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9 CONSUMER ADVOCACY GROUP, INC.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Alameda  
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By: Milagros Cortez,  
Deputy Clerk

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12  
13 **COUNTY OF ALAMEDA**

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

16 Plaintiff,

17 v.

18 THE TJX COMPANIES, INC., a  
19 Massachusetts Corporation;  
20 JAY IMPORT COMPANY, INC., a New  
21 York Corporation;  
22 WBM INTERNATIONAL, LLC DBA WBM  
23 LLC, a New Jersey Limited Liability  
24 Company;  
25 ARGENTO SC, BY SICURA INC., a New  
26 York Corporation;  
27 and DOES 1-30,

28 Defendants.

CASE NO. **24CV082561**

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges three causes of action  
against defendants THE TJX COMPANIES, INC., JAY IMPORT COMPANY, INC., WBM

1 INTERNATIONAL, LLC DBA WBM LLC, ARGENTO SC, BY SICURA INC., and DOES  
2 1-30 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 THE TJX COMPANIES, INC. (“TJX”) is a Massachusetts Corporation,  
10 qualified to do business in Massachusetts, and doing business in the State of California at  
11 all relevant times herein.
- 12 3. Defendant JAY IMPORT COMPANY, INC. (“JAY”) is a New York Corporation,  
13 qualified to do business in New York, and doing business in the State of California at all  
14 relevant times herein.
- 15 4. Defendant WBM INTERNATIONAL, LLC DBA WBM LLC (“WBM”) is a New Jersey  
16 Limited Liability Company, qualified to do business in New Jersey, and doing business  
17 in the State of California at all relevant times herein.
- 18 5. Defendant ARGENTO SC, BY SICURA INC. (“ARGENTO”) is a New York  
19 Corporation, qualified to do business in New York, and doing business in the State of  
20 California at all relevant times herein.
- 21 6. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-30,  
22 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
23 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
24 informed, believes, and thereon alleges that each fictitiously named defendant is  
25 responsible in some manner for the occurrences herein alleged and the damages caused  
26 thereby.

- 1 7. At all times mentioned herein, the term “Defendants” includes TJX, JAY, WBM,  
2 ARGENTO, and DOES 1-30.
- 3 8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
4 times mentioned herein have conducted business within the State of California.
- 5 9. Upon information and belief, at all times relevant to this action, each of the Defendants,  
6 including DOES 1-30, was an agent, servant, or employee of each of the other  
7 Defendants. In conducting the activities alleged in this Complaint, each of the  
8 Defendants was acting within the course and scope of this agency, service, or  
9 employment, and was acting with the consent, permission, and authorization of each of  
10 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
11 were ratified and approved by every other Defendant or their officers or managing  
12 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
13 alleged wrongful conduct of each of the other Defendants.
- 14 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
15 Defendants was a person doing business within the meaning of Health and Safety Code  
16 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
17 employees at all relevant times.

18 **JURISDICTION**

- 19 11. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
20 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
21 those given by statute to other trial courts. This Court has jurisdiction over this action  
22 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
23 violations of Proposition 65 in any Court of competent jurisdiction.
- 24 12. This Court has jurisdiction over Defendants named herein because Defendants either  
25 reside or are located in this State or are foreign corporations authorized to do business in  
26 California, are registered with the California Secretary of State, or who do sufficient  
27 business in California, have sufficient minimum contacts with California, or otherwise  
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1 intentionally avail themselves of the markets within California through their  
2 manufacture, distribution, promotion, marketing, or sale of their products within  
3 California to render the exercise of jurisdiction by the California courts permissible  
4 under traditional notions of fair play and substantial justice.

5 13. Venue is proper in the County of Alameda because one or more of the instances of  
6 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or  
7 because Defendants conducted, and continue to conduct, business in the County of  
8 Alameda with respect to the consumer product that is the subject of this action.

9 **BACKGROUND AND PRELIMINARY FACTS**

10 14. In 1986, California voters approved an initiative to address growing concerns about  
11 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
12 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
13 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
14 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
15 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
16 from contamination, to allow consumers to make informed choices about the products  
17 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
18 fit.

