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ELECTRONICALLY
FILED

*Superior Court of California,
County of San Francisco*

03/21/2022
Clerk of the Court

BY: SANDRA SCHIRO
Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

EASY SPIRIT LLC, *et al.*,

Defendants.

Case No. CGC-22-598022

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

Health & Safety Code §25249.6, *et seq.*

1 Plaintiff Center for Environmental Health, in the public interest, based on information and
2 belief and investigation of counsel, except for information based on knowledge, hereby makes the
3 following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' continuing failure to warn
6 individuals in California that they are being exposed to Bisphenol A ("BPA"), a chemical known
7 to the State of California to cause cancer. BPA is a toxic chemical derived from oil. BPA is an
8 endocrine disrupting chemical that is known to cause reproductive harm. This Complaint
9 addresses exposures that have occurred, and continue to occur, through the manufacture,
10 distribution, sale and/or use of Defendants' socks made primarily of polyester with spandex (the
11 "Products"). Individuals in California are exposed to BPA when they wear the Products on their
12 feet.

13 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et seq.*, it is
14 unlawful for businesses to knowingly and intentionally expose individuals in California to
15 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without
16 first providing clear and reasonable warnings to exposed individuals. Defendants introduce the
17 Products containing significant quantities of BPA into the California marketplace, thereby
18 exposing those who wear the Products, including infants, to BPA.

19 3. Defendants provide no warnings whatsoever about the reproductive toxicity
20 associated with BPA exposure. Defendants' conduct thus violates the warning provision of
21 Proposition 65. Health & Safety Code §25249.6.

22 **PARTIES**

23 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit
24 corporation dedicated to protecting the public from environmental health hazards and toxic
25 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of
26 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and
27 brings this enforcement action in the public interest pursuant to Health & Safety Code
28 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has

1 prosecuted a large number of Proposition 65 cases in the public interest. These cases have
2 resulted in significant public benefits, including the reformulation of millions of products to
3 remove toxic chemicals and to make them safer. CEH also provides information to Californians
4 about the health risks associated with exposure to hazardous substances, where manufacturers and
5 other responsible parties fail to do so.

6 5. Defendant EASY SPIRIT LLC is a person in the course of doing business within
7 the meaning of Health & Safety Code §25249.11. Defendant EASY SPIRIT LLC markets,
8 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

9 6. Defendant 1616 HOLDINGS, INC. is a person in the course of doing business
10 within the meaning of Health & Safety Code §25249.11. Defendant 1616 HOLDINGS, INC.
11 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

12 7. Defendant ABG ACCESSORIES, INC. is a person in the course of doing business
13 within the meaning of Health & Safety Code §25249.11. Defendant ABG ACCESSORIES, INC.
14 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

15 8. Defendant ABG JUICY COUTURE, LLC is a person in the course of doing
16 business within the meaning of Health & Safety Code §25249.11. Defendant ABG JUICY
17 COUTURE, LLC markets, distributes, licenses, and/or sells Products containing BPA for sale or
18 use in California.

19 9. Defendant ADIDAS AMERICA, INC. is a person in the course of doing business
20 within the meaning of Health & Safety Code §25249.11. Defendant ADIDAS AMERICA, INC.
21 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

22 10. Defendant AEROPOSTALE, INC. is a person in the course of doing business
23 within the meaning of Health & Safety Code §25249.11. Defendant AEROPOSTALE, INC.
24 markets, distributes, and/or sells Products containing BPA for sale or use in California. CEH's
25 allegations and claims against Defendant AEROPOSTALE, INC. in this action are limited to
26 Products sold under AEROPOSTALE, INC.'s private label brands.

1 11. Defendant AGRON, INC. is a person in the course of doing business within the
2 meaning of Health & Safety Code §25249.11. Defendant AGRON, INC. markets, distributes,
3 licenses, and/or sells Products containing BPA for sale or use in California.

