, and to the California
13 Attorney General, County District Attorneys, and City Attorneys for each city
14 containing a population of at least 750,000 people in whose jurisdictions the
15 violations allegedly occurred, concerning Kids' Headphones with Plastic
16 Components.

17 d. On or about December 11, 2019 Plaintiff gave notice of alleged violations of
18 Health and Safety Code Section 25249.6, concerning consumer products
19 exposures subject to a private action to ROSS and to the California Attorney
20 General, County District Attorneys, and City Attorneys for each city containing
21 a population of at least 750,000 people in whose jurisdictions the violations
22 allegedly occurred, concerning Headsets with Plastic Components.

23 e. On or about December 20, 2019 Plaintiff gave notice of alleged violations of
24 Health and Safety Code Section 25249.6, concerning consumer products
25 exposures subject to a private action to ROSS and to the California Attorney
26 General, County District Attorneys, and City Attorneys for each city containing
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1 a population of at least 750,000 people in whose jurisdictions the violations
2 allegedly occurred, concerning Travel Size Toiletry Kit with PVC Components.

- 3 f. On or about January 29, 2020 Plaintiff gave notice of alleged violations of
4 Health and Safety Code Section 25249.6, concerning consumer products
5 exposures subject to a private action to ROSS and to the California Attorney
6 General, County District Attorneys, and City Attorneys for each city containing
7 a population of at least 750,000 people in whose jurisdictions the violations
8 allegedly occurred, concerning Handbags with Plastic Components.
- 9 g. On or about March 3, 2020 Plaintiff gave notice of alleged violations of Health
10 and Safety Code Section 25249.6, concerning consumer products exposures
11 subject to a private action to ROSS and to the California Attorney General,
12 County District Attorneys, and City Attorneys for each city containing a
13 population of at least 750,000 people in whose jurisdictions the violations
14 allegedly occurred, concerning Clutch Purses with PVC Components.
- 15 h. On or about March 3, 2020 Plaintiff gave notice of alleged violations of Health
16 and Safety Code Section 25249.6, concerning consumer products exposures
17 subject to a private action to ROSS and to the California Attorney General,
18 County District Attorneys, and City Attorneys for each city containing a
19 population of at least 750,000 people in whose jurisdictions the violations
20 allegedly occurred, concerning Jewelry Boxes.
- 21 i. On or about March 10, 2020 Plaintiff gave notice of alleged violations of Health
22 and Safety Code Section 25249.6, concerning consumer products exposures
23 subject to a private action to ROSS and to the California Attorney General,
24 County District Attorneys, and City Attorneys for each city containing a
25 population of at least 750,000 people in whose jurisdictions the violations
26 allegedly occurred, concerning 3 Pc Cosmetic Cases with Plastic.

- 1 j. On or about March 10, 2020 Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to ROSS and to the California Attorney General,
4 County District Attorneys, and City Attorneys for each city containing a
5 population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning Fur Handbags.
- 7 k. On or about March 13, 2020 Plaintiff gave notice of alleged violations of Health
8 and Safety Code Section 25249.6, concerning consumer products exposures
9 subject to a private action to ROSS, MYSTIC, 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 Backpacks with Plastic Components.
- 13 l. On or about March 17, 2020 Plaintiff gave notice of alleged violations of Health
14 and Safety Code Section 25249.6, concerning consumer products exposures
15 subject to a private action to ROSS and to the California Attorney General,
16 County District Attorneys, and City Attorneys for each city containing a
17 population of at least 750,000 people in whose jurisdictions the violations
18 allegedly occurred, concerning Backpacks with Plastic Components.
- 19 m. On or about May 11, 2020 Plaintiff gave notice of alleged violations of Health
20 and Safety Code Section 25249.6, concerning consumer products exposures
21 subject to a private action to ROSS and to the California Attorney General,
22 County District Attorneys, and City Attorneys for each city containing a
23 population of at least 750,000 people in whose jurisdictions the violations
24 allegedly occurred, concerning Handbags with Plastic Components.
- 25 n. On or about May 14, 2020 Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to ROSS, SAKAR, and to the California Attorney
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1 General, County District Attorneys, and City Attorneys for each city containing
2 a population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning Kid's Headphones with Plastic Components.

4 o. On or about May 18, 2020 Plaintiff gave notice of alleged violations of Health
5 and Safety Code Section 25249.6, concerning consumer products exposures
6 subject to a private action to ROSS and to the California Attorney General,
7 County District Attorneys, and City Attorneys for each city containing a
8 population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning Wallets with Plastic Components.

10 p. On or about May 18, 2020 Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to ROSS and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a
14 population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning Headsets with Plastic Components.

