

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

_____ )	
NATIONAL CONSUMERS LEAGUE, )	
)	
Plaintiff, )	
v. )	No. 2015 CA 007731 B
)	Judge Thomas J. Motley
WALMART STORES, INC., )	
J.C. PENNEY CORPORATION, INC. )	
and )	
THE CHILDREN'S PLACE, INC., )	
)	
Defendants. )	
_____ )	

**DEFENDANT THE CHILDREN'S PLACE, INC.'S ANSWER  
TO THE SECOND AMENDED COMPLAINT**

Defendant The Children's Place, Inc. ("TCP"), through its Counsel, hereby answers the Second Amended Complaint (the "SAC") filed by Plaintiff National Consumer League ("NCL" or "Plaintiff") and states as follows:<sup>1</sup>

**INTRODUCTION<sup>2</sup>**

1. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the SAC, and therefore denies those allegations.

2. TCP admits that it uses advertising and the Internet to promote sales of clothing.

With regard to any other allegations as to TCP, paragraph 2 of the SAC is otherwise denied. To the extent that the allegations in paragraph 2 relate to Walmart Stores, Inc. (hereinafter

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<sup>1</sup> TCP files this Answer in response to Plaintiff's Second Amended Complaint, which was filed after this Court's July 22, 2016 Order dismissing certain allegations in the Amended Complaint related to "aspirational" statements. The Court held that those statements were not actionable under D.C. Code §§ 28-3904(a), (e), (h) and (u). TCP reserves all of its rights to contest the scope and propriety of Plaintiff's allegations in light of Plaintiff's remaining theory of relief, as set forth the Court's July 22, 2016 Order.

<sup>2</sup> To the extent that the headings or footnotes in Plaintiff's SAC contain anything that can be construed as an allegation, TCP denies all such allegations.

“Walmart”) and/or J.C. Penney Corporation, Inc. (hereinafter “JCPC”), TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations.

3. To the extent that Plaintiff purports to quote from statements on Walmart’s website and/or its “Statement of Ethics,” the statements as disseminated by Walmart, if any, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the SAC, and therefore denies those allegations.

4. To the extent that Plaintiff purports to quote from statements in JCPC’s “Supplier Principles,” the statements as disseminated by JCPC, if any, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the SAC, and therefore denies those allegations.

5. TCP admits that, as of the date of this Answer, the TCP statement quoted by Plaintiff in paragraph 5 of the SAC can be found on TCP’s website at <http://www.childrensplace.com/shop/us/content/social-responsibility>. To the extent that Plaintiff seeks to otherwise characterize the statement in paragraph 5, the statement speaks for itself and any such characterizations are denied.

6. TCP admits that it performs audits of the factories owned by third party suppliers that make TCP clothing, but denies the remaining allegations in paragraph 6 to the extent that they relate to TCP. To the extent that paragraph 6 of the SAC relates to Walmart and JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. Further, to the extent paragraph 6 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court’s July 22, 2016 Order, such statements are aspirational and cannot form the basis

for a claim under the DCCPA, and are therefore no longer relevant to the case.

7. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the SAC, and therefore denies those allegations.

8. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the SAC, and therefore denies those allegations.

9. TCP admits that it uses internal and third-party auditors. TCP admits that, as of the date of this Answer, the following statement can be found on TCP's website at <http://www.childrensplace.com/shop/us/content/social-responsibility>: "Each audit involves a thorough inspection of the facility, private interviews with factory workers, as well as a review of compensation and attendance records." Paragraph 9 is otherwise denied. Further, to the extent paragraph 9 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

10. Paragraph 10 of the SAC states conclusions of law to which no response is required. To the extent a response is required, and to the extent that the allegations in paragraph 10 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10, and therefore denies those allegations. Paragraph 10 is otherwise denied. Further, to the extent paragraph 10 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

11. TCP admits that Rana Plaza, a commercial building in Savar, Bangladesh,

collapsed on April 24, 2013. TCP further admits that it has, in the past, prior to April 24, 2013, purchased clothing from New Wave Style Limited, which was located at Rana Plaza, but avers that at the time of the April 24, 2013 incident, TCP had no active orders in production with New Wave Style Limited. To the extent that the allegations in paragraph 11 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11, and therefore denies those allegations. Paragraph 11 is otherwise denied.