4 12. Defendant ASHKO GROUP LLC is a person in the course of doing business
5 within the meaning of Health & Safety Code §25249.11. Defendant ASHKO GROUP LLC
6 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

7 13. Defendant ASICS AMERICA CORPORATION is a person in the course of doing
8 business within the meaning of Health & Safety Code §25249.11. Defendant ASICS AMERICA
9 CORPORATION markets, distributes, licenses, and/or sells Products containing BPA for sale or
10 use in California.

11 14. Defendant AUTHENTIC BRANDS GROUP LLC is a person in the course of
12 doing business within the meaning of Health & Safety Code §25249.11. Defendant
13 AUTHENTIC BRANDS GROUP LLC markets, distributes, licenses, and/or sells Products
14 containing BPA for sale or use in California.

15 15. Defendant AYK INTERNATIONAL, INC. is a person in the course of doing
16 business within the meaning of Health & Safety Code §25249.11. Defendant AYK
17 INTERNATIONAL, INC. markets, distributes, licenses, and/or sells Products containing BPA for
18 sale or use in California.

19 16. Defendant B2 FASHIONS INC. is a person in the course of doing business within
20 the meaning of Health & Safety Code §25249.11. Defendant B2 FASHIONS INC. markets,
21 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

22 17. Defendant BIOWORLD MERCHANDISING INC. is a person in the course of
23 doing business within the meaning of Health & Safety Code §25249.11. Defendant BIOWORLD
24 MERCHANDISING INC. markets, distributes, licenses, and/or sells Products containing BPA for
25 sale or use in California.

26 18. Defendant BON BEBE INC. is a person in the course of doing business within the
27 meaning of Health & Safety Code §25249.11. Defendant BON BEBE INC. markets, distributes,
28 licenses, and/or sells Products containing BPA for sale or use in California.

1 19. Defendant BON-BINI LLC is a person in the course of doing business within the
2 meaning of Health & Safety Code §25249.11. Defendant BON-BINI LLC markets, distributes,
3 licenses, and/or sells Products containing BPA for sale or use in California.

4 20. Defendant CARHARTT, INC. is a person in the course of doing business within
5 the meaning of Health & Safety Code §25249.11. Defendant CARHARTT, INC. markets,
6 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

7 21. Defendant CENTRAL CAROLINA HOSIERY, INC. is a person in the course of
8 doing business within the meaning of Health & Safety Code §25249.11. Defendant CENTRAL
9 CAROLINA HOSIERY, INC. markets, distributes, licenses, and/or sells Products containing
10 BPA for sale or use in California.

11 22. Defendant CENTRIC SOCKS LLC is a person in the course of doing business
12 within the meaning of Health & Safety Code §25249.11. Defendant CENTRIC SOCKS LLC
13 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

14 23. Defendant COLUMBIA SPORTSWEAR COMPANY is a person in the course of
15 doing business within the meaning of Health & Safety Code §25249.11. Defendant COLUMBIA
16 SPORTSWEAR COMPANY markets, distributes, licenses, and/or sells Products containing BPA
17 for sale or use in California.

18 24. Defendant DAYTONA APPAREL GROUP LLC is a person in the course of
19 doing business within the meaning of Health & Safety Code §25249.11. Defendant DAYTONA
20 APPAREL GROUP LLC markets, distributes, licenses, and/or sells Products containing BPA for
21 sale or use in California.

22 25. Defendant DELTA GALIL USA, INC. is a person in the course of doing business
23 within the meaning of Health & Safety Code §25249.11. Defendant DELTA GALIL USA, INC.
24 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

25 26. Defendant DML MARKETING GROUP LTD. is a person in the course of doing
26 business within the meaning of Health & Safety Code §25249.11. Defendant DML
27 MARKETING GROUP, LTD. markets, distributes, licenses, and/or sells Products containing
28 BPA for sale or use in California.

1 27. Defendant DOLLAR GENERAL CORPORATION is a person in the course of
2 doing business within the meaning of Health & Safety Code §25249.11. Defendant DOLLAR
3 GENERAL CORPORATION markets, distributes, and/or sells Products containing BPA for sale
4 or use in California. CEH's allegations and claims against Defendant DOLLAR GENERAL
5 CORPORATION in this action are limited to Products sold under DOLLAR GENERAL
6 CORPORATION's private label brands.

