

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: William Fahey

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Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

THE TJX COMPANIES, INC., a Delaware
Corporation;
and DOES 1-60,

Defendants.

CASE NO. **21STCV24079**

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges seven causes of action
against defendants THE TJX COMPANIES, INC., and DOES 1-60 as follows:

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

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

- 3 2. Defendant THE TJX COMPANIES, INC. (“TJX”) is a Delaware Corporation doing
4 business in the State of California at all relevant times herein.
- 5 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,
6 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
7 Complaint to allege their true names and capacities when ascertained. Plaintiff is
8 informed, believes, and thereon alleges that each fictitiously named defendant is
9 responsible in some manner for the occurrences herein alleged and the damages caused
10 thereby.
- 11 4. At all times mentioned herein, the term “Defendants” includes TJX, and DOES 1-60.
- 12 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
13 times mentioned herein have conducted business within the State of California.
- 14 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
15 including DOES 1-60, was an agent, servant, or employee of each of the other
16 Defendants. In conducting the activities alleged in this Complaint, each of the
17 Defendants was acting within the course and scope of this agency, service, or
18 employment, and was acting with the consent, permission, and authorization of each of
19 the other Defendants. All actions of each of the Defendants alleged in this Complaint
20 were ratified and approved by every other Defendant or their officers or managing
21 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
22 alleged wrongful conduct of each of the other Defendants.
- 23 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
24 Defendants was a person doing business within the meaning of Health and Safety Code
25 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
26 employees at all relevant times.

27 **JURISDICTION**

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

18 **BACKGROUND AND PRELIMINARY FACTS**

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

- 1 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
2 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
3 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
4 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
5 other controls that apply to Proposition 65-listed chemicals.
- 6 13. All businesses with ten (10) or more employees that operate or sell products in California
7 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
8 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
9 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
10 reasonable” warnings before exposing a person, knowingly and intentionally, to a
11 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 12 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
13 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
14 25249.7. "Threaten to violate" means "to create a condition in which there is a
15 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
16 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
17 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 18 15. Plaintiff identified certain practices of manufacturers and distributors of consumer
19 products of exposing, knowingly and intentionally, persons in California to Bis (2-
20 ehtylhexyl) phthalate and Diisononyl Phthalate of such products without first providing
21 clear and reasonable warnings of such to the exposed persons prior to the time of
22 exposure. Plaintiff later discerned that Defendants engaged in such practice.
- 23 16. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis
24 (2-ehtylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause
25 cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor
26 added DEHP to the list of chemicals known to the State to cause developmental male
27 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and
28

1 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP
2 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became
3 fully subject to Proposition 65 warning requirements and discharge prohibitions.

4 17. On December 20, 2013, the Governor of California added Diisononyl Phthalate
5 (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit.*
6 *27, § 27001(b)*). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
7 twenty (20) months after addition of DINP to the list of chemicals known to the State to
8 cause cancer, DINP became fully subject to Proposition 65 warning requirements and
9 discharge prohibitions.

10 **SATISFACTION OF PRIOR NOTICE**

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

- 13 a. On or about January 20, 2021, Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to THE TJX COMPANIES, INC., and to
16 the California Attorney General, County District Attorneys, and City Attorneys
17 for each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Vanity Case.
- 19 b. On or about August 18, 2020, Plaintiff gave notice of alleged violations of
20 Health and Safety Code Section 25249.6, concerning consumer products
21 exposures subject to a private action to THE TJX COMPANIES, INC., and to
22 the California Attorney General, County District Attorneys, and City Attorneys
23 for each city containing a population of at least 750,000 people in whose
24 jurisdictions the violations allegedly occurred, concerning the Pencil Case with
25 PVC Components.
- 26 c. On or about October 28, 2020, Plaintiff gave notice of alleged violations of
27 Health and Safety Code Section 25249.6, concerning consumer products
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1 exposures subject to a private action to THE TJX COMPANIES, INC., and to
2 the California Attorney General, County District Attorneys, and City Attorneys
3 for each city containing a population of at least 750,000 people in whose
4 jurisdictions the violations allegedly occurred, concerning the Crossbody Bag
5 with PVC Components.

