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8 Attorneys for Plaintiff,  
9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

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

14 Plaintiff,

15 v.

16 BURLINGTON COAT FACTORY  
17 WAREHOUSE CORPORATION, a  
18 Delaware Corporation;  
19 BURLINGTON COAT FACTORY DIRECT  
20 CORPORATION, a New Jersey Corporation;  
21 BURLINGTON COAT FACTORY OF  
22 CALIFORNIA, LLC, a California Limited  
23 Liability Company;  
24 AZZURE HOME, INC., a New York  
25 Corporation;  
26 L2T, INC., a California Corporation;  
27 MGA ENTERTAINMENT, INC., a  
28 California Corporation;  
REPORT FOOTWEAR INC., a Washington  
Corporation;  
BURLINGTON COAT FACTORY OF  
TEXAS, INC., a Delaware Corporation;

and DOES 1-90,

Defendants.

CASE NO. 23CV036731

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)

1  
2 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges nine causes of action  
3 against defendants BURLINGTON COAT FACTORY WAREHOUSE CORPORATION;  
4 BURLINGTON COAT FACTORY DIRECT CORPORATION; BURLINGTON COAT  
5 FACTORY OF CALIFORNIA, LLC; AZZURE HOME, INC.; MGA ENTERTAINMENT,  
6 INC.; L2T, INC.; REPORT FOOTWEAR INC.; BURLINGTON COAT FACTORY OF  
7 TEXAS, INC. and DOES 1-90 as follows:

8 **THE PARTIES**

- 9 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an  
10 organization qualified to do business in the State of California. CAG is a person within  
11 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
12 as a private attorney general, brings this action in the public interest as defined under  
13 Health and Safety Code Section 25249.7, subdivision (d).
- 14 2. Defendant BURLINGTON COAT FACTORY WAREHOUSE CORPORATION,  
15 (“BURLINGTON COAT FACTORY WAREHOUSE”) is a Delaware Corporation  
16 qualified to do business in Delaware and doing business in the State of California at all  
17 relevant times herein.
- 18 3. Defendant BURLINGTON COAT FACTORY DIRECT CORPORATION,  
19 (“BURLINGTON COAT FACTORY DIRECT”) is a New Jersey Corporation qualified  
20 to do business in California and doing business in the State of California at all relevant  
21 times herein.
- 22 4. Defendant BURLINGTON COAT FACTORY OF CALIFORNIA, LLC.  
23 (“BURLINGTON COAT FACTORY OF CALIFORNIA”) is a California Corporation  
24 qualified to do business in California and doing business in the State of California at all  
25 relevant times herein.
- 26 5. Defendant BURLINGTON COAT FACTORY OF TEXAS, INC. (“BURLINGTON  
27 COAT FACTORY OF TEXAS”) is a California Corporation qualified to do business in  
28 California and doing business in the State of California at all relevant times herein.

- 1 6. Defendant AZZURE HOME, INC. (“AZZURE HOME”) is a New York Corporation  
2 qualified to do business in New York and doing business in the State of California at all  
3 relevant times herein.
- 4 7. Defendant L2T, INC. (“L2T”) is a California Corporation qualified to do business in  
5 California and doing business in the State of California at all relevant times herein.
- 6 8. Defendant MGA ENTERTAINMENT, INC. (“MGA”) is a California Corporation  
7 qualified to do business in California and doing business in the State of California at all  
8 relevant times herein.
- 9 9. Defendant REPORT FOOTWEAR INC. (“REPORT”) is a Washington Corporation  
10 qualified to do business in Washington and doing business in the State of California at  
11 all relevant times herein.
- 12 10. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-90,  
13 and therefore sues these defendants by such fictitious names.
- 14 11. Plaintiff will amend this Complaint to allege their true names and capacities when  
15 ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously  
16 named defendant is responsible in some manner for the occurrences herein alleged and  
17 the damages caused thereby.
- 18 12. At all times mentioned herein, the term “Defendants” includes BURLINGTON COAT  
19 FACTORY WAREHOUSE, BURLINGTON COAT FACTORY DIRECT,  
20 BURLINGTON COAT FACTORY OF CALIFORNIA, BURLINGTON COAT  
21 FACTORY OF TEXAS, AZZURE, L2T, MGA, REPORT FOOTWEAR and DOES 1-  
22 90.
- 23 13. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
24 times mentioned herein have conducted business within the State of California.
- 25 14. Upon information and belief, at all times relevant to this action, each of the Defendants,  
26 including DOES 1-90, was an agent, servant, or employee of each of the other  
27 Defendants. In conducting the activities alleged in this Complaint, each of the  
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1 Defendants was acting within the course and scope of this agency, service, or  
2 employment, and was acting with the consent, permission, and authorization of each of  
3 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
4 were ratified and approved by every other Defendant or their officers or managing  
5 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
6 alleged wrongful conduct of each of the other Defendants.