7 28. Defendant DOLLAR TREE STORES, INC. is a person in the course of doing
8 business within the meaning of Health & Safety Code §25249.11. Defendant DOLLAR TREE
9 STORES, INC. markets, distributes, and/or sells Products containing BPA for sale or use in
10 California. CEH's allegations and claims against Defendant DOLLAR TREE STORES, INC. in
11 this action are limited to Products sold under DOLLAR TREE STORES, INC.'s private label
12 brands.

13 29. Defendant F21 OPCO, LLC is a person in the course of doing business within the
14 meaning of Health & Safety Code §25249.11. Defendant F21 OPCO, LLC markets, distributes,
15 licenses, and/or sells Products containing BPA for sale or use in California.

16 30. Defendant FIT FOR LIFE, LLC is a person in the course of doing business within
17 the meaning of Health & Safety Code §25249.11. Defendant FIT FOR LIFE, LLC markets,
18 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

19 31. Defendant FIVE BELOW, INC. is a person in the course of doing business within
20 the meaning of Health & Safety Code §25249.11. Defendant FIVE BELOW, INC. markets,
21 distributes, and/or sells Products containing BPA for sale or use in California. CEH's allegations
22 and claims against Defendant FIVE BELOW, INC. in this action are limited to Products sold
23 under FIVE BELOW, INC.'s private label brands.

24 32. Defendant FOOT LOCKER, INC. is a person in the course of doing business
25 within the meaning of Health & Safety Code §25249.11. Defendant FOOT LOCKER, INC.
26 markets, distributes, and/or sells Products containing BPA for sale or use in California. CEH's
27 allegations and claims against Defendant FOOT LOCKER, INC. in this action are limited to
28 Products sold under FOOT LOCKER, INC.'s private label brands.

1 33. Defendant FOREVER 21, INC. is a person in the course of doing business within
2 the meaning of Health & Safety Code §25249.11. Defendant FOREVER 21, INC. markets,
3 distributes, and/or sells Products containing BPA for sale or use in California. CEH's allegations
4 and claims against Defendant FOREVER 21, INC. in this action are limited to Products sold
5 under FOREVER 21, INC.'s private label brands.

6 34. Defendant FRUIT OF THE LOOM, INC. is a person in the course of doing
7 business within the meaning of Health & Safety Code §25249.11. Defendant FRUIT OF THE
8 LOOM, INC. markets, distributes, licenses, and/or sells Products containing BPA for sale or use
9 in California.

10 35. Defendant G.H. BASS & CO. is a person in the course of doing business within
11 the meaning of Health & Safety Code §25249.11. Defendant G.H. BASS & CO. markets,
12 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

13 36. Defendant GCE INTERNATIONAL is a person in the course of doing business
14 within the meaning of Health & Safety Code §25249.11. Defendant GCE INTERNATIONAL
15 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

16 37. Defendant GERTEXT HOSIERY INC. is a person in the course of doing business
17 within the meaning of Health & Safety Code §25249.11. Defendant GERTEXT HOSIERY INC.
18 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

19 38. Defendant G-III APPAREL GROUP, LTD. is a person in the course of doing
20 business within the meaning of Health & Safety Code §25249.11. Defendant G-III APPAREL
21 GROUP, LTD. markets, distributes, licenses, and/or sells Products containing BPA for sale or use
22 in California.

23 39. Defendant GINA GROUP, LLC is a person in the course of doing business within
24 the meaning of Health & Safety Code §25249.11. Defendant GMA ACCESSORIES INC.
25 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

26 40. Defendant GMA ACCESSORIES INC. is a person in the course of doing business
27 within the meaning of Health & Safety Code §25249.11. Defendant GMA ACCESSORIES INC.
28 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

1 41. Defendant GOLD INC. is a person in the course of doing business within the
2 meaning of Health & Safety Code §25249.11. Defendant GOLD INC. markets, distributes,
3 licenses, and/or sells Products containing BPA for sale or use in California.