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

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

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

6 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
7 gave notice of the alleged violations to ROSS, MYSTIC, SAKAR, and the public
8 prosecutors referenced in Paragraph 20.

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

12 **FIRST CAUSE OF ACTION**

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

16 **Wallets**

17 26. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
18 as though fully set forth herein.

19 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Plastic Wallets ("Wallets"), including but not limited
21 to: "Tems;" "dd's DISCOUNTS;" "SHINY SILV386;" "929 SIZE;" "D5301 C1995;"
22 "14 Sm Lthr Goods;" "400201980260;" "TIME TO BE A UNICORN;" Holographic
23 Wallet with Unicorn Print.

24 28. Wallets contain DEHP.

25 29. Defendants knew or should have known that DEHP has been identified by the State of
26 California as a chemical known to cause cancer, developmental toxicity, and
27 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

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1 Defendants were also informed of the presence of DEHP in Wallets within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 20a.

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

7 Wallets are consumer products, and, as mentioned herein, exposures to DEHP took place
8 as a result of such normal and foreseeable use.

9 31. Plaintiff is informed, believes, and thereon alleges that between October 31, 2016 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Wallets, which Defendants manufactured, distributed, or sold as
12 mentioned above, to DEHP, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold Wallets in California. Defendants know and intend that California
15 consumers will use Wallets, thereby exposing them to DEHP. Defendants thereby
16 violated Proposition 65.

17 32. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Wallets without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling Wallets, as well as through direct and indirect hand to mouth
21 contact, hand to mucous membrane, or breathing in particulate matter emanating from
22 Wallets during use, as well as through environmental mediums that carry the DEHP once
23 contained within the Wallets.

24 33. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
25 Proposition 65 as to Wallets have been ongoing and continuous, as Defendants engaged
26 and continue to engage in conduct which violates Health and Safety Code Section
27 25249.6, including the manufacture, distribution, promotion, and sale of Wallets, so that
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1 a separate and distinct violation of Proposition 65 occurred each and every time a person
2 was exposed to DEHP by Wallets as mentioned herein.

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

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

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

11 **SECOND CAUSE OF ACTION**

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

15 **Satchel Bags**

16 37. Plaintiff repeats and incorporates by reference paragraphs 1 through 36 of this complaint
17 as though fully set forth herein.

18 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Satchel Bags with Plastic Components (“Bags”),
20 including but not limited to: “imo;” “VEGAN;” “imoshionusa.com;” “LET’S BE
21 CLEAR STADIUM APPROVED;” “MAN MADE MATERIAL;” “MADE IN CHINA;”
22 “dd’s DISCOUNTS;” “Clear153;” “14 HANDBAGS;” “D5502 C5531;”
23 “400202560621;” Black and Clear Plastic Bag.

24 39. Bags contain DEHP.

25 40. Defendants knew or should have known that DEHP has been identified by the State of
26 California as a chemical known to cause cancer, developmental toxicity, and
27 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

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1 Defendants were also informed of the presence of DEHP in Bags within Plaintiff's notice
2 of alleged violations further discussed above at Paragraph 20b.

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

7 Bags are consumer products, and, as mentioned herein, exposures to DEHP took place as
8 a result of such normal and foreseeable use.

9 42. Plaintiff is informed, believes, and thereon alleges that between November 19, 2016 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Bags, which Defendants manufactured, distributed, or sold as
12 mentioned above, to DEHP, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold Bags in California. Defendants know and intend that California
15 consumers will use Bags, thereby exposing them to DEHP. Defendants thereby violated
16 Proposition 65.

17 43. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Bags without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling Bags, as well as through direct and indirect hand to mouth contact,
21 hand to mucous membrane, or breathing in particulate matter emanating from Bags
22 during use, as well as through environmental mediums that carry the DEHP once
23 contained within the Bags.

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

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

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

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

11 **THIRD CAUSE OF ACTION**

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

15 **Headphones**

16 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 47 of this complaint
17 as though fully set forth herein.

18 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Kids' Headphones with Plastic Components
20 ("Headphones"), including but not limited to: " L.O.L Surprise! TM Kid-Safe
21 Headphones"; "Features: Kids-Safe technology; Built-in volume limiter controls how
22 loud your child's music is in their ears"; "Ages 3-9"; "Let's be friends! #collectlol";
23 "Surprise stickers inside"; "© MGA"; © 2019 Sakar International"; "MGA
24 Entertainment, Inc.©"; "lolsurprise.com] mgae.com"; "MID #2340619; Item # HP2-
25 03136"; "Made in China"; "UPC 0 21331939692".

26 50. Headphones contain DEHP.

27 51. Defendants knew or should have known that DEHP has been identified by the State of
28 California as a chemical known to cause cancer, developmental toxicity, and

1 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
2 Defendants were also informed of the presence of DEHP in Headphones within
3 Plaintiff's notice of alleged violations further discussed above at Paragraph 20c.

