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6 CONSUMER ADVOCACY GROUP, INC.

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David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF LOS ANGELES**

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

12 Plaintiff,

14 v.

15 ROSS STORES, INC. DBA DD'S
16 DISCOUNTS, a Delaware Corporation;
EVOLUTION DESIGN LAB, INC., a
17 California Corporation;
JMLE, LLC, a Delaware Limited Liability
18 Company;
and DOES 1-40,

20 Defendants.

CASE NO. **25STCV00495**

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)

25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action
26 against defendants ROSS STORES, INC. DBA DD'S DISCOUNTS; EVOLUTION DESIGN
27 LAB, INC.; JMLE, LLC and DOES 1-40 as follows:
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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 ROSS STORES, INC. DBA DD’S DISCOUNTS (“ROSS”) is a Delaware Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant EVOLUTION DESIGN LAB, INC. (“EVOLUTION”) is a California Corporation, qualified to do business in California, and doing business in the State of California at all relevant times herein.
4. Defendant JMLE, LLC (“JMLE”) is a Delaware Limited Liability Company, qualified to do business in California, and doing business in the State of California at all relevant times herein.
5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, 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.
6. At all times mentioned herein, the term “Defendants” includes ROSS, EVOLUTION JMLE and DOES 1-40.
7. 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.
8. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other

1 Defendants. In conducting the activities alleged in this Complaint, each of the
2 Defendants was acting within the course and scope of this agency, service, or
3 employment, and was acting with the consent, permission, and authorization of each of
4 the other Defendants. All actions of each of the Defendants alleged in this Complaint
5 were ratified and approved by every other Defendant or their officers or managing
6 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
7 alleged wrongful conduct of each of the other Defendants.

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

12 **JURISDICTION**

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

3 **BACKGROUND AND PRELIMINARY FACTS**

4 13. In 1986, California voters approved an initiative to address growing concerns about
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
10 from contamination, to allow consumers to make informed choices about the products
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see
12 fit.

13 14. Proposition 65 requires the Governor of California to publish a list of chemicals known
14 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
15 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
16 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
17 other controls that apply to Proposition 65-listed chemicals.

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

24 16. Proposition 65 provides that any person "violating or threatening to violate" the statute
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
26 25249.7. "Threaten to violate" means "to create a condition in which there is a
27 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

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1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

3 17. Plaintiff identified certain practices of manufacturers and distributors of Children Shoes,
4 Sink Caddies, Crossbody Bags with PVC Components, and Bracelet Holders, of
5 exposing, knowingly and intentionally, persons in California to Diethyl Hexyl Phthalate
6 and Diisononyl Phthalate of such products without first providing clear and reasonable
7 warnings of such to the exposed persons prior to the time of exposure. Plaintiff later
8 discerned that Defendants engaged in such practice.

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

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

23 SATISFACTION OF PRIOR NOTICE

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

- 26 a. On or about February 29, 2024, 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 ROSS, EVOLUTION, and to the
2 California Attorney General, County District Attorneys, and City Attorneys for
3 each city containing a population of at least 750,000 people in whose
4 jurisdictions the violations allegedly occurred, concerning the Children Shoes.

- 5 b. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
6 and Safety Code Section 25249.6, concerning consumer products exposures
7 subject to a private action to ROSS, EVOLUTION, and to the California
8 Attorney General, County District Attorneys, and City Attorneys for each city
9 containing a population of at least 750,000 people in whose jurisdictions the
10 violations allegedly occurred, concerning the Children Shoes.
- 11 c. On or about July 18, 2024, Plaintiff gave notice of alleged violations of Health
12 and Safety Code Section 25249.6, concerning consumer products exposures
13 subject to a private action to ROSS, JMLE, and to the California Attorney
14 General, County District Attorneys, and City Attorneys for each city containing
15 a population of at least 750,000 people in whose jurisdictions the violations
16 allegedly occurred, concerning the Sink Caddy.
- 17 d. On or about August 1, 2024, Plaintiff gave notice of alleged violations of Health
18 and Safety Code Section 25249.6, concerning consumer products exposures
19 subject to a private action to ROSS, JMLE, and to the California Attorney
20 General, County District Attorneys, and City Attorneys for each city containing
21 a population of at least 750,000 people in whose jurisdictions the violations
22 allegedly occurred, concerning the Sink Caddy.
- 23 e. On or about September 16, 2024, 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 ROSS, JMLE, and to the California
26 Attorney General, County District Attorneys, and City Attorneys for each city

1 containing a population of at least 750,000 people in whose jurisdictions the
2 violations allegedly occurred, concerning the Bracelet Holder.

3 f. On or about September 16, 2024, 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 ROSS, and to the California Attorney
6 General, County District Attorneys, and City Attorneys for each city containing
7 a population of at least 750,000 people in whose jurisdictions the violations
8 allegedly occurred, concerning the Crossbody Bag with PVC Components.

9 g. On or about September 23, 2024, Plaintiff gave notice of alleged violations of
10 Health and Safety Code Section 25249.6, concerning consumer products
11 exposures subject to a private action to ROSS, JMLE, and to the California
12 Attorney General, County District Attorneys, and City Attorneys for each city
13 containing a population of at least 750,000 people in whose jurisdictions the
14 violations allegedly occurred, concerning the Bracelet Holder.