12. Paragraph 12 of the SAC states conclusions of law to which no response is required. To the extent a response is required, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the SAC, and therefore denies those allegations.

13. TCP admits that Rana Plaza collapsed on April 24, 2013. TCP further admits that there were deaths and injuries at Rana Plaza on April 24, 2013. TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the SAC, and therefore denies those allegations. To the extent that paragraph 13 contains any implication that TCP's actions or inactions caused deaths or injuries at Rana Plaza, such implication is denied.

14. Paragraph 14 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 14 is denied.

#### **JURISDICTION AND VENUE**

15. Paragraph 15 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 15 is denied.

16. TCP admits it transacts business in Washington, D.C. TCP denies that the claims

asserted in the complaint arise in the District of Columbia. TCP further denies that it caused injury in Washington, D.C. To the extent that the allegations in paragraph 16 of the SAC relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations related to NCL and transactions in retail stores or on line, and therefore denies those allegation. Paragraph 16 of the SAC otherwise states conclusions of law to which no response is required. To the extent a response is required, paragraph 16 is denied.

17. TCP admits that it markets, distributes, and sells products to consumers in the District of Columbia and that TCP has transacted business in the District of Columbia. To the extent that the allegations in paragraph 17 of the SAC relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. Paragraph 17 otherwise states conclusions of law to which no response is required. To the extent a response is required, paragraph 17 is denied.

#### **PARTIES**

18. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the SAC, and therefore denies those allegations.

19. TCP admits that Walmart is headquartered in Arkansas. TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19 of the SAC, and therefore denies those allegations.

20. TCP admits that it is an American retailer of children's apparel and accessories and that it is headquartered in New Jersey. TCP further admits that it has a retail location in the District of Columbia at 3100 14th Street, N.W. TCP further admits that District of Columbia

consumers have transacted business with TCP through its website found at [www.thechildrensplace.com](http://www.thechildrensplace.com). Paragraph 20 is otherwise denied.

21. TCP admits that JCPC is headquartered in Texas. TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the SAC, and therefore denies those allegations.

### **THE INTERESTS OF NCL & THE GENERAL PUBLIC<sup>3</sup>**

22. Paragraph 22 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 22 is denied.

23. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the SAC, and therefore denies those allegations.

24. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the SAC, and therefore denies those allegations.

25. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 of the SAC, and therefore denies those allegations.

26. TCP admits that it marketed products to District of Columbia residents online and through one retail outlet. To the extent that the allegations in paragraph 26 of the SAC relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. Paragraph 26 is otherwise denied.

27. TCP denies the allegations in paragraph 27 of the SAC to the extent that they relate to TCP. To the extent that the allegations in paragraph 27 of the SAC relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the

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<sup>3</sup> To the extent that the heading located between paragraphs 21 and 22 of the SAC alleges that NCL or the “General Public” have legal “interests” in this litigation, TCP denies any such allegations.

allegations, and therefore denies those allegations.

#### **FACTUAL BACKGROUND<sup>4</sup>**

##### *The Importance and Promotion of Corporate Social Responsibility<sup>5</sup>*

28. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the SAC, and therefore denies those allegations.

29. To the extent that Plaintiff purports to cite or characterize an NCL “study” in paragraph 29 of the SAC, the study, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29, and therefore denies those allegations.

30. To the extent that Plaintiff purports to cite or characterize an NCL “study” in paragraph 30 of the SAC, the study, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30, and therefore denies those allegations.