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

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

18 54. The principal routes of exposure are through dermal contact, ingestion and inhalation.
19 Persons sustain exposures by handling Headphones without wearing gloves or any other
20 personal protective equipment, or by touching bare skin or mucous membranes with
21 gloves after handling Headphones, as well as through direct and indirect hand to mouth
22 contact, hand to mucous membrane, or breathing in particulate matter emanating from
23 Headphones during use, as well as through environmental mediums that carry the DEHP
24 once contained within the Headphones.

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

4 56. 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 57. 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 Headphones, pursuant to
9 Health and Safety Code Section 25249.7(b).

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

12 **FOURTH CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 31-**
14 **40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

16 **Headsets**

17 59. Plaintiff repeats and incorporates by reference paragraphs 1 through 58 of this complaint
18 as though fully set forth herein.

19 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Headsets with Plastic Components ("Headsets"),
21 including but not limited to: "Bluetooth;" "2 in 1 HEADSET HEAT;" "M;" "ROSS;"
22 "400200702177;" "DI068 C7135;" "Package includes Wireless Headset Micro USB
23 Charging Cable Aux Cable User Guide;" "iPhone iPod iPad;" "distributed by CJ
24 GLOBAL Inc. All rights reserved. 2010 Maple Ave Fair Lawn NJ 07410;" "ITEM
25 83524;" "MADE IN CHINA;" "6 88907 83524 8;"

26 61. Headsets contain DEHP.

27 62. Defendants knew or should have known that DEHP has been identified by the State of
28 California as a chemical known to cause cancer, developmental toxicity, and

1 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
2 Defendants were also informed of the presence of DEHP in Headsets within Plaintiff's
3 notice of alleged violations further discussed above at Paragraph 20d.

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

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

18 65. The principal routes of exposure are through dermal contact, ingestion and inhalation.
19 Persons sustain exposures by handling Headsets without wearing gloves or any other
20 personal protective equipment, or by touching bare skin or mucous membranes with
21 gloves after handling Headsets, as well as through direct and indirect hand to mouth
22 contact, hand to mucous membrane, or breathing in particulate matter emanating from
23 Headsets during use, as well as through environmental mediums that carry the DEHP
24 once contained within the Headsets.

25 66. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
26 Proposition 65 as to Headsets 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 Headsets, so
2 that a separate and distinct violation of Proposition 65 occurred each and every time a
3 person was exposed to DEHP by Headsets as mentioned herein.

4 67. 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 68. 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 Headsets, pursuant to Health
9 and Safety Code Section 25249.7(b).

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

12 **FIFTH CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 41-**
14 **50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

16 **Toiletry Kit**

17 70. Plaintiff repeats and incorporates by reference paragraphs 1 through 69 of this complaint
18 as though fully set forth herein.

19 71. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Travel Size Toiletry Kit with PVC Components
21 (“Toiletry Kit”), including but not limited to: Black & White Patterned Travel Size
22 Toiletry Kit; "400 200990246"; "DV 14"; "05423"; "C5430"; "CLEAR 3PC LOGO
23 INN"; "MADE IN CHINA" .

24 72. Toiletry Kit contains DEHP.

25 73. Defendants knew or should have known that DEHP has been identified by the State of
26 California as a chemical known to cause cancer, developmental toxicity, and
27 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

28

1 Defendants were also informed of the presence of DEHP in Toiletry Kit within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 20e.

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

9 75. Plaintiff is informed, believes, and thereon alleges that between December 20, 2016 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Toiletry Kit, which Defendants manufactured, distributed, or
12 sold as mentioned above, to DEHP, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.

14 Defendants have distributed and sold Toiletry Kit in California. Defendants know and
15 intend that California consumers will use Toiletry Kit, thereby exposing them to DEHP.
16 Defendants thereby violated Proposition 65.

17 76. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Toiletry Kit without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling Toiletry Kit, as well as through direct and indirect hand to mouth
21 contact, hand to mucous membrane, or breathing in particulate matter emanating from
22 Toiletry Kit during use, as well as through environmental mediums that carry the DEHP
23 once contained within the Toiletry Kit.

24 77. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
25 Proposition 65 as to Toiletry Kit have been ongoing and continuous, as Defendants
26 engaged and continue to engage in conduct which violates Health and Safety Code
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of Toiletry
28

1 Kit, so that a separate and distinct violation of Proposition 65 occurred each and every
2 time a person was exposed to DEHP by Toiletry Kit as mentioned herein.

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

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

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

11 **SIXTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 51-**
13 **60 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Women's Accessories**

16 81. Plaintiff repeats and incorporates by reference paragraphs 1 through 80 of this complaint
17 as though fully set forth herein.

