

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: Jill Feeney

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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.

WALMART INC., a Delaware Corporation;
WAL-MART.COM INC., a Delaware
Corporation; and
LANDAU UNIFORMS, INCORPORATED,
a Mississippi Corporation;
JFC INTERNATIONAL, INC., a California
Corporation;
and DOES 1-70,

Defendants.

CASE NO. **22STCV21493**

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 seventeen causes of action
against defendants WALMART INC.; WAL-MART.COM INC.; LANDAU UNIFORMS,
INCORPORATED; JFC INTERNATIONAL, INC., and DOES 1-70 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 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 WALMART, INC., (“WALMART INC.”) is a Delaware Corporation doing business in the State of California at all relevant times herein.
3. Defendant WAL-MART.COM, INC., (“WAL-MART.COM”) is a Delaware Corporation doing business in the State of California at all relevant times herein.
4. Defendant LANDAU UNIFORMS, INCORPORATED (“LANDAU”) is a Mississippi Corporation doing business in the State of California at all relevant times herein.
5. Defendant JFC INTERNATIONAL, INC. (“JFC”) is a California Corporation qualified to do business in California and doing business in the State of California at all relevant times herein.
6. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-70, 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.
7. At all times mentioned herein, the term “Defendants” includes WALMART INC., WAL-MART.COM, LANDAU, JFC, and DOES 1-70.
8. 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.
9. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-70, was an agent, servant, or employee of each of the other

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

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

12 **JURISDICTION**

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

3 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

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

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

18. Plaintiff identified certain practices of manufacturers and distributors of consumer products, of exposing, knowingly and intentionally, persons in California to Bis (2-ethylhexyl) phthalate, Di-n-butyl Phthalate, Lead and Lead Compounds, Cadmium and Cadmium Compounds of such products without first providing clear and reasonable warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.
19. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP to the list of chemicals known to the State to cause reproductive toxicity, DEHP became fully subject to Proposition 65 warning requirements and discharge prohibitions.
20. On December 2, 2005, the Governor of California added Di-n-butyl Phthalate (“DBP”) to the list of chemicals known to the State to cause developmental, and reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). DBP is known to the State to cause developmental, female, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of DBP to the list of chemicals known to the State to cause reproductive toxicity, DBP became fully subject to Proposition 65 warning requirements and discharge prohibitions.
21. On October 1, 1992 the Governor of California added Lead and Lead Compounds (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to

1 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
2 discharge prohibitions.

3 22. On February 27, 1987, the Governor of California added Lead to the list of chemicals
4 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
5 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
6 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
7 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
8 the State to cause developmental and reproductive toxicity, Lead became fully subject to
9 Proposition 65 warning requirements and discharge prohibitions.

10 23. On October 1, 1987 the Governor of California added Cadmium and Cadmium
11 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
12 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections
13 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
14 chemicals known to the State to cause cancer, Cadmium became fully subject to
15 Proposition 65 warning requirements and discharge prohibitions.

16 24. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
17 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
18 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
19 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
20 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
21 to the State to cause developmental and reproductive toxicity, Cadmium became fully
22 subject to Proposition 65 warning requirements and discharge prohibitions.

23 **SATISFACTION OF PRIOR NOTICE**

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

- 26 a. On or about July 23, 2021, Plaintiff gave notice of alleged violations of Health
27 and Safety Code Section 25249.6, concerning consumer products exposures
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1 subject to a private action to WALMART, INC. 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 Flip Flops.

- 5 b. On or about August 20, 2021, 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 WALMART, INC. and to the California
8 Attorney General, County District Attorneys, and City Attorneys for each city
9 containing a population of at least 750,000 people in whose jurisdictions the
10 violations allegedly occurred, concerning the Jelly Totes with PVC
11 Components.
- 12 c. On or about August 27, 2021, Plaintiff gave notice of alleged violations of
13 Health and Safety Code Section 25249.6, concerning consumer products
14 exposures subject to a private action to WALMART, INC. and to the California
15 Attorney General, County District Attorneys, and City Attorneys for each city
16 containing a population of at least 750,000 people in whose jurisdictions the
17 violations allegedly occurred, concerning the Electronic Abs Stimulator.
- 18 d. On or about October 1, 2021, Plaintiff gave notice of alleged violations of
19 Health and Safety Code Section 25249.6, concerning consumer products
20 exposures subject to a private action to WALMART, INC., JFC
21 INTERNATIONAL, INC. and to the California Attorney General, County
22 District Attorneys, and City Attorneys for each city containing a population of at
23 least 750,000 people in whose jurisdictions the violations allegedly occurred,
24 concerning the Roasted Trevalli and Shredded Squid Seafood Snack.
- 25 e. On or about November 19, 2021, 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 WALMART, INC. and to the California
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1 Attorney General, County District Attorneys, and City Attorneys for each city
2 containing a population of at least 750,000 people in whose jurisdictions the
3 violations allegedly occurred, concerning the Dried Shrimp.

