

1 Gregory M. Sheffer, State Bar No. 173124  
2 SHEFFER LAW FIRM  
3 232 E. Blithedale Ave., Suite 210  
4 Mill Valley, CA 94941  
5 Telephone: 415.388.0911

6  
7  
8 Attorneys for Plaintiff  
9 SUSAN DAVIA

**ELECTRONICALLY FILED**  
Superior Court of California  
County of Marin  
**01/07/2025**

James M. Kim, Clerk of the Court  
By: D. Harrison, Deputy

10  
11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF MARIN

14 UNLIMITED CIVIL JURISDICTION

15 SUSAN DAVIA,

16 Plaintiff,

17 v.

18 STATEMENT ACCESSORIES LLC DBA TRUE  
19 LOVE ACCESSORIES, HOT TOPIC, INC., HOT  
20 TOPIC MERCHANDISING, INC. and DOES 1-  
21 150,

22 Defendants.

Case No. CV CV0005001

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

*(Cal. Health & Safety Code § 25249.6 et seq.)*

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff SUSAN DAVIA, in the  
3 public interest of the citizens of the State of California, to enforce the People's right to be informed of  
4 the presence of diisononyl phthalate ("DINP"), a toxic chemical found in certain vinyl handbag and  
5 clutch products manufactured, distributed and/or otherwise sold by defendants in California.

6 2. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986,  
7 California Health & Safety Code Section 25249.6 *et seq.* ("Proposition 65"), "No person in the course  
8 of doing business shall knowingly and intentionally expose any individual to a chemical known to  
9 the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning  
10 to such individual. . . ." (*Cal. Health & Safety Code* § 25249.6.)

11 3. On December 20, 2013, the State listed DINP as a chemical known to cause cancer.  
12 DINP became subject to the statutory "clear and reasonable" warning requirement on December 20,  
13 2014. (27 CCR § 27001(c); *Cal. Health & Safety Code* § 25249.8.)

14 4. DINP shall hereinafter be referred to as "LISTED CHEMICAL."

15 5. Significant levels of the LISTED CHEMICAL have been discovered in or on the vinyl  
16 handbag and clutch products that defendants design, manufacture, distribute, and/or offer for sale  
17 to consumers throughout the State of California including, as example, but not limited to, Bright  
18 Pink Chain Link Small Satchel, SKU20575456. All such vinyl handbag and clutch products  
19 containing any LISTED CHEMICAL shall hereinafter be referred to as the "PRODUCTS."

20 6. Defendants' failure to warn consumers and/or other individuals in the State of  
21 California about their exposures to the LISTED CHEMICAL in conjunction with defendants' sale of  
22 the PRODUCTS is a violation of Proposition 65.

23 7. For defendants' violations of Proposition 65, plaintiff seeks preliminary and  
24 permanent injunctive relief to compel defendants to provide employees handling the PRODUCTS  
25 and purchasers or users of the PRODUCTS with the required warning regarding the health hazards  
26 of the LISTED CHEMICAL. (*Cal. Health & Safety Code* § 25249.7(a).)

27 8. Plaintiff also seeks civil penalties against defendants for their violations of  
28 Proposition 65, as provided for by California Health & Safety Code Section 25249.7(b).

**PARTIES**

9. Plaintiff SUSAN DAVIA is a citizen of the State of California who is dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposures from consumer products and brings this action in the public interest pursuant to California Health & Safety Code Section 25249.7.

10. Based upon publicly available and other collected information, plaintiff is informed and believes, and thereupon alleges, that each defendant STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES, HOT TOPIC, INC. and HOT TOPIC MERCHANDISING, INC. is a person doing business within the meaning of California Health & Safety Code Section 25249.11.

11. Based upon publicly available information, plaintiff is informed and believes, and thereupon alleges, that each defendant STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES, HOT TOPIC, INC. and HOT TOPIC MERCHANDISING, INC. is legally responsible for the design, manufacture, distribution, and/or offer of the PRODUCTS for sale or use in the State of California or implies by its conduct that it designs, manufactures, distributes, and/or offers the PRODUCTS for sale or use in the State of California.

