

11/26/2024

Chad Finke, Executive Officer / Clerk of the Court

By: D. Harbour Deputy

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroushalmi.com

3 **YERUSHALMI & YERUSHALMI***

9100 Wilshire Boulevard, Suite 240W

Beverly Hills, California 90212

Telephone: (310) 623-1926

Facsimile: (310) 623-1930

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

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

Plaintiff,

v.

SHANY ENTERPRISES, INC., a Texas
Corporation;
and DOES 1-70,

Defendants.

CASE NO. **24CV101340**

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 \$35,000)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges seven causes of action
against defendants SHANY ENTERPRISES, INC., and DOES 1-70 as follows:

THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant SHANY ENTERPRISES, INC. (“SHANY”) is a Texas Corporation, qualified to do business in Texas, and doing business in the State of California at all relevant times herein.
3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-70, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
4. At all times mentioned herein, the term “Defendants” includes SHANY, and DOES 1-70.
5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
6. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-70, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing

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 Alameda because one or more of the instances of
22 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or
23 because Defendants conducted, and continue to conduct, business in the County of
24 Alameda with respect to the consumer product that is the subject of this action.

1 **BACKGROUND AND PRELIMINARY FACTS**

- 2 11. In 1986, California voters approved an initiative to address growing concerns about
3 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
4 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
5 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
6 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
7 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
8 from contamination, to allow consumers to make informed choices about the products
9 they buy, and to enable persons to protect themselves from toxic chemicals as they see
10 fit.
- 11 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
12 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
13 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
14 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
15 other controls that apply to Proposition 65-listed chemicals.
- 16 13. All businesses with ten (10) or more employees that operate or sell products in California
17 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
18 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
19 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
20 reasonable” warnings before exposing a person, knowingly and intentionally, to a
21 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 22 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
23 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
24 25249.7. "Threaten to violate" means "to create a condition in which there is a
25 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
26 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
27 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
- 28

1 15. Plaintiff identified certain practices of manufacturers and distributors of Accessories of
2 exposing, knowingly and intentionally, persons in California to Diethyl Hexyl Phthalate
3 and Di (2-ethylhexyl) phthalate, and Diisononyl Phthalate of such products without first
4 providing clear and reasonable warnings of such to the exposed persons prior to the time
5 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

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

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

20 **SATISFACTION OF PRIOR NOTICE**

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

- 23 a. On or about March 28, 2022, Plaintiff gave notice of alleged violations of
24 Health and Safety Code Section 25249.6, concerning consumer products
25 exposures subject to a private action to SHANY, and to the California Attorney
26 General, County District Attorneys, and City Attorneys for each city containing
27
28

1 a population of at least 750,000 people in whose jurisdictions the violations
2 allegedly occurred, concerning the Hanging Organizer Bag

3 i. On or about August 3, 2022, Plaintiff gave notice of alleged violations of
4 Health and Safety Code Section 25249.6, concerning consumer products
5 exposures subject to a private action to SHANY, and to the California
6 Attorney General, County District Attorneys, and City Attorneys for
7 each city containing a population of at least 750,000 people in whose
8 jurisdictions the violations allegedly occurred, concerning the Hanging
9 Organizer Bag.

10 b. On or about August 3, 2022, Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to SHANY, and to the California Attorney General,
13 County District Attorneys, and City Attorneys for each city containing a
14 population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Handbag with PVC Components.

16 c. On or about September 1, 2022, Plaintiff gave notice of alleged violations of
17 Health and Safety Code Section 25249.6, concerning consumer products
18 exposures subject to a private action to SHANY, and to the California Attorney
19 General, County District Attorneys, and City Attorneys for each city containing
20 a population of at least 750,000 people in whose jurisdictions the violations
21 allegedly occurred, concerning the Travel Bag.

22 d. On or about January 12, 2023, Plaintiff gave notice of alleged violations of
23 Health and Safety Code Section 25249.6, concerning consumer products
24 exposures subject to a private action to SHANY, and to the California Attorney
25 General, County District Attorneys, and City Attorneys for each city containing
26 a population of at least 750,000 people in whose jurisdictions the violations
27 allegedly occurred, concerning the Handbags with PVC Components.

