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9 CONSUMER ADVOCACY GROUP, INC.

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

11 **COUNTY OF LOS ANGELES**

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

14 Plaintiff,

15 v.

16 WAL-MART.COM USA, LLC, a California
17 Limited Liability Company;
18 WALMART, INC., a Delaware Corporation;
19 and DOES 1-30,

20 Defendants.

CASE NO. **24STCV15295**

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)

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22
23 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges three causes of action
24 against defendants WAL-MART.COM USA, LLC, WALMART, INC., and DOES 1-30 as
25 follows:

26 **THE PARTIES**

- 1 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
2 organization qualified to do business in the State of California. CAG is a person within
3 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
4 as a private attorney general, brings this action in the public interest as defined under
5 Health and Safety Code Section 25249.7, subdivision (d).
- 6 2. Defendant WAL-MART.COM USA, LLC (“WAL-MART.COM”) is a California
7 Limited Liability Company qualified to do business in California and doing business in
8 the State of California at all relevant times herein.
- 9 3. Defendant WALMART, INC. (“WALMART”) is a Delaware Corporation, qualified to
10 do business in California and doing business in the State of California at all relevant
11 times herein.
- 12 4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-30,
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 5. At all times mentioned herein, the term “Defendants” includes WAL-MART.COM,
19 WALMART and DOES 1-30.
- 20 6. 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 7. Upon information and belief, at all times relevant to this action, each of the Defendants,
23 including DOES 1-30, 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
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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 8. 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 9. 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 10. 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 11. 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.

26 **BACKGROUND AND PRELIMINARY FACTS**

- 1 12. In 1986, California voters approved an initiative to address growing concerns about
2 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
3 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
4 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
5 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
6 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
7 from contamination, to allow consumers to make informed choices about the products
8 they buy, and to enable persons to protect themselves from toxic chemicals as they see
9 fit.
- 10 13. Proposition 65 requires the Governor of California to publish a list of chemicals known
11 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
12 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
13 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
14 other controls that apply to Proposition 65-listed chemicals.
- 15 14. All businesses with ten (10) or more employees that operate or sell products in California
16 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
17 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
18 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
19 reasonable” warnings before exposing a person, knowingly and intentionally, to a
20 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 21 15. Proposition 65 provides that any person "violating or threatening to violate" the statute
22 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
23 25249.7. "Threaten to violate" means "to create a condition in which there is a
24 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
25 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
26 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

1 16. Plaintiff identified certain practices of manufacturers and distributors of Backpacks with
2 PVC Components, Bottle Bags with PVC Components, and PVC
3 Travel/Makeup/Cosmetic Bags, of exposing, knowingly and intentionally, persons in
4 California to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate of such products
5 without first providing clear and reasonable warnings of such to the exposed persons
6 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such
7 practice.

8 17. 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 **SATISFACTION OF PRIOR NOTICE**

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

- 19 a. On or about August 18, 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 WAL-MART.COM, WALMART, and
22 to the California Attorney General, County District Attorneys, and City
23 Attorneys for each city containing a population of at least 750,000 people in
24 whose jurisdictions the violations allegedly occurred, concerning the Backpacks
25 with PVC Components.
- 26 b. On or about August 18, 2023, Plaintiff gave notice of alleged violations of
27 Health and Safety Code Section 25249.6, concerning consumer products
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1 exposures subject to a private action to WAL-MART.COM, WALMART, and
2 to the California Attorney General, County District Attorneys, and City
3 Attorneys for each city containing a population of at least 750,000 people in
4 whose jurisdictions the violations allegedly occurred, concerning the Bottle
5 Bags with PVC Components.

6 c. On or about December 12, 2023, Plaintiff gave notice of alleged violations of
7 Health and Safety Code Section 25249.6, concerning consumer products
8 exposures subject to a private action to WAL-MART.COM, WALMART, and
9 to the California Attorney General, County District Attorneys, and City
10 Attorneys for each city containing a population of at least 750,000 people in
11 whose jurisdictions the violations allegedly occurred, concerning the PVC
12 Travel/Makeup/Cosmetic Bags.

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 Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, and
16 the corporate structure of each of the 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 Diethyl Hexyl
21 Phthalate and Bis (2-ethylhexyl) phthalate, the subject Proposition 65-listed chemical of
22 this action. Based on that information, the attorney for Plaintiff who executed the
23 Certificate of Merit believed there was a reasonable and meritorious case for this private
24 action. The attorney for Plaintiff attached to the Certificate of Merit served on the
25 Attorney General the confidential factual information sufficient to establish the basis of
26 the Certificate of Merit.

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 WAL-MART.COM, WALMART, and the public
6 prosecutors referenced in 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 WAL-MART.COM,**
12 **WALMART, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking**
13 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, et**
14 **seq.))**

15 **Bags**

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

18 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Backpacks with PVC Components ("Backpacks"),
20 including but not limited to: "XGeek"; "Clear Transparent Backpack"; "3 PCS Set";
21 "UPC 09192052783541".

22 26. Backpacks contains Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate.

