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13 The People of the State of California*

14 *[Additional Counsel Continued on Attachment A]*

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SAN JOAQUIN

17 **THE PEOPLE OF THE STATE OF  
18 CALIFORNIA,**

19 Plaintiff,

20 v.

21 **99 Cents ONLY STORES LLC,  
22 a California limited liability company; and  
23 DOES 1 through 25, inclusive,**

24 Defendants.

25 Case No. 39-2014-00319949-CU-TT-STK

26 **COMPLAINT FOR PERMANENT  
27 INJUNCTION, CIVIL PENALTIES AND  
28 OTHER EQUITABLE RELIEF**

(Health & Saf. Code, Div. 20, Chapters 6.5,  
and 6.95; Health & Saf. Code §§ 117600, *et*  
*seq.*; Bus. & Prof. Code § 17200, *et seq.*)

*Exempt from fees per  
Government Code §6103*

29 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA ("People"), based on  
30 information and belief, alleges as follows:

31 **PLAINTIFF**

32 1. The People bring this action and by and through Nancy E. O'Malley, District  
33 Attorney of Alameda County; Michael L. Ramsey, District Attorney of Butte County; Mark A.  
34 Peterson, District Attorney of Contra Costa County; Elizabeth A. Egan, District Attorney of  
35 Fresno County; Lisa S. Green, District Attorney of Kern County; Greg Strickland, District  
36 Attorney of Kings County; Michael N. Feuer, City Attorney of Los Angeles; Jackie Lacey,  
37  
38

1 District Attorney of Los Angeles County; Michael R. Keitz, District Attorney of Madera  
2 County; Larry D. Morse II, District Attorney of Merced County; Dean D. Flippo, District  
3 Attorney of Monterey County; Tony Rackauckas, District Attorney of Orange County; R. Scott  
4 Owens, District Attorney of Placer County; Paul Zellerbach, District Attorney of Riverside  
5 County; Jan Scully, District Attorney of Sacramento County; Michael A. Ramos, District  
6 Attorney of San Bernardino County; Jan Goldsmith, City Attorney of San Diego; Bonnie M.  
7 Dumanis, District Attorney of San Diego County; James P. Willett, District Attorney of San  
8 Joaquin County; Dan Dow, District Attorney of San Luis Obispo County; Joyce E. Dudley,  
9 District Attorney of Santa Barbara County; Jeffrey F. Rosen, District Attorney of Santa Clara  
10 County; Stephen Carlton, District Attorney of Shasta County; Krishna A. Abrams, District  
11 Attorney of Solano County; Jill R. Ravitch, District Attorney of Sonoma County; Birgit A.  
12 Fladager, District Attorney of Stanislaus County; Amanda Hopper, District Attorney of Sutter  
13 County; Tim Ward, District Attorney of Tulare County; Gregory D. Totten, District Attorney of  
14 Ventura County (collectively "Prosecutors").

15 2. Pursuant to Health and Safety Code section 25182, the Prosecutors may bring a  
16 civil action in the name of the People of the State of California to enjoin any violation of  
17 Chapter 6.5 of Division 20 of the Health and Safety Code (hereinafter "Chapter 6.5") and to  
18 seek civil penalties for violations of the provisions of Chapter 6.5.

19 3. Pursuant to Health and Safety Code sections 25515.6 and 25515.7, the  
20 Prosecutors may bring a civil action in the name of the People of the State of California to  
21 enjoin any violation of Health and Safety Code sections 25507 to 25508, inclusive, and sections  
22 25511 to 25519 inclusive, of Chapter 6.95 of Division 20 of the Health and Safety Code  
23 (hereinafter "Chapter 6.95").

24 4. Pursuant to Health and Safety Code sections 117830, subdivision (c), 118325,  
25 and 118345, subdivision (b), the Prosecutors may bring a civil action in the name of the People  
26 of the State of California to enjoin any violation of sections 117600, *et seq.* of the Health and  
27 Safety Code and to seek civil penalties for violations of the provisions thereof.

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1 informed and believe, and based thereon allege that, at all relevant times, 99 Cents Only Stores  
2 controlled, managed, directed and was responsible for the operations of the California Facilities,  
3 and/or aided and abetted, managed, directed or acted in concert with persons who exercised  
4 control over those operations. The People are informed and believe, and based thereon allege,  
5 that at all relevant times, 99 Cents Only Stores was legally responsible for all acts and  
6 omissions of its officers, directors, agents, employees, contractors, vendors, affiliates, and/or  
7 representatives relating to the management of hazardous materials and hazardous waste, and  
8 medical waste, at the California Facilities, and/or that 99 Cents Only Stores failed to take  
9 appropriate steps to prevent and/or correct the violations alleged herein despite having power,  
10 authority and notice sufficient to do so.

11 11. 99 Cents Only Stores is a “person,” as defined in Health and Safety Code  
12 sections 25118 and 117745 and Business & Professions Code section 17201, and a “business,”  
13 as defined in Health and Safety Code section 25501, subdivision (c).

