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9 CONSUMER ADVOCACY GROUP, INC.

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County of Alameda
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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**

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

15 Plaintiff,

16 v.

17 WALMART, INC., a Delaware Corporation;
18 WAL-MART.COM USA, LLC, a Delaware
19 Corporation;
20 KANEYAMA TRADING LLC, a New
21 Jersey Limited Liability Company;
22 JANS ENTERPRISES CORPORATION, a
23 California Corporation;
24 B.C.S. INTERNATIONAL
25 CORPORATION, a New York Corporation;

26 and DOES 1-70,

27 Defendants.

CASE NO. 23CV034270

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)

28 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges seven causes of action
against defendants WALMART, INC., WAL-MART.COM USA, LLC, KANEYAMA

1 TRADING LLC; JANS ENTERPRISES CORPORATION; B.C.S. INTERNATIONAL
2 CORPORATION; and DOES 1-70 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
5 organization qualified to do business in the State of California. CAG is a person within
6 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
7 as a private attorney general, brings this action in the public interest as defined under
8 Health and Safety Code Section 25249.7, subdivision (d).
- 9 2. Defendant WALMART, INC. (“WALMART”) is a Delaware Corporation qualified to
10 do business in California and doing business in the State of California at all relevant
11 times herein.
- 12 3. Defendant WAL-MART.COM USA, LLC (“WALMART.COM”) is a Delaware
13 Corporation qualified to do business in California and doing business in the State of
14 California at all relevant times herein.
- 15 4. Defendant KANEYAMA TRADING LLC (“KANEYAMA”) is a New Jersey Limited
16 Liability Company doing business in the State of California at all relevant times herein.
- 17 5. Defendant JANS ENTERPRISES CORPORATION (“JANS”) is a California
18 Corporation qualified to do business in California and doing business in the State of
19 California at all relevant times herein.
- 20 6. Defendant B.C.S. INTERNATIONAL CORPORATION (“B.C.S.”) is a New York
21 Corporation doing business in the State of California at all relevant times herein.
- 22 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-70,
23 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
24 Complaint to allege their true names and capacities when ascertained. Plaintiff is
25 informed, believes, and thereon alleges that each fictitiously named defendant is
26 responsible in some manner for the occurrences herein alleged and the damages caused
27 thereby.

- 1 8. At all times mentioned herein, the term “Defendants” includes WALMART,
2 WALMART.COM, KANEYAMA, JANS, B.C.S. and DOES 1-70.
- 3 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
4 times mentioned herein have conducted business within the State of California.
- 5 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
6 including DOES 1-70, was an agent, servant, or employee of each of the other
7 Defendants. In conducting the activities alleged in this Complaint, each of the
8 Defendants was acting within the course and scope of this agency, service, or
9 employment, and was acting with the consent, permission, and authorization of each of
10 the other Defendants. All actions of each of the Defendants alleged in this Complaint
11 were ratified and approved by every other Defendant or their officers or managing
12 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
13 alleged wrongful conduct of each of the other Defendants.
- 14 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
15 Defendants was a person doing business within the meaning of Health and Safety Code
16 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
17 employees at all relevant times.

18 **JURISDICTION**

- 19 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
20 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
21 those given by statute to other trial courts. This Court has jurisdiction over this action
22 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
23 violations of Proposition 65 in any Court of competent jurisdiction.
- 24 13. This Court has jurisdiction over Defendants named herein because Defendants either
25 reside or are located in this State or are foreign corporations authorized to do business in
26 California, are registered with the California Secretary of State, or who do sufficient
27 business in California, have sufficient minimum contacts with California, or otherwise
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1 intentionally avail themselves of the markets within California through their
2 manufacture, distribution, promotion, marketing, or sale of their products within
3 California to render the exercise of jurisdiction by the California courts permissible
4 under traditional notions of fair play and substantial justice.

5 14. Venue is proper in the County of Alameda because one or more of the instances of
6 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or
7 because Defendants conducted, and continue to conduct, business in the County of
8 Alameda with respect to the consumer product that is the subject of this action.