18 82. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Handbags with Plastic Components ("Handbags"),
20 including but not limited to: "CL AMERICA;" "GROUP: Logorama;" "STYLE: 88081;"
21 "COLOR: BROWN/METALLIC BRONZE;" "7 47542 15939 0;" "BROWN
22 PTRN029;" "931 SIZE;" "D5503 C6512;" "14 HANDBAGS;" "400193499818;"
23 "COMPARABLE VALUE" \$30.00;" "\$11.99".

24 83. Handbags contain DEHP.

25 84. Defendants knew or should have known that DEHP has been identified by the State of
26 California as a chemical known to cause cancer, developmental toxicity, and
27 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.

28

1 Defendants were also informed of the presence of DEHP in Handbags within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 20f.

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

9 86. Plaintiff is informed, believes, and thereon alleges that between January 29, 2017 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Handbags, which Defendants manufactured, distributed, or sold
12 as mentioned above, to DEHP, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold Handbags in California. Defendants know and intend that California
15 consumers will use Handbags thereby exposing them to DEHP. Defendants thereby
16 violated Proposition 65.

17 87. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Handbags without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling Handbags, as well as through direct and indirect hand to mouth
21 contact, hand to mucous membrane, or breathing in particulate matter emanating from
22 Handbags during use, as well as through environmental mediums that carry the DEHP
23 once contained within the Handbags.

24 88. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
25 Proposition 65 as to Handbags have been ongoing and continuous, as Defendants
26 engaged and continue to engage in conduct which violates Health and Safety Code
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of
28

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

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

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

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

11 **SEVENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 61-**
13 **70 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Fashion Accessories**

16 92. Plaintiff repeats and incorporates by reference paragraphs 1 through 91 of this complaint
17 as though fully set forth herein.

18 93. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Clutch Purse with PVC Components (“Clutch”),
20 including but not limited to: “Rose Gold Clutch”; “Olivia Miller Handbag Collection”;
21 “SKU 400201715084”; “Style # OMZ—0780 Gold”; “6 57486 49829 8”; “Made in
22 China”.

23 94. Clutch contains DINP.

24 95. Defendants knew or should have known that DINP has been identified by the State of
25 California as a chemical known to cause cancer and therefore was subject to Proposition
26 65 warning requirements. Defendants were also informed of the presence of DINP in
27 Clutch within Plaintiff’s notice of alleged violations further discussed above at Paragraph
28 20g.

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

7 97. Plaintiff is informed, believes, and thereon alleges that between March 3, 2017 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Clutch, which Defendants manufactured, distributed, or sold as
10 mentioned above, to DINP, 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 Clutch in California. Defendants know and intend that California
13 consumers will use Clutch, thereby exposing them to DINP. Defendants thereby
14 violated Proposition 65.

15 98. The principal routes of exposure are through dermal contact, ingestion and inhalation.
16 Persons sustain exposures by handling Clutch without wearing gloves or any other
17 personal protective equipment, or by touching bare skin or mucous membranes with
18 gloves after handling Clutch, as well as through direct and indirect hand to mouth
19 contact, hand to mucous membrane, or breathing in particulate matter emanating from
20 Clutch during use, as well as through environmental mediums that carry the DINP once
21 contained within the Clutch.

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

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

4 101. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DINP from Clutch, pursuant to Health and
6 Safety Code Section 25249.7(b).

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

9
10 **EIGHTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 71-
12 80 for Violations of Proposition 65, The Safe Drinking Water and Toxic
13 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Jewelry Accessories**

15 103. Plaintiff repeats and incorporates by reference paragraphs 1 through 102 of this
16 complaint as though fully set forth herein.

17 104. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Jewelry Box (“Box”), including but not limited to:
19 Pink Jewelry Box. “VRG Dongwha MDF Joint Stock Company”; “TSCA Title VI
20 Complaint”; Fabrication Date: 08/2019”; “PINK/CORAL066”; “400199338128”.

21 105. Box contains DEHP.

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

27 107. Plaintiff’s allegations regarding Box concerns “[c]onsumer products exposure[s],”
28 which “is an exposure that results from a person’s acquisition, purchase, storage,
consumption, or other reasonably foreseeable use of a consumer good, or any exposure

1 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.

2 Box are consumer products, and, as mentioned herein, exposures to DEHP took place as
3 a result of such normal and foreseeable use.

4 108. Plaintiff is informed, believes, and thereon alleges that between March 3, 2017 and the
5 present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Box, which Defendants manufactured, distributed, or sold as
7 mentioned above, to DEHP, without first providing any type of clear and reasonable
8 warning of such to the exposed persons before the time of exposure. Defendants have
9 distributed and sold Box in California. Defendants know and intend that California
10 consumers will use Box, thereby exposing them to DEHP. Defendants thereby violated
11 Proposition 65.