4 42. Defendant GREENBRIER INTERNATIONAL, INC. is a person in the course of
5 doing business within the meaning of Health & Safety Code §25249.11. Defendant
6 GREENBRIER INTERNATIONAL, INC. markets, distributes, and/or sells Products containing
7 BPA for sale or use in California. CEH's allegations and claims against Defendant
8 GREENBRIER INTERNATIONAL, INC. in this action are limited to Products sold under
9 GREENBRIER INTERNATIONAL, INC.'s private label brands.

10 43. Defendant HANESBRANDS INC. is a person in the course of doing business
11 within the meaning of Health & Safety Code §25249.11. Defendant HANESBRANDS INC.
12 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

13 44. Defendant HIGH POINT DESIGN LLC is a person in the course of doing business
14 within the meaning of Health & Safety Code §25249.11. Defendant HIGH POINT DESIGN
15 LLC markets, distributes, licenses, and/or sells Products containing BPA for sale or use in
16 California.

17 45. Defendant HOT TOPIC INC. is a person in the course of doing business within the
18 meaning of Health & Safety Code §25249.11. Defendant HOT TOPIC INC. markets, distributes,
19 and/or sells Products containing BPA for sale or use in California. CEH's allegations and claims
20 against Defendant HOT TOPIC INC. in this action are limited to Products sold under HOT
21 TOPIC INC.'s private label brands.

22 46. Defendant HYPNOTIC HATS, LTD. is a person in the course of doing business
23 within the meaning of Health & Safety Code §25249.11. Defendant HYPNOTIC HATS, LTD.
24 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

25 47. Defendant IMPLUS FOOTCARE LLC is a person in the course of doing business
26 within the meaning of Health & Safety Code §25249.11. Defendant IMPLUS FOOTCARE LLC
27 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.
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1 48. Defendant INFINITY CLASSICS INTERNATIONAL is a person in the course of
2 doing business within the meaning of Health & Safety Code §25249.11. Defendant INFINITY
3 CLASSICS INTERNATIONAL markets, distributes, licenses, and/or sells Products containing
4 BPA for sale or use in California.

5 49. Defendant INTERBRAND LLC is a person in the course of doing business within
6 the meaning of Health & Safety Code §25249.11. Defendant INTERBRAND LLC markets,
7 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

8 50. Defendant INTERLOOP NORTH AMERICA, INC. is a person in the course of
9 doing business within the meaning of Health & Safety Code §25249.11. Defendant INTERLOOP
10 NORTH AMERICA, INC. markets, distributes, licenses, and/or sells Products containing BPA
11 for sale or use in California.

12 51. Defendant INTERNATIONAL INTIMATES INC. is a person in the course of
13 doing business within the meaning of Health & Safety Code §25249.11. Defendant
14 INTERNATIONAL INTIMATES INC. markets, distributes, licenses, and/or sells Products
15 containing BPA for sale or use in California.

16 52. Defendant JBL TRADING LLC is a person in the course of doing business within
17 the meaning of Health & Safety Code §25249.11. Defendant JBL TRADING LLC markets,
18 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

19 53. Defendant JEFFRIES SOCKS, LLC is a person in the course of doing business
20 within the meaning of Health & Safety Code §25249.11. Defendant JEFFRIES SOCKS, LLC
21 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

22 54. Defendant K-SWISS INC. is a person in the course of doing business within the
23 meaning of Health & Safety Code §25249.11. Defendant K-SWISS INC. markets, distributes,
24 licenses, and/or sells Products containing BPA for sale or use in California.

25 55. Defendant KOHLS, INC. is a person in the course of doing business within the
26 meaning of Health & Safety Code §25249.11. Defendant KOHLS, INC. markets, distributes,
27 and/or sells Products containing BPA for sale or use in California. CEH's allegations and claims
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1 against Defendant KOHLS, INC. in this action are limited to Products sold under KOHLS, INC.'s
2 private label brands.