23 27. Defendants knew or should have known that Diethyl Hexyl Phthalate and Bis (2-
24 ethylhexyl) phthalate has been identified by the State of California as a chemical known
25 to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65
26 warning requirements. Defendants were also informed of the presence of Diethyl Hexyl
27 Phthalate and Bis (2-ethylhexyl) phthalate in Backpacks within Plaintiff's notice of
28 alleged violations further discussed above at Paragraph 18a.

1 28. Plaintiff's allegations regarding Backpacks 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 Backpacks are consumer products, and, as mentioned herein, exposures to Diethyl Hexyl
6 Phthalate and Bis (2-ethylhexyl) phthalate took place as a result of such normal and
7 foreseeable consumption and use.

8 29. Plaintiff is informed, believes, and thereon alleges that between August 18, 2020 and the
9 present, each of the Defendants knowingly and intentionally exposed California
10 consumers and users of Backpacks, which Defendants manufactured, distributed, or sold
11 as mentioned above, to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate without
12 first providing any type of clear and reasonable warning of such to the exposed persons
13 before the time of exposure. Defendants have distributed and sold Backpacks in
14 California. Defendants know and intend that California consumers will use and consume
15 Backpacks, thereby exposing them to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl)
16 phthalate. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are
17 selling Backpacks under a brand or trademark that is owned or licensed by the
18 Defendants or an entity affiliated thereto; have knowingly introduced Diethyl Hexyl
19 Phthalate and Bis (2-ethylhexyl) phthalate into Backpacks or knowingly caused Diethyl
20 Hexyl Phthalate and Bis (2-ethylhexyl) phthalate to be created in Backpacks; have
21 covered, obscured or altered a warning label that has been affixed to Backpacks by the
22 manufacturer, producer, packager, importer, supplier or distributor of Backpacks; have
23 received a notice and warning materials for exposure from Backpacks without
24 conspicuously posting or displaying the warning materials; and/or have actual
25 knowledge of potential exposure to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl)
26 phthalate from Backpacks. Defendants thereby violated Proposition 65.

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

7 31. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
8 Proposition 65 as to Backpacks have been ongoing and continuous, as Defendants
9 engaged and continue to engage in conduct which violates Health and Safety Code
10 Section 25249.6, including the manufacture, distribution, promotion, and sale of
11 Backpacks, so that a separate and distinct violation of Proposition 65 occurred each and
12 every time a person was exposed to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl)
13 phthalate by Backpacks as mentioned herein.

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

17 33. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to Diethyl Hexyl Phthalate and Bis (2-
19 ethylhexyl) phthalate from Backpacks, pursuant to Health and Safety Code Section
20 25249.7(b).

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

23 **SECOND CAUSE OF ACTION**

24 **(By CONSUMER ADVOCACY GROUP, INC. and against WAL-MART.COM,**
25 **WALMART, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking**
26 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
27 ***seq.*))**

28 **Bags**

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

3 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Bottle Bags with PVC Components (“Bottle Bags”),
5 including but not limited to: “Sanwood”; “PVC Transparent Leak-proof Refrigerated
6 Champagne Red Wine Bottle Ice Tote Bag”; “21048439”; “40*12*30cm”; “2326700”;
7 “Made in China”.

8 37. Bottle Bags contains Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate.

9 38. Defendants knew or should have known that Diethyl Hexyl Phthalate and Bis (2-
10 ethylhexyl) phthalate has been identified by the State of California as a chemical known
11 to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65
12 warning requirements. Defendants were also informed of the presence of Diethyl Hexyl
13 Phthalate and Bis (2-ethylhexyl) phthalate in Bottle Bags within Plaintiff’s notice of
14 alleged violations further discussed above at Paragraph 18b.

15 39. Plaintiff’s allegations regarding Bottle Bags concerns “[c]onsumer products
16 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
18 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
19 *25602(b)*. Bottle Bags are consumer products, and, as mentioned herein, exposures to
20 Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate took place as a result of such
21 normal and foreseeable consumption and use.

22 40. Plaintiff is informed, believes, and thereon alleges that between August 18, 2020 and the
23 present, each of the Defendants knowingly and intentionally exposed California
24 consumers and users of Bottle Bags, which Defendants manufactured, distributed, or
25 sold as mentioned above, to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate
26 without first providing any type of clear and reasonable warning of such to the exposed
27 persons before the time of exposure. Defendants have distributed and sold Bottle Bags
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1 in California. Defendants know and intend that California consumers will use and
2 consume Bottle Bags, thereby exposing them to Diethyl Hexyl Phthalate and Bis (2-
3 ehtylhexyl) phthalate. Further, Plaintiff is informed, believes, and thereon alleges that
4 Defendants are selling Bottle Bags under a brand or trademark that is owned or licensed
5 by the Defendants or an entity affiliated thereto; have knowingly introduced Diethyl
6 Hexyl Phthalate and Bis (2-ehthylhexyl) phthalate into Bottle Bags or knowingly caused
7 Diethyl Hexyl Phthalate and Bis (2-ehthylhexyl) phthalate to be created in Bottle Bags;
8 have covered, obscured or altered a warning label that has been affixed to Bottle Bags by
9 the manufacturer, producer, packager, importer, supplier or distributor of Bottle Bags;
10 have received a notice and warning materials for exposure from Bottle Bags without
11 conspicuously posting or displaying the warning materials; and/or have actual
12 knowledge of potential exposure to Diethyl Hexyl Phthalate and Bis (2-ehthylhexyl)
13 phthalate from Bottle Bags. Defendants thereby violated Proposition 65.