31. To the extent that Plaintiff purports to cite or characterize an NCL “study” in paragraph 31 of the SAC, the study, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31, and therefore denies those allegations.

32. To the extent that Plaintiff purports to cite or characterize a 2010 Forbes report in paragraph 32 of the SAC regarding two public opinion surveys on CSR, the report, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth

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<sup>4</sup> To the extent that the heading between paragraphs 27 and 28 of the SAC alleges that the allegations in the “FACTUAL BACKGROUND” section of the SAC are “factual,” TCP denies all such allegations.

<sup>5</sup> To the extent that the heading immediately preceding paragraph 28 in Plaintiff’s SAC contains anything that can be construed as an allegation, TCP denies all such allegations.

of the allegations in paragraph 32 and its sub-bullets, and therefore denies those allegations.

33. To the extent that Plaintiff purports to cite or characterize a 2013 Forbes report in paragraph 33 of the SAC regarding corporate social responsibility, the report, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 and its sub-bullets, and therefore denies those allegations.

34. To the extent that Plaintiff purports to cite or characterize a 2013 Forbes report in paragraph 34 of the SAC regarding corporate social responsibility, the report, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 and its sub-paragraphs, and therefore denies those allegations.

35. To the extent that Plaintiff purports to cite or characterize a 2014 Consumer Reports National Research Center Survey Research Report in paragraph 35 of the SAC, the report, if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35, and therefore denies those allegations.

36. To the extent that Plaintiff purports to cite or characterize a 2014 global survey by Nielsen and a June 17, 2014 Nielsen press release in paragraph 36 of the SAC, the survey and press release, if they exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36, and therefore denies those allegations.

37. To the extent that Plaintiff purports to cite or characterize a 2015 “study and survey” by Cone Communications and Ebiquity in paragraph 37 of the SAC, the “study and survey,” if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37, and therefore denies those allegations.

38. To the extent that Plaintiff purports to cite or characterize a “CC&E Study” in



paragraph 38 of the SAC, the “study and survey,” if it exists, speaks for itself. TCP denies that its website makes “promises” as alleged by NCL in paragraph 38. To the extent that the allegations in paragraph 38 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. TCP denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 38, and therefore denies those allegations.

39. To the extent that Plaintiff purports to cite or characterize a “CC&E Study” in paragraph 39 of the SAC, the “study and survey,” if it exists, speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39, and therefore denies those allegations.

*Walmart’s CSR Representations*<sup>6</sup>

40. To the extent that Plaintiff purports to quote statements by Walmart in paragraph 40 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40, and therefore denies those allegations.

41. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the SAC, and therefore denies those allegations.

42. To the extent that Plaintiff purports to quote statements by Walmart in paragraph 42 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42, and therefore denies those allegations.

43. To the extent that Plaintiff purports to quote statements by Walmart in paragraph

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<sup>6</sup> To the extent that the heading immediately preceding paragraph 40 in Plaintiff’s SAC contains anything that can be construed as an allegation, TCP denies all such allegations.

43 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43, and therefore denies those allegations.

44. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 44 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44, and therefore denies those allegations.

45. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 45 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45, and therefore denies those allegations.

46. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 46 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46, and therefore denies those allegations.

47. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 47 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47, and therefore denies those allegations.

48. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 48 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48, and therefore denies those allegations.

49. To the extent that Plaintiff purports to quote or characterize statements by Walmart in paragraph 49 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49, and therefore denies those allegations.

*JCPC's CSR Representations*<sup>7</sup>

50. To the extent that Plaintiff purports to quote or characterize statements by JCPC in paragraph 50 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50, and therefore denies those allegations.

51. To the extent that Plaintiff purports to quote or characterize statements by JCPC in paragraph 51 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51, and therefore denies those allegations.

52. To the extent that Plaintiff purports to quote or characterize statements by JCPC in paragraph 52 of the SAC, such statements, if any exist, speak for themselves. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52, and therefore denies those allegations.

