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10 CONSUMER ADVOCACY GROUP, INC.

FILED
Superior Court of California
County of Los Angeles
05/03/2024
David W. Slayton, Executive Officer / Clerk of Court
By: N. Osollo Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

11 CONSUMER ADVOCACY GROUP, INC.,
12 in the public interest,
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14 Plaintiff,
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16 v.
17 ROSS STORES, INC. DBA DD'S
18 DISCOUNTS, a Delaware Corporation;
19 and DOES 1-60,
20
21 Defendants.

CASE NO. 24STCV05215

FIRST AMENDED 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 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges seven causes of action
2 against defendants ROSS STORES, INC. DBA DD'S DISCOUNTS, and DOES 1-60 as
3 follows:

4 **THE PARTIES**

- 5 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an
6 organization qualified to do business in the State of California. CAG is a person within
7 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
8 as a private attorney general, brings this action in the public interest as defined under
9 Health and Safety Code Section 25249.7, subdivision (d).
- 10 2. Defendant ROSS STORES, INC. DBA DD'S DISCOUNTS ("ROSS") is a Delaware
11 Corporation, qualified to do business in California, and doing business in the State of
12 California at all relevant times herein.
- 13 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,
14 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
15 Complaint to allege their true names and capacities when ascertained. Plaintiff is
16 informed, believes, and thereon alleges that each fictitiously named defendant is
17 responsible in some manner for the occurrences herein alleged and the damages caused
18 thereby.
- 19 4. At all times mentioned herein, the term "Defendants" includes ROSS, and DOES 1-60.
- 20 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
21 times mentioned herein have conducted business within the State of California.
- 22 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
23 including DOES 1-60, was an agent, servant, or employee of each of the other
24 Defendants. In conducting the activities alleged in this Complaint, each of the
25 Defendants was acting within the course and scope of this agency, service, or
26 employment, and was acting with the consent, permission, and authorization of each of
27 the other Defendants. All actions of each of the Defendants alleged in this Complaint

1 were ratified and approved by every other Defendant or their officers or managing
2 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
3 alleged wrongful conduct of each of the other Defendants.

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

8 **JURISDICTION**

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

1 **BACKGROUND AND PRELIMINARY FACTS**

- 2 11. In 1986, California voters approved an initiative to address growing concerns about
3 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
4 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
5 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
6 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
7 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
8 from contamination, to allow consumers to make informed choices about the products
9 they buy, and to enable persons to protect themselves from toxic chemicals as they see
10 fit.
- 11 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
12 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
13 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
14 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
15 other controls that apply to Proposition 65-listed chemicals.
- 16 13. All businesses with ten (10) or more employees that operate or sell products in California
17 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
18 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
19 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
20 reasonable” warnings before exposing a person, knowingly and intentionally, to a
21 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 22 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
23 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
24 25249.7. "Threaten to violate" means "to create a condition in which there is a
25 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
26 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
27 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
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1 15. Plaintiff identified certain practices of manufacturers and distributors of Travel Sets
2 Containing PVC, Pet Bags, Sandals, Crossbody Bags, Backpacks with PVC
3 Components, Totebags, and Handbags of exposing, knowingly and intentionally, persons
4 in California to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate and Diisononyl
5 Phthalate of such products without first providing clear and reasonable warnings of such
6 to the exposed persons prior to the time of exposure. Plaintiff later discerned that
7 Defendants engaged in such practice.

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

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

22 **SATISFACTION OF PRIOR NOTICE**

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

- 25 a. On or about July 3, 2023, 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 ROSS, and to the California Attorney General,
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1 County District Attorneys, and City Attorneys for each city containing a
2 population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning the Travel Set Containing PVC.

4 b. On or about August 8, 2023, Plaintiff gave notice of alleged violations of Health
5 and Safety Code Section 25249.6, concerning consumer products exposures
6 subject to a private action to ROSS, and to the California Attorney General,
7 County District Attorneys, and City Attorneys for each city containing a
8 population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning the Pet Bag.

10 c. On or about August 8, 2023, Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to ROSS, and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a
14 population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Sandals.

16 d. On or about October 26, 2023, 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 ROSS, and to the California Attorney
19 General, County District Attorneys, and City Attorneys for each city containing
20 a population of at least 750,000 people in whose jurisdictions the violations
21 allegedly occurred, concerning the Crossbody Bag.