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

11 **JURISDICTION**

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

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

25 18. Venue is proper in the County of Alameda because one or more of the instances of  
26 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or

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1 because Defendants conducted, and continue to conduct, business in the County of  
2 Alameda with respect to the consumer product that is the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 19. 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 20. 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 21. 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 22. 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).

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

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

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

17 25. On December 20, 2013, the Governor of California added Diisononyl Phthalate  
18 (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
19 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,  
20 twenty (20) months after addition of DINP to the list of chemicals known to the State to  
21 cause cancer, DINP became fully subject to Proposition 65 warning requirements and  
22 discharge prohibitions.

### 23 SATISFACTION OF PRIOR NOTICE

24 26. 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 November 13, 2020, Plaintiff gave notice of alleged violations of  
27 Health and Safety Code Section 25249.6, concerning consumer products

1 exposures subject to a private action to BURLINGTON COAT FACTORY  
2 WAREHOUSE, BURLINGTON COAT FACTORY DIRECT, AZZURE  
3 HOME, BURLINGTON COAT FACTORY OF CALIFORNIA,  
4 BURLINGTON COAT FACTORY OF TEXAS and to the California Attorney  
5 General, County District Attorneys, and City Attorneys for each city containing  
6 a population of at least 750,000 people in whose jurisdictions the violations  
7 allegedly occurred, concerning the Bathmat with PVC Components.

8 b. On or about January 12, 2022, Plaintiff gave notice of alleged violations of  
9 Health and Safety Code Section 25249.6, concerning consumer products  
10 exposures subject to a private action to BURLINGTON COAT FACTORY  
11 DIRECT, BURLINGTON COAT FACTORY OF CALIFORNIA,  
12 BURLINGTON COAT FACTORY OF TEXAS and to the California Attorney  
13 General, County District Attorneys, and City Attorneys for each city containing  
14 a population of at least 750,000 people in whose jurisdictions the violations  
15 allegedly occurred, concerning the Nursing Pillow.

16 c. On or about February 3, 2022, Plaintiff gave notice of alleged violations of  
17 Health and Safety Code Section 25249.6, concerning consumer products  
18 exposures subject to a private action to BURLINGTON COAT FACTORY OF  
19 CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and to the  
20 California Attorney General, County District Attorneys, and City Attorneys for  
21 each city containing a population of at least 750,000 people in whose  
22 jurisdictions the violations allegedly occurred, concerning the Square Travel  
23 Bag.

24 d. On or about February 10, 2022, Plaintiff gave notice of alleged violations of  
25 Health and Safety Code Section 25249.6, concerning consumer products  
26 exposures subject to a private action to BURLINGTON COAT FACTORY  
27 DIRECT, BURLINGTON COAT FACTORY OF CALIFORNIA,  
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1 BURLINGTON COAT FACTORY OF TEXAS 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 High Heeled Shoes.

5 e. On or about February 16, 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 BURLINGTON COAT FACTORY  
8 DIRECT, BURLINGTON COAT FACTORY OF CALIFORNIA,  
9 BURLINGTON COAT FACTORY OF TEXAS and to the California Attorney  
10 General, County District Attorneys, and City Attorneys for each city containing  
11 a population of at least 750,000 people in whose jurisdictions the violations  
12 allegedly occurred, concerning the High Heeled Shoes.

13 f. On or about May 3, 2022, Plaintiff gave notice of alleged violations of Health  
14 and Safety Code Section 25249.6, concerning consumer products exposures  
15 subject to a private action to BURLINGTON COAT FACTORY DIRECT,  
16 MGA ENTERTAINMENT, BURLINGTON COAT FACTORY OF  
17 CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and to the  
18 California Attorney General, County District Attorneys, and City Attorneys for  
19 each city containing a population of at least 750,000 people in whose  
20 jurisdictions the violations allegedly occurred, concerning the Children Shoes.