28

- 1 e. On or about July 18, 2024, 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 SHANY, 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 Travel Case.
- 7 f. On or about August 1, 2024, 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 SHANY, 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 Travel Case.
- 13 g. On or about July 18, 2024, Plaintiff gave notice of alleged violations of Health
14 and Safety Code Section 25249.6, concerning consumer products exposures
15 subject to a private action to SHANY, and to the California Attorney General,
16 County District Attorneys, and City Attorneys for each city containing a
17 population of at least 750,000 people in whose jurisdictions the violations
18 allegedly occurred, concerning the Crossbody Bag.
- 19 h. On or about August 1, 2024, Plaintiff gave notice of alleged violations of Health
20 and Safety Code Section 25249.6, concerning consumer products exposures
21 subject to a private action to SHANY, and to the California Attorney General,
22 County District Attorneys, and City Attorneys for each city containing a
23 population of at least 750,000 people in whose jurisdictions the violations
24 allegedly occurred, concerning the Crossbody Bag.
- 25 i. On or about July 18, 2024, Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to SHANY, and to the California Attorney General,
28

1 County District Attorneys, and City Attorneys for each city containing a
2 population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning the Handbag.

4 j. On or about August 1, 2024, Plaintiff gave notice of alleged violations of Health
5 and Safety Code Section 25249.6, concerning consumer products exposures
6 subject to a private action to SHANY, and to the California Attorney General,
7 County District Attorneys, and City Attorneys for each city containing a
8 population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning the Handbag.

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

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

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

26
27
28

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

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

7
8 **FIRST CAUSE OF ACTION**

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

12 **Accessories**

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

15 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Hanging Organizer Bag (“Bag”), including but not
17 limited to: "SHANY®;" "Hanging Storage Bag;" "Made in China;" "SH-PC06;" "UPC 6
18 16450 43948 4".

19 26. Bag contains DEHP.

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

25 28. Plaintiff's allegations regarding Bag concerns “[c]onsumer products exposure[s],” which
26 “is an exposure that results from a person’s acquisition, purchase, storage, consumption,
27 or other reasonably foreseeable use of a consumer good, or any exposure that results
28 from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b). Bags are

1 consumer products, and, as mentioned herein, exposures to DEHP took place as a result
2 of such normal and foreseeable consumption and use.

3 29. Plaintiff is informed, believes, and thereon alleges that between March 28, 2019, and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Bag, which Defendants manufactured, distributed, or sold as
6 mentioned above, to DEHP, without first providing any type of clear and reasonable
7 warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold Bag in California. Defendants know and intend that California
9 consumers will use and consume Bag, thereby exposing them to DEHP. Further, Plaintiff
10 is informed, believes, and thereon alleges that Defendants are selling Bag under a brand
11 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;
12 have knowingly introduced DEHP into Bag or knowingly caused DEHP to be created in
13 Bag; have covered, obscured or altered a warning label that has been affixed to Bag by
14 the manufacturer, producer, packager, importer, supplier or distributor of Bag; have
15 received a notice and warning materials for exposure from Bag without conspicuously
16 posting or displaying the warning materials; and/or have actual knowledge of potential
17 exposure to DEHP from Bag. Defendants thereby violated Proposition 65.

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

23 31. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
24 Proposition 65 as to Bag have been ongoing and continuous, as Defendants engaged and
25 continue to engage in conduct which violates Health and Safety Code Section 25249.6,
26 including the manufacture, distribution, promotion, and sale of Bag, so that a separate
27
28

1 and distinct violation of Proposition 65 occurred each and every time a person was
2 exposed to DEHP by Bag as mentioned herein.

3 32. 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 33. 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 from Bag, pursuant to Health and
8 Safety Code Section 25249.7(b).

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

11 **SECOND CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against SHANY, and DOES**
13 **11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Women's Accessories**

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

18 36. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Handbag with PVC Components ("Handbag"),
20 including but not limited to: "Shany ®"; "Clear Waterproof Carryall Handbag"; "See-
21 Thru PVC Tote Bag with Faux Leather Handles"; "Open Side Pockets and Detachable
22 Cosmetic Bag"; "Made in China"; "SH-PC25-BK"; "UPC 7 00645 93390 8".