9 **BACKGROUND AND PRELIMINARY FACTS**

10 15. In 1986, California voters approved an initiative to address growing concerns about
11 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
12 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
13 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
14 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
15 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
16 from contamination, to allow consumers to make informed choices about the products
17 they buy, and to enable persons to protect themselves from toxic chemicals as they see
18 fit.

19 16. Proposition 65 requires the Governor of California to publish a list of chemicals known
20 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
21 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
22 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
23 other controls that apply to Proposition 65-listed chemicals.

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

3 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
4 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
5 25249.7. "Threaten to violate" means "to create a condition in which there is a
6 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
7 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
8 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

9 19. Plaintiff identified certain practices of manufacturers and distributors of consumer
10 products of exposing, knowingly and intentionally, persons in California Diethyl Hexyl
11 Phthalate and Bis (2-ethylhexyl) phthalate, Diisononyl Phthalate, Lead and Lead
12 Compounds, Cadmium and Cadmium Compounds of such products without first
13 providing clear and reasonable warnings of such to the exposed persons prior to the time
14 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

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

23 21. On December 20, 2013, the Governor of California added Diisononyl Phthalate
24 (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
25 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
26 twenty (20) months after addition of DINP to the list of chemicals known to the State to
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1 cause cancer, DINP became fully subject to Proposition 65 warning requirements and
2 discharge prohibitions.

3 22. On October 1, 1992 the Governor of California added Lead and Lead Compounds
4 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
5 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
6 twenty (20) months after addition of Lead to the list of chemicals known to the State to
7 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
8 discharge prohibitions.

9 23. On February 27, 1987, the Governor of California added Lead to the list of chemicals
10 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
11 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
12 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
13 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
14 the State to cause developmental and reproductive toxicity, Lead became fully subject to
15 Proposition 65 warning requirements and discharge prohibitions.

16 24. On October 1, 1987 the Governor of California added Cadmium and Cadmium
17 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
18 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections
19 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
20 chemicals known to the State to cause cancer, Cadmium became fully subject to
21 Proposition 65 warning requirements and discharge prohibitions.

22 25. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
23 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
24 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
25 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
26 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
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1 to the State to cause developmental and reproductive toxicity, Cadmium became fully
2 subject to Proposition 65 warning requirements and discharge prohibitions.

3 **SATISFACTION OF PRIOR NOTICE**

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

- 6 a. On or about January 12, 2022, 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 WALMART, WALMART.COM,
9 KANEYAMA and to the California Attorney General, County District
10 Attorneys, and City Attorneys for each city containing a population of at least
11 750,000 people in whose jurisdictions the violations allegedly occurred,
12 concerning the Dried Nori Seaweed.
- 13 b. On or about February 16, 2022, 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 WALMART, KANEYAMA and to the
16 California Attorney General, County District Attorneys, and City Attorneys for
17 each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- 19 c. On or about March 28, 2022, 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 WALMART, JANS and to the California
22 Attorney General, County District Attorneys, and City Attorneys for each city
23 containing a population of at least 750,000 people in whose jurisdictions the
24 violations allegedly occurred, concerning the Cassava Chips.
- 25 d. On or about August 3, 2022, Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to WALMART, WALMART.COM and to the
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1 California Attorney General, County District Attorneys, and City Attorneys for
2 each city containing a population of at least 750,000 people in whose
3 jurisdictions the violations allegedly occurred, concerning the Stereo
4 Headphone.

5 e. On or about September 1, 2022, 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, WALMART.COM and to
8 the California Attorney General, County District Attorneys, and City Attorneys
9 for each city containing a population of at least 750,000 people in whose
10 jurisdictions the violations allegedly occurred, concerning the Crossbody Bags
11 with PVC Components.

12 f. On or about September 9, 2022, 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, WALMART.COM, B.C.S.
15 and to the California Attorney General, County District Attorneys, and City
16 Attorneys for each city containing a population of at least 750,000 people in
17 whose jurisdictions the violations allegedly occurred, concerning the Seaweed
18 Snacks with Teriyaki.