21 g. On or about May 26, 2022, Plaintiff gave notice of alleged violations of Health  
22 and Safety Code Section 25249.6, concerning consumer products exposures  
23 subject to a private action to BURLINGTON COAT FACTORY OF  
24 CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and to the  
25 California Attorney General, County District Attorneys, and City Attorneys for  
26 each city containing a population of at least 750,000 people in whose  
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1 jurisdictions the violations allegedly occurred, concerning the Travel Bags with  
2 PVC Components.

- 3 h. On or about November 3, 2022, Plaintiff gave notice of alleged violations of  
4 Health and Safety Code Section 25249.6, concerning consumer products  
5 exposures subject to a private action to L2T, BURLINGTON COAT  
6 FACTORY OF CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS  
7 and to the California Attorney General, County District Attorneys, and City  
8 Attorneys for each city containing a population of at least 750,000 people in  
9 whose jurisdictions the violations allegedly occurred, concerning the Handbags.
- 10 i. On or about December 22, 2022, Plaintiff gave notice of alleged violations of  
11 Health and Safety Code Section 25249.6, concerning consumer products  
12 exposures subject to a private action to REPORT FOOTWEAR,  
13 BURLINGTON COAT FACTORY OF CALIFORNIA, BURLINGTON COAT  
14 FACTORY OF TEXAS and to the California Attorney General, County District  
15 Attorneys, and City Attorneys for each city containing a population of at least  
16 750,000 people in whose jurisdictions the violations allegedly occurred,  
17 concerning the Sandals.

18 27. 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 and DINP, and the corporate structure of each of the  
21 Defendants.

22 28. 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 and  
26 DINP, the subject Proposition 65-listed chemical of this action. Based on that  
27 information, the attorney for Plaintiff who executed the Certificate of Merit believed  
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1 there was a reasonable and meritorious case for this private action. The attorney for  
2 Plaintiff attached to the Certificate of Merit served on the Attorney General the  
3 confidential factual information sufficient to establish the basis of the Certificate of  
4 Merit.

5 29. 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 30. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
9 gave notice of the alleged violations to BURLINGTON COAT FACTORY  
10 WAREHOUSE, BURLINGTON COAT FACTORY DIRECT, BURLINGTON COAT  
11 FACTORY OF CALIFORNIA, AZZURE, L2T, MGA, REPORT FOOTWEAR,  
12 BURLINGTON COAT FACTORY OF TEXAS and the public prosecutors referenced in  
13 Paragraph 26.

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

17 **FIRST CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against AZZURE HOME,**  
19 **BURLINGTON COAT FACTORY DIRECT, BURLINGTON COAT FACTORY**  
20 **WAREHOUSE, BURLINGTON COAT FACTORY OF CALIFORNIA,**  
21 **BURLINGTON COAT FACTORY OF TEXAS and DOES 1-10 for Violations of**  
22 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**  
23 **(*Health & Safety Code, §§ 25249.5, et seq.*)**

24 **Bathroom Accessories**

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

27 33. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
28 distributor, promoter, or retailer of Bathmat with PVC Components ("Bath Mat"),  
including but not limited to Clear Glittered Bath Mat; "Brooke & Bedford"; "The Hotel

1 Collection”; “Non Slip Bath Mat”; “26.5 x 15in (67.3 x 38.1 cm); “UPC 1 95010 00119  
2 9”.

3 34. Bath Mat contains DEHP.

4 35. 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 Bath Mat within Plaintiff’s notice of alleged violations further  
8 discussed above at Paragraph 26a.

9 36. Plaintiff’s allegations regarding Bath Mat 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 Bath Mat is consumer products, and, as mentioned herein, exposures to DEHP took place  
14 as a result of such normal and foreseeable consumption and use.

15 37. Plaintiff is informed, believes, and thereon alleges that between November 13, 2017 and  
16 the present, each of the Defendants knowingly and intentionally exposed California  
17 consumers and users of Bath Mat, 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 Bath Mat in California. Defendants know and intend that California  
21 consumers will use and consume Bath Mat, thereby exposing them to DEHP. Further,  
22 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Bath Mat  
23 under a brand or trademark that is owned or licensed by the Defendants or an entity  
24 affiliated thereto; have knowingly introduced DEHP into product or knowingly caused  
25 DEHP to be created in Bath Mat; have covered, obscured or altered a warning label that  
26 has been affixed to Bath Mat by the manufacturer, producer, packager, importer, supplier  
27 or distributor of Bath Mat; have received a notice and warning materials for exposure  
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1 from Bath Mat without conspicuously posting or displaying the warning materials;  
2 and/or have actual knowledge of potential exposure to DEHP from Bath Mat.

