

Electronically Filed by Superior Court of California, County of Los Angeles on 06/24/2021 11:51 PM Sherri R. Carter, Executive Officer/Clerk of Court, by M. Barel, Deputy Clerk

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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 Corporation;  
17 and DOES 1-60,

18 Defendants.

CASE NO. **21STCV23590**

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)

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22 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges six causes of action against  
23 defendants Ross Stores Inc., and DOES 1-60 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 California and doing business in the State of California at all relevant times herein.
3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60, 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.
4. At all times mentioned herein, the term “Defendants” includes ROSS, and DOES 1-60.
5. 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.
6. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-60, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

5 **JURISDICTION**

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

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

19 10. Venue is proper in the County of Los Angeles because one or more of the instances of  
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
21 because Defendants conducted, and continue to conduct, business in the County of Los  
22 Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 11. In 1986, California voters approved an initiative to address growing concerns about  
25 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
26 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
27 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
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1 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
2 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources  
3 from contamination, to allow consumers to make informed choices about the products  
4 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
5 fit.

6 12. Proposition 65 requires the Governor of California to publish a list of chemicals known  
7 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
8 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
9 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
10 other controls that apply to Proposition 65-listed chemicals.

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

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

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

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

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

### 17 **SATISFACTION OF PRIOR NOTICE**

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

- 20 a. On or about August 18, 2020 Plaintiff gave notice of alleged violations of  
21 Health and Safety Code Section 25249.6, concerning consumer products  
22 exposures subject to a private action to Ross, and to the California Attorney  
23 General, County District Attorneys, and City Attorneys for each city containing  
24 a population of at least 750,000 people in whose jurisdictions the violations  
25 allegedly occurred, concerning the Crossbody Bags.
- 26 b. On or about August 11, 2020 Plaintiff gave notice of alleged violations of  
27 Health and Safety Code Section 25249.6, concerning consumer products

1 exposures subject to a private action to Ross, and to the California Attorney  
2 General, County District Attorneys, and City Attorneys for each city containing  
3 a population of at least 750,000 people in whose jurisdictions the violations  
4 allegedly occurred, concerning the Handbags.

5 c. On or about August 11, 2020 Plaintiff gave notice of alleged violations of  
6 Health and Safety Code Section 25249.6, concerning consumer products  
7 exposures subject to a private action to Ross, and to the California Attorney  
8 General, County District Attorneys, and City Attorneys for each city containing  
9 a population of at least 750,000 people in whose jurisdictions the violations  
10 allegedly occurred, concerning the Handbags.

11 d. On or about November 20, 2020 Plaintiff gave notice of alleged violations of  
12 Health and Safety Code Section 25249.6, concerning consumer products  
13 exposures subject to a private action to Ross, and to the California Attorney  
14 General, County District Attorneys, and City Attorneys for each city containing  
15 a population of at least 750,000 people in whose jurisdictions the violations  
16 allegedly occurred, concerning the Wallets.

17 e. On or about December 17, 2020 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 the Children's Sandals.

23 f. On or about December 24, 2020 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 the Backpack.

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

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

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

20 22. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
21 gave notice of the alleged violations to ROSS and the public prosecutors referenced in  
22 Paragraph 18.

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

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1 **FIRST CAUSE OF ACTION**

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

5 **Fashion Accessories**

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

8 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Crossbody Bags with PVC Components (“Crossbody  
10 bags”), including but not limited to: "Mauve Crossbody Bag"; "Jolene Couture";  
11 "RA0493-777 MV MAUVE"; "Mauve054"; "D5502 C5526"; "SKU 400211242631"

12 26. Crossbody Bags contains DEHP.

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

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

24 29. Plaintiff is informed, believes, and thereon alleges that between August 18, 2017 and the  
25 present, each of the Defendants knowingly and intentionally exposed California  
26 consumers and users of Crossbody Bags, which Defendants manufactured, distributed, or  
27 sold as mentioned above, to DEHP, without first providing any type of clear and  
28 reasonable warning of such to the exposed persons before the time of exposure.



