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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12
13 **COUNTY OF LOS ANGELES**

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

16 Plaintiff,

17 v.

18 ROSS STORES, INC. DBA DD'S
19 DISCOUNTS, a Delaware Corporation;
20 and DOES 1-60,

21 Defendants.

CASE NO. 24STCV05215

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 six causes of action against
2 defendants ROSS STORES, INC. DBA DD'S DISCOUNTS, and DOES 1-60 as follows:

3 **THE PARTIES**

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

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

7 **JURISDICTION**

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

25 **BACKGROUND AND PRELIMINARY FACTS**

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

8 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
9 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
10 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
11 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
12 other controls that apply to Proposition 65-listed chemicals.

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

19 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
20 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
21 25249.7. "Threaten to violate" means "to create a condition in which there is a
22 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
23 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
24 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

25 15. Plaintiff identified certain practices of manufacturers and distributors of Travel Sets
26 Containing PVC, Pet Bags, Sandals, Crossbody Bags, Backpacks with PVC
27 Components, and Totebags of exposing, knowingly and intentionally, persons in
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1 California to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate and Diisononyl
2 Phthalate of such products without first providing clear and reasonable warnings of such
3 to the exposed persons prior to the time of exposure. Plaintiff later discerned that
4 Defendants engaged in such practice.

5 16. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis
6 (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause
7 cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor
8 added DEHP to the list of chemicals known to the State to cause developmental male
9 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and
10 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP
11 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became
12 fully subject to Proposition 65 warning requirements and discharge prohibitions.

13 17. On December 20, 2013, the Governor of California added Diisononyl Phthalate
14 (“DINP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
15 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
16 twenty (20) months after addition of DINP to the list of chemicals known to the State to
17 cause cancer, DINP became fully subject to Proposition 65 warning requirements and
18 discharge prohibitions.

19 **SATISFACTION OF PRIOR NOTICE**

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

- 22 a. On or about July 3, 2023, Plaintiff gave notice of alleged violations of Health
23 and Safety Code Section 25249.6, concerning consumer products exposures
24 subject to a private action to ROSS, and to the California Attorney General,
25 County District Attorneys, and City Attorneys for each city containing a
26 population of at least 750,000 people in whose jurisdictions the violations
27 allegedly occurred, concerning the Travel Set Containing PVC.

- 1 b. On or about August 8, 2023, Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to ROSS, and to the California Attorney General,
4 County District Attorneys, and City Attorneys for each city containing a
5 population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Pet Bag.
- 7 c. On or about August 8, 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 Sandals.
- 13 d. On or about October 26, 2023, Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to ROSS, and to the California Attorney
16 General, County District Attorneys, and City Attorneys for each city containing
17 a population of at least 750,000 people in whose jurisdictions the violations
18 allegedly occurred, concerning the Crossbody Bag.
- 19 e. On or about October 26, 2023, Plaintiff gave notice of alleged violations of
20 Health and Safety Code Section 25249.6, concerning consumer products
21 exposures subject to a private action to ROSS, and to the California Attorney
22 General, County District Attorneys, and City Attorneys for each city containing
23 a population of at least 750,000 people in whose jurisdictions the violations
24 allegedly occurred, concerning the Backpacks with PVC Components.
- 25 f. On or about October 26, 2023, Plaintiff gave notice of alleged violations of
26 Health and Safety Code Section 25249.6, concerning consumer products
27 exposures subject to a private action to ROSS, and to the California Attorney
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1 General, County District Attorneys, and City Attorneys for each city containing
2 a population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning the Totebag.

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

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

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

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

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

1 **FIRST CAUSE OF ACTION**

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

4 **Travel Accessory**

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

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

11 26. Travel Set contains DEHP.

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

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

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

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

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

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

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

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

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7 **SECOND CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 11-
9 20 for Violations of Proposition 65, The Safe Drinking Water and Toxic
10 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

11 **Handbag I**

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

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

17 37. Pet Bag contains DEHP and DINP.