3 Defendants thereby violated Proposition 65.

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

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

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

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

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

24 **SECOND CAUSE OF ACTION**

25 **(By CONSUMER ADVOCACY GROUP, INC. and against BURLINGTON**  
26 **COAT FACTORY DIRECT, BURLINGTON COAT FACTORY OF**  
27 **CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and DOES 11-20**  
28 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
**Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

**Pillow**

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

4 44. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
5 distributor, promoter, or retailer of Nursing Pillow ("Pillow"), including but not limited  
6 to "Kidilove Nursing Pillow;" "Oreiller D'allaitement;" "Almohada De Lactancia;" "0-12  
7 M;" "Kidiway;" "Style 3556;" "V 699610".

8 45. Pillow contains DINP.

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

14 47. Plaintiff's allegations regarding Pillow 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 Pillow is consumer products, and, as mentioned herein, exposures to DINP took place as  
19 a result of such normal and foreseeable consumption and use.

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

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

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

21 51. 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 52. 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 Pillow, pursuant to Health and  
26 Safety Code Section 25249.7(b).

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

3  
4 **THIRD CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against BURLINGTON**  
6 **COAT FACTORY OF CALIFORNIA, BURLINGTON COAT FACTORY OF**  
7 **TEXAS and DOES 21-30 for Violations of Proposition 65, The Safe Drinking**  
8 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
9 ***seq.*))**

10 **Bag**

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

13 55. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
14 distributor, promoter, or retailer of Square Travel Bag ("Travel Bag"), including but not  
15 limited to "Macbeth Collection by Margaret Josephs"; "3PC Train Case Set"; "Kitten";  
16 "Care Instructions: Wipe Clean with Damp Cloth"; "UPC 0 9114139397 7"; "Made in  
17 China".

18 56. Travel Bag contains DEHP.

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

24 58. Plaintiff's allegations regarding Travel Bag 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 Travel Bag is consumer products, and, as mentioned herein, exposures to DEHP took  
place as a result of such normal and foreseeable consumption and use.

1 59. Plaintiff is informed, believes, and thereon alleges that between February 3, 2019 and the  
2 present, each of the Defendants knowingly and intentionally exposed California  
3 consumers and users of Travel Bag, which Defendants manufactured, distributed, or sold  
4 as mentioned above, to DEHP, without first providing any type of clear and reasonable  
5 warning of such to the exposed persons before the time of exposure. Defendants have  
6 distributed and sold Travel Bag in California. Defendants know and intend that  
7 California consumers will use and consume Travel Bag, thereby exposing them to  
8 DEHP. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are  
9 selling Travel Bag under a brand or trademark that is owned or licensed by the  
10 Defendants or an entity affiliated thereto; have knowingly introduced DEHP into product  
11 or knowingly caused DEHP to be created in Travel Bag; have covered, obscured or  
12 altered a warning label that has been affixed to Travel Bag by the manufacturer,  
13 producer, packager, importer, supplier or distributor of Travel Bag; have received a  
14 notice and warning materials for exposure from Travel Bag without conspicuously  
15 posting or displaying the warning materials; and/or have actual knowledge of potential  
16 exposure to DEHP from Travel Bag. Defendants thereby violated Proposition 65.

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

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

3 62. 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 63. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to DEHP from Travel Bag, pursuant to Health  
8 and Safety Code Section 25249.7(b).

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

11 **FOURTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against BURLINGTON**  
13 **COAT FACTORY DIRECT, BURLINGTON COAT FACTORY OF**  
14 **CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and DOES 31-40**  
15 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
16 **Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

17 **Shoes I**

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

20 66. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
21 distributor, promoter, or retailer of High Heeled Shoes, including but not limited to  
22 "Lady Godiva"; "Style Melody"; "Color Rose Gold"; "SC Ladies Dress Size 8 X M";  
23 "UPC 11593994938642".

24 67. High Heeled Shoes contains DINP.

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

1 69. Plaintiff's allegations regarding High Heeled Shoes 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)*. High Heeled Shoes are consumer products, and, as mentioned herein,  
6 exposures to DINP took place as a result of such normal and foreseeable consumption  
7 and use.

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

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

4 72. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
5 Proposition 65 as to High Heeled Shoes 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 High Heeled Shoes, so that a separate and distinct violation of Proposition 65 occurred  
9 each and every time a person was exposed to DINP by High Heeled Shoes as mentioned  
10 herein.