1 Defendants have distributed and sold Crossbody Bags in California. Defendants know  
2 and intend that California consumers will use and consume Crossbody Bags, thereby  
3 exposing them to DEHP. Further, Plaintiff is  
4 informed, believes, and thereon alleges that Defendants are selling Crossbody Bags  
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 Crossbody Bags or knowingly  
7 caused DEHP to be created in Crossbody Bags; have covered, obscured or altered a  
8 warning label that has been affixed to Crossbody Bags by the manufacturer, producer,  
9 packager, importer, supplier or distributor of Crossbody Bags; have received a notice and  
10 warning materials for exposure from Crossbody Bags without conspicuously posting or  
11 displaying the warning materials; and/or have actual knowledge of potential exposure to  
12 DEHP from Crossbody Bags. Defendants thereby violated Proposition 65.

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

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

25 32. 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.

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1 33. 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 Crossbody Bags, pursuant to  
3 Health and Safety Code Section 25249.7(b).

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

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7 **SECOND CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 11-  
9 20 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 II**

12 35. Plaintiff repeats and incorporates by reference paragraphs 1 through 34 of this complaint  
13 as though fully set forth herein.

14 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
15 distributor, promoter, or retailer of Handbags with PVC Components (“Handbags”),  
16 including but not limited to: Orange Box Purse; "Olivia Miller Handbags"; "Style # OS-  
17 009B"; "SKU 400209900451"; "6 57486 54738 5"; "Made in China".

18 37. Handbags contains DEHP.

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

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

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

9 informed, believes, and thereon alleges that Defendants are selling Handbags under a  
10 brand or trademark that is owned or licensed by the Defendants or an entity affiliated  
11 thereto; have knowingly introduced DEHP into Handbags or knowingly caused DEHP to  
12 be created in Handbags; have covered, obscured or altered a warning label that has been  
13 affixed to Handbags by the manufacturer, producer, packager, importer, supplier or  
14 distributor of Handbags; have received a notice and warning materials for exposure from  
15 Handbags without conspicuously posting or displaying the warning materials; and/or  
16 have actual knowledge of potential exposure to DEHP from Handbags. Defendants  
17 thereby violated Proposition 65.

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

24 42. 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  
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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 43. 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 44. 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 45. 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 and DOES 21-**  
13 **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 **Fashion Accessories III**

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

18 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Handbags with PVC Components (“Handbags II”),  
20 including but not limited to: Black and Clear Plastic Handbag with Brown Handle.  
21 "Alyssa Los Angeles, New York, Milan"; "BS-5060 BK/BR"; "ALS00168"; "1 506000  
22 002017"; "Made in China"

23 48. Handbags II contains DEHP.

24 49. 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 Handbags II within Plaintiff's notice of alleged violations  
28 further discussed above at Paragraph 18c.

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

7 51. Plaintiff is informed, believes, and thereon alleges that between August 11, 2017 and the  
8 present, each of the Defendants knowingly and intentionally exposed California  
9 consumers and users of Handbags 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 Handbags II in California. Defendants know and  
13 intend that California consumers will use and consume Handbags II, thereby exposing  
14 them to DEHP. Further, Plaintiff is  
15 informed, believes, and thereon alleges that Defendants are selling Handbags II under a  
16 brand or trademark that is owned or licensed by the Defendants or an entity affiliated  
17 thereto; have knowingly introduced DEHP into Handbags II or knowingly caused DEHP  
18 to be created in Handbags II; have covered, obscured or altered a warning label that has  
19 been affixed to Handbags II by the manufacturer, producer, packager, importer, supplier  
20 or distributor of Handbags II; have received a notice and warning materials for exposure  
21 from Handbags II without conspicuously posting or displaying the warning materials;  
22 and/or have actual knowledge of potential exposure to DEHP from Handbags II.  
23 Defendants thereby violated Proposition 65.

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

3 53. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
4 Proposition 65 as to Handbags 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 Handbags II, so that a separate and distinct violation of Proposition 65 occurred each and  
8 every time a person was exposed to DEHP by Handbags II as mentioned herein.

9 54. 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 55. 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 Handbags II, pursuant to  
14 Health and Safety Code Section 25249.7(b).

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

#### 17 **FOURTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 31-**  
19 **40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
20 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

#### 21 **Women's Accessories**

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

24 58. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
25 distributor, promoter, or retailer of Wallets with PVC Components ("Wallets"),  
26 including but not limited to: • Maroon Wallet; "IMO Accessories"; "imoshionusa.com";  
27 "PO# 1184"; "Style:750006"; "Color: Wine"; "SKU 400208642574"

28 59. Wallets contains DEHP.