19 g. On or about February 21, 2023, 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 WALMART, WALMART.COM, 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 Stereo
25 Headphone.

26 27. Before sending the notice of alleged violations, Plaintiff investigated the consumer
27 products involved, the likelihood that such products would cause users to suffer
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1 significant exposures to DEHP, DINP, Lead, Cadmium, and the corporate structure of
2 each of the Defendants.

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

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

16 30. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
17 gave notice of the alleged violations to WALMART, WALMART.COM, KANEYAMA,
18 JANS, B.C.S., and the public prosecutors referenced in Paragraph 26.

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

22 **FIRST CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART,**
24 **WALMART.COM, KANEYAMA, and DOES 1-10 for Violations of Proposition**
25 **65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety***
Code, §§ 25249.5, et seq.))

26 **Seaweed I**

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

3 33. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Dried Nori Seaweed ("Seaweed"), including but not
5 limited to "Yaki-Sushi-Nori;" "Kaneyama;" "Premium Gold;" "100 Half Sheets;" "BBD
6 24.JUN.2022;" "Net Wt 4.9oz 140g;" "Distributed by: Kaneyama USA;" "Product of
7 Korea;" "UPC 6920146000556".

8 34. Seaweed contains Cadmium and Lead.

9 35. Defendants knew or should have known that Cadmium and Lead has been identified by
10 the State of California as a chemical known to cause cancer, and reproductive toxicity
11 and therefore was subject to Proposition 65 warning requirements. Defendants were also
12 informed of the presence of Cadmium and Lead in Seaweed within Plaintiff's notice of
13 alleged violations further discussed above at Paragraph 26a.

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

20 37. Plaintiff is informed, believes, and thereon alleges that between January 12, 2019 and the
21 present, each of the Defendants knowingly and intentionally exposed California
22 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as
23 mentioned above, to Cadmium and Lead, without first providing any type of clear and
24 reasonable warning of such to the exposed persons before the time of exposure.
25 Defendants have distributed and sold Seaweed in California. Defendants know and
26 intend that California consumers will use and consume Seaweed, thereby exposing them
27 to Cadmium and Lead. Further, Plaintiff is informed, believes, and thereon alleges that

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

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

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

21 40. 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 41. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to Cadmium and Lead from Seaweed,
26 pursuant to Health and Safety Code Section 25249.7(b).

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

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4 **SECOND CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART,**
6 **KANEYAMA, and DOES 11-20 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
10 **Seaweed II**

11 43. Plaintiff repeats and incorporates by reference paragraphs 1 through 42 of this complaint
12 as though fully set forth herein.

13 44. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Dried Seaweed ("Seaweed"), including but not
15 limited to "Supreme Gold Dried Seaweed;" "Yaki-Sushi-Nori;" "100 Half Sheets;"
16 "Kaneyama;" "Net Wt 5.6 oz 160 g;" "BBD MAR.04.2022;" "Distributed by Kaneyama
17 USA;" "Product of Korea;" "X002MQG2GH;" "UPC 8 55908 00699 5".

18 45. Seaweed contains Cadmium and Lead.

19 46. Defendants knew or should have known that Cadmium and Lead has been identified by
20 the State of California as a chemical known to cause cancer, and reproductive toxicity
21 and therefore was subject to Proposition 65 warning requirements. Defendants were also
22 informed of the presence of Cadmium and Lead in Seaweed within Plaintiff's notice of
23 alleged violations further discussed above at Paragraph 26b.

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

1 48. Plaintiff is informed, believes, and thereon alleges that between February 16, 2019 and
2 the present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Seaweed, which Defendants manufactured, distributed, or sold as
4 mentioned above, to Cadmium and Lead, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.