6 d. On or about December 10, 2020, Plaintiff gave notice of alleged violations of
7 Health and Safety Code Section 25249.6, concerning consumer products
8 exposures subject to a private action to THE TJX COMPANIES, INC., and to
9 the California Attorney General, County District Attorneys, and City Attorneys
10 for each city containing a population of at least 750,000 people in whose
11 jurisdictions the violations allegedly occurred, concerning the Duffel Bag with
12 PVC Components.

13 e. On or about February 25, 2021, Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to THE TJX COMPANIES, INC., and to
16 the California Attorney General, County District Attorneys, and City Attorneys
17 for each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Foam Floor Tiles.

19 f. On or about December 10, 2020, Plaintiff gave notice of alleged violations of
20 Health and Safety Code Section 25249.6, concerning consumer products
21 exposures subject to a private action to THE TJX COMPANIES, INC., and to
22 the California Attorney General, County District Attorneys, and City Attorneys
23 for each city containing a population of at least 750,000 people in whose
24 jurisdictions the violations allegedly occurred, concerning the ID Wallet.

25 g. On or about December 24, 2020, 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 THE TJX COMPANIES, INC., and to
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1 the California Attorney General, County District Attorneys, and City Attorneys
2 for each city containing a population of at least 750,000 people in whose
3 jurisdictions the violations allegedly occurred, concerning the Pencil Case.

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

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

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

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

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

27
28 **FIRST CAUSE OF ACTION**

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

5 **Beauty 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 Vanity Case (“Vanity Case”), including but not
10 limited to “Silver Metallic/Holographic Vanity Case; “Impressions Vanity
11 Company”; “Storage Organi 160989”; “CAT 5455 STYLE 16089”; NO UPC

12 26. Vanity Case 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 therefore was subject to Proposition
15 65 warning requirements. Defendants were also informed of the presence of DEHP in
16 Vanity Case within Plaintiff’s notice of alleged violations further discussed above at
17 Paragraph 18a.

18 28. Plaintiff’s allegations regarding Vanity Case 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). Vanity Case is a consumer product, and, as mentioned herein, exposures to
23 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 January 20, 2018 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Vanity Case, 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 Vanity Case in California. Defendants know and
2 intend that California consumers will use and consume Vanity Case, thereby exposing
3 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
4 Defendants are selling Product under a brand or trademark that is owned or licensed by
5 the Defendants or an entity affiliated thereto; have knowingly introduced DEHP into
6 product or knowingly caused DEHP to be created in Vanity Case; have covered,
7 obscured or altered a warning label that has been affixed to Vanity Case by the
8 manufacturer, producer, packager, importer, supplier or distributor of Vanity Case have
9 received a notice and warning materials for exposure from Vanity Case without
10 conspicuously posting or displaying the warning materials; and/or have actual
11 knowledge of potential exposure to DEHP from Vanity Case. Defendants thereby
12 violated Proposition 65.

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

19 31. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
20 Proposition 65 as to Vanity Case 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 Vanity
23 Case, so that a separate and distinct violation of Proposition 65 occurred each and every
24 time a person was exposed to DEHP by Vanity Case 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.
28

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 Vanity Case, 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.

6
7 **SECOND CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against THE TJX**
9 **COMPANIES, INC., and DOES 11-20 for Violations of Proposition 65, The Safe**
10 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
11 ***25249.5, et seq.*)**

12 **Organizational Accessories**

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

15 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Pencil Case with PVC Components (“Pencil Case”),
17 including but not limited to Palm Print Pencil Case; “Danielle ® Creations”; “Pencil
18 Case”; “Petit Trousse”; “D7239PP”; “0 64323 29139 2”; “Made in China.”

19 37. Pencil Case with PVC Components contains DEHP.