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

20 42. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
21 Proposition 65 as to Bottle Bags 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 Bottle
24 Bags, so that a separate and distinct violation of Proposition 65 occurred each and every
25 time a person was exposed to Diethyl Hexyl Phthalate and Bis (2-ehthylhexyl) phthalate
26 by Bottle Bags as mentioned herein.

1 43. 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 44. Based on the allegations herein, Defendants are liable for civil penalties of up to
5 \$2,500.00 per day per individual exposure to Diethyl Hexyl Phthalate and Bis (2-
6 ethylhexyl) phthalate from Bottle Bags, pursuant to Health and Safety Code Section
7 25249.7(b).

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

10 **THIRD CAUSE OF ACTION**

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

15 **Travel Bags**

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 PVC Travel/Makeup/Cosmetic Bags (“PVC
20 Travel/Makeup/Cosmetic Bags”), including but not limited to: “@5215254@”; “1”;
21 “JJ10229-01”; “/1296706”.

22 48. Defendants knew or should have known that Diethyl Hexyl Phthalate and Bis (2-
23 ethylhexyl) phthalate has been identified by the State of California as a chemical known
24 to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65
25 warning requirements. Defendants were also informed of the presence of Diethyl Hexyl
26 Phthalate and Bis (2-ethylhexyl) phthalate in PVC Travel/Makeup/Cosmetic Bags within
27 Plaintiff’s notice of alleged violations further discussed above at Paragraph 18c.
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1 49. Plaintiff’s allegations regarding PVC Travel/Makeup/Cosmetic Bags concerns

2 “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s
3 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
4 consumer good, or any exposure that results from receiving a consumer service.” *Cal.*
5 *Code Regs.* tit. 27, § 25602(b). PVC Travel/Makeup/Cosmetic Bags are consumer
6 products, and, as mentioned herein, exposures to Diethyl Hexyl Phthalate and Bis (2-
7 ehtylhexyl) phthalate took place as a result of such normal and foreseeable consumption
8 and use.

9 50. Plaintiff is informed, believes, and thereon alleges that between December 12, 2020 and
10 the present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of PVC Travel/Makeup/Cosmetic Bags, which Defendants
12 manufactured, distributed, or sold as mentioned above, to Diethyl Hexyl Phthalate and
13 Bis (2-ehthylhexyl) phthalate without first providing any type of clear and reasonable
14 warning of such to the exposed persons before the time of exposure. Defendants have
15 distributed and sold PVC Travel/Makeup/Cosmetic Bags in California. Defendants
16 know and intend that California consumers will use and consume PVC
17 Travel/Makeup/Cosmetic Bags, thereby exposing them to Diethyl Hexyl Phthalate and
18 Bis (2-ehthylhexyl) phthalate. Further, Plaintiff is informed, believes, and thereon alleges
19 that Defendants are selling PVC Travel/Makeup/Cosmetic Bags under a brand or
20 trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
21 have knowingly introduced Diethyl Hexyl Phthalate and Bis (2-ehthylhexyl) phthalate
22 into PVC Travel/Makeup/Cosmetic Bags or knowingly caused Diethyl Hexyl Phthalate
23 and Bis (2-ehthylhexyl) phthalate to be created in PVC Travel/Makeup/Cosmetic Bags;
24 have covered, obscured or altered a warning label that has been affixed to PVC
25 Travel/Makeup/Cosmetic Bags by the manufacturer, producer, packager, importer,
26 supplier or distributor of PVC Travel/Makeup/Cosmetic Bags; have received a notice
27 and warning materials for exposure from PVC Travel/Makeup/Cosmetic Bags without
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1 conspicuously posting or displaying the warning materials; and/or have actual
2 knowledge of potential exposure to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl)
3 phthalate from PVC Travel/Makeup/Cosmetic Bags. Defendants thereby violated
4 Proposition 65.

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

11 52. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to PVC Travel/Makeup/Cosmetic Bags have been ongoing and
13 continuous, as Defendants engaged and continue to engage in conduct which violates
14 Health and Safety Code Section 25249.6, including the manufacture, distribution,
15 promotion, and sale of PVC Travel/Makeup/Cosmetic Bags, so that a separate and
16 distinct violation of Proposition 65 occurred each and every time a person was exposed
17 to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate by PVC
18 Travel/Makeup/Cosmetic Bags as mentioned herein.

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

22 54. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to Diethyl Hexyl Phthalate and Bis (2-
24 ethylhexyl) phthalate from PVC Travel/Makeup/Cosmetic Bags, pursuant to Health and
25 Safety Code Section 25249.7(b).

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

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PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

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

Dated: June 19, 2024

YEROUSHALMI & YEROUSHALMI*

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