19 15. Proposition 65 requires the Governor of California to publish a list of chemicals known  
20 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
21 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
22 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
23 other controls that apply to Proposition 65-listed chemicals.

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

3 17. Proposition 65 provides that any person "violating or threatening to violate" the statute  
4 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
5 25249.7. "Threaten to violate" means "to create a condition in which there is a  
6 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
7 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
8 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

9 18. Plaintiff identified certain practices of manufacturers and distributors of Jewelry Boxes,  
10 Turmeric Powder, and Gift Set Bag of exposing, knowingly and intentionally, persons in  
11 California to Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate, Lead and Lead  
12 Compounds of such products without first providing clear and reasonable warnings of  
13 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that  
14 Defendants engaged in such practice.

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

23 20. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
24 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
25 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
26 twenty (20) months after addition of Lead to the list of chemicals known to the State to

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1 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
2 discharge prohibitions.

3 21. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
4 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
5 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
6 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
7 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
8 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
9 Proposition 65 warning requirements and discharge prohibitions.

10 **SATISFACTION OF PRIOR NOTICE**

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

- 13 a. On or about December 1, 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 TJX, JAY, and to the California  
16 Attorney General, County District Attorneys, and City Attorneys for each city  
17 containing a population of at least 750,000 people in whose jurisdictions the  
18 violations allegedly occurred, concerning the Jewelry Boxes.
- 19 b. On or about January 5, 2024, 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 TJX, WBM, and to the California  
22 Attorney General, County District Attorneys, and City Attorneys for each city  
23 containing a population of at least 750,000 people in whose jurisdictions the  
24 violations allegedly occurred, concerning the Turmeric Powder.
- 25 c. On or about February 29, 2024 and March 29, 2024, Plaintiff gave notices of  
26 alleged violations of Health and Safety Code Section 25249.6, concerning  
27 consumer products exposures subject to a private action to TJX, ARGENTO,  
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1 and to the California Attorney General, County District Attorneys, and City  
2 Attorneys for each city containing a population of at least 750,000 people in  
3 whose jurisdictions the violations allegedly occurred, concerning the Gift Set  
4 Bag.

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

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

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

22 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
23 gave notice of the alleged violations to TJX, JAY, WBM, ARGENTO, and the public  
24 prosecutors referenced in Paragraph 22.

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

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1 **FIRST CAUSE OF ACTION**

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

5 **Jewelry Accessories**

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

8 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Jewelry Boxes, including but not limited to  
10 “American Atelier”; “Made In China”; “ITEM#: 1630081”; “UPC 088235719256”.

11 30. Jewelry Boxes contain DEHP.

12 31. 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 Jewelry Boxes within Plaintiff's notice of alleged violations  
16 further discussed above at Paragraph 22a.

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

23 33. Plaintiff is informed, believes, and thereon alleges that between December 1, 2020 and  
24 the present, each of the Defendants knowingly and intentionally exposed California  
25 consumers and users of Jewelry Boxes, which Defendants manufactured, distributed, or  
26 sold as mentioned above, to DEHP, without first providing any type of clear and  
27 reasonable warning of such to the exposed persons before the time of exposure.

28 Defendants have distributed and sold Jewelry Boxes in California. Defendants know and



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

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

18 35. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
19 Proposition 65 as to Jewelry Boxes 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 Jewelry  
22 Boxes, so that a separate and distinct violation of Proposition 65 occurred each and every  
23 time a person was exposed to DEHP by Jewelry Boxes as mentioned herein.

24 36. 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 37. 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 Jewelry Boxes, pursuant to  
3 Health and Safety Code Section 25249.7(b).

4 38. 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 TJX, WBM, and**  
9 **DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
10 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Spices**

12 39. Plaintiff repeats and incorporates by reference paragraphs 1 through 38 of this complaint  
13 as though fully set forth herein.

14 40. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
15 distributor, promoter, or retailer of Turmeric Powder, identified as “HIMALAYAN  
16 CHEF”; “TURMERIC POWDER”; “NET WT 6.35 OZ (180 G)”; “Product of Pakistan”;  
17 “LOT: NO: 2442021”; “BEST: BY : SEP 2024”; “UPC 810921036374”.