*TCP's CSR Representations*<sup>8</sup>

53. TCP admits that, as of the date of this Answer, the TCP statement quoted by Plaintiff in paragraph 53 of the SAC can be found on TCP's website at <http://www.childrensplace.com/shop/us/content/social-responsibility>. To the extent that Plaintiff

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<sup>7</sup> To the extent that the heading immediately preceding paragraph 50 in Plaintiff's SAC contains anything that can be construed as an allegation, TCP denies all such allegations.

<sup>8</sup> To the extent that the heading immediately preceding paragraph 53 in Plaintiff's SAC contains anything that can be construed as an allegation, TCP denies all such allegations.

seeks to otherwise characterize the statement in paragraph 53, the statement speaks for itself, and all such characterizations are denied. Further, to the extent paragraph 53 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

54. TCP admits that, as of the date of this Answer, the TCP statement quoted by Plaintiff in paragraph 54 of the SAC can be found on TCP's website at <http://www.childrensplace.com/shop/us/content/social-responsibility>. To the extent that Plaintiff seeks to otherwise characterize the statement in paragraph 54, the statement speaks for itself and all such characterizations are denied. Further, to the extent paragraph 54 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

55. TCP admits that, as of the date of this Answer, the TCP statement quoted by Plaintiff in paragraph 55 of the SAC can be found on TCP's website at [http://www.childrensplace.com/wcsstore/GlobalSAS/images/tcp/common/2014\\_TCP\\_Supplier\\_Code\\_of\\_Conduct.pdf](http://www.childrensplace.com/wcsstore/GlobalSAS/images/tcp/common/2014_TCP_Supplier_Code_of_Conduct.pdf). To the extent that Plaintiff seeks to otherwise characterize the statement in paragraph 55, the statement speaks for itself, and all such characterizations are denied. Further, to the extent paragraph 55 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

56. TCP admits that, as of the date of this Answer, the TCP statement quoted by

Plaintiff in paragraph 56 of the SAC can be found on TCP's website at [http://www.childrensplace.com/wcsstore/GlobalSAS/images/tcp/common/2014\\_TCP\\_Supplier\\_Code\\_of\\_Conduct.pdf](http://www.childrensplace.com/wcsstore/GlobalSAS/images/tcp/common/2014_TCP_Supplier_Code_of_Conduct.pdf). To the extent that Plaintiff seeks to otherwise characterize the statement in paragraph 56, the statement speaks for itself, and all such characterizations are denied. Further, to the extent paragraph 56 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

57. TCP admits that it uses internal and third-party auditors. To the extent that paragraph 57 of the SAC purports to otherwise quote or characterize statements by TCP, if any, paragraph 57 is denied. Further, to the extent paragraph 57 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

58. TCP admits that, as of the date of this Answer, the following statements can be found on TCP's website at <http://www.childrensplace.com/shop/us/content/social-responsibility>: (a) "Factory monitoring is a tool that helps provide insight into true factory working conditions" and (b) "Using our own internal auditors, as well as professional third-party auditors, The Children's Place conducts factory monitoring visits to assess the working conditions of the facilities from which we source. Each audit involves a thorough inspection of the facility, private interviews with factory workers, as well as a review of compensation and attendance records." To the extent that Plaintiff seeks to otherwise characterize the statement in paragraph 58, the statement speaks for itself, and all such characterizations are denied. Paragraph 58 is

otherwise denied. Further, to the extent paragraph 58 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case.

*The Fire at Rana Plaza*<sup>9</sup>

59. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59, and therefore denies those allegations.

60. To the extent that paragraph 60 of the SAC purports to cite to a May 23, 2013 article from the New York Times, the article speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60, and therefore denies those allegations.

61. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the SAC that “[d]ue to a lack of basic standards for workplace health and safety . . . workers at garment factories in Bangladesh are subjected to a number of systemic human rights violations[,]” and therefore denies those allegations. Paragraph 61 is otherwise denied. Further, to the extent paragraph 61 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court's July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case

62. TCP admits that Rana Plaza was a commercial building in Savar, a sub-district in the Greater Dhaka Area, the Capital of Bangladesh. TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 62 of the SAC

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<sup>9</sup> To the extent that the heading immediately preceding paragraph 59 in Plaintiff's SAC contains anything that can be construed as an allegation, TCP denies all such allegations.

that “[m]any of Bangladesh’s garment factories are” (i.e., are currently) “housed in Rana Plaza[,]” and therefore denies that allegation. Paragraph 62 is otherwise denied.

63. TCP admits that it has, in the past, prior to April 24, 2013, purchased clothing from New Wave Style Limited but avers that at the time of the April 24, 2013 incident at Rana Plaza, it had no active orders in production with New Wave Style Limited. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 as to other garment factories in the Rana Plaza building. To the extent that the allegations in paragraph 63 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. Paragraph 63 is otherwise denied.

64. To the extent that paragraph 64 of the SAC purports to cite a May 1, 2013 article from the New York Times, the article speaks for itself. To the extent that paragraph 64 attempts to quote statements made by TCP contained in the New York Times article, the statements speak for themselves. To the extent that paragraph 64 attempts to characterize statements made by TCP in the New York Times article, such characterizations are denied. To the extent that the allegations in paragraph 64 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations. Paragraph 64 is otherwise denied.

65. TCP denies the allegations in paragraph 65 of the SAC to the extent that the allegations relate to TCP. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 to the extent that they relate to Walmart or JCPC. Paragraph 65 is otherwise denied.

66. To the extent that paragraph 66 of the SAC purports to cite a May 15, 2013 article

from the New York Times, the article speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 of the SAC, and therefore denies those allegations.

67. TCP admits that it has, in the past, prior to April 24, 2013, purchased clothing from New Wave Style Limited but avers that at the time of the April 24, 2013 incident at Rana Plaza, it had no active orders in production with New Wave Style Limited. Paragraph 67 is otherwise denied.

68. To the extent that paragraph 68 of the SAC purports to cite an April 26, 2014 article from Forbes, the article speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68 of the SAC, and therefore denies those allegations.

69. To the extent that paragraph 69 of the SAC purports to cite an April 24, 2014 article from Newsweek, the article speaks for itself. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69, and therefore denies those allegations.

70. TCP admits that it has sold clothing in the District of Columbia. TCP further admits that it has, in the past, prior to April 24, 2013, purchased clothing from New Wave Style Limited, but avers that at the time of the April 24, 2013 incident, TCP had no active orders in production with New Wave Style Limited. TCP denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 70, and therefore denies those allegations.

71. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 71 of the SAC, and therefore denies those allegations.



72. Paragraph 72 of the SAC states conclusions of law to which no response is required. To the extent a response is required, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72, and therefore denies those allegations.

73. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 73 of the SAC, and therefore denies those allegations.

74. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 74 of the SAC, and therefore denies those allegations.

75. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 75 of the SAC, and therefore denies those allegations.

76. TCP admits that, on April 24, 2013, Rana Plaza collapsed. TCP also admits that there were deaths and injuries at Rana Plaza on April 24, 2013. TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 76 of the SAC, and therefore denies those allegations.

77. TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 77 of the SAC, and therefore denies those allegations.

78. TCP denies the allegations in paragraph 78 of the SAC to the extent that such allegations relate to TCP. To the extent that the allegations in paragraph 78 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies those allegations.

79. Paragraph 79 of the SAC states conclusions of law to which no response is required. To the extent a response is required, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 of the SAC, and therefore denies

those allegations.

80. TCP denies the allegation in paragraph 80 of the SAC that TCP “knew, prior to April 24, 2013, that Bangladesh factories, including garment factories, had an extremely poor record of workplace safety standards and industrial building standards.” TCP otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 80 of the SAC, and therefore denies those allegations. To the extent that the allegations in paragraph 80 relate to Walmart or JCPC, TCP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 80, and therefore denies those allegations.

81. Paragraph 81 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 81 is denied. Further, to the extent paragraph 81 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court’s July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case

82. Paragraph 82 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 82 is denied. Further, to the extent paragraph 82 states allegations related to TCP ensuring compliance with its standards or corporate social responsibility policy, per the Court’s July 22, 2016 Order, such statements are aspirational and cannot form the basis for a claim under the DCCPA, and are therefore no longer relevant to the case

**COUNT I**  
**(Violation of the District of Columbia Consumer Protection Procedures Act)<sup>10</sup>**

83. Paragraph 83 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 83 is denied.

84. Paragraph 84 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 84 is denied.

85. To the extent that paragraph 85 of the SAC purports to quote D.C. Code § 28-3904, the statute speaks for itself. Paragraph 85 otherwise states conclusions of law to which no response is required. To the extent a response is required, paragraph 85 is denied.

86. Paragraph 86 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 86 is denied.

87. Paragraph 87 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 87 is denied.

88. Paragraph 88 of the SAC states conclusions of law to which no response is required. To the extent a response is required, paragraph 88 is denied.

**PRAYER FOR RELIEF**

TCP denies that Plaintiff and/or “the General Public” are entitled to any of the relief they request, including, but not limited to, the following:

a) TCP denies that Plaintiff and/or “the General Public” are entitled to a declaration that Defendants’ conduct is in violation of the D.C. Consumer Protection Procedures Act;

b) TCP denies that Plaintiff and/or “the General Public” are entitled to any injunctive

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<sup>10</sup> To the extent that the heading between paragraphs 82 and 83 of the SAC alleges that TCP committed a “Violation of the District of Columbia Consumer Protection Procedures Act,” this allegation is a conclusion of law to which no response is required. To the extent a response is required, the allegation is denied.

relief as to any of Defendants' conduct;

c) TCP denies that Plaintiff and/or "the General Public" of the District of Columbia are entitled to either treble damages or statutory damages in the amount of \$1,500 per violation of the D.C. Consumer Protection Procedures Act, which violations TCP further denies;

d) TCP denies that Plaintiff is entitled to costs of prosecuting this action, including attorneys' fees, experts' fees and costs together with interest;

e) TCP denies that Plaintiff and/or "the General Public" are entitled to any other relief from the Court whatsoever.

### **JURY TRIAL DEMANDED**

Plaintiffs' claim that they are entitled to a jury trial is a conclusion of law to which no response is required.

### **GENERAL DENIAL**

TCP denies any allegations not specifically admitted above, whether express, implied, or contained in headings or footnotes appearing throughout Plaintiff's SAC.

### **AFFIRMATIVE DEFENSES**

TCP asserts the following defenses without assuming the burden of proof as to any issue that otherwise would rest upon Plaintiff.

#### **First Affirmative Defense**

The SAC fails to state a claim upon which relief can be granted because, inter alia, (a) TCP's statements conformed with all applicable law; (b) neither Plaintiff nor the General Public were deceived or harmed; (c) there is no causal link between any alleged misrepresentation and any resulting loss; and (d) no reasonable consumer would be misled by TCP's statements..

#### **Second Affirmative Defense**

Both Plaintiff and the General Public lack standing, whether as a class action or under

any other theory, because, inter alia, they have not suffered injury as the result of TCP's conduct.

**Third Affirmative Defense**

The claims in the Second Amended Complaint are barred, in whole or in part, by the applicable statutes of limitation and repose.

**Fourth Affirmative Defense**

Plaintiff's and the General Public's claims are barred in whole or in part by the doctrine of waiver.

**Fifth Affirmative Defense**

Plaintiff's and the General Public's claims are barred in whole or in part by the doctrine of estoppel.

**Sixth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by the doctrine of laches.

**Seventh Affirmative Defense**

Plaintiff's and the General Public's claims for injunctive, declaratory, and/or equitable relief are barred in whole or in part by the existence of an adequate remedy at law.

**Eighth Affirmative Defense**

Any injuries or monetary damages that Plaintiff or the General Public allegedly suffered were caused solely and proximately by the acts of Plaintiff, the General Public, and/or others.

**Ninth Affirmative Defense**

Plaintiff's and the General Public's claims for monetary damages are barred because they are speculative or remote, and/or would unjustly enrich Plaintiffs and/or others.

**Tenth Affirmative Defense**

Plaintiff and the General Public are not entitled to treble damages, punitive damages, or

statutory damages of any kind.

**Eleventh Affirmative Defense**

Plaintiff is not entitled to attorneys' fees, costs, or interest.

**Twelfth Affirmative Defense**

TCP reserves the right to raise defenses relevant to D.C. Civil Rule 23 should Plaintiff request monetary relief for members of the General Public or otherwise assert a class action-based theory of relief.

**Thirteenth Affirmative Defense**

Pursuant to the Court's July 22, 2016 Order, Plaintiff cannot rely on TCP's statements to the extent that they are "aspirational in nature" and therefore do not violate the DCPPA.

**Fourteenth Affirmative Defense**

The statements relied upon by Plaintiff from TCP's website are true and cannot serve as the basis for a claim under the DCCPA.

**Fifteenth Affirmative Defense**

TCP's statements on its Social Responsibility and Supplier Code of Conduct web pages are protected commercial speech under the First Amendment and cannot serve as the basis for a claim under the DCCPA.

**Sixteenth Affirmative Defense**

Plaintiff and the General Public of the District of Columbia are precluded from recovery because the representations, actions or omissions alleged by Plaintiff were and are not material to Plaintiff's or any reasonable consumer's decisions to purchase products from TCP.

**Seventeenth Affirmative Defense**

Plaintiff failed to mitigate its damages, if any, and any recovery should be reduced or

denied accordingly.

**Eighteenth Affirmative Defense**

The claims in the Second Amended Complaint are barred, in whole or in part, because TCP acted in good faith at all times.

**Nineteenth Affirmative Defense**

Plaintiff has enjoyed the full benefit of its purchase of the products that are the subject of the Second Amended Complaint and is thereby barred from making the claims for relief set forth in the Second Amended Complaint.

**Twentieth Affirmative Defense**

Plaintiff has not suffered any loss and TCP has not been unjustly enriched as a result of any action or inaction by TCP and Plaintiff therefore is not entitled to any restitution or disgorgement.

**Twenty-First Affirmative Defense**

Enforcement of any purported rights Plaintiff may have against TCP would be contrary to public policy, and therefore Plaintiff is barred from any recovery from TCP.

**Twenty-Second Affirmative Defense**

TCP is entitled to contest by jury trial its liability to any particular individual plaintiffs, even if the purported representative of the General Public of the District of Columbia prevails on its claims.

**Twenty-Third Affirmative Defense**

TCP reserves the right to amend its Answer and raise additional defenses as they become known to TCP through discovery or otherwise in this matter. TCP has not waived, and does not waive, any applicable defenses.

**Twenty-Fourth Affirmative Defense**

None of the TCP statements as alleged in the complaint is a promise or guarantee of the behavior, knowledge or conduct of its third-party suppliers.

**Twenty-Fifth Affirmative Defense**

TCP's statements as alleged in the complaint related to audits did not create any duty, obligation or promise by TCP to perform audits in any specific manner, pursuant to any specific standard, or at all.

WHEREFORE, TCP prays that this Court award judgment to TCP, award to TCP its costs of suit, and grant TCP such other relief as the court deems just and appropriate, including, but not limited to, attorneys' fees.

DATED: September 26, 2016

Respectfully submitted,

**DLA Piper LLP (US)**

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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 26, 2016, I served the following counsel through the Court's electronic case filing system:

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