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

25 39. Plaintiff’s allegations regarding Pencil Case with PVC Components concerns
26 “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s
27 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
28 consumer good, or any exposure that results from receiving a consumer service.” *Cal.*
Code Regs. tit. 27, § 25602(b). Pencil Case with PVC Components is a consumer

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

3 40. Plaintiff is informed, believes, and thereon alleges that between August 18, 2017 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Pencil Case with PVC Components, which Defendants
6 manufactured, distributed, or sold as mentioned above, to DEHP, without first providing
7 any type of clear and reasonable warning of such to the exposed persons before the time
8 of exposure. Defendants have distributed and sold Pencil Case with PVC Components in
9 California. Defendants know and intend that California consumers will use and consume
10 Pencil Case with PVC Components, thereby exposing them to DEHP. Further, Plaintiff
11 is informed, believes, and thereon alleges that Defendants are selling Pencil Case with
12 PVC Components under a brand or trademark that is owned or licensed by the
13 Defendants or an entity affiliated thereto; have knowingly introduced DEHP into Pencil
14 Case with PVC Components or knowingly caused DEHP to be created in Pencil Case
15 with PVC Components; have covered, obscured or altered a warning label that has been
16 affixed to Pencil Case with PVC Components by the manufacturer, producer, packager,
17 importer, supplier or distributor of Pencil Case with PVC Components; have received a
18 notice and warning materials for exposure from Pencil Case with PVC Components
19 without conspicuously posting or displaying the warning materials; and/or have actual
20 knowledge of potential exposure to DEHP from Pencil Case with PVC Components.
21 Defendants thereby violated Proposition 65.

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

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

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

11 44. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DEHP from Pencil Case with PVC
13 Components, pursuant to Health and Safety Code Section 25249.7(b).

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

16 **THIRD CAUSE OF ACTION**

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

21 **Fashion Accessories**

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

24 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Crossbody Bag with PVC Components ("Crossbody
26 Bag"), including but not limited to Black Crossbody Bag "Mellow World®";
27 www.mellowhandbags.com; "UPC 6 14405 83998 3"; "HB20611-Black";

1 “Designed in the U.S.A”; “1219-095989031-001499-09-2”; “1981–8185—
2 824677—81.”

3 48. Crossbody Bag with PVC Components contains DEHP.

4 49. Defendants knew or should have known that DEHP has been identified by the State of
5 California as a chemical known to cause cancer and reproductive toxicity and therefore
6 was subject to Proposition 65 warning requirements. Defendants were also informed of
7 the presence of DEHP in Crossbody Bag with PVC Components within Plaintiff’s notice
8 of alleged violations further discussed above at Paragraph 18c.

9 50. Plaintiff’s allegations regarding Crossbody Bag with PVC Components concerns
10 “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s
11 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
12 consumer good, or any exposure that results from receiving a consumer service.” *Cal.*
13 *Code Regs.* tit. 27, § 25602(b). Crossbody Bag with PVC Components is a consumer
14 product, and, as mentioned herein, exposures to DEHP took place as a result of such
15 normal and foreseeable consumption and use.

16 51. Plaintiff is informed, believes, and thereon alleges that between October 28, 2017 and
17 the present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Crossbody Bag with PVC Components, which Defendants
19 manufactured, distributed, or sold as mentioned above, to DEHP, without first providing
20 any type of clear and reasonable warning of such to the exposed persons before the time
21 of exposure. Defendants have distributed and sold Crossbody Bag with PVC
22 Components in California. Defendants know and intend that California consumers will
23 use and consume Crossbody Bag with PVC Components, thereby exposing them to
24 DEHP. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are
25 selling Crossbody Bag with PVC Components under a brand or trademark that is owned
26 or licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
27 DEHP into Crossbody Bag with PVC Components or knowingly caused DEHP to be
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1 created in Crossbody Bag with PVC Components; have covered, obscured or altered a
2 warning label that has been affixed to Crossbody Bag with PVC Components by the
3 manufacturer, producer, packager, importer, supplier or distributor of Crossbody Bag
4 with PVC Components; have received a notice and warning materials for exposure from
5 Crossbody Bag with PVC Components without conspicuously posting or displaying the
6 warning materials; and/or have actual knowledge of potential exposure to DEHP from
7 Crossbody Bag with PVC Components. Defendants thereby violated Proposition 65.