23 37. Handbag contains DEHP.

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

1 39. Plaintiff’s allegations regarding Handbag 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 Handbags are consumer products, and, as mentioned herein, exposures to DEHP took
6 place as a result of such normal and foreseeable consumption and use.

7 40. Plaintiff is informed, believes, and thereon alleges that between August 3, 2019, and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Handbags, which Defendants manufactured, distributed, or sold
10 as mentioned above, to DEHP, 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 Handbag in California. Defendants know and intend that California
13 consumers will use and consume Handbag, thereby exposing them to DEHP. Further,
14 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Handbag
15 under a brand or trademark that is owned or licensed by the Defendants or an entity
16 affiliated thereto; have knowingly introduced DEHP into Handbag or knowingly caused
17 DEHP to be created in Handbag; have covered, obscured or altered a warning label that
18 has been affixed to Handbag by the manufacturer, producer, packager, importer, supplier
19 or distributor of Handbag; have received a notice and warning materials for exposure
20 from Handbag without conspicuously posting or displaying the warning materials; and/or
21 have actual knowledge of potential exposure to DEHP from Handbag. Defendants
22 thereby violated Proposition 65.

23 41. The principal routes of exposure are through dermal contact, ingestion and inhalation.
24 Persons sustain exposures by handling Handbag without wearing gloves or any other
25 personal protective equipment, or by touching bare skin or mucous membranes with
26 gloves after handling Handbag, as well as through direct and indirect hand to mouth

1 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
2 Handbag.

3 42. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Handbag 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 Handbag, so
7 that a separate and distinct violation of Proposition 65 occurred each and every time a
8 person was exposed to DEHP by Handbag as mentioned herein.

9 43. 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 44. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to DEHP from Handbag, pursuant to Health
14 and Safety Code Section 25249.7(b).

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

17 **THIRD CAUSE OF ACTION**

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

21 **Travel Accessories I**

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

24 47. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Travel Bag, including but not limited to:
26 "SHANY®"; "Road Trip Travel Bag"; "Water Proof Storage for at Home or Travel
27 Use"; "SH-PC09"; "Made in China"; "UPC 6 16450 439514".

1 48. Defendants knew or should have known that DINP has been identified by the State of
2 California as a chemical known to cause cancer and therefore was subject to Proposition
3 65 warning requirements. Defendants were also informed of the presence of DINP in
4 Travel Bag within Plaintiff's notice of alleged violations further discussed above at
5 Paragraph 18c.

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

12 50. Plaintiff is informed, believes, and thereon alleges that between September 1, 2019, and
13 the present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Travel Bag, which Defendants manufactured, distributed, or sold
15 as mentioned above, to DINP, without first providing any type of clear and reasonable
16 warning of such to the exposed persons before the time of exposure. Defendants have
17 distributed and sold Travel Bag in California. Defendants know and intend that
18 California consumers will use and consume Travel Bag, thereby exposing them to DINP.
19 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
20 Travel Bag under a brand or trademark that is owned or licensed by the Defendants or an
21 entity affiliated thereto; have knowingly introduced DINP into Travel Bag or knowingly
22 caused DINP to be created in Travel Bag; have covered, obscured or altered a warning
23 label that has been affixed to Travel Bag by the manufacturer, producer, packager,
24 importer, supplier or distributor of Travel Bag; have received a notice and warning
25 materials for exposure from Travel Bag without conspicuously posting or displaying the
26 warning materials; and/or have actual knowledge of potential exposure to DINP from
27 Travel Bag. Defendants thereby violated Proposition 65.

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

7 52. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
8 Proposition 65 as to Travel Bag 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 Travel
11 Bag, so that a separate and distinct violation of Proposition 65 occurred each and every
12 time a person was exposed to DINP by Travel Bag as mentioned herein.

