

1 Daniel N. Greenbaum, Esq. (SBN 268104)  
LAW OFFICE OF DANIEL N. GREENBAUM  
2 The Hathaway Building  
7120 Hayvenhurst Ave., Suite 320  
3 Van Nuys CA 91406  
Telephone: (818) 809-2199  
4 Facsimile: (424) 243-7689  
Email: dgreenbaum@greenbaumlawfirm.com

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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

JUN 09 2017

Sherril R. Valdez, Executive Officer/Clerk  
By: M. Soto, Deputy  
Moses Soto

5 Attorney for Shefa LMV, INC.

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
7 COUNTY OF LOS ANGELES

9 SHEFA LMV, INC.,  
10 Plaintiff,  
11 vs.  
12 FRY'S ELECTRONICS, INC.; and DOES 1  
through 100, Inclusive,  
13 Defendants.

) Unlimited Jurisdiction  
)  
) CASE NO. **BC 664526**  
)  
) COMPLAINT FOR CIVIL PENALTY AND  
) INJUNCTIVE RELIEF  
)  
) (Health & Safety Code § 25249.5 et seq.)  
)  
) TOXIC TORT/ENVIRONMENTAL

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**By Fax**

1 Plaintiff, Shefa LMV, INC., hereby alleges:

2 **I. PRELIMINARY STATEMENT**

3 1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure  
4 to Diisononyl Phthalate (“DINP”) a chemical known to the State of California to cause cancer.

5 2. Moreover, this complaint seeks to remedy the failure of Defendants to warn persons of  
6 exposure to Di[2-Ethylhexyl] Phthalate (“DEHP”), a chemical known to the State of California to  
7 cause cancer and/or reproductive harm.

8 3. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety  
9 Code § 25249.6 (“Proposition 65”) businesses must provide persons with a “clear and reasonable  
10 warning” before exposing individuals to chemicals known to the State of California to cause cancer  
11 or reproductive harm.

12 **II. PARTIES**

13 4. Plaintiff is a non-profit public benefit corporation formed pursuant to the laws of the  
14 State of California, made up of California citizens, represented by and through its counsel of record,  
15 the Law Office of Daniel N. Greenbaum.

16 5. Health & Safety Code § 25249.7(d) provides that actions to enforce Proposition 65  
17 may be brought by “any person in the public interest.”

18 6. Defendant FRY’S ELECTRONICS, INC. (“FRY’S”) is a business entity with ten or  
19 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
20 distribution, or sale of the plastic computer cables, power cables, and USB adaptors, including but not  
21 limited to the products listed in the chart below (hereinafter the “PRODUCTS”), which contain  
22 DEHP or DINP for sale within the State of California without first giving clear and reasonable  
23 warning.

24 **PRODUCTS**

25

Product Type	Product Name / Identifier	Phthalate
Computer cable	3” USB 2.0 A to Micro-B White UPC: 715860025024	DEHP
Computer cable	6’ PS/2 Extension Cable; UPC: 715860004166	DEHP

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

3 **IV. STATUTORY BACKGROUND**

4 **A. Proposition 65**

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

7 13. The warning requirement of Proposition 65 is contained in Health & Safety Code §  
8 25249.6, which provides:

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

12 14. An exposure to a chemical in a consumer product is one "which results from a  
13 person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a  
14 consumer good, or any exposure that results from receiving a consumer service." (27 CCR 25602(b))

15 15. Proposition 65 establishes a procedure by which the State develops a list of chemicals  
16 "known to the State to cause cancer or reproductive toxicity." (Health & Safety Code § 25249.8.)

17 16. No warning need be given concerning a listed chemical until twelve (12) months after  
18 the chemical first appears on the list. (Health & Safety Code § 25249.10(b).)

19 17. Any person "violating or threatening to violate" the statute may be enjoined in any  
20 court of competent jurisdiction. (Health & Safety Code, § 25249.7.)

21 18. To "threaten to violate" is defined to mean "to create a condition in which there is a  
22 substantial probability that a violation will occur." (Health & Safety Code § 25249.11(e).)

23 19. In addition, violators are liable for civil penalties of up to \$2,500 per day for each  
24 violation, which are recoverable in a civil action. (Health & Safety Code § 25249.7 (b).)

25 20. Actions to enforce the law "may be brought by the Attorney General in the name of  
26 the People of the State of California [or] by any district attorney [or] by any City Attorney of a City  
27 having a population in excess of 750,000 . . ." (Health & Safety Code § 25249.7(c).)