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

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

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

24 55. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DEHP from Crossbody Bag with PVC
26 Components, pursuant to Health and Safety Code Section 25249.7(b).

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1 56. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.
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4 **FOURTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against THE TJX**
6 **COMPANIES, INC., and DOES 31-40 for Violations of Proposition 65, The Safe**
7 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
8 **25249.5, *et seq.*))**

9 **Fashion Accessories**

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

12 58. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
13 distributor, promoter, or retailer of Duffel Bag with PVC Components (“Duffel Bag”),
14 including but not limited to Rainbow Purple Beaded Duffel Bag; “Delias L519185-
15 ONE-091019”; “RN# 164597”; “UPC 8 10026 19470 2”; “Made in China”;
16 “SKU 1272-097005168-000999-10-2.”

17 59. Duffel Bag with PVC Components contains DEHP.

18 60. Defendants knew or should have known that DEHP has been identified by the State of
19 California as a chemical known to cause cancer and reproductive toxicity and therefore
20 was subject to Proposition 65 warning requirements. Defendants were also informed of
21 the presence of DEHP in Duffel Bag with PVC Components within Plaintiff’s notice of
22 alleged violations further discussed above at Paragraph 18d.

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

3 62. Plaintiff is informed, believes, and thereon alleges that between December 10, 2017 and
4 the present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Duffel Bag with PVC Components, which Defendants
6 manufactured, distributed, or sold as mentioned above, to DEHP, without first providing
7 any type of clear and reasonable warning of such to the exposed persons before the time
8 of exposure. Defendants have distributed and sold Duffel Bag with PVC Components in
9 California. Defendants know and intend that California consumers will use and consume
10 Duffel Bag with PVC Components, thereby exposing them to DEHP. Further, Plaintiff is
11 informed, believes, and thereon alleges that Defendants are selling Duffel Bag with PVC
12 Components under a brand or trademark that is owned or licensed by the Defendants or
13 an entity affiliated thereto; have knowingly introduced DEHP into Duffel Bag with PVC
14 Components or knowingly caused DEHP to be created in Duffel Bag with PVC
15 Components; have covered, obscured or altered a warning label that has been affixed to
16 Duffel Bag with PVC Components by the manufacturer, producer, packager, importer,
17 supplier or distributor of Duffel Bag with PVC Components; have received a notice and
18 warning materials for exposure from Duffel Bag with PVC Components without
19 conspicuously posting or displaying the warning materials; and/or have actual
20 knowledge of potential exposure to DEHP from Duffel Bag with PVC Components.
21 Defendants thereby violated Proposition 65.

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

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

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

11 66. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to DEHP from Duffel Bag with PVC
13 Components, pursuant to Health and Safety Code Section 25249.7(b).

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

16 **FIFTH CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against THE TJX**
18 **COMPANIES, INC., and DOES 41-50 for Violations of Proposition 65, The Safe**
19 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
20 ***25249.5, et seq.*))**

21 **Children's Toys**

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

24 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Foam Floor Tiles ("Floor Tiles"), including but not
26 limited to "Nuby"; "Foam Floor Tiles"; "0+m"; "20 Piece Set"; "Manufactured in
27 China"; "120177"; "UPC 8 75376 00968 7"; "D110118C NM"; "SKU 1272-
28 092270002-001999-03-02."

1 70. Foam Floor Tiles contains DINP.

2 71. Defendants knew or should have known that DINP has been identified by the State of
3 California as a chemical known to cause cancer and therefore was subject to Proposition
4 65 warning requirements. Defendants were also informed of the presence of DINP in
5 Foam Floor Tiles within Plaintiff's notice of alleged violations further discussed above at
6 Paragraph 18e.

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

13 73. Plaintiff is informed, believes, and thereon alleges that between February 25, 2018 and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Foam Floor Tiles, which Defendants manufactured, distributed,
16 or sold as mentioned above, to DINP, without first providing any type of clear and
17 reasonable warning of such to the exposed persons before the time of exposure.