22 e. On or about October 26, 2023, Plaintiff gave notice of alleged violations of
23 Health and Safety Code Section 25249.6, concerning consumer products
24 exposures subject to a private action to ROSS, and to the California Attorney
25 General, County District Attorneys, and City Attorneys for each city containing
26 a population of at least 750,000 people in whose jurisdictions the violations
27 allegedly occurred, concerning the Backpacks with PVC Components.

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1 f. On or about October 26, 2023, Plaintiff gave notice of alleged violations of
2 Health and Safety Code Section 25249.6, concerning consumer products
3 exposures subject to a private action to ROSS, and to the California Attorney
4 General, County District Attorneys, and City Attorneys for each city containing
5 a population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Totebag.

7 g. On or about May 5, 2023, Plaintiff gave notice of alleged violations of Health
8 and Safety Code Section 25249.6, concerning consumer products exposures
9 subject to a private action to ROSS, and to the California Attorney General,
10 County District Attorneys, and City Attorneys for each city containing a
11 population of at least 750,000 people in whose jurisdictions the violations
12 allegedly occurred, concerning the Handbag.

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

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

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

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

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

10 **FIRST CAUSE OF ACTION**

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

14 **Travel Accessory**

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

17 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Travel Set Containing PVC ("Travel Set"), including
19 but not limited to: "C&C California"; "3 Piece Travel Set"; "Viridi Enterprises, LLC";
20 "Made in China"; "UPC 786457202852".

21 26. Travel Set contains DEHP.

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

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

1 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
2 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.

3 Travel Set is a consumer product, and, as mentioned herein, exposures to DEHP took
4 place as a result of such normal and foreseeable consumption and use.

5 29. Plaintiff is informed, believes, and thereon alleges that between July 3, 2020 and the
6 present, each of the Defendants knowingly and intentionally exposed California
7 consumers and users of Travel Sets, 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 Set in California. Defendants know and intend that California
11 consumers will use and consume Travel Set, thereby exposing them to DEHP. Further,
12 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Travel Set
13 under a brand or trademark that is owned or licensed by the Defendants or an entity
14 affiliated thereto; have knowingly introduced DEHP into Travel Set or knowingly caused
15 DEHP to be created in Travel Set; have covered, obscured or altered a warning label that
16 has been affixed to Travel Set by the manufacturer, producer, packager, importer,
17 supplier or distributor of Travel Set; have received a notice and warning materials for
18 exposure from Travel Set without conspicuously posting or displaying the warning
19 materials; and/or have actual knowledge of potential exposure to DEHP from Travel Set.
20 Defendants thereby violated Proposition 65.

21 30. The principal routes of exposure are through dermal contact, ingestion and inhalation.
22 Persons sustain exposures by handling Travel Set without wearing gloves or any other
23 personal protective equipment, or by touching bare skin or mucous membranes with
24 gloves after handling Travel Set, 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 Set.

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

7 32. 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 33. 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 Set, pursuant to Health
12 and Safety Code Section 25249.7(b).

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

15 **SECOND CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 11-**
17 **20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
18 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

19 **Handbag I**

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

22 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Pet Bag, including but not limited to: "Pet Carrier
24 Bag"; "D1075 C6808"; "VSH"; "03 Functional Gifts"; "400243186866".

25 37. Pet Bag contains DEHP and DINP.

26 38. Defendants knew or should have known that DEHP and DINP have been identified by
27 the State of California as chemicals known to cause cancer, and/or reproductive toxicity
28 and therefore were subject to Proposition 65 warning requirements. Defendants were

1 also informed of the presence of DEHP and DINP in Pet Bag within Plaintiff's notice of
2 alleged violations further discussed above at Paragraph 18b.

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

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

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

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

11 43. 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 44. 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 and DINP from Pet Bag, pursuant to
16 Health and Safety Code Section 25249.7(b).

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

19 **THIRD CAUSE OF ACTION**

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

23 **Footwear**

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

26 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Sandals, including but not limited to "Bonnibel"; "All
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1 Man Made Materials”; “Made in China”; “10”; “302 D5201 C908”; “Gold154”;
2 “400256093441”.

3 48. Sandals contain DINP.

4 49. 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 Sandals within Plaintiff’s notice of alleged violations further discussed above at
8 Paragraph 18c.