12 109. The principal routes of exposure are through dermal contact, ingestion and inhalation.
13 Persons sustain exposures by handling Box without wearing gloves or any other personal
14 protective equipment, or by touching bare skin or mucous membranes with gloves after
15 handling Box, as well as through direct and indirect hand to mouth contact, hand to
16 mucous membrane, or breathing in particulate matter emanating from Box during use, as
17 well as through environmental mediums that carry the DEHP once contained within the
18 Box.

19 110. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations
20 of Proposition 65 as to Box 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 Box, so that a
23 separate and distinct violation of Proposition 65 occurred each and every time a person
24 was exposed to DEHP by Box as mentioned herein.

25 111. 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

1 112. 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 Box, pursuant to Health and
3 Safety Code Section 25249.7(b).

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

6
7 **NINTH CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 81-
9 90 for Violations of Proposition 65, The Safe Drinking Water and Toxic
10 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Cosmetic Cases**

12 114. Plaintiff repeats and incorporates by reference paragraphs 1 through 113 of this
13 complaint as though fully set forth herein.

14 115. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of 3 Pc Cosmetic Cases with Plastic (“Cosmetic
16 Cases”), including but not limited to: “3 pc Set;” “dd’s DISCOUNTS;” “0014;”
17 “ANIMAL PRI89;” “931 SIZE;” “COSMETIC CASES;” “D5423 C5427;”
18 “400201598144;” COMPARABLE VALUE \$10.00;” YOU PAY \$7.99;” “CC0012-
19 #6;”.

20 116. Cosmetic Cases contain DEHP.

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

27 118. Plaintiff’s allegations regarding Cosmetic Cases concerns “[c]onsumer products
28 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
storage, consumption, or other reasonably foreseeable use of a consumer good, or any

1 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
2 25602(b). Cosmetic Cases are consumer products, and, as mentioned herein, exposures
3 to DEHP took place as a result of such normal and foreseeable use.

4 119. Plaintiff is informed, believes, and thereon alleges that between March 10, 2017 and the
5 present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Cosmetic Cases, which Defendants manufactured, distributed, or
7 sold as mentioned above, to DEHP, without first providing any type of clear and
8 reasonable warning of such to the exposed persons before the time of exposure.
9 Defendants have distributed and sold Cosmetic Cases in California. Defendants know
10 and intend that California consumers will use Cosmetic Cases, thereby exposing them to
11 DEHP. Defendants thereby violated Proposition 65.

12 120. The principal routes of exposure are through dermal contact, ingestion and inhalation.
13 Persons sustain exposures by handling Cosmetic Cases without wearing gloves or any
14 other personal protective equipment, or by touching bare skin or mucous membranes
15 with gloves after handling Cosmetic Cases, as well as through direct and indirect hand to
16 mouth contact, hand to mucous membrane, or breathing in particulate matter emanating
17 from Cosmetic Cases during use, as well as through environmental mediums that carry
18 the DEHP once contained within the Cosmetic Cases.

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

25 122. 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

1 123. 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 Cosmetic Cases, pursuant to
3 Health and Safety Code Section 25249.7(b).

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

6
7 **TENTH CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 101-
9 110 for Violations of Proposition 65, The Safe Drinking Water and Toxic
10 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Fashion Accessories**

12 125. Plaintiff repeats and incorporates by reference paragraphs 1 through 124 of this
13 complaint as though fully set forth herein.

14 126. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Fur Handbags (“Handbags II”), including but not
16 limited to: Gray Faux Fur Handbag; “Do everything in Love ® “Body: Faux Fur”;
17 “100% Polyester”; “RN122351”; “Made in China”; “GRAY004”; “D5502” “C5516”;
18 “14 HANDBAGS”; “400205699090.”

19 127. Handbags II contain DEHP.

20 128. Defendants knew or should have known that DEHP has been identified by the State of
21 California as a chemical known to cause cancer; reproductive toxicity; and
22 developmental toxicity and therefore was subject to Proposition 65 warning
23 requirements. Defendants were also informed of the presence of DEHP in Handbags II
24 within Plaintiff’s notice of alleged violations further discussed above at Paragraph 20j.

25 129. Plaintiff’s allegations regarding Handbags II concerns “[c]onsumer products
26 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
27 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
28 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*

1 25602(b). Handbags II are consumer products, and, as mentioned herein, exposures to
2 DEHP took place as a result of such normal and foreseeable use.