18 Defendants have distributed and sold Foam Floor Tiles in California. Defendants know
19 and intend that California consumers will use and consume Foam Floor Tiles, thereby
20 exposing them to DINP. Further, Plaintiff is informed, believes, and thereon alleges that
21 Defendants are selling Product under a brand or trademark that is owned or licensed by
22 the Defendants or an entity affiliated thereto; have knowingly introduced DINP into
23 product or knowingly caused DINP to be created in Foam Floor Tiles; have covered,
24 obscured or altered a warning label that has been affixed to Foam Floor Tiles by the
25 manufacturer, producer, packager, importer, supplier or distributor of Foam Floor Tiles
26 have received a notice and warning materials for exposure from Foam Floor Tiles
27 without conspicuously posting or displaying the warning materials; and/or have actual
28

1 knowledge of potential exposure to DINP from Foam Floor Tiles. Defendants thereby
2 violated Proposition 65.

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

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

15 76. 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 77. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to DINP from Foam Floor Tiles, pursuant to
20 Health and Safety Code Section 25249.7(b).

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

23 **SIXTH CAUSE OF ACTION**

24 **(By CONSUMER ADVOCACY GROUP, INC. and against THE TJX**
25 **COMPANIES, INC., and DOES 51-60 for Violations of Proposition 65, The Safe**
26 **Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§**
25249.5, et seq.))

27 **Accessories**

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

4 80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of ID Wallet (“Wallet”), including but not limited to
6 “Make Muscles Not Excuses”; “Mona B Handbags & Accessories”; “No
7 Excuses”; :M-5460”; “Be Fearlessly Authentic Mona-B.com”; “UPC 8 42040
8 11746 7.”

9 81. ID Wallet contains DINP.

10 82. Defendants knew or should have known that DINP has been identified by the State of
11 California as a chemical known to cause cancer and therefore was subject to Proposition
12 65 warning requirements. Defendants were also informed of the presence of DINP in ID
13 Wallet within Plaintiff’s notice of alleged violations further discussed above at Paragraph
14 18f.

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

21 84. Plaintiff is informed, believes, and thereon alleges that between December 10, 2017 and
22 the present, each of the Defendants knowingly and intentionally exposed California
23 consumers and users of ID Wallet, which Defendants manufactured, distributed, or sold
24 as mentioned above, to DINP, without first providing any type of clear and reasonable
25 warning of such to the exposed persons before the time of exposure. Defendants have
26 distributed and sold ID Wallet in California. Defendants know and intend that California
27 consumers will use and consume ID Wallet, thereby exposing them to DINP. Further,
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1 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Product
2 under a brand or trademark that is owned or licensed by the Defendants or an entity
3 affiliated thereto; have knowingly introduced DINP into product or knowingly caused
4 DINP to be created in ID Wallet; have covered, obscured or altered a warning label that
5 has been affixed to ID Wallet by the manufacturer, producer, packager, importer,
6 supplier or distributor of ID Wallet have received a notice and warning materials for
7 exposure from ID Wallet without conspicuously posting or displaying the warning
8 materials; and/or have actual knowledge of potential exposure to DINP from ID Wallet.
9 Defendants thereby violated Proposition 65.

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

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

22 87. 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 88. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DINP from ID Wallet, pursuant to Health
27 and Safety Code Section 25249.7(b).

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

3 **PRAYER FOR RELIEF**

4 Plaintiff demands against each of the Defendants as follows:

- 5 90. A permanent injunction mandating Proposition 65-compliant warnings;
6 91. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
7 92. Costs of suit;
8 93. Reasonable attorney fees and costs; and
9 94. Any further relief that the court may deem just and equitable.

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11 Dated: June 29, 2021

YEROUSHALMI & YEROUSHALMI*

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14 _____
15 Reuben Yeroushalmi
16 Attorneys for Plaintiff,
17 CONSUMER ADVOCACY GROUP, INC.
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