12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each persons doing business within the meaning of California Health & Safety Code Section 25249.11.

13. MANUFACTURER DEFENDANTS and STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES engage in the process of research, testing, designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they engage in the process of research, testing, designing, assembling, fabricating, and/or manufacturing, one or more of the PRODUCTS for sale or use in the State of California.

14. Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS") are each persons doing business within the meaning of California Health & Safety Code Section 25249.11.

15. DISTRIBUTOR DEFENDANTS, STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES, HOT TOPIC, INC. and HOT TOPIC MERCHANDISING, INC. distribute, exchange, transfer, process and/or transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in the State of California.

16. Defendants DOES 101-150 ("RETAIL DEFENDANTS") are each persons doing business within the meaning of California Health & Safety Code Section 25249.11.

17. RETAIL DEFENDANTS, HOT TOPIC, INC. and HOT TOPIC MERCHANDISING, INC. offer the PRODUCTS for sale to individuals in the State of California.

18. At this time, the true names of Defendants DOES 1 through 150, inclusive, are unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code of Civil Procedure Section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences herein alleged. When ascertained, their true names shall be reflected in an amended complaint.

19. STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES, HOT TOPIC, INC., HOT TOPIC MERCHANDISING, INC., MANUFACTURER DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAIL DEFENDANTS shall, where appropriate, collectively be referred to hereinafter as “DEFENDANTS”.

## VENUE AND JURISDICTION

20. Venue is proper in the Marin County Superior Court, pursuant to Code of Civil Procedure Sections 394, 395, and 395.5, because this Court is a court of competent jurisdiction, because one or more instances of wrongful conduct occurred, and continues to occur, in the County of Marin and/or because DEFENDANTS conducted, and continue to conduct, business in this County with respect to the PRODUCTS.

21. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except those given by statute to other trial courts.” The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

22. The California Superior Court has jurisdiction over DEFENDANTS based on plaintiff's information and good faith belief that each defendant is a person, firm, corporation or association that either are citizens of the State of California, have sufficient minimum contacts in the State of California, or otherwise purposefully avail themselves of the California market.

1 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California  
2 courts consistent with traditional notions of fair play and substantial justice.

3 **FIRST CAUSE OF ACTION**  
4 **(Violation of Proposition 65 - Against All Defendants)**

5 23. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,  
6 Paragraphs 1 through 22, inclusive.

7 24. In passing Proposition 65, the citizens of the State of California expressed their intent  
8 through the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986 that they must  
9 be "informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
10 harm."

11 25. Proposition 65 states, "[n]o person in the course of doing business shall knowingly  
12 and intentionally expose any individual to a chemical known to the state to cause cancer or  
13 reproductive toxicity without first giving clear and reasonable warning to such individual . . . ."  
14 Health & Safety Code § 25249.6.

15 26. On January 24, 2024, a valid and compliant Proposition 65 60-Day Notice of Violation  
16 ("60-Day Notice"), together with a valid, requisite Certificate of Merit, was served on HOT TOPIC,  
17 INC., HOT TOPIC MERCHANDISING, INC. and various public enforcement agencies stating that  
18 as a result of these DEFENDANTS' manufacture, distribution and sales of the PRODUCTS,  
19 purchasers and users in the State of California are being exposed to the LISTED CHEMICAL  
20 resulting from the reasonably foreseeable uses of certain PRODUCTS, without the individual  
21 purchasers and users first having been provided with a "clear and reasonable warning" regarding  
22 such toxic exposures.

23 27. On October 29, 2024, a valid and compliant Proposition 65 60-Day Notice of Violation  
24 ("Supplemental 60-Day Notice"), together with a valid, requisite Certificate of Merit, was served on  
25 STATEMENT ACCESSORIES LLC DBA TRUE LOVE ACCESSORIES and various public  
26 enforcement agencies stating that as a result of the DEFENDANTS' manufacture, distribution and  
27 sales of the PRODUCTS, purchasers and users in the State of California are being exposed to the  
28 LISTED CHEMICAL resulting from the reasonably foreseeable uses of certain PRODUCTS, without

1 the individual purchasers and users first having been provided with a “clear and reasonable  
2 warning” regarding such toxic exposures.