4 f. On or about December 23, 2021, Plaintiff gave notice of alleged violations of
5 Health and Safety Code Section 25249.6, concerning consumer products
6 exposures subject to a private action to WALMART, INC., WAL-MART.COM,
7 INC., LANDAU, and to the California Attorney General, County District
8 Attorneys, and City Attorneys for each city containing a population of at least
9 750,000 people in whose jurisdictions the violations allegedly occurred,
10 concerning the Clear PVC Tote Bag.

11 g. On or about December 23, 2021, 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 WALMART, INC. and to the California
14 Attorney General, County District Attorneys, and City Attorneys for each city
15 containing a population of at least 750,000 people in whose jurisdictions the
16 violations allegedly occurred, concerning the Toiletry Bag with Plastic
17 Components.

18 26. Before sending the notice of alleged violations, Plaintiff investigated the consumer
19 products involved, the likelihood that such products would cause users to suffer
20 significant exposures to DEHP, DBP, Lead and Lead Compounds, Cadmium and
21 Cadmium Compounds and the corporate structure of each of the Defendants.

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

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

8 29. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
9 gave notice of the alleged violations to WALMART INC., WAL-MART.COM,
10 LANDAU, JFC, and the public prosecutors referenced in Paragraph 25.

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

14
15 **FIRST CAUSE OF ACTION**

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

19 **Footwear**

20 31. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint
21 as though fully set forth herein.

22 32. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Flip Flops ("Flip Flops"), including but not limited to
24 Black Floral Flip Flops "Kuda Moda"; "Style No: Pamela - 165"; "M"; NO UPC
25 Pink Floral Flip Flops "Kuda Moda"; "Style No: Pamela - 165"; "M"; NO UPC.

26 33. Flip Flops contains DBP.

27 Defendants knew or should have known that DBP has been identified by the State of
28 California as a chemical known to cause developmental and reproductive toxicity and
therefore was subject to Proposition 65 warning requirements. Defendants were also

1 informed of the presence of DBP in Flip Flops within Plaintiff's notice of alleged
2 violations further discussed above at Paragraph 25a.

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

9 35. Plaintiff is informed, believes, and thereon alleges that between July 23, 2018 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Flip Flops, which Defendants manufactured, distributed, or sold
12 as mentioned above, to DBP, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold Flip Flops in California. Defendants know and intend that
15 California consumers will use and consume Flip Flops, thereby exposing them to DBP.
16 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
17 Flip Flops under a brand or trademark that is owned or licensed by the Defendants or an
18 entity affiliated thereto; have knowingly introduced DBP into Flip Flops or knowingly
19 caused DBP to be created in Flip Flops; have covered, obscured or altered a warning
20 label that has been affixed to Flip Flops by the manufacturer, producer, packager,
21 importer, supplier or distributor of Flip Flops; have received a notice and warning
22 materials for exposure from Flip Flops without conspicuously posting or displaying the
23 warning materials; and/or have actual knowledge of potential exposure to DBP from Flip
24 Flops. Defendants thereby violated Proposition 65.

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

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

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

39. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to DBP from Flip Flops, pursuant to Health and Safety Code Section 25249.7(b).

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

SECOND CAUSE OF ACTION

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

Handbag

41. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint as though fully set forth herein.

42. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Jelly Totes with PVC Components ("Jelly Totes") including but not limited to "Aktudy 2pcs/Set Transparent PVC Handbag Daisy Jelly

1 Totes PU Shoulder Bag (Pink)"; "P021042100565"; "383192.01"; "BXBA-XD-BO";
2 "00003"; "MC-3830-01"; "Made in China".

3 43. Jelly Totes contain DEHP.