18 38. Defendants knew or should have known that DEHP and DINP have been identified by
19 the State of California as chemicals known to cause cancer, and/or reproductive toxicity
20 and therefore were subject to Proposition 65 warning requirements. Defendants were
21 also informed of the presence of DEHP and DINP in Pet Bag within Plaintiff's notice of
22 alleged violations further discussed above at Paragraph 18b.

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

1 40. Plaintiff is informed, believes, and thereon alleges that between August 8, 2020 and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Pet Bags, which Defendants manufactured, distributed, or sold as
4 mentioned above, to DEHP and DINP, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.

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

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

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

3 43. 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 44. 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 and DINP from Pet Bag, pursuant to
8 Health and Safety Code Section 25249.7(b).

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

11 **THIRD CAUSE OF ACTION**

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

15 **Footwear**

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

18 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Sandals, including but not limited to “Bonnibel”; “All
20 Man Made Materials”; “Made in China”; “10”; “302 D5201 C908”; “Gold154”;
21 “400256093441”.

22 48. Sandals contain DINP.

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

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

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

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

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

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

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

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

17 **FOURTH CAUSE OF ACTION**

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

21 **Fashion Accessories**

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

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

28 59. Crossbody Bag contains DEHP.

1 60. 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 Crossbody Bag within Plaintiff's notice of alleged violations
5 further discussed above at Paragraph 18d.

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

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

1 and/or have actual knowledge of potential exposure to DEHP from Crossbody Bag.
2 Defendants thereby violated Proposition 65.

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

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

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

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

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

23 **FIFTH CAUSE OF ACTION**

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

27 **Backpacks**

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

3 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Backpacks with PVC Components (“Backpacks”),
5 including but not limited to: “Le Miel”; “ITEM NO:LHU455”; “COLOR:PP”;
6 “8372209015”; “D1521 C5783”; “HANDBAG”; “SKU 400260335339”.

7 70. Backpacks contain DINP.

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

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

19 73. 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 Backpacks, which Defendants manufactured, distributed, or sold
22 as mentioned above, to DINP, without first providing any type of clear and reasonable
23 warning of such to the exposed persons before the time of exposure. Defendants have
24 distributed and sold Backpacks in California. Defendants know and intend that
25 California consumers will use and consume Backpacks, thereby exposing them to DINP.
26 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
27 Backpacks under a brand or trademark that is owned or licensed by the Defendants or an
28

1 entity affiliated thereto; have knowingly introduced DINP into Backpacks or knowingly
2 caused DINP to be created in Backpacks; have covered, obscured or altered a warning
3 label that has been affixed to Backpacks by the manufacturer, producer, packager,
4 importer, supplier or distributor of Backpacks; have received a notice and warning
5 materials for exposure from Backpacks without conspicuously posting or displaying the
6 warning materials; and/or have actual knowledge of potential exposure to DINP from
7 Backpacks. Defendants thereby violated Proposition 65.

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

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

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

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

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

28

1 **SIXTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 51-**
3 **60 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Handbag II**

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

8 80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Totebag, including but not limited to: “SUN ‘N’
10 SAND ACCESSORIES”; “CASUALS”; “EST. 1986”; “D1522 C5447”; “SKU
11 400253580357”.

12 81. Totebag contains DEHP.

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

18 83. Plaintiff's allegations regarding Totebag concerns “[c]onsumer products exposure[s],”
19 which “is an exposure that results from a person's acquisition, purchase, storage,
20 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
21 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
22 Totebag is a consumer product, and, as mentioned herein, exposures to DEHP took place
23 as a result of such normal and foreseeable consumption and use.

24 84. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 and
25 the present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Totebags, which Defendants manufactured, distributed, or sold
27 as mentioned above, to DEHP, without first providing any type of clear and reasonable
28 warning of such to the exposed persons before the time of exposure. Defendants have

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

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

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

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

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

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


6 **PRAYER FOR RELIEF**

7 Plaintiff demands against each of the Defendants as follows:

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

13
14 Dated: March 1, 2024

YEROUSHALMI & YEROUSHALMI*

15 
16 Reuben Yeroushalmi
17 Attorneys for Plaintiff,
18 CONSUMER ADVOCACY GROUP, INC.