14 12. When reference is made herein to any act or omission of 99 Cents Only Stores,  
15 such allegation shall include the act or omission of the owners, officers, directors, agents,  
16 employees, contractors, vendors, affiliates, and/or representatives of 99 Cents Only Stores,  
17 engaged in said act or omission.

18 13. The identities of DOES 1 – 25 are unknown to Plaintiff at this time. At such time  
19 as the identities of DOE Defendants become known, Plaintiff will amend this Complaint  
20 accordingly. DOES 1 – 25 are, and at all times relevant to the claims in this Complaint were,  
21 legally responsible for compliance with the provisions of California Health and Safety Code  
22 including, but not limited to, Chapters 6.5 and 6.95 of Division 20, and the corresponding  
23 implementing regulations, and sections 117600, *et seq.*, in connection with the ownership and/or  
24 operation of the California Facilities. 99 Cents Only Stores and DOES 1 – 25 are collectively  
25 referred to herein as “Defendants.”

26 14. At all times relevant hereto, DOES 1 – 25 were in a position of responsibility  
27 allowing them to influence corporate policies or activities with respect to 99 Cents Only Stores  
28 compliance with California environmental laws and regulations at the California Facilities, and

1 had, by reason of their position in the limited liability company, responsibility and authority  
2 either to prevent in the first instance, or promptly to correct, the violations complained of  
3 herein, but failed to do so. In addition to any direct personal liability of these individuals,  
4 DOES 1 – 25 also are personally liable under the “responsible corporate officer doctrine” for  
5 violations of law committed by 99 Cents Only Stores as alleged herein.

#### 6 **JURISDICTION AND VENUE**

7 15. Venue is proper in this County pursuant to Health and Safety Code sections  
8 25183 and 25515.6, and Business and Professions Code sections 17200, *et seq.*, in that certain  
9 of the violations alleged in the Complaint occurred in the County of San Joaquin and throughout  
10 the State of California. This Court has jurisdiction pursuant to Article 6, section 10 of the  
11 California Constitution and Code of Civil Procedure section 393.

12 16. Plaintiff and 99 Cents Only Stores have entered into a series of agreements to toll  
13 any applicable statutes of limitation. As a result of these agreements, the period of time from  
14 September 3, 2013, through August 31, 2014, inclusive, a total of 363 days (the “Tolling  
15 Period”) will not be included in computing the time limited by any statutes of limitation  
16 applicable to the claims covered by the tolling agreement.

#### 17 **STATUTORY AND REGULATORY BACKGROUND**

18 17. The State of California has enacted a comprehensive statutory and regulatory  
19 framework for the generation, handling, treatment, storage, transportation, and disposal of  
20 hazardous wastes. This framework, contained in Chapter 6.5 of Division 20 of the Health and  
21 Safety Code, sections 25100, *et seq.*, and its implementing regulations, which are found at Title  
22 22 of the California Code of Regulations section 66260.1, *et seq.*, mandates a “cradle to grave”  
23 system known as the Hazardous Waste Control Law (“HWCL”). The HWCL system is  
24 maintained to record the generation, registration, tracking, storage, treatment, and disposal of  
25 hazardous wastes and to provide for the protection of the public and the environment from  
26 present or potential risks posed by hazardous wastes.

27 18. The HWCL is the California analog of the Federal Resource Conservation and  
28 Recovery Act, 42 U.S.C. section 6901, *et seq.* (“RCRA”). Pursuant to state and federal law, the

1 California Department of Toxic Substances Control (“DTSC”) administers the HWCL in lieu of  
2 federal administration of RCRA in California. (See Health & Saf. Code, § 25101, subdivision  
3 (d).) Federal law prohibits California from imposing “any requirements less stringent than  
4 those authorized under [RCRA].” (42 U.S.C. § 6929.)

5 19. The HWCL has, in certain instances, a more inclusive definition of hazardous  
6 waste than federal law. Hazardous wastes that are regulated under California law but not  
7 federal law are known as “non-RCRA hazardous wastes.” (Health & Saf. Code, § 25117.9.)

8 20. Companies that accumulate or generate hazardous waste in the course of their  
9 operations and send such waste offsite for management, treatment, storage or disposal are  
10 subject to certain regulatory requirements. (See Cal. Code Regs., Title 22, § 66262.10, *et seq.*)

11 21. The State of California has enacted a comprehensive statutory and regulatory  
12 framework for the notification, handling, training and spill/release reporting of hazardous  
13 materials. This framework is contained in Chapter 6.95 of Division 20 of the Health and Safety  
14 Code, sections 25500, *et seq.*, and its implementing regulations, known as the Hazardous  
15 Materials Release Response Plans and Inventory Law. In order to better inform the public and  
16 to assist emergency responders, Chapter 6.95 has, for over twenty (20) years, mandated that  
17 basic information on the location, type, quantity, and the health risks of hazardous materials  
18 handled, used, stored, or disposed of in the State, which could be accidentally released into the  
19 environment. be made available to firefighters, health officials, planners, public safety officers,  
20 health care providers, regulatory agencies and other interested persons.