4 44. 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 Jelly Totes within Plaintiff's notice of alleged violations further
8 discussed above at Paragraph 25b.

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

15 46. Plaintiff is informed, believes, and thereon alleges that between August 20, 2018 and the
16 present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Jelly Totes, which Defendants manufactured, distributed, or sold
18 as mentioned above, to DEHP, without first providing any type of clear and reasonable
19 warning of such to the exposed persons before the time of exposure. Defendants have
20 distributed and sold Jelly Totes in California. Defendants know and intend that
21 California consumers will use and consume Jelly Totes, thereby exposing them to
22 DEHP. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are
23 selling Jelly Totes under a brand or trademark that is owned or licensed by the
24 Defendants or an entity affiliated thereto; have knowingly introduced DEHP into Jelly
25 Totes or knowingly caused DEHP to be created in Jelly Totes; have covered, obscured or
26 altered a warning label that has been affixed to Jelly Totes by the manufacturer,
27 producer, packager, importer, supplier or distributor of Jelly Totes; have received a
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notice and warning materials for exposure from Jelly Totes without conspicuously posting or displaying the warning materials; and/or have actual knowledge of potential exposure to DEHP from Jelly Totes. Defendants thereby violated Proposition 65.

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

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

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

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

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

THIRD CAUSE OF ACTION

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

Workout Accessories

1 52. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint
2 as though fully set forth herein.

3 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Electronic Abs Stimulator (“Abs Stimulator”)
5 including but not limited to Blue Electronic Muscle Stimulator ; “Total Toner”; “TT-
6 MO”; “Made in China” ; “156-319-1205-1A.

7 54. Abs Stimulator contains DEHP.

8 55. 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 Abs Stimulator within Plaintiff’s notice of alleged violations
12 further discussed above at Paragraph 25c.

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

19 57. Plaintiff is informed, believes, and thereon alleges that between August 27, 2018 and the
20 present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of Abs Stimulator, which Defendants manufactured, distributed, or
22 sold as mentioned above, to DEHP, without first providing any type of clear and
23 reasonable warning of such to the exposed persons before the time of exposure.
24 Defendants have distributed and sold Abs Stimulator in California. Defendants know and
25 intend that California consumers will use and consume Abs Stimulator, thereby exposing
26 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
27 Defendants are selling Abs Stimulator under a brand or trademark that is owned or
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1 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
2 DEHP into Abs Stimulator or knowingly caused DEHP to be created in Abs Stimulator;
3 have covered, obscured or altered a warning label that has been affixed to Abs
4 Stimulator by the manufacturer, producer, packager, importer, supplier or distributor of
5 Abs Stimulator; have received a notice and warning materials for exposure from Abs
6 Stimulator without conspicuously posting or displaying the warning materials; and/or
7 have actual knowledge of potential exposure to DEHP from Abs Stimulator. Defendants
8 thereby violated Proposition 65.

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

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

21 60. 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 61. 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 Abs Stimulator, pursuant to
26 Health and Safety Code Section 25249.7(b).

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

3
4 **FOURTH CAUSE OF ACTION**

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

8 **Seafood Snacks**

9 63. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint
10 as though fully set forth herein.

11 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Roasted Trevalli and Shredded Squid Seafood Snack
13 (“Seafood Snack”) including but not limited to "Shinsen Aji Sozai"; "Roasted Trevalli
14 (Roast Koaji)"; "Net Wt. 2.64 oz (75g)"; "UPC 4 978576 285403"; "Product of Japan";
15 "Plain Natural Roasted Dried Squid"; "Dried Squid (Suyaki Atarime)"; "Seafood Snack
16 Suyaki Atarime Shredded Squid"; "Net Wt 1.41 oz (40g)"; "UPC 4 978576 285915";
17 "Product of Japan".

18 65. Seafood Snack contains Lead and Cadmium.

19 66. Defendants knew or should have known that Lead and Cadmium has been identified by
20 the State of California as a chemical known to cause cancer, developmental, and
21 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
22 Defendants were also informed of the presence of Lead and Cadmium in Seafood Snack
23 within Plaintiff's notice of alleged violations further discussed above at Paragraph 25d.