3 130. Plaintiff is informed, believes, and thereon alleges that between March 10, 2017 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Handbags II, which Defendants manufactured, distributed, or
6 sold as mentioned above, to DEHP, without first providing any type of clear and
7 reasonable warning of such to the exposed persons before the time of exposure.
8 Defendants have distributed and sold Handbags II in California. Defendants know and
9 intend that California consumers will use Handbags II, thereby exposing them to DEHP.
10 Defendants thereby violated Proposition 65.

11 131. The principal routes of exposure are through dermal contact, ingestion and inhalation.
12 Persons sustain exposures by handling Handbags II without wearing gloves or any other
13 personal protective equipment, or by touching bare skin or mucous membranes with
14 gloves after handling Handbags II, as well as through direct and indirect hand to mouth
15 contact, hand to mucous membrane, or breathing in particulate matter emanating from
16 Handbags II during use, as well as through environmental mediums that carry the DEHP
17 once contained within the Handbags II.

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

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

27
28

1 134. 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 Handbags II, pursuant to
3 Health and Safety Code Section 25249.7(b).

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

6
7 **ELEVENTH CAUSE OF ACTION**

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

11 **Kids Backpacks**

12 136. Plaintiff repeats and incorporates by reference paragraphs 1 through 135 of this
13 complaint as though fully set forth herein.

14 137. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Backpacks with Plastic Components (“Backpacks”),
16 including but not limited to: “A 22;” “ACCESSORIES 22;”
17 “A82938,AHG,06/2018,RN#90737;” “MADE IN CHINA;” “7 09996 79262 2;”
18 “ACCESSORIES 22 1333 Broadway 6th Floor New York, NY 10018;”
19 “T.212.279.2466. F. 212.279.0774;” “DIVISION OF MYSTIC APPAREL LLC;”
20 “ROSS;” “ASSORTED M612;” “845 SIZE;” “D1392 C7765;” “400184622690;”
21 “GIRLS ACCESS;” “COMPARABLE VALUE \$11.00;” “\$6.99;”

22 138. Backpacks contain DEHP.

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

28 140. Plaintiff’s allegations regarding Backpacks concerns “[c]onsumer products
exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
3 *25602(b)*. Backpacks are consumer products, and, as mentioned herein, exposures to
4 DEHP took place as a result of such normal and foreseeable use.

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

13 142. The principal routes of exposure are through dermal contact, ingestion and inhalation.
14 Persons sustain exposures by handling Backpacks without wearing gloves or any other
15 personal protective equipment, or by touching bare skin or mucous membranes with
16 gloves after handling Backpacks, as well as through direct and indirect hand to mouth
17 contact, hand to mucous membrane, or breathing in particulate matter emanating from
18 Backpacks during use, as well as through environmental mediums that carry the DEHP
19 once contained within the Backpacks.

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

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

4 145. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from Backpacks, pursuant to Health
6 and Safety Code Section 25249.7(b).

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

9
10 **TWELFTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 111-
12 120 for Violations of Proposition 65, The Safe Drinking Water and Toxic
13 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Fashion Accessories**

15 147. Plaintiff repeats and incorporates by reference paragraphs 1 through 146 of this
16 complaint as though fully set forth herein.

17 148. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Backpacks with Plastic Components (“Backpacks
19 II”), including but not limited to: “CandyCat;” “Made in China;” “Distributed by Swari
20 New York, NY 10018;” “Style#:T1044-01;” “Color: Black;” “1 91153 03186 4;” “dd’s
21 DISCOUNTS;” “0321;” “BLUSH624;” “931 SIZE” “D5502 C5520;” “400201711567;”
22 “14 Accessories;” “COMPARABLE VALUE \$9.00;” “YOU PAY “\$5.99;”.

23 149. Backpacks II contain DEHP.

24 150. Defendants knew or should have known that DEHP has been identified by the State of
25 California as a chemical known to cause cancer; reproductive toxicity; and
26 developmental toxicity and therefore was subject to Proposition 65 warning
27 requirements. Defendants were also informed of the presence of DEHP in Backpacks II
28 within Plaintiff’s notice of alleged violations further discussed above at Paragraph 201.

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

7 152. Plaintiff is informed, believes, and thereon alleges that between March 17, 2017 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Backpacks II, which Defendants manufactured, distributed, or
10 sold as mentioned above, to DEHP, without first providing any type of clear and
11 reasonable warning of such to the exposed persons before the time of exposure.
12 Defendants have distributed and sold Backpacks II in California. Defendants know and
13 intend that California consumers will use Backpacks II, hereby exposing them to DEHP.
14 Defendants thereby violated Proposition 65.

15 153. The principal routes of exposure are through dermal contact, ingestion and inhalation.
16 Persons sustain exposures by handling Backpacks II without wearing gloves or any other
17 personal protective equipment, or by touching bare skin or mucous membranes with
18 gloves after handling Backpacks II, as well as through direct and indirect hand to mouth
19 contact, hand to mucous membrane, or breathing in particulate matter emanating from
20 Backpacks II during use, as well as through environmental mediums that carry the DEHP
21 once contained within the Backpacks II.