21 22. California has enacted a comprehensive statutory framework to govern the  
22 management of medical waste in order to protect the public and the environment from  
23 potentially infectious disease-causing agents and other hazards. This framework is known as  
24 the Medical Waste Management Act (“MWMA”) and it contains requirements related to the  
25 generation, handling, storage, treatment, transport, and disposal of medical waste in California.  
26 The MWMA is found at Health and Safety Code section 117600, *et seq.*

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## ENFORCEMENT AUTHORITY

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2           23.    Section 25189 of the Health and Safety Code imposes civil liability for any  
3 negligent or intentional violation of the HWCL, or for any violation of any permit, rule,  
4 regulation, standard, or requirement issued or promulgated pursuant to the HWCL. Section  
5 25189.2 of the Health and Safety Code is an alternative strict liability provision, which creates  
6 liability for any violation of the HWCL, or for any violation of any permit, rule, regulation,  
7 standard, or requirement issued or promulgated pursuant to the HWCL.

8           24.    Section 118345 of the Health and Safety Code imposes civil liability for any  
9 violation of the MWMA, for violation of any order issued pursuant to section 118330 of the  
10 Health and Safety Code, or for any violation of a regulation promulgated pursuant to the  
11 MWMA.

12           25.    Business and Professions Code section 17206 imposes civil liability for any act  
13 of unfair competition, as defined in California Business and Professions Code section 17200.

14           26.    Business and Professions Code section 17203 authorizes the Court to issue an  
15 order that enjoins any person who engages, has engaged, or proposes to engage in unfair  
16 competition, as defined in California Business and Professions Code section 17200.

17           27.    Health and Safety Code sections 25181 and 25184 authorize the Court to issue  
18 an order that enjoins any ongoing or potential violation of the HWCL, or of any applicable rule,  
19 regulation, permit, standard, requirement, or order issued or promulgated pursuant to the  
20 HWCL.

21           28.    Health and Safety Code sections 25515.6 and 25515.7 authorize the Court to  
22 issue an order that enjoins any ongoing or potential violation of Chapter 6.95.

23           29.    Health and Safety Code section 118325 authorizes the Court to issue an order  
24 that enjoins any ongoing or potential violation of the MWMA.

25           30.    Health and Safety Code sections 25184, 25515.8, and 118325 provide that in  
26 civil actions brought pursuant to the HWCL, Chapter 6.95, or MWMA, respectively, in which  
27 an injunction or temporary restraining order is sought, it shall not be necessary for the People to  
28 allege or prove at any stage of the proceeding that irreparable damage will occur should the

1 temporary restraining order, preliminary injunction, or permanent injunction not be issued, or  
2 that the remedy at law is inadequate, and the temporary restraining order, preliminary  
3 injunction, or permanent injunction shall issue without such allegations and without such proof.

#### 4 **GENERAL ALLEGATIONS**

5 31. At all times relevant hereto and continuing from and after the date of filing of  
6 this Complaint, Defendants owned and/or operated, and continue to own and/or operate, and are  
7 responsible for acts and/or omissions committed at, over 250 California Facilities throughout  
8 California, including retail stores and regional distribution centers. At all times relevant hereto  
9 and continuing from and after the date of filing of this Complaint, Defendants, and each of  
10 them, handled at the California Facilities enormous volumes of hazardous materials including,  
11 but not limited to, over-the-counter medications, bleaches, batteries, electronic devices,  
12 ignitable liquids, aerosol products, oven cleaners and various other cleaning agents, and other  
13 ignitable, reactive, toxic, corrosive, and biohazard materials. Most of those hazardous materials  
14 are sold to the public in the ordinary course of business. However, at all times relevant hereto  
15 and continuing from and after the date of filing of this Complaint, hazardous materials handled  
16 by Defendants at the California Facilities were and are rendered unsalable and unusable for their  
17 intended purpose as the result of spillage, breakage, expiration of sell-by dates, contamination,  
18 damage to containers or labeling, and other causes, and must be handled and disposed of as  
19 hazardous waste in compliance with the HWCL.

20 32. At all times relevant to this Complaint, Defendants, and each of them, are and  
21 were responsible for the operation of the California Facilities. At all times relevant to this  
22 Complaint, Defendants, and each of them, were aware of, established, implemented, managed,  
23 directed, approved, ratified and/or controlled the hazardous materials, medical waste, and  
24 hazardous waste management activities, policies and procedures at each of the California  
25 Facilities. At all times relevant to this Complaint, Defendants' actions and/or omissions, as part  
26 of a continuing course of conduct, are or were the legal cause of the violations alleged herein,  
27 and Defendants, and each of them, reasonably could have taken action to prevent violations and  
28 comply with applicable laws and regulations.