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

1 Lead and Cadmium took place as a result of such normal and foreseeable consumption
2 and use.

3 68. Plaintiff is informed, believes, and thereon alleges that between October 1, 2018 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Seafood Snack, which Defendants manufactured, distributed, or
6 sold as mentioned above, to Lead and Cadmium, without first providing any type of clear
7 and reasonable warning of such to the exposed persons before the time of exposure.
8 Defendants have distributed and sold Seafood Snack in California. Defendants know and
9 intend that California consumers will use and consume Seafood Snack, thereby exposing
10 them to Lead and Cadmium. Further, Plaintiff is informed, believes, and thereon alleges
11 that Defendants are selling Seafood Snack under a brand or trademark that is owned or
12 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
13 Lead and Cadmium into Seafood Snack or knowingly caused Lead and Cadmium to be
14 created in Seafood Snack; have covered, obscured or altered a warning label that has
15 been affixed to Seafood Snack by the manufacturer, producer, packager, importer,
16 supplier or distributor of Seafood Snack; have received a notice and warning materials
17 for exposure from Seafood Snack without conspicuously posting or displaying the
18 warning materials; and/or have actual knowledge of potential exposure to Lead and
19 Cadmium from Seafood Snack. Defendants thereby violated Proposition 65.

20 69. The principal routes of exposure are through dermal contact, ingestion and inhalation.
21 Persons sustain exposures by eating and consuming Seafood Snack, as well as through
22 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
23 particulate matter dispersed from Seafood Snack.

24 70. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
25 Proposition 65 as to Seafood Snack 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 Seafood
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Snack so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead and Cadmium by Seafood Snack as mentioned herein.

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

72. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to Lead and Cadmium from Seafood Snack pursuant to Health and Safety Code Section 25249.7(b).

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

FIFTH CAUSE OF ACTION

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

Dried Seafood

74. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint as though fully set forth herein.

75. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Shrimp ("Dried Shrimp") including but not limited to "Dried Shrimp"; "Net Wt. 5.29 oz (150g)"; "M.O. Food"; "UPC 1 95893 06519 6"; "Made in USA".

76. Dried Shrimp contains Lead.

77. Defendants knew or should have known that Lead has been identified by the State of California as a chemical known to cause cancer, developmental, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead in Dried Shrimp within Plaintiff's notice of alleged violations further discussed above at Paragraph 25e.

1 78. Plaintiff's allegations regarding Dried Shrimp 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). Dried Shrimp is consumer product, and, as mentioned herein, exposures to
6 Lead took place as a result of such normal and foreseeable consumption and use.

7 79. Plaintiff is informed, believes, and thereon alleges that between November 19, 2018, and
8 the present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Dried Shrimp, which Defendants manufactured, distributed, or
10 sold as mentioned above, to Lead, 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 Dried Shrimp in California. Defendants know and
13 intend that California consumers will use and consume Dried Shrimp thereby exposing
14 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
15 Defendants are selling Dried Shrimp under a brand or trademark that is owned or
16 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
17 Lead into Dried Shrimp or knowingly caused Lead to be created in Dried Shrimp; have
18 covered, obscured or altered a warning label that has been affixed to Dried Shrimp by the
19 manufacturer, producer, packager, importer, supplier or distributor of Dried Shrimp;
20 have received a notice and warning materials for exposure from Dried Shrimp without
21 conspicuously posting or displaying the warning materials; and/or have actual
22 knowledge of potential exposure to Lead from Dried Shrimp. Defendants thereby
23 violated Proposition 65.

24 80. The principal routes of exposure are through dermal contact, ingestion and inhalation.
25 Persons sustain exposures by eating and consuming Dried Shrimp, as well as through
26 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
27 particulate matter dispersed from Dried Shrimp.

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

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

10 83. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Lead from Dried Shrimp pursuant to Health
12 and Safety Code Section 25249.7(b).

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

15 **SIXTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART, INC.,**
17 **WAL-MART.COM, LANDAU, and DOES 51-60 for Violations of Proposition 65,**
18 **The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety***
Code, §§ 25249.5, et seq.))