15 h. On or about September 23, 2024, Plaintiff gave notice of alleged violations of
16 Health and Safety Code Section 25249.6, concerning consumer products
17 exposures subject to a private action to ROSS, and to the California Attorney
18 General, County District Attorneys, and City Attorneys for each city containing
19 a population of at least 750,000 people in whose jurisdictions the violations
20 allegedly occurred, concerning the Crossbody Bag with PVC Components.

21 21. Before sending the notice of alleged violations, Plaintiff investigated the consumer
22 products involved, the likelihood that such products would cause users to suffer
23 significant exposures to DEHP, DINP and the corporate structure of each of the
24 Defendants.

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

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

10 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
11 gave notice of the alleged violations to ROSS, EVOLUTION, JMLE, and the public
12 prosecutors referenced in Paragraph 20.

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

16 **FIRST CAUSE OF ACTION**

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

20 **Footwear**

21 26. Plaintiff repeats and incorporates by reference paragraphs 1 through 25 of this complaint
22 as though fully set forth herein.

23 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Children Shoes ("Shoes"), including but not limited
25 to: "SIZE"; "Infant5-106ppk"; "D105 C703"; "VSH"; "01 Kid Shoe"; "400256949502".

26 28. Shoes contain DEHP.

27 29. Defendants knew or should have known that DEHP has been identified by the State of
28 California as a chemical known to cause cancer, developmental and reproductive toxicity

1 and therefore was subject to Proposition 65 warning requirements. Defendants were also
2 informed of the presence of DEHP in Shoes within Plaintiff's notice of alleged violations
3 further discussed above at Paragraph 20a and 20b.

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

10 31. Plaintiff is informed, believes, and thereon alleges that between February 29, 2021 and
11 the present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Shoes, which Defendants manufactured, distributed, or sold as
13 mentioned above, to DEHP, 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 Shoes in California. Defendants know and intend that California
16 consumers will use and consume Shoes, thereby exposing them to DEHP. Further,
17 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Shoes
18 under a brand or trademark that is owned or licensed by the Defendants or an entity
19 affiliated thereto; have knowingly introduced DEHP into Shoes or knowingly caused
20 DEHP to be created in Shoes; have covered, obscured or altered a warning label that has
21 been affixed to Shoes by the manufacturer, producer, packager, importer, supplier or
22 distributor of Shoes; have received a notice and warning materials for exposure from
23 Shoes without conspicuously posting or displaying the warning materials; and/or have
24 actual knowledge of potential exposure to DEHP from Shoes. Defendants thereby
25 violated Proposition 65.

26 32. The principal routes of exposure are through ingestion, dermal contact, and inhalation.
27 Persons sustain exposures by wearing, handling, and using the Shoes without wearing
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1 gloves or any other personal protective equipment, or by touching bare skin or mucous
2 membranes with or without gloves after handling Shoes, as well as through direct and
3 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
4 matter emanating from the Shoes during use, as well as through environmental mediums
5 that carry the DEHP once contained within the Shoes.

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

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

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

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

20 **SECOND CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, JMLE, and DOES 11-**
22 **20 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act**
23 **of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

24 **Kitchen Accessories**

25 37. Plaintiff repeats and incorporates by reference paragraphs 1 through 36 of this complaint
26 as though fully set forth herein.

27 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Sink Caddy, including but not limited to:

1 "SUPREME SINK"; "SINK CADDY"; "HAND WASH ONLY"; "DISTRIBUTED BY
2 JMLE, LLC"; "400265764844".

3 39. Sink Caddies contain DEHP.

4 40. Defendants knew or should have known that DEHP has been identified by the State of
5 California as a chemical known to cause cancer, developmental and reproductive toxicity
6 and therefore was subject to Proposition 65 warning requirements. Defendants were also
7 informed of the presence of DEHP in Sink Caddy within Plaintiff's notice of alleged
8 violations further discussed above at Paragraph 20c and 20d.

9 41. Plaintiff's allegations regarding Sink Caddy 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)*. Sink Caddy 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 42. Plaintiff is informed, believes, and thereon alleges that between July 18, 2021 and the
16 present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Sink Caddy, 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 Sink Caddy in California. Defendants know and
21 intend that California consumers will use and consume Sink Caddy, thereby exposing
22 them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
23 Defendants are selling Sink Caddy 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 Sink Caddy or knowingly caused DEHP to be created in Sink Caddy; have covered,
26 obscured or altered a warning label that has been affixed to Sink Caddy by the
27 manufacturer, producer, packager, importer, supplier or distributor of Sink Caddy; have

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1 received a notice and warning materials for exposure from Sink Caddy without
2 conspicuously posting or displaying the warning materials; and/or have actual
3 knowledge of potential exposure to DEHP from Sink Caddy. Defendants thereby
4 violated Proposition 65.