1 60. 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 toxicity and therefore  
3 was subject to Proposition 65 warning requirements. Defendants were also informed of  
4 the presence of DEHP in Wallets within Plaintiff's notice of alleged violations further  
5 discussed above at Paragraph 18d.

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

12 62. Plaintiff is informed, believes, and thereon alleges that between November 20, 2017 and  
13 the present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of Wallets, which Defendants manufactured, distributed, or sold as  
15 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 Wallets in California. Defendants know and intend that California  
18 consumers will use and consume Wallets, thereby exposing them to DEHP. Further,  
19 Plaintiff is  
20 informed, believes, and thereon alleges that Defendants are selling Wallets under a brand  
21 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;  
22 have knowingly introduced DEHP into Wallets or knowingly caused DEHP to be created  
23 in Wallets; have covered, obscured or altered a warning label that has been affixed to  
24 Wallets by the manufacturer, producer, packager, importer, supplier or distributor of  
25 Wallets; have received a notice and warning materials for exposure from Wallets without  
26 conspicuously posting or displaying the warning materials; and/or have actual

1 knowledge of potential exposure to DEHP from Wallets. Defendants thereby violated  
2 Proposition 65.

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

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

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

18 66. Based on the allegations herein, Defendants are liable for civil penalties of up to  
19 \$2,500.00 per day per individual exposure to DEHP from Wallets, pursuant to Health  
20 and Safety Code Section 25249.7(b).

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

23 **FIFTH CAUSE OF ACTION**

24 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 41-**  
25 **50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
26 **Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

27 **Sandals**



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

3 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Children's Sandals ("Sandals"), including but not  
5 limited to: • Silver Sandals with Rainbow Star Confetti; "Kensiegirl"; "Silver Confetti  
6 ST"; "6"; "Silver007"; "D5211 C940 19 Girls Shoes" "SKU 400209629819"

7 70. Sandals contains DEHP.

8 71. 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 toxicity and therefore  
10 was subject to Proposition 65 warning requirements. Defendants were also informed of  
11 the presence of DEHP in Sandals within Plaintiff's notice of alleged violations further  
12 discussed above at Paragraph 18e.

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

19 73. Plaintiff is informed, believes, and thereon alleges that between December 17, 2017 and  
20 the present, each of the Defendants knowingly and intentionally exposed California  
21 consumers and users of Sandals, which Defendants manufactured, distributed, or sold as  
22 mentioned above, to DEHP, without first providing any type of clear and reasonable  
23 warning of such to the exposed persons before the time of exposure. Defendants have  
24 distributed and sold Sandals in California. Defendants know and intend that California  
25 consumers will use and consume Sandals, thereby exposing them to DEHP. Further,  
26 Plaintiff is

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

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

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

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

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

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

3  
4 **SIXTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS and DOES 51-  
6 60 for Violations of Proposition 65, The Safe Drinking Water and Toxic  
7 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

8 **Fashion Accessories IV**

9 79. Plaintiff repeats and incorporates by reference paragraphs 1 through 78 of this complaint  
10 as though fully set forth herein.

11 80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
12 distributor, promoter, or retailer of Backpack including but not limited to: Brown plaid  
13 print backpack with black straps; "BLACK001"; "D5503 C6526 14 BACKPACKS";  
14 "SKU 400207267907" 'R BK SIG DOME FLAP"

15 81. Backpack contains DINP.

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

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

27 84. Plaintiff is informed, believes, and thereon alleges that between December 24, 2017 and  
28 the present, each of the Defendants knowingly and intentionally exposed California  
consumers and users of Backpack, which Defendants manufactured, distributed, or sold

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

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

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

1 87. 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 88. 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 Backpack, pursuant to Health  
6 and Safety Code Section 25249.7(b).

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

9 **PRAYER FOR RELIEF**

10 Plaintiff demands against each of the Defendants as follows:

11 90. A permanent injunction mandating Proposition 65-compliant warnings;

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

13 92. Costs of suit;

14 93. Reasonable attorney fees and costs; and

15 94. Any further relief that the court may deem just and equitable.

16  
17 Dated: June 24, 2021

YEROUSHALMI & YEROUSHALMI\*

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21 Reuben Yeroushalmi  
22 Attorneys for Plaintiff,  
23 CONSUMER ADVOCACY GROUP, INC.  
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