11 73. 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 74. Based on the allegations herein, Defendants are liable for civil penalties of up to  
15 \$2,500.00 per day per individual exposure to DINP from High Heeled Shoes, pursuant to  
16 Health and Safety Code Section 25249.7(b).

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

#### 19 **FIFTH CAUSE OF ACTION**

20 **(By CONSUMER ADVOCACY GROUP, INC. and against BURLINGTON**  
21 **COAT FACTORY DIRECT, BURLINGTON COAT FACTORY OF**  
22 **CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and DOES 41-50**  
23 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
24 **Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

#### 25 **Shoes II**

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

28 77. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
distributor, promoter, or retailer of High Heeled Shoes, including but not limited to

1 "Lady Godiva"; "Style Melody"; "Color Rose Gold"; "SC Ladies Dress Size 8 X M";  
2 "UPC 11593994938642".

3 78. High Heeled Shoes contains DINP.

4 79. Defendants knew or should have known that DINP has been identified by the State of  
5 California as a chemical known to cause cancer, and therefore was subject to Proposition  
6 65 warning requirements. Defendants were also informed of the presence of DINP in  
7 High Heeled Shoes within Plaintiff's notice of alleged violations further discussed above  
8 at Paragraph 26e.

9 80. Plaintiff's allegations regarding High Heeled Shoes 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)*. High Heeled Shoes are consumer products, and, as mentioned herein,  
14 exposures to DINP took place as a result of such normal and foreseeable consumption  
15 and use.

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

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

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

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

22 85. Based on the allegations herein, Defendants are liable for civil penalties of up to  
23 \$2,500.00 per day per individual exposure to DINP from High Heeled Shoes, pursuant to  
24 Health and Safety Code Section 25249.7(b).

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

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1 **SIXTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against MGA, BURLINGTON**  
3 **COAT FACTORY DIRECT, BURLINGTON COAT FACTORY OF**  
4 **CALIFORNIA, BURLINGTON COAT FACTORY OF TEXAS and DOES 51-60**  
5 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**  
6 **Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

7 **Footwears**

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

10 88. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
11 distributor, promoter, or retailer of Children Shoes ("Shoes"), including but not limited  
12 to • "L.O.L Surprise!™;" "© MGA;" "Ground Up Intl." "Pink Girls Youth Shoes;"  
13 "691115;" "ECLS4075;" "UPC 11133926055656"  
14 • "L.O.L Surprise!™;" "© MGA;" "Ground Up Intl." "Pink Girls Youth Shoes;"  
15 "691115;" "ECLS4032;" "UPC 11133926020928".

16 89. Shoes contains DEHP.

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

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

28 92. Plaintiff is informed, believes, and thereon alleges that between May 3, 2019 and the  
present, each of the Defendants knowingly and intentionally exposed California

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

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

20 94. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
21 Proposition 65 as to Shoes have been ongoing and continuous, as Defendants engaged  
22 and continue to engage in conduct which violates Health and Safety Code Section  
23 25249.6, including the manufacture, distribution, promotion, and sale of Shoes, so that a  
24 separate and distinct violation of Proposition 65 occurred each and every time a person  
25 was exposed to DEHP by Shoes as mentioned herein.  
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1 95. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
2 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
3 violations alleged herein will continue to occur into the future.

4 96. Based on the allegations herein, Defendants are liable for civil penalties of up to  
5 \$2,500.00 per day per individual exposure to DEHP from Shoes, pursuant to Health and  
6 Safety Code Section 25249.7(b).

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

9  
10 **SEVENTH CAUSE OF ACTION**

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

16 **Bags**

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 Travel Bags with PVC Components ("Travel Bag"),  
21 including but not limited to "Macbeth Collection® By Margaret Josephs"; "4PC Gift  
22 Set"; "39398"; "UPC 0 91141 39398 4".

23 100. Travel Bag contains 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, and therefore  
26 was subject to Proposition 65 warning requirements. Defendants were also informed of  
27 the presence of DEHP in Travel Bag within Plaintiff's notice of alleged violations further  
28 discussed above at Paragraph 26g.

102. Plaintiff's allegations regarding Travel Bag concerns "[c]onsumer products  
exposure[s]," which "is an exposure that results from a person's acquisition, purchase,



1 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
2 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
3 *25602(b)*. Travel Bag is consumer products, and, as mentioned herein, exposures to  
4 DEHP took place as a result of such normal and foreseeable consumption and use.