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

28

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

4 156. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from Backpacks II, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

9
10 **THIRTEENTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 121-
12 130 for Violations of Proposition 65, The Safe Drinking Water and Toxic
13 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

14 **Handbags**

15 158. Plaintiff repeats and incorporates by reference paragraphs 1 through 157 of this
16 complaint as though fully set forth herein.

17 159. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Handbags with Plastic Components (“Handbags III”),
19 including but not limited to: “Mei≥,” “ROSS DRESS FOR LESS;” “COGNAC448;”
20 “933 SIZE;” “D1521 C5446;” “07 HANDBAG;” “400197204753;” “COMPARABLE
21 VALUE* \$35.00;” “ROSS PRICE \$14.99;” Dark Blue Handbag.

22 160. Handbags III contain DEHP.

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

28 162. Plaintiff’s allegations regarding Handbags III concerns “[c]onsumer products
exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,

1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
3 *25602(b)*. Handbags III are consumer products, and, as mentioned herein, exposures to
4 DEHP took place as a result of such normal and foreseeable use.

5 163. Plaintiff is informed, believes, and thereon alleges that between May 11, 2017 and the
6 present, each of the Defendants knowingly and intentionally exposed California
7 consumers and users of Handbags III, which Defendants manufactured, distributed, or
8 sold as mentioned above, to DEHP, without first providing any type of clear and
9 reasonable warning of such to the exposed persons before the time of exposure.
10 Defendants have distributed and sold Handbags III in California. Defendants know and
11 intend that California consumers will use Handbags III, hereby exposing them to DEHP.
12 Defendants thereby violated Proposition 65.

13 164. The principal routes of exposure are through dermal contact, ingestion and inhalation.
14 Persons sustain exposures by handling Handbags III without wearing gloves or any other
15 personal protective equipment, or by touching bare skin or mucous membranes with
16 gloves after handling Handbags III, as well as through direct and indirect hand to mouth
17 contact, hand to mucous membrane, or breathing in particulate matter emanating from
18 Handbags III during use, as well as through environmental mediums that carry the DEHP
19 once contained within the Handbags III.

20 165. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations
21 of Proposition 65 as to Handbags III have been ongoing and continuous, as Defendants
22 engaged and continue to engage in conduct which violates Health and Safety Code
23 Section 25249.6, including the manufacture, distribution, promotion, and sale of
24 Handbags III, so that a separate and distinct violation of Proposition 65 occurred each
25 and every time a person was exposed to DEHP by Handbags III as mentioned herein.
26
27
28

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

4 167. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from Handbags III, pursuant to
6 Health and Safety Code Section 25249.7(b).

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

9
10 **FOURTEENTH CAUSE OF ACTION**

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

14 **Kid's Headphones**

15 169. Plaintiff repeats and incorporates by reference paragraphs 1 through 168 of this
16 complaint as though fully set forth herein.

17 170. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Kid's Headphones with Plastic Components
19 ("Headphones II"), including but not limited to: "DC;" "KID-SAFE HEADPHONES;"
20 "3-9;" "\$7.99;" "dd's DISOUNTS;" "COMPARABLE VALUE \$10.00;" K
21 400205838130 D5171 C4210;" "SAKAR;" "Sakar International 195 Carter Drive
22 Edison NJ 08817;" www.sakar.com; "Item#HP2-03082-BEALLS;" "Made in China;"
23 "MID#2340919;" "0 21331 57132 8;"

24 171. Headphones II contain DEHP.

25 172. Defendants knew or should have known that DEHP has been identified by the State of
26 California as a chemical known to cause cancer; reproductive toxicity; and
27 developmental toxicity and therefore was subject to Proposition 65 warning
28 requirements. Defendants were also informed of the presence of DEHP in Headphones

1 II within Plaintiff's notice of alleged violations further discussed above at Paragraph
2 20n.

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

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

17 175. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Headphones II without wearing gloves or any
19 other personal protective equipment, or by touching bare skin or mucous membranes
20 with gloves after handling Handbags III, as well as through direct and indirect hand to
21 mouth contact, hand to mucous membrane, or breathing in particulate matter emanating
22 from Headphones II during use, as well as through environmental mediums that carry the
23 DEHP once contained within the Headphones II.