6 Defendants have distributed and sold Seaweed in California. Defendants know and
7 intend that California consumers will use and consume Seaweed, thereby exposing them
8 to Cadmium and Lead. Further, Plaintiff is informed, believes, and thereon alleges that
9 Defendants are selling Seaweed under a brand or trademark that is owned or licensed by
10 the Defendants or an entity affiliated thereto; have knowingly introduced Cadmium and
11 Lead into product or knowingly caused Cadmium and Lead to be created in Seaweed;
12 have covered, obscured or altered a warning label that has been affixed to Seaweed by
13 the manufacturer, producer, packager, importer, supplier or distributor of Seaweed; have
14 received a notice and warning materials for exposure from Seaweed without
15 conspicuously posting or displaying the warning materials; and/or have actual
16 knowledge of potential exposure to Cadmium and Lead from Seaweed. Defendants
17 thereby violated Proposition 65.

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

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

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

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

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

11 **THIRD CAUSE OF ACTION**

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

15 **Chips**

16 54. Plaintiff repeats and incorporates by reference paragraphs 1 through 53 of this complaint
17 as though fully set forth herein.

18 55. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Cassava Chips ("Chips"), including but not limited to
20 "Jans®;" "Cassava Chips Celery;" "Unbelievably Delicious;" "Net Wt. 3.52 oz (100g);"
21 "10.11.2021;" "MCR 08.20 MKA 510;" "Packed For: Jans Enterprises Corp.;" "Product
22 of Indonesia;" "UPC 8 38452 00581 2".

23 56. Chips contain Lead.

24 57. Defendants knew or should have known that Lead has been identified by the State of
25 California as a chemical known to cause cancer, and reproductive toxicity and therefore
26 was subject to Proposition 65 warning requirements. Defendants were also informed of
27 the presence of Lead in Chips within Plaintiff's notice of alleged violations further
28 discussed above at Paragraph 26c.

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

7 59. Plaintiff is informed, believes, and thereon alleges that between March 28, 2019 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Chips, which Defendants manufactured, distributed, or sold as
10 mentioned above, to Lead, without first providing any type of clear and reasonable
11 warning of such to the exposed persons before the time of exposure. Defendants have
12 distributed and sold Chips in California. Defendants know and intend that California
13 consumers will use and consume Chips, thereby exposing them to Lead. Further,
14 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Chips
15 under a brand or trademark that is owned or licensed by the Defendants or an entity
16 affiliated thereto; have knowingly introduced Lead into product or knowingly caused
17 Lead to be created in Chips; have covered, obscured or altered a warning label that has
18 been affixed to Chips by the manufacturer, producer, packager, importer, supplier or
19 distributor of Chips; have received a notice and warning materials for exposure from
20 Chips without conspicuously posting or displaying the warning materials; and/or have
21 actual knowledge of potential exposure to Lead from Chips. Defendants thereby
22 violated Proposition 65.

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

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

7 62. 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 63. 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 Chips, pursuant to Health and
12 Safety Code Section 25249.7(b).

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

15 **FOURTH CAUSE OF ACTION**

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

20 **Stereo Headphone**

21 65. Plaintiff repeats and incorporates by reference paragraphs 1 through 64 of this complaint
22 as though fully set forth herein.

23 66. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Stereo Headphone ("Headphone"), including but not
25 limited to "TSV Foldable Kids Over Ear Headphones"; "Color Fashion"; "Stereo
26 Headphones"; "EP05"; "Made in China"; "631661781914"; "UPC 6 931791 201106".

27 67. Headphone contains DINP.
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1 68. Defendants knew or should have known that DINP has been identified by the State of
2 California as a chemical known to cause cancer and therefore was subject to Proposition
3 65 warning requirements. Defendants were also informed of the presence of DINP in
4 Headphone within Plaintiff's notice of alleged violations further discussed above at
5 Paragraph 26d.

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

12 70. Plaintiff is informed, believes, and thereon alleges that between August 3, 2019 and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Headphone, which Defendants manufactured, distributed, or sold
15 as mentioned above, to DINP, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Headphone in California. Defendants know and intend that
18 California consumers will use and consume Headphone, thereby exposing them to DINP.
19 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
20 Headphone under a brand or trademark that is owned or licensed by the Defendants or an
21 entity affiliated thereto; have knowingly introduced DINP into product or knowingly
22 caused DINP to be created in Headphone; have covered, obscured or altered a warning
23 label that has been affixed to Headphone by the manufacturer, producer, packager,
24 importer, supplier or distributor of Headphone; have received a notice and warning
25 materials for exposure from Headphone without conspicuously posting or displaying the
26 warning materials; and/or have actual knowledge of potential exposure to DINP from
27 Headphone. Defendants thereby violated Proposition 65.