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

16 54. Based on the allegations herein, Defendants are liable for civil penalties of up to
17 \$2,500.00 per day per individual exposure to DINP from Travel Bag, pursuant to Health
18 and Safety Code Section 25249.7(b).

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

21 **FOURTH CAUSE OF ACTION**

22 **(By CONSUMER ADVOCACY GROUP, INC. and against SHANY, and DOES**
23 **31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
24 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

25 **Handbags**

26 56. Plaintiff repeats and incorporates by reference paragraphs 1 through 55 of this complaint
27 as though fully set forth herein.

1 57. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Handbags with PVC Components (“Handbags”),
3 including but not limited to: “Shany ®”; “Clear All-Purpose Cross-Body Messenger
4 Bag”; “Made in China”; “www.shanycosmetics.com”; “SH-PC12-BK”; “UPC 7 00645
5 94175 0”.

6 58. Handbags contains DEHP.

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

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

18 61. Plaintiff is informed, believes, and thereon alleges that between January 12, 2020, and
19 the present, each of the Defendants knowingly and intentionally exposed California
20 consumers and users of Handbags, which Defendants manufactured, distributed, or sold
21 as mentioned above, to DEHP, without first providing any type of clear and reasonable
22 warning of such to the exposed persons before the time of exposure. Defendants have
23 distributed and sold Handbags in California. Defendants know and intend that California
24 consumers will use and consume Handbags, thereby exposing them to DEHP. Further,
25 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Handbags
26 under a brand or trademark that is owned or licensed by the Defendants or an entity
27 affiliated thereto; have knowingly introduced DEHP into Handbags or knowingly caused
28

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

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

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

19 64. 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 65. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to DEHP from Handbags, pursuant to Health
24 and Safety Code Section 25249.7(b).

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

27
28

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against SHANY, and DOES**
3 **41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

4 **Travel Accessories II**

5 67. Plaintiff repeats and incorporates by reference paragraphs 1 through 66 of this complaint
6 as though fully set forth herein.

7 68. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
8 distributor, promoter, or retailer of Travel Case, including but not limited to: "SHANY
9 ®"; "www.shany.com"; "Made in CHINA"; "SH-PC09"; "UPC 6 16450 43951 4".

10 69. Travel Case contains DEHP.

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

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

22 72. Plaintiff is informed, believes, and thereon alleges that between July 18, 2021, and the
23 present, each of the Defendants knowingly and intentionally exposed California
24 consumers and users of Travel Case, which Defendants manufactured, distributed, or
25 sold as mentioned above, to DEHP, without first providing any type of clear and
26 reasonable warning of such to the exposed persons before the time of exposure.
27 Defendants have distributed and sold Travel Case in California. Defendants know and
28

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

12 73. The principal routes of exposure are through dermal contact, ingestion and inhalation.
13 Persons sustain exposures by handling Travel Case without wearing gloves or any other
14 personal protective equipment, or by touching bare skin or mucous membranes with
15 gloves after handling Travel Case, 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 Case.

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

24 75. 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 76. 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 Case, pursuant to
3 Health and Safety Code Section 25249.7(b).

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

6
7 **SIXTH CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against SHANY, and DOES**
9 **51-60 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
10 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Bags I**

12 78. Plaintiff repeats and incorporates by reference paragraphs 1 through 77 of this complaint
13 as though fully set forth herein.

14 79. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Crossbody Bag, including but not limited to: SHANY
16 ®"; "SHANYCOSMETICS.COM"; "SH-PC12-BK"; "Made in China"; "UPC
17 700645941750".

18 80. Crossbody Bag contains DEHP.

19 81. Defendants knew or should have known that DEHP has been identified by the State of
20 California as a chemical known to cause cancer, and reproductive toxicity and therefore
21 was subject to Proposition 65 warning requirements. Defendants were also informed of
22 the presence of DEHP in Crossbody Bag within Plaintiff's notice of alleged violations
23 further discussed above at Paragraph 18g and 18h.