9 50. Plaintiff’s allegations regarding Sandals 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 Sandals are consumer products, and, as mentioned herein, exposures to DINP took place
14 as a result of such normal and foreseeable consumption and use.

15 51. Plaintiff is informed, believes, and thereon alleges that between August 8, 2020 and the
16 present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Sandals, which Defendants manufactured, distributed, or sold as
18 mentioned above, to DINP, 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 Sandals in California. Defendants know and intend that California
21 consumers will use and consume Sandals, thereby exposing them to DINP. Further,
22 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Sandals
23 under a brand or trademark that is owned or licensed by the Defendants or an entity
24 affiliated thereto; have knowingly introduced DINP into Sandals or knowingly caused
25 DINP to be created in Sandals; have covered, obscured or altered a warning label that
26 has been affixed to Sandals by the manufacturer, producer, packager, importer, supplier
27 or distributor of Sandals; have received a notice and warning materials for exposure from
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1 Sandals without conspicuously posting or displaying the warning materials; and/or have
2 actual knowledge of potential exposure to DINP from Sandals. Defendants thereby
3 violated Proposition 65.

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

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

16 54. 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 55. Based on the allegations herein, Defendants are liable for civil penalties of up to
20 \$2,500.00 per day per individual exposure to DINP from Sandals, pursuant to Health and
21 Safety Code Section 25249.7(b).

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

24 **FOURTH CAUSE OF ACTION**

25 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 31-**
26 **40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
27 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

28 **Fashion Accessories I**

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

3 58. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Crossbody Bag, including but not limited to:
5 “CROSSBODY”; “STRAP INCLUDED”; “FALL SPIRIT”; “CELAR”; “MADE IN
6 CHINA”; “400001442104”; “D5502 C5524”; “14 HANDBAGS”; “400262337928”.

7 59. Crossbody Bag contains DEHP.

8 60. Defendants knew or should have known that DEHP has been identified by the State of
9 California as a chemical known to cause cancer, and reproductive toxicity and therefore
10 was subject to Proposition 65 warning requirements. Defendants were also informed of
11 the presence of DEHP in Crossbody Bag within Plaintiff’s notice of alleged violations
12 further discussed above at Paragraph 18d.

13 61. Plaintiff’s allegations regarding Crossbody Bag 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 Bag is a consumer product, and, as mentioned herein, exposures to
18 DEHP took place as a result of such normal and foreseeable consumption and use.

19 62. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 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 DEHP, without first providing any type of clear and
23 reasonable warning of such to the exposed persons before the time of exposure.
24 Defendants have distributed and sold Crossbody Bag in California. Defendants know
25 and intend that California consumers will use and consume Crossbody Bag, thereby
26 exposing them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
27 Defendants are selling Crossbody Bag under a brand or trademark that is owned or
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1 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
2 DEHP into Crossbody Bag or knowingly caused DEHP to be created in Crossbody Bag;
3 have covered, obscured or altered a warning label that has been affixed to Crossbody
4 Bag by the manufacturer, producer, packager, importer, supplier or distributor of
5 Crossbody Bag; have received a notice and warning materials for exposure from
6 Crossbody Bag without conspicuously posting or displaying the warning materials;
7 and/or have actual knowledge of potential exposure to DEHP from Crossbody Bag.
8 Defendants thereby violated Proposition 65.

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

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

21 65. 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 66. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DEHP from Crossbody Bag, pursuant to
26 Health and Safety Code Section 25249.7(b).

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

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4 **FIFTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 41-
6 50 for Violations of Proposition 65, The Safe Drinking Water and Toxic
7 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

8 **Backpacks**

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

11 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
12 distributor, promoter, or retailer of Backpacks with PVC Components (“Backpacks”),
13 including but not limited to: “Le Miel”; “ITEM NO:LHU455”; “COLOR:PP”;
14 “8372209015”; “D1521 C5783”; “HANDBAG”; “SKU 400260335339”.

15 70. Backpacks contain DINP.

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

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

27 73. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 and
28 the present, each of the Defendants knowingly and intentionally exposed California
consumers and users of Backpacks, which Defendants manufactured, distributed, or sold

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

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

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

1 76. 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 77. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to DINP from Backpacks, pursuant to Health
6 and Safety Code Section 25249.7(b).