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

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

1 105. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations  
2 of Proposition 65 as to Travel Bag 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 Travel  
5 Bag, so that a separate and distinct violation of Proposition 65 occurred each and every  
6 time a person was exposed to DEHP by Travel Bag as mentioned herein.

7 106. 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.

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

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

15 **EIGHTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against L2T, BURLINGTON**  
17 **COAT FACTORY OF CALIFORNIA, BURLINGTON COAT FACTORY OF**  
18 **TEXAS and DOES 71-80 for Violations of Proposition 65, The Safe Drinking**  
19 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
20 ***seq.*))**

21 **Fashion Accessories**

22 109. Plaintiff repeats and incorporates by reference paragraphs 1 through 108 of this  
23 complaint as though fully set forth herein.

24 110. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
25 distributor, promoter, or retailer of Handbags, including but not limited to "Trina Turk";  
26 "Light Blue Handbag"; "Style TTT31017BLSW"; "trinaturk.com"; "UPC 4 890808  
27 260265".

28 111. Handbags contains DEHP.

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

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

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

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

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

13 117. 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.

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

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

### 21 NINTH CAUSE OF ACTION

22 (By CONSUMER ADVOCACY GROUP, INC. and against REPORT,  
23 BURLINGTON COAT FACTORY OF CALIFORNIA, BURLINGTON COAT  
24 FACTORY OF TEXAS and DOES 81-90 for Violations of Proposition 65, The  
25 Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*,  
§§ 25249.5, *et seq.*))

### 26 **Footwear**

27 120. Plaintiff repeats and incorporates by reference paragraphs 1 through 119 of this  
28 complaint as though fully set forth herein.

1 121. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
2 distributor, promoter, or retailer of Sandals, including but not limited to “Report”;  
3 “Black Sandals”; “All Man Made Materials”; “Made in China”; “Style: Susana”; “V  
4 29040”; “FLTHK 5546246”; “SHO 11 750 44144456 6 1/1”.

5 122. Sandals contains DINP.

6 123. Defendants knew or should have known that DINP has been identified by the State of  
7 California as a chemical known to cause cancer, and therefore was subject to Proposition  
8 65 warning requirements. Defendants were also informed of the presence of DINP in  
9 Sandals within Plaintiff’s notice of alleged violations further discussed above at  
10 Paragraph 26i.

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

17 125. Plaintiff is informed, believes, and thereon alleges that between December 22, 2019 and  
18 the present, each of the Defendants knowingly and intentionally exposed California  
19 consumers and users of Sandals, which Defendants manufactured, distributed, or sold as  
20 mentioned above, to DINP, without first providing any type of clear and reasonable  
21 warning of such to the exposed persons before the time of exposure. Defendants have  
22 distributed and sold Sandals in California. Defendants know and intend that California  
23 consumers will use and consume Sandals, thereby exposing them to DINP. Further,  
24 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sandals  
25 under a brand or trademark that is owned or licensed by the Defendants or an entity  
26 affiliated thereto; have knowingly introduced DINP into product or knowingly caused  
27 DINP to be created in Sandals; have covered, obscured or altered a warning label that  
28

1 has been affixed to Sandals by the manufacturer, producer, packager, importer, supplier  
2 or distributor of Sandals; have received a notice and warning materials for exposure from  
3 Sandals without conspicuously posting or displaying the warning materials; and/or have  
4 actual knowledge of potential exposure to DINP from Sandals. Defendants thereby  
5 violated Proposition 65.

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

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

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

21 129. Based on the allegations herein, Defendants are liable for civil penalties of up to  
22 \$2,500.00 per day per individual exposure to DINP from Sandals, pursuant to Health and  
23 Safety Code Section 25249.7(b).

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

26  
27 **PRAYER FOR RELIEF**

1 Plaintiff demands against each of the Defendants as follows:

- 2 131. A permanent injunction mandating Proposition 65-compliant warnings;
- 3 132. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
- 4 133. Costs of suit;
- 5 134. Reasonable attorney fees and costs; and
- 6 135. Any further relief that the court may deem just and equitable.

7  
8 Dated: June 22, 2023

YEROUSHALMI & YEROUSHALMI\*

9  
10 *Reuben Yeroushalmi*

11 \_\_\_\_\_  
12 Reuben Yeroushalmi  
13 Attorneys for Plaintiff,  
14 CONSUMER ADVOCACY GROUP, INC.