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

1 83. Plaintiff is informed, believes, and thereon alleges that between July 18, 2021, and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Crossbody Bag, which Defendants manufactured, distributed, or
4 sold as mentioned above, to DEHP, 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 Crossbody Bag in California. Defendants know
7 and intend that California consumers will use and consume Crossbody Bag, thereby
8 exposing them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
9 Defendants are selling Crossbody Bag under a brand or trademark that is owned or
10 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
11 DEHP into Crossbody Bag or knowingly caused DEHP to be created in Crossbody Bag;
12 have covered, obscured or altered a warning label that has been affixed to Crossbody
13 Bag by the manufacturer, producer, packager, importer, supplier or distributor of
14 Crossbody Bag; have received a notice and warning materials for exposure from
15 Crossbody Bag without conspicuously posting or displaying the warning materials;
16 and/or have actual knowledge of potential exposure to DEHP from Crossbody Bag.
17 Defendants thereby violated Proposition 65.

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

24 85. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
25 Proposition 65 as to Crossbody Bag have been ongoing and continuous, as Defendants
26 engaged and continue to engage in conduct which violates Health and Safety Code
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of
28

1 Crossbody Bag, so that a separate and distinct violation of Proposition 65 occurred each
2 and every time a person was exposed to DEHP by Crossbody Bag as mentioned herein.
3 86. 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 87. 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 from Crossbody Bag, pursuant to
8 Health and Safety Code Section 25249.7(b).
9 88. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11 **SEVENTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against SHANY, and DOES**
13 **61-70 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
14 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

15 **Bags II**

16 89. Plaintiff repeats and incorporates by reference paragraphs 1 through 88 of this complaint
17 as though fully set forth herein.
18 90. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Handbag, including but not limited to: SHANY ®";
20 "SHANYCOSMETICS.COM"; "SH-PC25-BK"; "Made in China"; "UPC
21 700645933908".
22 91. Handbag contains DEHP.
23 92. Defendants knew or should have known that DEHP has been identified by the State of
24 California as a chemical known to cause cancer, and reproductive toxicity and therefore
25 was subject to Proposition 65 warning requirements. Defendants were also informed of
26 the presence of DEHP in Handbag within Plaintiff's notice of alleged violations further
27 discussed above at Paragraph 18i and 18j.

1 93. Plaintiff’s allegations regarding Handbag 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 Handbags are consumer products, and, as mentioned herein, exposures to DEHP took
6 place as a result of such normal and foreseeable consumption and use.

7 94. Plaintiff is informed, believes, and thereon alleges that between July 18, 2021, and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Handbag, which Defendants manufactured, distributed, or sold
10 as mentioned above, to DEHP, 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 Handbag in California. Defendants know and intend that California
13 consumers will use and consume Handbag, thereby exposing them to DEHP. Further,
14 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Handbag
15 under a brand or trademark that is owned or licensed by the Defendants or an entity
16 affiliated thereto; have knowingly introduced DEHP into Handbag or knowingly caused
17 DEHP to be created in Handbag; have covered, obscured or altered a warning label that
18 has been affixed to Handbag by the manufacturer, producer, packager, importer, supplier
19 or distributor of Handbag; have received a notice and warning materials for exposure
20 from Handbag without conspicuously posting or displaying the warning materials; and/or
21 have actual knowledge of potential exposure to DEHP from Handbag. Defendants
22 thereby violated Proposition 65.

23 95. The principal routes of exposure are through dermal contact, ingestion and inhalation.
24 Persons sustain exposures by handling Handbag without wearing gloves or any other
25 personal protective equipment, or by touching bare skin or mucous membranes with
26 gloves after handling Handbag, as well as through direct and indirect hand to mouth

1 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
2 Handbag.

3 96. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Handbag 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 Handbag, so
7 that a separate and distinct violation of Proposition 65 occurred each and every time a
8 person was exposed to DEHP by Handbag as mentioned herein.

9 97. 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 98. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to DEHP from Handbag, pursuant to Health
14 and Safety Code Section 25249.7(b).

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

17
18
19 **PRAYER FOR RELIEF**

20 Plaintiff demands against each of the Defendants as follows:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: November 26, 2024

YEROUSHALMI & YEROUSHALMI*

/s/ Reuben Yeroushalmi

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