

SEP 16 2013

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BY [Signature] Shaunya Wesley Deputy

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF LOS ANGELES  
9 CENTRAL DISTRICT

10 SHEFA LMV, LLC, a California limited liability company,  
11  
12 Plaintiff,

13 vs.

14 ROSS STORES, INC.; RUDY PROFUMI SRL; ADDED EXTRAS LLC; TPR  
15 HOLDINGS LLC; BAYLIS & HARDING PLC; JAKENNA COSMETICS INC.;  
16 ALESSANDRA COLLECTION S.A.S.; ENCHANTE ACCESSORIES INC.;  
17 BLISSWORLD LLC; THE HOUSE OF PAWS LTD.; THE TJX COMPANIES, INC.;  
18 DENNIS EAST INTERNATIONAL LLC; DOGGONE GORGEOUS; GRACE COLE  
19 LTD.; SCOTTISH FINE SOAPS LTD.; LUXO LABORATORIES LTD., PACIFICA  
20 SKINCARE; THE CAPE TOWN TOILETRY CO.; HARBOR SRL; BED  
21 BATH & BEYOND INC.; 99¢ ONLY STORES; COLOMER PROFESSIONAL  
22 PRODUCTS INC.; TRI-COASTAL DESIGN GROUP, INC.; CLT INTERNATIONAL  
23 INC.; PERSONAL CARE PRODUCTS, INC.; AWESOME PRODUCTS, INC.; and  
24 DOES 1through 500, inclusive,  
25  
26 Defendants.

) Unlimited Jurisdiction **BC 521400**

) CASE NO.

) COMPLAINT FOR CIVIL PENALTY AND INJUNCTIVE RELIEF  
(Health and Safety Code § 25249.5 et seq.)

) TOXIC TORT/ENVIRONMENTAL

**BY FAX**

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28 Plaintiff SHEFA LMV, LLC, hereby alleges:

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**I. PRELIMINARY STATEMENT**

1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure to Diethanolamine, which is a chemical known to the State of California to cause cancer.

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 or reproductive harm.

**II. PARTIES**

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

4. Plaintiff is considered to be a “person” under Health and Safety Code section 25249.7(d) and brings this action by and through its counsel of record, the Law Office of Daniel N. Greenbaum.

5. Defendant ROSS STORES, INC. (hereinafter “Ross”) is a business entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

6. Defendant RUDY PROFUMI SRL (hereinafter “Rudy”) is a business entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

7. Defendant ADDED EXTRAS, LLC (hereinafter “Added Extras”) is a business entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

1           8.       Defendant TPR HOLDINGS, LLC (hereinafter “TPR”) is a business entity with ten or  
2 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
3 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
4 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
5 within the State of California, without first giving clear and reasonable warning.

6           9.       Defendant BAYLIS & HARDING, PLC (hereinafter “Baylis”) is a business entity with  
7 ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
8 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
9 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
10 within the State of California, without first giving clear and reasonable warning.

11          10.       Defendant JAKENNA COSMETICS, INC. (hereinafter “Jakenna”) is a business entity  
12 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
13 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
14 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
15 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

16          11.       Defendant ALESSANDRA COLLECTION S.A.S. (hereinafter “Alessandra”) is a  
17 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
18 authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or  
19 other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
20 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

21          12.       Defendant ENCHANTE ACCESSORIES, INC. (hereinafter “Enchante”) is a business  
22 entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
23 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
24 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
25 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

26          13.       Defendant BLISSWORLD LLC (hereinafter “Blissworld”) is a business entity with ten or  
27 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
28 distribution, or sale of soap and shampoo products under its brand name or other brand names, that

1 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
2 within the State of California, without first giving clear and reasonable warning.

3 14. Defendant THE HOUSE OF PAWS, LTD. (hereinafter “House of Paws”) is a business  
4 entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
5 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
6 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
7 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

8 15. Defendant THE TJX COMPANIES, INC. (hereinafter “TJX”) is a business entity with ten  
9 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
10 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
11 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
12 within the State of California, without first giving clear and reasonable warning.