3 56. Defendant MAJESTY BRANDS LLC is a person in the course of doing business
4 within the meaning of Health & Safety Code §25249.11. Defendant MAJESTY BRANDS LLC
5 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

6 57. Defendant MARQUEE BRANDS LLC is a person in the course of doing business
7 within the meaning of Health & Safety Code §25249.11. Defendant MARQUEE BRANDS LLC
8 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

9 58. Defendant MCCUBBIN HOSIERY LLC is a person in the course of doing
10 business within the meaning of Health & Safety Code §25249.11. Defendant MCCUBBIN
11 HOSIERY LLC markets, distributes, licenses, and/or sells Products containing BPA for sale or
12 use in California.

13 59. Defendant MICHAELS STORES, INC. is a person in the course of doing business
14 within the meaning of Health & Safety Code §25249.11. Defendant MICHAELS STORES, INC.
15 markets, distributes, and/or sells Products containing BPA for sale or use in California. CEH's
16 allegations and claims against Defendant MICHAELS STORES, INC. in this action are limited to
17 Products sold under MICHAELS STORES, INC.'s private label brands.

18 60. Defendant NEW RUE21, LLC is a person in the course of doing business within
19 the meaning of Health & Safety Code §25249.11. Defendant NEW RUE21, LLC markets,
20 distributes, and/or sells Products containing BPA for sale or use in California.

21 61. Defendant NORDSTROM, INC. is a person in the course of doing business within
22 the meaning of Health & Safety Code §25249.11. Defendant NORDSTROM, INC. markets,
23 distributes, and/or sells Products containing BPA for sale or use in California. CEH's allegations
24 and claims against Defendant NORDSTROM, INC. in this action are limited to Products sold
25 under NORDSTROM, INC.'s private label brands.

26 62. Defendant ORLY SHOE CORP. is a person in the course of doing business within
27 the meaning of Health & Safety Code §25249.11. Defendant ORLY SHOE CORP. markets,
28 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

1 63. Defendant PUMA NORTH AMERICA, INC. is a person in the course of doing
2 business within the meaning of Health & Safety Code §25249.11. Defendant PUMA NORTH
3 AMERICA, INC. markets, distributes, licenses, and/or sells Products containing BPA for sale or
4 use in California.

5 64. Defendant PVH LEGWEAR, LLC is a person in the course of doing business
6 within the meaning of Health & Safety Code §25249.11. Defendant PVH LEGWEAR, LLC
7 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

8 65. Defendant REEBOK INT. LIMITED is a person in the course of doing business
9 within the meaning of Health & Safety Code §25249.11. Defendant REEBOK INT. LIMITED
10 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

11 66. Defendant RENFRO CORPORATION is a person in the course of doing business
12 within the meaning of Health & Safety Code §25249.11. Defendant RENFRO CORPORATION
13 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

14 67. Defendant ROYCE TOO LLC is a person in the course of doing business within
15 the meaning of Health & Safety Code §25249.11. Defendant ROYCE TOO LLC markets,
16 distributes, licenses, and/or sells Products containing BPA for sale or use in California.

17 68. Defendant RUSSEL BRANDS LLC is a person in the course of doing business
18 within the meaning of Health & Safety Code §25249.11. Defendant RUSSELL BRANDS LLC
19 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

20 69. Defendant SAUCONY, INC. is a person in the course of doing business within the
21 meaning of Health & Safety Code §25249.11. Defendant SAUCONY, INC. markets, distributes,
22 licenses, and/or sells Products containing BPA for sale or use in California.

23 70. Defendant SHALOM INTERNATIONAL CORP. is a person in the course of
24 doing business within the meaning of Health & Safety Code §25249.11. Defendant SHALOM
25 INTERNATIONAL CORP. markets, distributes, licenses, and/or sells Products containing BPA
26 for sale or use in California.

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1 71. Defendant SKECHERS USA, INC. is a person in the course of doing business
2 within the meaning of Health & Safety Code §25249.11. Defendant SKECHERS USA, INC.
3 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

4 72. Defendant SPIRIT HALLOWEEN, INC. is a person in the course of doing
5 business within the meaning of Health & Safety Code §25249.11. Defendant SPIRIT
6 HALLOWEEN, INC. markets, distributes, and/or sells Products containing BPA for sale or use in
7 California. CEH’s allegations and claims against Defendant SPIRIT HALLOWEEN, INC. in this
8 action are limited to Products sold under SPIRIT HALLOWEEN, INC.’s private label brands.