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

9
10 **SIXTH CAUSE OF ACTION**

11 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 51-
12 60 for Violations of Proposition 65, The Safe Drinking Water and Toxic
13 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

14 **Handbag II**

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

17 80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Totebag, including but not limited to: “SUN ‘N’
19 SAND ACCESSORIES”; “CASUALS”; “EST. 1986”; “D1522 C5447”; “SKU
20 400253580357”.

21 81. Totebag contains DEHP.

22 82. Defendants knew or should have known that DEHP has been identified by the State of
23 California as a chemical known to cause cancer, and reproductive toxicity therefore was
24 subject to Proposition 65 warning requirements. Defendants were also informed of the
25 presence of DEHP in Totebag within Plaintiff’s notice of alleged violations further
26 discussed above at Paragraph 18f.

27 83. Plaintiff’s allegations regarding Totebag concerns “[c]onsumer products exposure[s],”
28 which “is an exposure that results from a person’s acquisition, purchase, storage,
consumption, or other reasonably foreseeable use of a consumer good, or any exposure

1 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.

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

4 84. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 and
5 the present, each of the Defendants knowingly and intentionally exposed California
6 consumers and users of Totebags, which Defendants manufactured, distributed, or sold
7 as mentioned above, to DEHP, without first providing any type of clear and reasonable
8 warning of such to the exposed persons before the time of exposure. Defendants have
9 distributed and sold Totebag in California. Defendants know and intend that California
10 consumers will use and consume Totebag, thereby exposing them to DEHP. Further,
11 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Totebag
12 under a brand or trademark that is owned or licensed by the Defendants or an entity
13 affiliated thereto; have knowingly introduced DEHP into Totebag or knowingly caused
14 DEHP to be created in Totebag; have covered, obscured or altered a warning label that
15 has been affixed to Totebag by the manufacturer, producer, packager, importer, supplier
16 or distributor of Totebag; have received a notice and warning materials for exposure
17 from Totebag without conspicuously posting or displaying the warning materials; and/or
18 have actual knowledge of potential exposure to DEHP from Totebag. Defendants
19 thereby violated Proposition 65.

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

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

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

8 88. Based on the allegations herein, Defendants are liable for civil penalties of up to
9 \$2,500.00 per day per individual exposure to DEHP from Totebag, pursuant to Health
10 and Safety Code Section 25249.7(b).

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

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14
SEVENTH CAUSE OF ACTION

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

18 **Fashion Accessories II**

19 90. Plaintiff repeats and incorporates by reference paragraphs 1 through 89 of this complaint
20 as though fully set forth herein.

21 91. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
22 distributor, promoter, or retailer of Handbag, including but not limited to: “Calin
23 Collection”; “2 IN 1”; “Item No: HG-0097”; “Color: MT”; “UPC 2552011032”; “D5503
24 C6517”; “400248363668”.

25 92. Handbag contains DEHP.

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

1 presence of DEHP in Handbag within Plaintiff's notice of alleged violations further
2 discussed above at Paragraph 18g.

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

9 95. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Handbag, which Defendants manufactured, distributed, or sold
12 as mentioned above, to DEHP, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold Handbag in California. Defendants know and intend that California
15 consumers will use and consume Handbag, thereby exposing them to DEHP. Further,
16 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Handbag
17 under a brand or trademark that is owned or licensed by the Defendants or an entity
18 affiliated thereto; have knowingly introduced DEHP into Handbag or knowingly caused
19 DEHP to be created in Handbag; have covered, obscured or altered a warning label that
20 has been affixed to Handbag by the manufacturer, producer, packager, importer, supplier
21 or distributor of Handbag; have received a notice and warning materials for exposure
22 from Handbag without conspicuously posting or displaying the warning materials; and/or
23 have actual knowledge of potential exposure to DEHP from Handbag. Defendants
24 thereby violated Proposition 65.

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

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

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

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

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

18
19 **PRAYER FOR RELIEF**

20 Plaintiff demands against each of the Defendants as follows:

- 21 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 22 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
- 23 3. Costs of suit;
- 24 4. Reasonable attorney fees and costs; and
- 25 5. Any further relief that the court may deem just and equitable.

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27 Dated: May 3, 2024

YEROUSHALMI & YEROUSHALMI*

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