13 16. Defendant DENNIS EAST INTERNATIONAL, LLC (hereinafter “Dennis East”) is a  
14 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
15 authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or  
16 other brand names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
17 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

18 17. Defendant DOGGONE GORGEOUS (hereinafter “Doggone”) is a business entity with ten  
19 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
20 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
21 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
22 within the State of California, without first giving clear and reasonable warning.

23 18. Defendant GRACE COLE, LTD. (hereinafter “Grace Cole”) is a business entity with ten  
24 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
25 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
26 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
27 within the State of California, without first giving clear and reasonable warning.

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1           19. Defendant SCOTTISH FINE SOAPS, LTD. (hereinafter “Fine Soaps”) is a business entity  
2 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
3 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
4 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
5 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

6           20. Defendant LUXO LABORATORIES, LTD. (hereinafter “Luxo”) is a business entity with  
7 ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
8 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
9 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
10 within the State of California, without first giving clear and reasonable warning.

11           21. Defendant PACIFICA SKINCARE (hereinafter “Pacifica”) is a business entity with ten or  
12 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
13 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
14 contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale  
15 within the State of California, without first giving clear and reasonable warning.

16           22. Defendant THE CAPE TOWN TOILETRY CO. (hereinafter “Cape Town”) is a business  
17 entity with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
18 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
19 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
20 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

21           23. Defendant HARBOR SRL (hereinafter “Harbor”) is a business entity with ten or more  
22 employees that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution,  
23 or sale of soap and shampoo products under its brand name or other brand names, that contain Coconut  
24 oil diethanolamine condensate (cocamide diethanolamine) or Diethanolamine, for sale within the State of  
25 California, without first giving clear and reasonable warning.

26           24. Defendant BED BATH & BEYOND, INC. (hereinafter “Bed Bath”) is a business entity  
27 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
28 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand

1 names, that contain Coconut oil diethanolamine condensate (“cocamide DEA”) or Diethanolamine  
2 (“DEA”), for sale within the State of California, without first giving clear and reasonable warning.

3 25. Defendant 99¢ ONLY STORES (hereinafter “99¢”) is a business entity with ten or more  
4 employees that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution,  
5 or sale of soap and shampoo products under its brand name or other brand names, that contain cocamide  
6 DEA or DEA, for sale within the State of California, without first giving clear and reasonable warning.

7 26. Defendant COLOMER PROFESSIONAL PRODUCTS, INC. (hereinafter “Colomer”) is a  
8 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
9 authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or  
10 other brand names, that contain cocamide DEA or DEA, for sale within the State of California, without  
11 first giving clear and reasonable warning.

12 27. Defendant TRI-COASTAL DESIGN GROUP, INC. (hereinafter “Tri-Coastal”) is a  
13 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
14 authorized the manufacture, distribution, or sale of soap and shampoo products under its brand name or  
15 other brand names, that contain cocamide DEA or DEA, for sale within the State of California, without  
16 first giving clear and reasonable warning.

17 28. Defendant CLT INTERNATIONAL, INC. (hereinafter “CLT”) is a business entity with  
18 ten or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
19 distribution, or sale of soap and shampoo products under its brand name or other brand names, that  
20 contain cocamide DEA or DEA, for sale within the State of California, without first giving clear and  
21 reasonable warning.

22 29. Defendant PERSONAL CARE PRODUCTS, INC. (hereinafter “PCP”) is a business entity  
23 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
24 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
25 names, that contain cocamide DEA or DEA, for sale within the State of California, without first giving  
26 clear and reasonable warning.

27 30. Defendant AWESOME PRODUCTS, INC. (hereinafter “Awesome”) is a business entity  
28 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the

1 manufacture, distribution, or sale of soap and shampoo products under its brand name or other brand  
2 names, that contain cocamide DEA or DEA, for sale within the State of California, without first giving  
3 clear and reasonable warning.

4 31. The identities of DOES 1 through 500 are unknown to Plaintiff at this time; however,  
5 Plaintiff suspects that they are business entities with at least ten or more employees that have sold,  
6 authorized the distribution, or sale of soap and shampoo products under their brand names or other brand  
7 names, that contain Coconut oil diethanolamine condensate (cocamide diethanolamine) or  
8 Diethanolamine, for sale within the State of California, without first giving clear and reasonable warning.