9 73. Defendant STEPPING STONES LLC is a person in the course of doing business
10 within the meaning of Health & Safety Code §25249.11. Defendant STEPPING STONES LLC
11 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

12 74. Defendant TARGET BRANDS, INC. is a person in the course of doing business
13 within the meaning of Health & Safety Code §25249.11. Defendant TARGET BRANDS, INC.
14 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.
15 CEH’s allegations and claims against Defendant TARGET BRANDS, INC. in this action are
16 limited to Products sold under TARGET BRANDS, INC.’s private label brands.

17 75. Defendant THE GAP INC. is a person in the course of doing business within the
18 meaning of Health & Safety Code §25249.11. Defendant THE GAP INC. markets, distributes,
19 and/or sells Products containing BPA for sale or use in California. CEH’s allegations and claims
20 against Defendant THE GAP INC. in this action are limited to Products sold under THE GAP
21 INC.’s private label brands.

22 76. Defendant TY, INC. is a person in the course of doing business within the
23 meaning of Health & Safety Code §25249.11. Defendant TY, INC. markets, distributes, licenses,
24 and/or sells Products containing BPA for sale or use in California.

25 77. Defendant TRB ACQUISITIONS LLC is a person in the course of doing business
26 within the meaning of Health & Safety Code §25249.11. Defendant TRB ACQUISITIONS LLC
27 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.
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1 78. Defendant UNITED LEGWEAR COMPANY, LLC is a person in the course of
2 doing business within the meaning of Health & Safety Code §25249.11. Defendant UNITED
3 LEGWEAR COMPANY, LLC markets, distributes, licenses, and/or sells Products containing
4 BPA for sale or use in California.

5 79. Defendant URBAN OUTFITTERS, INC. is a person in the course of doing
6 business within the meaning of Health & Safety Code §25249.11. Defendant URBAN
7 OUTFITTERS, INC. markets, distributes, and/or sells Products containing BPA for sale or use in
8 California. CEH's allegations and claims against Defendant URBAN OUTFITTERS, INC. in
9 this action are limited to Products sold under URBAN OUTFITTERS, INC.'s private label
10 brands.

11 80. Defendant USA LEGWEAR LLC is a person in the course of doing business
12 within the meaning of Health & Safety Code §25249.11. Defendant USA LEGWEAR LLC
13 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

14 81. Defendant V.F. CORPORATION is a person in the course of doing business
15 within the meaning of Health & Safety Code §25249.11. Defendant V.F. CORPORATION
16 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

17 82. Defendant V.F. OUTDOOR, LLC is a person in the course of doing business
18 within the meaning of Health & Safety Code §25249.11. Defendant V.F. OUTDOOR, LLC
19 markets, distributes, licenses, and/or sells Products containing BPA for sale or use in California.

20 83. Defendant VIACOM INTERNATIONAL INC. is a person in the course of doing
21 business within the meaning of Health & Safety Code §25249.11. Defendant VIACOM
22 INTERNATIONAL INC. markets, distributes, licenses, and/or sells Products containing BPA for
23 sale or use in California.

24 84. Defendant WALMART, INC. is a person in the course of doing business within
25 the meaning of Health & Safety Code §25249.11. Defendant WALMART, INC. markets,
26 distributes, licenses, and/or sells Products containing BPA for sale or use in California. CEH's
27 allegations and claims against Defendant WALMART, INC. in this action are limited to Products
28 sold under WALMART, INC.'s private label brands.

1 85. Defendant WEISNER PRODUCTS, INC. is a person in the course of doing
2 business within the meaning of Health & Safety Code §25249.11. Defendant WEISNER
3 PRODUCTS, INC. markets, distributes, licenses, and/or sells Products containing BPA for sale or
4 use in California.