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

1 Headphones II, so that a separate and distinct violation of Proposition 65 occurred each
2 and every time a person was exposed to DEHP by Headphones II as mentioned herein.
3 177. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
4 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
5 violations alleged herein will continue to occur into the future.
6 178. Based on the allegations herein, Defendants are liable for civil penalties of up to
7 \$2,500.00 per day per individual exposure to DEHP from Headphones II, pursuant to
8 Health and Safety Code Section 25249.7(b).
9 179. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11 **FIFTEENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 141-**
13 **150 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Wallet**

16 180. Plaintiff repeats and incorporates by reference paragraphs 1 through 179 of this
17 complaint as though fully set forth herein.
18 181. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Wallet with Plastic Components (“Wallet II”),
20 including but not limited to: “imo ACCESSORIES;” “imoshinousa.com; “PO#: 1428;”
21 “STYLE: 10-00050;” “COLOR: WHITE;” “dd’s DISCOUNTS;” WHITE WIRH249;”
22 “949 SIZE;” “D5301 C1995;” “14 Sm Lthr Goods;” “400208083438;”.
23 182. Wallets II contain DEHP.
24 183. Defendants knew or should have known that DEHP has been identified by the State of
25 California as a chemical known to cause cancer; reproductive toxicity; and
26 developmental toxicity and therefore was subject to Proposition 65 warning
27 requirements. Defendants were also informed of the presence of DEHP in Wallets II
28 within Plaintiff’s notice of alleged violations further discussed above at Paragraph 20o.

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

7 185. Plaintiff is informed, believes, and thereon alleges that between May 18, 2017 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Wallets 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 Wallets II in California. Defendants know and intend that California
13 consumers will use Wallets II, hereby exposing them to DEHP. Defendants thereby
14 violated Proposition 65.

15 186. The principal routes of exposure are through dermal contact, ingestion and inhalation.
16 Persons sustain exposures by handling Wallets II without wearing gloves or any other
17 personal protective equipment, or by touching bare skin or mucous membranes with
18 gloves after handling Wallets II, as well as through direct and indirect hand to mouth
19 contact, hand to mucous membrane, or breathing in particulate matter emanating from
20 Wallets II during use, as well as through environmental mediums that carry the DEHP
21 once contained within the Wallets II.

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

28

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

4 189. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DEHP from Wallets II, pursuant to Health
6 and Safety Code Section 25249.7(b).

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

9
10 **SIXTEENTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 151-
12 160 for Violations of Proposition 65, The Safe Drinking Water and Toxic
13 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

14 **Headsets**

15 191. Plaintiff repeats and incorporates by reference paragraphs 1 through 190 of this
16 complaint as though fully set forth herein.

17 192. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Headsets with Plastic Components (“Headsets II”),
19 including but not limited to: “IJOY;” “JILE PREMIUM BLUETOOTH WIRELESS
20 HEADSET;” “dd’s DISCOUNTS;” “BROWN PTRN029;” “936 D5171 C4242;”
21 “0219;” “400202410667;” “COMPARABLE VALUE* \$15.00 YOU PAY \$9.99;”
22 “Quest USA Corp.,” “Designed by IJOY in New York,;” “Quest USA Corp. 495
23 Flatbush Ave. Brooklyn, NY 11225;” “Made in China.,” www.gojjoy.com; “IJ17-JLE-
24 BRBL;” “8 42700 10395 3;”.

25 193. Headsets II contain DEHP.

26 194. Defendants knew or should have known that DEHP has been identified by the State of
27 California as a chemical known to cause cancer; reproductive toxicity; and
28 developmental toxicity and therefore was subject to Proposition 65 warning

1 requirements. Defendants were also informed of the presence of DEHP in Headsets II
2 within Plaintiff's notice of alleged violations further discussed above at Paragraph 20p.

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

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

17 197. The principal routes of exposure are through dermal contact, ingestion and inhalation.
18 Persons sustain exposures by handling Headsets II without wearing gloves or any other
19 personal protective equipment, or by touching bare skin or mucous membranes with
20 gloves after handling Headsets III, as well as through direct and indirect hand to mouth
21 contact, hand to mucous membrane, or breathing in particulate matter emanating from
22 Headsets II during use, as well as through environmental mediums that carry the DEHP
23 once contained within the Headsets II.

24 198. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations
25 of Proposition 65 as to Headsets II have been ongoing and continuous, as Defendants
26 engaged and continue to engage in conduct which violates Health and Safety Code
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of
28

1 Headsets II, so that a separate and distinct violation of Proposition 65 occurred each and
2 every time a person was exposed to DEHP by Headsets II as mentioned herein.

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

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

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

11 **PRAYER FOR RELIEF**

12 Plaintiff demands against each of the Defendants as follows:

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

18
19 Dated: September 4, 2020

YEROUSHALMI & YEROUSHALMI*

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21 

22 _____
23 Reuben Yeroushalmi
24 Attorneys for Plaintiff,
25 CONSUMER ADVOCACY GROUP, INC.
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27
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