18 a. The scope of this cause of action is limited to the specific lot number and/or  
19 batch number “LOT: NO: 2442021” of Turmeric Powder.

20 41. Turmeric Powder contains Lead.

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

26 43. Plaintiff's allegations regarding Turmeric Powder concerns “[c]onsumer products  
27 exposure[s],” which “is an exposure that results from a person's acquisition, purchase,  
28 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*

1 25602(b). Turmeric Powder is a consumer product, and, as mentioned herein, exposures  
2 to Lead took place as a result of such normal and foreseeable consumption and use.

3 44. Plaintiff is informed, believes, and thereon alleges that between January 5, 2021 and the  
4 present, each of the Defendants knowingly and intentionally exposed California  
5 consumers and users of Turmeric Powder, which Defendants manufactured, distributed,  
6 or sold as mentioned above, to Lead, without first providing any type of clear and  
7 reasonable warning of such to the exposed persons before the time of exposure.

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

20 45. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,  
21 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating  
22 and consuming Turmeric Powder, and additionally by handling Turmeric Powder  
23 without wearing gloves or any other personal protective equipment, or by touching bare  
24 skin or mucous membranes with gloves after handling Turmeric Powder, as well as  
25 through direct and indirect hand to mouth contact, hand to mucous membrane, or even  
26 breathing in particulate matter dispersed from Turmeric Powder.

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

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

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

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

16 **THIRD CAUSE OF ACTION**

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

20 **Body Care Accessories**

21 50. Plaintiff repeats and incorporates by reference paragraphs 1 through 49 of this complaint  
22 as though fully set forth herein.

23 51. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
24 distributor, promoter, or retailer of Gift Set Bag, including but not limited to "BODY  
25 CARE GIFT SET"; "SET INCLUDES"; "18 OZ / 610 G LAVENDER SCENTED  
26 EXFOLIATING SUGAR SCRUB"; "8 OZ / 236 ML LAVENDER SCENTED  
27 ILLUMINATING SHIMMER MIST"; "3.52 OZ / 100 G LAVENDER SCENTED  
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1 BATH BOMB”; “1273-045941869-00999-23-2”; “7394—9418—932300---NHK01”;  
2 “UPC 191205671536”.

3 52. Gift Set Bag contain DEHP.

4 53. Defendants knew or should have known that DEHP has been identified by the State of  
5 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
6 was subject to Proposition 65 warning requirements. Defendants were also informed of  
7 the presence of DEHP in Gift Set Bag within Plaintiff’s notice of alleged violations  
8 further discussed above at Paragraph 22c.

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

15 55. Plaintiff is informed, believes, and thereon alleges that between February 29, 2021 and  
16 the present, each of the Defendants knowingly and intentionally exposed California  
17 consumers and users of Gift Set Bag, which Defendants manufactured, distributed, or  
18 sold as mentioned above, to DEHP, without first providing any type of clear and  
19 reasonable warning of such to the exposed persons before the time of exposure.  
20 Defendants have distributed and sold Gift Set Bag in California. Defendants know and  
21 intend that California consumers will use and consume Gift Set Bag, thereby exposing  
22 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that  
23 Defendants are selling Gift Set Bag under a brand or trademark that is owned or licensed  
24 by the Defendants or an entity affiliated thereto; have knowingly introduced DEHP into  
25 Gift Set Bag or knowingly caused DEHP to be created in Gift Set Bag; have covered,  
26 obscured or altered a warning label that has been affixed to Gift Set Bag by the  
27 manufacturer, producer, packager, importer, supplier or distributor of Gift Set Bag; have  
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1 received a notice and warning materials for exposure from Gift Set Bag without  
2 conspicuously posting or displaying the warning materials; and/or have actual  
3 knowledge of potential exposure to DEHP from Gift Set Bag. Defendants thereby  
4 violated Proposition 65.

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

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

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

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

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

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26 **PRAYER FOR RELIEF**

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

6  
7 Dated: July 8, 2024

YEROUSHALMI & YEROUSHALMI\*

8  
9 */s/ Reuben Yeroushalmi*

10 Reuben Yeroushalmi  
11 Attorneys for Plaintiff,  
12 CONSUMER ADVOCACY GROUP, INC.  
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