5 86. Defendant WITH YOU LLC is a person in the course of doing business within the
6 meaning of Health & Safety Code §25249.11. Defendant WITH YOU LLC markets, distributes,
7 licenses, and/or sells Products containing BPA for sale or use in California.

8 87. DOES 1 through 200 are each a person in the course of doing business within the
9 meaning of Health & Safety Code §25249.11. DOES 1 through 200 manufacture, distribute,
10 licenses, and/or sell Products for sale or use in California.

11 88. The true names of DOES 1 through 200 are either unknown to CEH at this time or
12 the applicable time period before which CEH may file a Proposition 65 action has not run. When
13 their identities are ascertained or the applicable time period before which CEH may file a
14 Proposition 65 action has run, the Complaint shall be amended to reflect their true names.

15 89. The defendants identified in paragraphs 5 through 86 and DOES 1 through 200 are
16 collectively referred to herein as “Defendants.”

17 **JURISDICTION AND VENUE**

18 90. The Court has jurisdiction over this action pursuant to Health & Safety Code
19 §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to
20 California Constitution Article VI, Section 10, because this case is a cause not given by statute to
21 other trial courts.

22 91. This Court has jurisdiction over Defendants because each is a business entity that
23 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally
24 avails itself of the California market through the sale, marketing, or use of the Products in
25 California or by having such other contacts with California so as to render the exercise of
26 jurisdiction over it by the California courts consistent with traditional notions of fair play and
27 substantial justice.

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1 92. Venue is proper in San Francisco County Superior Court because one or more of
2 the violations arise in the County of San Francisco.

3 **BACKGROUND FACTS**

4 93. The People of the State of California have declared by initiative under Proposition
5 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or
6 other reproductive harm.” Proposition 65, §1(b).

7 94. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals
8 listed by the State of California as known to cause cancer, birth defects, or other reproductive
9 harm above certain levels without a “clear and reasonable warning” unless the business
10 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety
11 Code §25249.6 states, in pertinent part:

12 No person in the course of doing business shall knowingly and
13 intentionally expose any individual to a chemical known to the state to
14 cause cancer or reproductive toxicity without first giving clear and
reasonable warning to such individual. . .

15 95. On May 11, 2015, the State of California officially listed BPA as a female
16 reproductive toxicant. 27 California Code of Regulations (“C.C.R.”) §27001(b). On May 11,
17 2016, BPA became subject to the clear and reasonable warning requirement regarding
18 reproductive toxicity under Proposition 65. Health & Safety Code §25249.10(b).

19 96. On December 18, 2020, the State of California officially listed BPA as a
20 developmental toxicant. 27 C.C.R. §27001(b).

21 97. The Products are socks made primarily of polyester with spandex. The addition of
22 BPA in the Products is not necessary, as the Products can be made without BPA. Yet,
23 Defendants’ Products contain sufficient quantities of BPA that individuals are exposed to BPA
24 through the average use of the products. The primary route of exposure for the violations is
25 dermal exposure when consumers wear the Products. These exposures occur in homes,
26 workplaces, and everywhere else throughout California where Defendants’ Products are worn.
27 Because many of the Products are designed for use by infants and young children, many of the
28 exposures at issue in this case are to these vulnerable individuals.

1 98. Defendants market, distribute, license, and/or sells Products in California. Each of
2 these actions by Defendants operate to propel the Products toward individuals, bringing Products
3 that contain BPA into contact with them.

4 99. No clear and reasonable warning is provided with Defendants' Products regarding
5 the female reproductive toxicity of BPA. The failure to provide warnings regarding the
6 reproductive toxicity of BPA in Defendants' Products is of particular concern in light of the
7 extreme toxicity of BPA, and the fact that many of these Products are marketed at children,
8 toddlers and babies.

9 100. Any person acting in the public interest has standing to enforce violations of
10 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid
11 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action
12 within such time. Health & Safety Code §25249.7(d).

