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10 SHEFA LMV, LLC

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF MARIN

13 SHEFA LMV, LLC., a California limited liability company,
14 Plaintiff,
15 vs.
16 GALDERMA LABORATORIES, L.P.; and DOES 1 through 50, inclusive,
17 Defendants.
18) Unlimited Jurisdiction
19)
20) CASE NO.
21)
22) COMPLAINT FOR CIVIL PENALTY AND
23) INJUNCTIVE RELIEF
24)
25) 1. Violation of Health and Safety Code §
26) 25249.6
27)
28)

19 Plaintiff SHEFA LMV, LLC, hereby alleges:

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22 **I. INTRODUCTION**

23 1. This complaint seeks to remedy Defendants' continued failure to warn individuals in
24 California about exposures to Benzophenone, a chemical recently adopted and known to the State of
25 California to cause cancer.

26 2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and
27 Safety Code section 25249.6, also known as "Proposition 65," businesses must provide persons with
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1 a “clear and reasonable warning” before exposing individuals to chemicals known to the State to
2 cause cancer.

3 **II. PARTIES**

4 3. Plaintiff is a California Limited Liability Company, authorized by the Secretary of
5 state to do business in the state of California, and is acting in a representative capacity for citizens of
6 the State, and through its counsel of record, the Law Office of Daniel N. Greenbaum.

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

9 5. Health and Safety Code section 25249.11(a) defines a “person” as an individual, trust,
10 firm, joint stock company, corporation, company, partnership, limited liability company, and
11 association.

12 6. Defendant GALDERMA LABORATORIES, L.P. (hereinafter “Galderma”) 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(s), sunscreen(s), lip balm(s), body cream(s)
15 or other product(s) designed to be applied onto the body by hand (hereinafter “Products”), under its
16 brand name or other brand names, including Cetaphil w/ SPF 15 (UPC 302993928041) that contain
17 Benzophenone, for sale within the State of California, without first giving clear and reasonable
18 warning.

19 7. The identities of DOES 1 through 50 are unknown to Plaintiff at this time; however,
20 Plaintiff suspects that they are business entities with at least ten or more employees that have sold,
21 authorized the distribution, or sale of Products under their brand names or other brand names, that
22 contain Benzophenone, for sale within the State of California, without first giving clear and
23 reasonable warning.

24 **III. JURISDICTION AND VENUE**

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

1 26. The Products are sold by Defendants for their various brands, including those
2 mentioned above, and using the associated trademarks and trade identities for those brands, including
3 the distinctive retailer labels.

4 27. The process followed in manufacturing the Products were approved by Defendants
5 and is used in this form by individuals and others for personal use.

6 28. Individuals are exposed thusly to the Benzophenone that is present in Defendants'
7 Products in the course of the intended and reasonably foreseeable use of those Products, as such
8 exposures are defined by 27 Cal. Code of Regs. § 25602(b).

9 29. At all times material to this complaint, Defendants had knowledge that the Products
10 contain Benzophenone and that skin may come into contact with Benzophenone and a resulting
11 exposure would occur.

12 30. At all times material to this complaint, Defendants have had knowledge that
13 individuals within the State would handle Defendants' Products that contain Benzophenone thus
14 causing the exposures absent warnings as complained of herein.

15 31. At all times material to this complaint, Defendants knew that the Defendants' Products
16 were sold throughout the State in substantial volumes, and that Defendants profited from such sales
17 through, among other things, the sale of California sale and distribution of Defendants' Products.

18 32. Notwithstanding this knowledge, Defendants intentionally and knowingly caused the
19 sale of Defendants' Products and subsequent exposure to Benzophenone.

20 33. At all times material to this complaint, Defendants have knowingly and intentionally
21 exposed individuals within the State to Benzophenone, absent the statutory warnings.

22 34. Plaintiff believes this alleged exposure is knowing and intentional because it is the
23 result of the Defendants' deliberate act of authorizing the sale and the distribution of the Products
24 known to contain Benzophenone in a manner whereby these Products were, and would inevitably be,
25 sold to consumers within the state, and with the knowledge that the intended use of these Products
26 will result in exposures to Benzophenone within the State, absent the statutory warnings.

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Respectfully submitted,

DATED: November 6, 2015

LAW OFFICE OF DANIEL N. GREENBAUM



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