### 9 **III. JURISDICTION AND VENUE**

10 32. This Court has jurisdiction pursuant to California Constitution Article VI, section 10,  
11 because this case is a cause not given by statute to other trial courts.

12 33. This Court has jurisdiction over Defendants, because they are business entities that do  
13 sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail  
14 themselves of the California market, through the sale, marketing, and use of its products in California, to  
15 render the exercise of jurisdiction over it by the California courts consistent with traditional notions of  
16 fair play and substantial justice.

17 34. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles  
18 County because Defendant's products are sold and consumed in this county.

### 19 **IV. STATUTORY BACKGROUND**

#### 20 **A. Proposition 65**

21 35. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
22 passed as "Proposition 65" by a vote of the people in November of 1986.

23 36. The warning requirement of Proposition 65 is contained in Health and Safety Code section  
24 25249.6, which provides:

25 No person in the course of doing business shall knowingly and intentionally  
26 expose any individual to a chemical known to the state to cause cancer or  
27 reproductive toxicity without first giving clear and reasonable warning to such  
28 individual, except as provided in Section 25249.10.

1 37. An exposure to a chemical in a consumer product is one “which results from a person’s  
2 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or  
3 any exposure that results from receiving a consumer service.” (Cal. Code Regs., tit. 22, § 12601, subd.  
4 (b).)

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

7 39. No warning need be given concerning a listed chemical until one year after the chemical  
8 first appears on the list. (Id., § 25249.10, subd. (b).)

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

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

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

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

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

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

23 46. No such governmental action has been pursued against Defendants.

24 **V. FACTS**

25 47. “Coconut oil diethanolamine condensate (cocamide diethanolamine)” and  
26 “Diethanolamine” were placed in the Governor's list of chemicals known to the State of California to  
27 cause cancer on June 22, 2012. (Cal. Code Regs., tit. 22, § 12000, subd. (b).)

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1           48. Defendants manufacture, distribute, and/or market soap and shampoo products for use by  
2 individuals in the home and in other occupational endeavors.

3           49. These soaps and shampoos are sold through various retailers, including Defendants,  
4 located in California for use by citizens of the State of California.

5           50. The products are sold to consumers under the trade names owned by the Defendants for  
6 their various brands, including those mentioned above, and using the associated trademarks and trade  
7 dress for those brands, including the distinctive retailer labels.

8           51. The process followed in manufacturing the products for sale to the consuming public must  
9 be approved by Defendants used by individuals for personal use.

10          52. Individuals who purchase and use Defendants' products are exposed to Coconut oil  
11 diethanolamine condensate ("cocamide DEA") or Diethanolamine ("DEA") chiefly through: (1) contact  
12 between the soap or shampoo and the skin, (2) transfer of cocamide DEA or DEA from the skin to the  
13 mouth, both by transfer directly from the hand to mouth and by transfer of the cocamide DEA or DEA  
14 from the skin to objects that are put in the mouth, such as food and (3) through absorption of cocamide  
15 DEA or DEA through the skin.

16          53. Such individuals are thus exposed to the cocamide DEA or DEA that is present on and in  
17 Defendants' products in the course of the intended and reasonably foreseeable use of those products.

18          54. At all times material to this complaint, Defendants had knowledge that the soaps or  
19 shampoos contain cocamide DEA or DEA and that skin may come into contact with cocamide DEA or  
20 DEA.

21          55. At all times material to this complaint, Defendants have had knowledge that individuals  
22 within the State of California handle Defendants' products that contain cocamide DEA or DEA.

23          56. At all times material to this complaint, Defendants knew that the Defendants' products  
24 were sold throughout the State of California in large numbers, and Defendants profited from such sales  
25 through, among other things, the sale of Defendants' products that were sold in California.

26          57. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized the  
27 sale of Defendants' products that contained cocamide DEA or DEA.

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their products without providing clear and reasonable warnings, as Plaintiffs shall specify in further application to the court;

- 3. Award Plaintiffs their costs of suit;
- 4. Grant such other and further relief as the court deems just and proper.

Respectfully submitted,

DATED: September 16, 2013



By: DANIEL N. GREENBAUM  
Attorney for Plaintiff  
Shefa LMV, LLC