19 **Women's Accessories**

20 85. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint
21 as though fully set forth herein.

22 86. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Clear PVC Tote ("Tote Bag"), including but not
24 limited to "Pink; Clear Plastic Tote; Get Loud; 1 Size; UPC 889507622874; Smitten"

25 87. Tote Bag contains DEHP.

26 88. Defendants knew or should have known that DEHP has been identified by the State of
27 California as a chemical known to cause cancer and reproductive toxicity and therefore
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1 was subject to Proposition 65 warning requirements. Defendants were also informed of
2 the presence of DEHP in Tote Bag within Plaintiff's notice of alleged violations further
3 discussed above at Paragraph 25f.

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

10 90. Plaintiff is informed, believes, and thereon alleges that between December 23, 2018 and
11 the present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Tote Bag, which Defendants manufactured, distributed, or sold
13 as mentioned above, to DEHP, without first providing any type of clear and reasonable
14 warning of such to the exposed persons before the time of exposure. Defendants have
15 distributed and sold Tote Bag in California. Defendants know and intend that California
16 consumers will use and consume Tote Bag, thereby exposing them to DEHP. Further,
17 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Tote Bag
18 under a brand or trademark that is owned or licensed by the Defendants or an entity
19 affiliated thereto; have knowingly introduced DEHP into Tote Bag or knowingly caused
20 DEHP to be created in Tote Bag; have covered, obscured or altered a warning label that
21 has been affixed to Tote Bag by the manufacturer, producer, packager, importer, supplier
22 or distributor of Tote Bag; have received a notice and warning materials for exposure
23 from Tote Bag without conspicuously posting or displaying the warning materials;
24 and/or have actual knowledge of potential exposure to DEHP from Tote Bag. Defendants
25 thereby violated Proposition 65.

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

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

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

14 94. Based on the allegations herein, Defendants are liable for civil penalties of up to
15 \$2,500.00 per day per individual exposure to DEHP from Tote Bag, pursuant to Health
16 and Safety Code Section 25249.7(b).

17 95. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
18 filing this Complaint.

19
20 **SEVENTH CAUSE OF ACTION**

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

24 **Travel Accessories**

25 96. Plaintiff repeats and incorporates by reference paragraphs 1 through 30 of this complaint
26 as though fully set forth herein.

27 97. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Toiletry Bag with Plastic Components ("Toiletry

1 Bag”) including but not limited to "Clear Plastic Toiletry Bags;" "Sea Team;"
2 "X00267FBP5;" "Made in China".

3 98. Toiletry Bag contains DEHP.

4 99. 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 Toiletry Bag within Plaintiff's notice of alleged violations
8 further discussed above at Paragraph 25g.

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

15 101. Plaintiff is informed, believes, and thereon alleges that between December 23, 2018,
16 and the present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Toiletry Bag, which Defendants manufactured, distributed, or
18 sold as mentioned above, to DEHP, without first providing any type of clear and
19 reasonable warning of such to the exposed persons before the time of exposure.
20 Defendants have distributed and sold Toiletry Bag in California. Defendants know and
21 intend that California consumers will use and consume Toiletry Bag thereby exposing
22 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
23 Defendants are selling Toiletry Bag under a brand or trademark that is owned or licensed
24 by the Defendants or an entity affiliated thereto; have knowingly introduced DEHP into
25 Toiletry Bag or knowingly caused DEHP to be created in Toiletry Bag; have covered,
26 obscured or altered a warning label that has been affixed to Toiletry Bag by the
27 manufacturer, producer, packager, importer, supplier or distributor of Toiletry Bag; have
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received a notice and warning materials for exposure from Toiletry Bag without conspicuously posting or displaying the warning materials; and/or have actual knowledge of potential exposure to DEHP from Toiletry Bag. Defendants thereby violated Proposition 65.

102. The principal routes of exposure are through dermal contact, ingestion and inhalation.

Persons sustain exposures by handling Toiletry Bag without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling Toiletry Bag as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed from Toiletry Bag.

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

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

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

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

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

1. A permanent injunction mandating Proposition 65-compliant warnings;

2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: July 1, 2022

YEROUSHALMI & YEROUSHALMI*

Reuben Yeroushalmi

Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.