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

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

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

16 74. Based on the allegations herein, Defendants are liable for civil penalties of up to
17 \$2,500.00 per day per individual exposure to DINP from Headphone, pursuant to Health
18 and Safety Code Section 25249.7(b).

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

21 **FIFTH CAUSE OF ACTION**

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

26 **Fashion Accessories**

27 76. Plaintiff repeats and incorporates by reference paragraphs 1 through 75 of this complaint
28 as though fully set forth herein.

1 77. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Crossbody Bags with PVC Components ("Crossbody
3 Bags"), including but not limited to "TSV"; "Adjustable Clear Crossbody Bag"; "PVC
4 Transparent Backpack"; "Made in China"; "YDF02186519"; "H181640"
5 "TSV"; "Adjustable Clear Crossbody Bag"; "PVC Transparent Backpack"; "Made in
6 China"; "YDF02433458"; "H167320".

7 78. Crossbody Bags contain DINP.

8 79. Defendants knew or should have known that DINP has been identified by the State of
9 California as a chemical known to cause cancer and therefore was subject to Proposition
10 65 warning requirements. Defendants were also informed of the presence of DINP in
11 Crossbody Bags within Plaintiff's notice of alleged violations further discussed above at
12 Paragraph 26e.

13 80. Plaintiff's allegations regarding Crossbody Bags 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)*. Crossbody Bags are consumer products, and, as mentioned herein, exposures
18 to DINP took place as a result of such normal and foreseeable consumption and use.

19 81. Plaintiff is informed, believes, and thereon alleges that between September 1, 2019 and
20 the present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of Crossbody Bags, which Defendants manufactured, distributed, or
22 sold as mentioned above, to DINP, 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 Crossbody Bags in California. Defendants know
25 and intend that California consumers will use and consume Crossbody Bags, thereby
26 exposing them to DINP. Further, Plaintiff is informed, believes, and thereon alleges that
27 Defendants are selling Crossbody Bags 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 DINP into product or knowingly caused DINP to be created in Crossbody Bags; have
3 covered, obscured or altered a warning label that has been affixed to Crossbody Bags by
4 the manufacturer, producer, packager, importer, supplier or distributor of Crossbody
5 Bags; have received a notice and warning materials for exposure from Crossbody Bags
6 without conspicuously posting or displaying the warning materials; and/or have actual
7 knowledge of potential exposure to DINP from Crossbody Bags. Defendants thereby
8 violated Proposition 65.

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

15 83. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
16 Proposition 65 as to Crossbody Bags 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
19 Crossbody Bags, so that a separate and distinct violation of Proposition 65 occurred each
20 and every time a person was exposed to DINP by Crossbody Bags as mentioned herein.

21 84. 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 85. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DINP from Crossbody Bags, pursuant to
26 Health and Safety Code Section 25249.7(b).

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

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4 **SIXTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART,**
6 **WALMART.COM, B.C.S., and DOES 51-60 for Violations of Proposition 65, The**
7 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code,***
8 **§§ 25249.5, *et seq.*))**

9 **Seaweed III**

10 87. Plaintiff repeats and incorporates by reference paragraphs 1 through 86 of this complaint
11 as though fully set forth herein.

12 88. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
13 distributor, promoter, or retailer of Seaweed Snacks with Teriyaki ("Seaweed Snacks"),
14 including but not limited to "Sea Crunchy™"; "Seaweed Snacks with Teriyaki Flavor";
15 "Product of Korea"; "Net Wt. 0.35 oz (10 g)"; "Manufactured for IFONS Corp."; "UPC 8
16 05554 10165 0".

17 89. Seaweed Snacks contain Cadmium.