5 43. The principal routes of exposure are through dermal contact, inhalation and ingestion.
6 Persons sustain exposures by carrying, handling, or using the Sink Caddy without
7 wearing gloves or any other personal protective equipment, or by touching bare skin or
8 mucous membranes with or without gloves after handling Sink Caddy, as well as through
9 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
10 particulate matter emanating from the Sink Caddy during use, as well as through
11 environmental mediums that carry the DEHP once contained within the Sink Caddy.

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

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

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

24 47. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.
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1 **THIRD CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, JMLE, and DOES 21-**
3 **30 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act**
4 **of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

5 **Jewelry Accessories**

6 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 47 of this complaint
7 as though fully set forth herein.

8 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Bracelet Holder, including but not limited to: "N";
10 "Ross"; "50"; "D1044 C6953"; "BROWNN020"; "SIZE"; "VSH"; "HOME OFFIC";
11 "ITEM #: CN2038-7233"; "DESCRIPTION & SIZE: 9 X 2.75 X 5.5 IN"; "DARK
12 BROWN PU"; "MADE IN CHINA"; "2023-12"; "JMLE, LLC"; "COMPLIES TO
13 TSCA"; "TITLE VI AND CALIFORNIA AT CM 93120"; "400268149648".

14 50. Bracelet Holders contain DEHP.

15 51. Defendants knew or should have known that DEHP has been identified by the State of
16 California as a chemical known to cause cancer, developmental and reproductive toxicity
17 and therefore was subject to Proposition 65 warning requirements. Defendants were also
18 informed of the presence of DEHP in Bracelet Holder within Plaintiff's notice of alleged
19 violations further discussed above at Paragraph 20e and 20g.

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

26 53. Plaintiff is informed, believes, and thereon alleges that between September 16, 2021 and
27 the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Bracelet Holder, which Defendants manufactured, distributed, or

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

15 54. The principal routes of exposure are through dermal contact, inhalation, and ingestion.
16 Persons sustain exposures by carrying, handling, or using the Bracelet Holder without
17 wearing gloves or any other personal protective equipment, or by touching bare skin or
18 mucous membranes with or without gloves after handling Bracelet Holder, as well as
19 through direct and indirect hand to mouth contact, hand to mucous membrane, or
20 breathing in particulate matter emanating from the Bracelet Holder during use, as well as
21 through environmental mediums that carry the DEHP once contained within the Bracelet
22 Holder.

23 55. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
24 Proposition 65 as to Bracelet Holder have been ongoing and continuous, as Defendants
25 engaged and continue to engage in conduct which violates Health and Safety Code
26 Section 25249.6, including the manufacture, distribution, promotion, and sale of Bracelet
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1 Holder, so that a separate and distinct violation of Proposition 65 occurred each and
2 every time a person was exposed to DEHP by Bracelet Holder as mentioned herein.
3 56. 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 57. 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 Bracelet Holder, pursuant to
8 Health and Safety Code Section 25249.7(b).
9 58. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11 **FOURTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against ROSS, and DOES 31-40 for**
13 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of**
14 **1986 (Health & Safety Code, §§ 25249.5, et seq.))**

15 **Bags**

16 59. Plaintiff repeats and incorporates by reference paragraphs 1 through 58 of this complaint
17 as though fully set forth herein.
18 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
19 distributor, promoter, or retailer of Crossbody Bag with PVC Components (“Crossbody
20 Bag”), including but not limited to: “wunderland”; "ITEM NO:: TC4080"; "COLOR:
21 GREEN"; "UPC 3986592579636"; "MADE IN CHINA".
22 61. Crossbody Bags contain DINP.
23 62. Defendants knew or should have known that DINP has been identified by the State of
24 California as a chemical known to cause cancer, and therefore was subject to Proposition
25 65 warning requirements. Defendants were also informed of the presence of DINP in
26 Crossbody Bag within Plaintiff's notice of alleged violations further discussed above at
27 Paragraph 20f and 20h.
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1 63. Plaintiff's allegations regarding Crossbody Bag concerns "[c]onsumer products
2 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
3 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
4 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
5 *25602(b)*. Crossbody Bags are consumer products, and, as mentioned herein, exposures
6 to DINP took place as a result of such normal and foreseeable consumption and use.

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

24 65. The principal routes of exposure are through dermal contact, inhalation, and ingestion.
25 Persons sustain exposures by carrying, handling, or using the Crossbody Bag without
26 wearing gloves or any other personal protective equipment, or by touching bare skin or
27 mucous membranes with or without gloves after handling Crossbody Bag, as well as
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1 through direct and indirect hand to mouth contact, hand to mucous membrane, or
2 breathing in particulate matter emanating from the Crossbody Bag during use, as well as
3 through environmental mediums that carry the DINP once contained within the
4 Crossbody Bag.

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

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

14 68. Based on the allegations herein, Defendants are liable for civil penalties of up to
15 \$2,500.00 per day per individual exposure to DINP from Crossbody Bag, pursuant to
16 Health and Safety Code Section 25249.7(b).

17 69. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
18 filing this Complaint.

19
20 **PRAYER FOR RELIEF**

21 Plaintiff demands against each of the Defendants as follows:

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

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Dated: January 8, 2025

YEROUSHALMI & YEROUSHALMI*

/s/ Reuben Yeroushalmi

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