13 101. More than sixty days prior to naming each Defendant in this lawsuit, CEH
14 provided a 60-Day "Notice of Violation" of Proposition 65 to the California Attorney General, to
15 the District Attorneys of every county in California, to the City Attorneys of every California city
16 with a population greater than 750,000, and to each of the named Defendants. In compliance with
17 Health & Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following
18 information: (1) the name and address of each violator; (2) the statute violated; (3) the time period
19 during which violations occurred; (4) specific descriptions of the violations, including (a) a
20 description of the specific type of products sold and used in violation of Proposition 65; (b) the
21 routes of exposure to BPA from Defendants' Products; and (5) the name of the specific
22 Proposition 65-listed chemical that is the subject of the violations described in each Notice.

23 102. CEH also sent a Certificate of Merit for each Notice to the California Attorney
24 General, to the District Attorneys of every county in California, to the City Attorneys of every
25 California city with a population greater than 750,000, and to each of the named Defendants. In
26 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate
27 certified that CEH's counsel: (1) has consulted with one or more persons with relevant and
28 appropriate experience or expertise who reviewed facts, studies, or other data regarding the

1 exposures to BPA alleged in each Notice; and (2) based on the information obtained through such
2 consultations, believes that there is a reasonable and meritorious case for a citizen enforcement
3 action based on the facts alleged in each Notice. In compliance with Health & Safety Code
4 §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the Attorney General included
5 factual information – provided on a confidential basis – sufficient to establish the basis for the
6 Certificate, including the identity of the person(s) consulted by CEH’s counsel and the facts,
7 studies, or other data reviewed by such persons.

8 103. None of the public prosecutors with the authority to prosecute violations of
9 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants
10 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH’s
11 Notices regarding BPA in the Products.

12 104. Defendants both know and intend for individuals will come into contact with the
13 Products bands during normal use, thus exposing such individuals to BPA.

14 105. Defendants continue to expose consumers to BPA without prior clear and
15 reasonable warnings regarding the reproductive toxicity of BPA.

16 106. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to
17 filing this Complaint.

18 107. Any person “violating or threatening to violate” Proposition 65 may be enjoined in
19 any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to violate” is
20 defined to mean “to create a condition in which there is a substantial probability that a violation
21 will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not
22 to exceed \$2,500 per day for each violation of Proposition 65.

23
24 **FIRST CAUSE OF ACTION**
(Violations of Health & Safety Code §25249.6)

25 108. CEH realleges and incorporates by reference as if specifically set forth herein
26 Paragraphs 1 through 107, inclusive.

27 109. By placing the Products into the stream of commerce, each Defendant is a person
28 in the course of doing business within the meaning of Health & Safety Code §25249.11.

1 110. BPA is a chemical listed by the State of California as a known female reproductive
2 toxicant.

3 111. Each Defendant knows that average use of the Products will expose users of these
4 products to BPA. Each Defendant intends that the Products be used in a manner that results in
5 exposures to BPA from these products.

6 112. Each Defendant has failed, and continues to fail, to provide clear and reasonable
7 warnings regarding the carcinogenicity and reproductive toxicity of BPA to users of its Products.

8 113. By committing the acts alleged above, each Defendant has at all times relevant to
9 this Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to
10 BPA without first giving clear and reasonable warnings to such individuals regarding the
11 reproductive toxicity of BPA.

12 **PRAYER FOR RELIEF**

13 CEH prays for judgment against Defendants as follows:

14 1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and
15 permanently enjoin Defendants from offering the Products that will be sold in California without
16 either reducing the BPA levels in their socks made primarily of polyester with spandex such that
17 no Proposition 65 warnings are required or providing prior clear and reasonable warnings, as
18 CEH shall specify in further application to the Court;

19 2. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil
20 penalties against each Defendant in the amount of \$2,500 per day for each violation of
21 Proposition 65 according to proof;

22 3. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants
23 to take action to stop ongoing unwarned exposures to BPA resulting from wearing of socks made
24 primarily of polyester with spandex sold by Defendants, as CEH shall specify in further
25 application to the Court;

26 4. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other
27 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

28 5. That the Court grant such other and further relief as may be just and proper.

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Dated: March 21, 2022

Respectfully submitted,

LEXINGTON LAW GROUP



Mark N. Todzo
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH