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Superior Court Of California  
County Of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CENTRAL DISTRICT

Shefa LMV, LLC

Plaintiff,

vs.

Belwith Management, Inc.; Belwith Products,  
LLC; and DOES 1 THROUGH 25, Inclusive.

Defendants.

) Unlimited Jurisdiction

) CASE NO.

) COMPLAINT FOR CIVIL  
) PENALTY AND INJUNCTIVE  
) RELIEF

) (Health and Safety Code § 25249.5  
) et seq. and Business and Professions  
) Code § 17200)

) TOXIC TORT/ENVIRONMENTAL

BC528514

BY FAX

Plaintiff, Shefa LMV, LLC, hereby alleges:

**I. PRELIMINARY STATEMENT**

1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure to lead, which is a chemical known to the State of California to cause birth defects, or other reproductive harm.

2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6, also known as "Proposition 65," businesses must provide persons with a "clear and reasonable warning" before exposing individuals to chemicals known to the state to cause cancer, birth defects or reproductive harm.

1 **II. PARTIES**

2 3. Plaintiff is a limited liability company formed pursuant to the laws of the State of  
3 California, made up of California citizens, represented by and through its counsel of record, the Law  
4 Office of Daniel N. Greenbaum.

5 4. Health and Safety Code section 25249.7(d) provides that actions to enforce  
6 Proposition 65 may be brought by “any person in the public interest.”

7 5. Business and Professions Code sections 17200 *et seq.* provide that actions to enforce  
8 that statute may be brought in a private “Attorney General” action.

9 6. Defendant BELWITH MANAGEMENT, INC. (hereinafter “BELWITH INC.”) is a  
10 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
11 authorized the manufacture, distribution, or sale of Hardware products under the brand name  
12 “Belwith” and other brand names,<sup>1</sup> that contain lead, for sale within the State of California, without  
13 first giving clear and reasonable warning.

14 7. Defendant BELWITH PRODUCTS, LLC (hereinafter “BELWITH LLC”) is a  
15 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
16 authorized the manufacture, distribution, or sale of Hardware products under the brand name  
17 “Belwith” and other brand names, that contain lead, for sale within the State of California, without  
18 first giving clear and reasonable warning.

19 8. Defendants named in paragraphs 6 – 7 are hereinafter referred to collectively as  
20 “BELWITH.”

21 9. The identities of DOES 1 through 25 are unknown to Plaintiff at this time; however,  
22 Plaintiff suspects that they are business entities with at least ten or more employees that have sold,  
23 authorized the distribution, or sale of Hardware products under the brand name “Belwith” and other  
24 brand names, that contain and/or produce lead, for sale within the State of California, without first  
25 giving clear and reasonable warning.

26 \_\_\_\_\_

27 <sup>1</sup> Hickory Hardware™, Belwith™, Belwith-Keeler™, First Watch™, Period Brass™, Designer  
28 Collection, and Keeler Brass™.



1 17. Proposition 65 establishes a procedure by which the state is to develop a list of  
2 chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Saf. Code, §  
3 25249.8.)

4 18. No warning need be given concerning a listed chemical until one year after the  
5 chemical first appears on the list. (*Id.*, § 25249.10, subd. (b).)

6 19. Any person “violating or threatening to violate” the statute may be enjoined in any  
7 court of competent jurisdiction. (Health & Saf. Code, § 25249.7.)

8 20. To “threaten to violate” is defined to mean “to create a condition in which there is a  
9 substantial probability that a violation will occur.” (*Id.*, § 25249.11, subd. (e).)

10 21. In addition, violators are liable for civil penalties of up to \$2,500 per day for each  
11 violation, recoverable in a civil action. (*Id.*, § 25249.7, subd. (b).)

12 22. Actions to enforce the law “may be brought by the Attorney General in the name of  
13 the People of the State of California [or] by any district attorney [or] by any City Attorney of a City  
14 having a population in excess of 750,000 . . .” (*Id.*, § 25249.7, subd. (c).)

15 23. Private parties are given authority to enforce Proposition 65 “in the public interest,”  
16 but only if the private party first provides written notice of a violation to the alleged violator, the  
17 Attorney General, and every District Attorney in whose jurisdiction the alleged violation occurs.

18 24. If no public prosecutors commence enforcement within sixty days, then the private  
19 party may sue. (Health & Saf. Code, § 25249.7(d).)

20 25. No such governmental action has been pursued against Defendants.

21  
22 **B. CALIFORNIA C.C.P. §382 COMMON OR GENERAL INTEREST**  
23 **ALLEGATIONS**

24 26. In addition to individual claims in this action, Plaintiff also asserts non-class action  
25 claims on behalf of the common or general interest to sue for the benefit of all in cases where the  
26 parties are numerous, and it is impracticable to bring them all before the court pursuant to C.C.P.  
27 §382.  
28



1           37.    Individuals who purchase, handle or install the PRODUCT are exposed to lead chiefly  
2 through:

- 3           a.     contact between the item and the skin;
- 4           b.     transfer of lead from the skin to the mouth, both by transfer of lead directly  
5                 from the hand to mouth and by transfer of lead from the skin to objects that are  
6                 put in the mouth, such as food, and;
- 7           c.     through absorption of lead through the skin.

8           38.    Such individuals are thus exposed to the lead that is present on and/or in the  
9 PRODUCT in the course of the intended and reasonably foreseeable use of the PRODUCT.

10          39.    At all times material to this complaint, Defendants have had knowledge that the  
11 PRODUCT contains lead and that skin may come into contact with lead.

12          40.    At all times material to this complaint, Defendants have had knowledge that  
13 individuals within the State of California handle the PRODUCT which contains and/or yields lead.

14          41.    At all times material to this complaint, Defendants knew that the PRODUCT was sold  
15 throughout the State of California in large numbers, and Defendants profited from such sales through,  
16 among other things, the sale of the PRODUCT that were sold in California.

17          42.    Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized  
18 the sale of the PRODUCT that exposed consumers to lead.

19          43.    At all times material to this complaint, Defendants have knowingly and intentionally  
20 exposed individuals within the State of California to lead.

21          44.    The exposure is knowing and intentional because it is the result of the Defendants'  
22 deliberate act of authorizing the sale of products known to contain and/or produce lead in a manner  
23 whereby these products were, and would inevitably be, sold to consumers within the state of  
24 California, and with the knowledge that the intended use of this PRODUCT will result in exposures  
25 to lead within the State of California.

26          45.    Defendants have failed to provide clear and reasonable warnings that the use of the  
27 PRODUCT in question in California results in exposure to a chemical known to the State of  
28

1 California to cause cancer, birth defects and other reproductive harm, and no such warning was  
2 provided to those individuals by any other person.

3 **VI. FIRST CAUSE OF ACTION**

4 **(Against All Defendants for Violation of Proposition 65)**

5 46. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

6 47. By committing the acts alleged above, Defendants have, in the course of doing  
7 business, knowingly and intentionally exposed individuals in California to chemicals known to the  
8 State of California to cause cancer or reproductive toxicity without first giving clear and reasonable  
9 warning to such individuals, within the meaning of Health and Safety Code section 25249.6.

10 48. Said violations render Defendants liable to Plaintiffs for civil penalties not to exceed  
11 \$2,500 per day for each violation, as well as other remedies.

12 **VII. SECOND CAUSE OF ACTION**

13 **(Against ALL Defendants for Unlawful Business Practices)**

14 49. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

15 50. By committing the acts alleged above, Defendants have engaged in unlawful business  
16 practices constituting unfair competition within the meaning of Business and Professions Code  
17 section 17200.

18 51. By reason of Defendants' fraudulent, deceptive, unfair, and other wrongful conduct as  
19 herein alleged, said Defendants have violated California Business and Professions Code 17200, et  
20 seq., by the sale and distribution of consumer PRODUCTS into the State that were dangerous to  
21 consumers and subsequently worthless.

22 52. Plaintiff individually and other consumers have purchased these Defendant  
23 PRODUCTS with the understanding that they had value and would serve their personal or  
24 professional needs.

25 53. As a consequence of these purchases of Defendants worthless PRODUCTS, Plaintiffs  
26 and other consumers have suffered losses in fact giving them standing to seek recovery as provided  
27 for by statute.

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