18 90. Defendants knew or should have known that Cadmium has been identified by the State
19 of California as a chemical known to cause cancer and reproductive toxicity therefore
20 was subject to Proposition 65 warning requirements. Defendants were also informed of
21 the presence of Cadmium in Seaweed Snacks within Plaintiff's notice of alleged
22 violations further discussed above at Paragraph 26f.

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

1 92. Plaintiff is informed, believes, and thereon alleges that between September 9, 2019 and
2 the present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Seaweed Snacks, which Defendants manufactured, distributed,
4 or sold as mentioned above, to Cadmium, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.

6 Defendants have distributed and sold Seaweed Snacks in California. Defendants know
7 and intend that California consumers will use and consume Seaweed Snacks, thereby
8 exposing them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges
9 that Defendants are selling Seaweed Snacks under a brand or trademark that is owned or
10 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
11 Cadmium into product or knowingly caused Cadmium to be created in Seaweed Snacks;
12 have covered, obscured or altered a warning label that has been affixed to Seaweed
13 Snacks by the manufacturer, producer, packager, importer, supplier or distributor of
14 Seaweed Snacks; have received a notice and warning materials for exposure from
15 Seaweed Snacks without conspicuously posting or displaying the warning materials;
16 and/or have actual knowledge of potential exposure to Cadmium from Seaweed Snacks.
17 Defendants thereby violated Proposition 65.

18 93. The principal routes of exposure are through ingestion. Persons sustain exposures by
19 eating and consuming Seaweed Snacks, as well as through direct and indirect hand to
20 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
21 from Seaweed Snacks.

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

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

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

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

11 **SEVENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against WALMART,**
13 **WALMART.COM and DOES 61-70 for Violations of Proposition 65, The Safe**
14 **Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§**
15 **25249.5, et seq.))**

16 **Electronic Accessories**

17 98. Plaintiff repeats and incorporates by reference paragraphs 1 through 97 of this complaint
18 as though fully set forth herein.

19 99. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Stereo Headphones, including but not limited to •
21 “TSV Foldable Kids Over Ear Headphones”; “Color Fashion”; “Stereo Headphones”;
22 “EP05”; “Made in China”; “631661781917”; “UPC 6 931791 201106”.

23 100. Stereo Headphones contain DEHP.

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

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

8 103. Plaintiff is informed, believes, and thereon alleges that between February 21, 2020 and
9 the present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Stereo Headphones, which Defendants manufactured,
11 distributed, or sold as mentioned above, to DEHP, without first providing any type of
12 clear and reasonable warning of such to the exposed persons before the time of exposure.
13 Defendants have distributed and sold Stereo Headphones in California. Defendants
14 know and intend that California consumers will use and consume Stereo Headphones,
15 thereby exposing them to DEHP. Further, Plaintiff is informed, believes, and thereon
16 alleges that Defendants are selling Stereo Headphones under a brand or trademark that is
17 owned or licensed by the Defendants or an entity affiliated thereto; have knowingly
18 introduced DEHP into product or knowingly caused DEHP to be created in Stereo
19 Headphones; have covered, obscured or altered a warning label that has been affixed to
20 Stereo Headphones by the manufacturer, producer, packager, importer, supplier or
21 distributor of Stereo Headphones; have received a notice and warning materials for
22 exposure from Stereo Headphones without conspicuously posting or displaying the
23 warning materials; and/or have actual knowledge of potential exposure to DEHP from
24 Stereo Headphones. Defendants thereby violated Proposition 65.

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

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

11 106. 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.

14 107. 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 Stereo Headphones, pursuant
16 to Health and Safety Code Section 25249.7(b).

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

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21 **PRAYER FOR RELIEF**

22 Plaintiff demands against each of the Defendants as follows:

23 109. A permanent injunction mandating Proposition 65-compliant warnings;

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

25 111. Costs of suit;

26 112. Reasonable attorney fees and costs; and

27 113. Any further relief that the court may deem just and equitable.

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1 Dated: May 24, 2023

YEROUSHALMI & YEROUSHALMI*

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4 *Reuben Yeroushalmi*

5 _____
6 Reuben Yeroushalmi
7 Attorneys for Plaintiff,
8 CONSUMER ADVOCACY GROUP, INC.
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