3 28. DEFENDANTS have engaged in the manufacture, distribution, and/or offering of the  
4 PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 and  
5 plaintiff is informed and believes that DEFENDANTS’ manufacture, distribution, and/or offering of  
6 the PRODUCTS for sale or use in violation of California Health & Safety Code Section 25249.6 has  
7 continued to occur beyond DEFENDANTS’ receipt of plaintiff’s 60-Day Notice and Supplemental  
8 60-Day Notice. Plaintiff further alleges and believes that such violations will continue to occur into  
9 the future.

10 29. After receipt of the claims asserted in the 60-Day Notice and Supplemental 60-Day  
11 Notice, the appropriate public enforcement agencies have failed to commence and diligently  
12 prosecute a cause of action against DEFENDANTS under Proposition 65.

13 30. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
14 California by DEFENDANTS, contain one or more LISTED CHEMICAL.

15 31. DEFENDANTS knew or should have known that the PRODUCTS contained such  
16 LISTED CHEMICAL.

17 32. A LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to expose  
18 individuals to the LISTED CHEMICAL, as such exposure is defined by 27 CCR Section 25602(b),  
19 through dermal contact and/or ingestion and/or inhalation during or as a consequence of the  
20 packing, shipping, unpacking, display and daily organization and movement of PRODUCTS as well  
21 as the reasonably foreseeable use of the PRODUCTS.

22 33. DEFENDANTS knew or should have known that the packing, shipping, unpacking,  
23 display and daily organization and movement of PRODUCTS as well as the reasonably foreseeable  
24 use of the PRODUCTS exposes individuals to a LISTED CHEMICAL through dermal contact and/or  
25 ingestion and/or inhalation.

26 34. Each of the RETAIL DEFENDANTS has actual knowledge of the potential consumer  
27 product exposures to the LISTED CHEMICAL both pursuant to information obtained by them from  
28 reliable sources in the course of doing business and pursuant to the 60-Day Notice.

35. No manufacturer, producer, packager, importer, supplier, or distributor of the PRODUCTS sold by RETAIL DEFENDANTS has designated an agent for service of process in California or has a place of business in California.

36. DEFENDANTS' participation in the manufacture, distribution and/or offer for sale or use of PRODUCTS to individuals in the State of California was deliberate and non-accidental.

37. DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers and/or other individuals in the State of California who were or who could become exposed to a LISTED CHEMICAL during the reasonably foreseeable retail receipt, display and organization of PRODUCTS as well as the reasonably foreseeable use of the PRODUCTS.

38. Contrary to the express policy and statutory prohibition of Proposition 65, employees and individuals exposed to a LISTED CHEMICAL through dermal contact and/or ingestion and/or inhalation resulting from the reasonably foreseeable use of the PRODUCTS, sold by DEFENDANTS without a “clear and reasonable warning”, have suffered, and continue to suffer, irreparable harm, for which harm they have no other plain, speedy or adequate remedy at law.

39. As a consequence of the above-described acts, DEFENDANTS are liable for a maximum civil penalty of \$2,500 per day for each violation of Proposition 65 pursuant to California Health & Safety Code Section 25249.7(b).

40. As a consequence of the above-described acts, California Health & Safety Code Section 25249.7(a) also specifically authorizes the Court to grant injunctive relief against DEFENDANTS for violations of Proposition 65.

## PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

1. That the Court, pursuant to California Health & Safety Code Section 25249.7(b), assess civil penalties against DEFENDANTS in the amount of \$2,500 per day for each alleged violation;

2. That the Court, pursuant to California Health & Safety Code Section 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the PRODUCTS for sale or use in California, without providing “clear and reasonable warnings” as

1 defined by 27 CCR Section 25601, as to the harms associated with exposures to the LISTED  
2 CHEMICAL;

3 3. That the Court grant plaintiff her reasonable attorneys' fees and costs of suit; and

4 4. That the Court grant such other and further relief as may be just and proper.

5 Dated: January 7, 2025

SHEFFER LAW FIRM

6 

7 Gregory M. Sheffer  
8 Attorneys for Plaintiff  
9 SUSAN DAVIA  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28