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Environmental Health Advocates, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ALAMEDA**

ENVIRONMENTAL HEALTH ADVOCATES, INC., a California organization,  
  
Plaintiff,  
  
v.  
  
DELUXITY INC., a California corporation,  
ROSS STORES, INC., a Delaware corporation,  
DOES 1 through 100, inclusive,  
  
Defendants.

Case No.:  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
  
(Health & Safety Code § 25249.6 et seq.)

**FILED BY FAX**  
ALAMEDA COUNTY  
September 25, 2020  
  
CLERK OF  
THE SUPERIOR COURT  
By Cheryl Clark, Deputy  
  
CASE NUMBER:  
**RG20074976**

**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendants’ failure to inform the People of exposure to Di(2-ethylhexyl) phthalate  
5 (DEHP), a known carcinogen. Defendants expose consumers to DEHP by manufacturing,  
6 importing, selling, and/or distributing the Deluxity Cross Body Handbag (“Products”)  
7 without providing a clear and reasonable warning.

8           2.       Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California  
9 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing  
10 business shall knowingly and intentionally expose any individual to a chemical known to the state to  
11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
12 individual. . . .” (Health & Safety Code, § 25249.6.)

13           3.       California identified and listed DEHP as a chemical known to cause cancer as early as  
14 January 1, 1988, and as a chemical known to cause developmental/reproductive toxicity on October 24,  
15 2003.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to DEHP in connection with Defendants’ manufacture, import, sale, or distribution  
18 of Products. This is a violation of Proposition 65.

19           5.       Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers  
20 in California before exposing them to DEHP in Products. (Health & Safety Code, § 25249.7(a).)  
21 Plaintiff also seeks civil penalties against Defendants for their violations of Proposition 65 along with  
22 attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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25           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is an  
26 organization in the State of California dedicated to protecting the health of California citizens through  
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
28 interest pursuant to Health and Safety Code, section 25249.7.



1 **IV.**  
2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**  
4 **(Violation of Proposition 65 – Against all Defendants)**

5 13. Plaintiff incorporates by reference each and every allegation contained above.

6 14. Proposition 65 mandates that citizens be informed about exposures to chemicals that  
7 cause cancer, birth defects, and other reproductive harm.

8 15. Defendants manufactured, imported, sold, and/or distributed Products containing DEHP  
9 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such  
10 violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the  
11 future.

12 16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to  
13 provide a clear and reasonable warning to consumers and individuals in California who may be exposed  
14 to DEHP through reasonably foreseeable use of the Products.

15 17. Products expose individuals to DEHP through direct exposure. This exposure is a  
16 natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As  
17 such, Defendants intend that consumers will ingest Products, exposing them to DEHP.

18 18. Defendants knew or should have known that the Products contained DEHP and exposed  
19 individuals to DEHP in the ways provided above. The Notice informed Defendants of the presence of  
20 DEHP in the Products. Likewise, media coverage concerning DEHP and related chemicals in consumer  
21 products provided constructive notice to Defendants.

22 19. Defendants' action in this regard were deliberate and not accidental.

23 20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a  
24 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff  
25 provided the Notice to the various required public enforcement agencies along with a certificate of merit.  
26 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in  
27 California of the health hazards associated with exposures to DEHP contained in the Products.

28 21. The appropriate public enforcement agencies provided with the Notice failed to  
commence and diligently prosecute a cause of action against Defendants.

