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CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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

Plaintiff,

v.

EVRIHOLDER PRODUCTS, LLC, an
Indiana Limited Liability Company;
THE TJX COMPANIES, INC., a Delaware
Corporation;

and DOES 1-10,

Defendants.

CASE NO. **26STCV23140**

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 one cause of action against
defendants EVRIHOLDER PRODUCTS, LLC, THE TJX COMPANIES, INC. and DOES 1-10
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 EVRIHOLDER PRODUCTS, LLC (“EVRIHOLDER”) is an Indiana Limited Liability Company qualified to do business in California and doing business in the State of California at all relevant times.
3. Defendant THE TJX COMPANIES, INC. (“TJX”) is a Delaware Corporation, qualified to do business in California and doing business in the State of California at all relevant times herein.
4. 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.
5. At all times mentioned herein, the term “Defendants” includes EVRIHOLDER, TJX, and DOES 1-10.
6. 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.
7. 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

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 8. 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 9. 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 10. 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 under traditional notions of fair play and substantial justice.

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

BACKGROUND AND PRELIMINARY FACTS

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

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

14. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of drinking

1 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
2 reasonable” warnings before exposing a person, knowingly and intentionally, to a
3 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

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

10 16. Plaintiff identified certain practices of manufacturers and distributors of Premium
11 Makeup Organizer Makeup Bag of exposing, knowingly and intentionally, persons in
12 California to Di (2-ethylhexyl) Phthalate of such products without first providing clear
13 and reasonable warnings of such to the exposed persons prior to the time of exposure.
14 Plaintiff later discerned that Defendants engaged in such practice.

15 17. On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Di
16 (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause
17 cancer, (Cal. Code Regs. tit. 27, § 27001(b)) and on October 24, 2003, the Governor
18 added DEHP to the list of chemicals known to the State to cause developmental male
19 reproductive toxicity (Cal. Code Regs. tit. 27, § 27001(c)). Pursuant to Health and
20 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP
21 to the list of chemicals known to the State to cause reproductive toxicity, DEHP became
22 fully subject to Proposition 65 warning requirements and discharge prohibitions.
23
24

1 **SATISFACTION OF PRIOR NOTICE**

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

- 4 a. On or about March 16, 2026, Plaintiff gave notice of alleged violations of
5 Health and Safety Code Section 25249.6, concerning consumer products
6 exposures subject to a private action to EVRIHOLDER, TJX, and to the
7 California Attorney General, County District Attorneys, and City Attorneys for
8 each city containing a population of at least 750,000 people in whose
9 jurisdictions the violations allegedly occurred, concerning the Premium Makeup
10 Organizer Makeup Bag.

11 19. 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 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, 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.
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1 21. Plaintiff's notice of alleged violations also included a Certificate of Service and a
2 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
3 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

4 22. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
5 gave notice of the alleged violations to EVRIHOLDER, TJX, and the public prosecutors
6 referenced in Paragraph 18.

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

10 **FIRST CAUSE OF ACTION**

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

14 **Cosmetic Bags**

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

17 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
18 distributor, promoter, or retailer of Premium Makeup Organizer Makeup Bag ("Cosmetic
19 Bags").

20 26. Cosmetic Bags contain DEHP.

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

1 28. Plaintiff's allegations regarding Cosmetic Bags 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). Cosmetic Bags are consumer products, and, as mentioned herein, exposures to
6 DEHP took place as a result of such normal and foreseeable consumption and use.

7 29. Plaintiff is informed, believes, and thereon alleges that between March 16, 2023 and the
8 present, each of the Defendants knowingly and intentionally exposed California
9 consumers and users of Cosmetic Bags, which Defendants manufactured, distributed, or
10 sold as mentioned above, to DEHP, 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 Cosmetic Bags in California. Defendants know
13 and intend that California consumers will use and consume Cosmetic Bags, thereby
14 exposing them to DEHP. Further, Plaintiff is informed, believes, and thereon alleges that
15 Defendants are selling Cosmetic Bags under a brand or trademark that is owned or
16 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
17 DEHP into Cosmetic Bags or knowingly caused DEHP to be created in Cosmetic Bags;
18 have covered, obscured or altered a warning label that has been affixed to Cosmetic Bags
19 by the manufacturer, producer, packager, importer, supplier or distributor of Cosmetic
20 Bags; have received a notice and warning materials for exposure from Cosmetic Bags
21 without conspicuously posting or displaying the warning materials; and/or have actual
22 knowledge of potential exposure to DEHP from Cosmetic Bags. Defendants thereby
23 violated Proposition 65.

24

1 30. The principal routes of exposure are through dermal contact, ingestion and inhalation.

2 Persons sustain exposures by handling Cosmetic Bags without wearing gloves or any
3 other personal protective equipment, or by touching bare skin or mucous membranes
4 with gloves after handling Cosmetic Bags, as well as through direct and indirect hand to
5 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
6 from Cosmetic Bags.

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

13 32. 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 33. Based on the allegations herein, Defendants are liable for civil penalties of up to
17 \$2,500.00 per day per individual exposure to DEHP from Cosmetic Bags, pursuant to
18 Health and Safety Code Section 25249.7(b).

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

21 **PRAYER FOR RELIEF**

22 Plaintiff demands against each of the Defendants as follows:

- 23 1. A permanent injunction mandating Proposition 65-compliant warnings;
24 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: July 22, 2026

YEROUSHALMI & YEROUSHALMI*

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