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10 CONSUMER ADVOCACY GROUP, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

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

15 Plaintiff,

16 v.

17 SENSUAL INC. DBA IHL GROUP INC., a
18 New York Corporation;
19 and DOES 1-10,

20 Defendants.

CASE NO. **25STCV12180**

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)

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26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges one cause of action against
27 defendants SENSUAL INC. DBA IHL GROUP INC., and DOES 1-10 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 SENSUAL INC. DBA IHL GROUP INC. (“IHL”) is a New York corporation, qualified to do business in New York, 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 1-10, 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 IHL and DOES 1-10.
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 1-10, 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 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

5 **JURISDICTION**

6 8. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
7 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
8 those given by statute to other trial courts. This Court has jurisdiction over this action
9 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
10 violations of Proposition 65 in any Court of competent jurisdiction.

11 9. This Court has jurisdiction over Defendants named herein because Defendants either
12 reside or are located in this State or are foreign corporations authorized to do business in
13 California, are registered with the California Secretary of State, or who do sufficient
14 business in California, have sufficient minimum contacts with California, or otherwise
15 intentionally avail themselves of the markets within California through their
16 manufacture, distribution, promotion, marketing, or sale of their products within
17 California to render the exercise of jurisdiction by the California courts permissible
18 under traditional notions of fair play and substantial justice.

19 10. Venue is proper in the County of Los Angeles because one or more of the instances of
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
21 because Defendants conducted, and continue to conduct, business in the County of Los
22 Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

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

7 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
8 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
9 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
10 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
11 other controls that apply to Proposition 65-listed chemicals.

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

18 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
19 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
20 25249.7. "Threaten to violate" means "to create a condition in which there is a
21 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
22 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
23 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

24 15. Plaintiff identified certain practices of manufacturers and distributors of Sandals of
25 exposing, knowingly and intentionally, persons in California to Diethyl Hexyl Phthalate
26 and Di (2-ethylhexyl) phthalate of such products without first providing clear and
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1 reasonable warnings of such to the exposed persons prior to the time of exposure.

2 Plaintiff later discerned that Defendants engaged in such practice.

3 16. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Di
4 (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause
5 cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and on October 24, 2003, the Governor
6 added DEHP to the list of chemicals known to the State to cause developmental and
7 male reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and
8 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP
9 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became
10 fully subject to Proposition 65 warning requirements and discharge prohibitions.

11 **SATISFACTION OF PRIOR NOTICE**

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

- 14 a. On or about July 18, 2024, Plaintiff gave notice of alleged violations of Health
15 and Safety Code Section 25249.6, concerning consumer products exposures
16 subject to a private action to IHL and to the California Attorney General, County
17 District Attorneys, and City Attorneys for each city containing a population of at
18 least 750,000 people in whose jurisdictions the violations allegedly occurred,
19 concerning the Sandals.
- 20 b. On or about August 1, 2024, Plaintiff gave notice of alleged violations of Health
21 and Safety Code Section 25249.6, concerning consumer products exposures
22 subject to a private action to IHL and to the California Attorney General, County
23 District Attorneys, and City Attorneys for each city containing a population of at
24 least 750,000 people in whose jurisdictions the violations allegedly occurred,
25 concerning the Sandals.
- 26 c. On or about January 30, 2025, Plaintiff gave notice of alleged violations of
27 Health and Safety Code Section 25249.6, concerning consumer products

1 exposures subject to a private action to IHL and to the California Attorney
2 General, County District Attorneys, and City Attorneys for each city containing
3 a population of at least 750,000 people in whose jurisdictions the violations
4 allegedly occurred, concerning the Sandals.

5 d. On or about February 6, 2025, Plaintiff gave notice of alleged violations of
6 Health and Safety Code Section 25249.6, concerning consumer products
7 exposures subject to a private action to IHL and to the California Attorney
8 General, County District Attorneys, and City Attorneys for each city containing
9 a population of at least 750,000 people in whose jurisdictions the violations
10 allegedly occurred, concerning the Sandals.

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

14 19. 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, the
18 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 20. 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).

1 21. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
2 gave notice of the alleged violations to IHL and the public prosecutors referenced in
3 Paragraph 17.

4 22. 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.

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8 **FIRST CAUSE OF ACTION**

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

12 **Footwear I**

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

15 24. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
16 distributor, promoter, or retailer of Sandals including but not limited to: "RAE DUNN";
17 "Slides"; "RELAX."; "UPC 1 91153 27833 7"; "RN164088"; "7"; "RAE DUNN.";
18 "BLACK FOOTBED/IVORY UPPER W/ BLACK WRITING"; "UPC 191153278337".

19 25. Sandals contains DEHP.

20 26. 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 Sandals within Plaintiff's notice of alleged violations further
24 discussed above at Paragraph 17.

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

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

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

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

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

4 31. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
5 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
6 violations alleged herein will continue to occur into the future.

7 32. Based on the allegations herein, Defendants are liable for civil penalties of up to
8 \$2,500.00 per day per individual exposure to DEHP from Sandals, pursuant to Health
9 and Safety Code Section 25249.7(b).

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

12 **PRAYER FOR RELIEF**

13 Plaintiff demands against each of the Defendants as follows:

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

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20 Dated: April 25, 2025

YEROUSHALMI & YEROUSHALMI*

21
22 /s/ Reuben Yeroushalmi

23 Reuben Yeroushalmi
24 Attorneys for Plaintiff,
25 CONSUMER ADVOCACY GROUP, INC.
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