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**CONFORMED COPY  
OF ORIGINAL FILED**  
Los Angeles Superior Court

**OCT 06 2017**

**Sherri R. Carter, Executive Officer/clerk**  
**By Shaunya Bolden, Deputy**

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

8 SHEFA LMV, INC., )  
9 Plaintiff, )

Unlimited Jurisdiction

10 vs. )

CASE NO. **BC 679143**

11 CALIFORNIA EXOTIC NOVELTIES LLC; )  
12 CASTLE MEGASTORE GROUP, INC.; )  
CREATIVE CONCEPTIONS LLC; DOC )  
13 JOHNSON ENTERPRISES; JACK AND )  
JILL ADULT SUPERSTORE; NOVELTIES )  
14 BY NASSWALK, INC.; NS NOVELTIES; )  
PIPEDREAM PRODUCTS, INC.; THE )  
15 PLEASURE CHEST LTD., LOS ANGELES; )  
ROMANTIX, INC. D/B/A )  
16 ROMANTIX.COM; SPORTSHEETS )  
INTERNATIONAL, INC.; TBMBM, INC. )  
17 D/B/A PINKCHERRY.COM; THE )  
STOCKROOM, INC.; WEB MERCHANTS, )  
18 INC. D/B/A EDEN'S FANTASY.COM; )  
WSM INVESTMENT D/B/A TOPCO )  
19 SALES; XR LLC; and DOES 1 through 100, )  
Inclusive, )

COMPLAINT FOR CIVIL PENALTY AND  
INJUNCTIVE RELIEF  
(Health & Safety Code § 25249.5 et seq.)  
TOXIC TORT/ENVIRONMENTAL

20 Defendants. )  
21

**By Fax**

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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 Di[2-Ethylhexyl] Phthalate (DEHP), Diisononyl Phthalate (DINP), Di-n-butyl Phthalate (DBP),  
5 Di-isodecyl Phthalate (DIDP), Benzyl Butyl Phthalate (BBP), and Di-n-hexyl Phthalate (DnHP)  
6 (hereinafter “Phthalate” or “Phthalates”), chemicals known to the State of California to cause cancer,  
7 birth defects or other reproductive harm.

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

12 3. Defendants, at times relevant to this complaint, authorized the manufacture,  
13 distribution, or sale of adult novelty products, commonly known as “sex toys,” including, but not  
14 limited to, dildos, vibrators, bullets, lingerie, sex pumps and other personal masturbators, adult  
15 massagers, magic wands, and bondage/fetish/BDSM/“kink” products such as bondage tape, whips,  
16 paddles, gags, flails, nipple clamps, electrodes, blindfolds, and clothing (hereinafter “Adult Novelty  
17 Products”) that contain Phthalates to consumers within the State of California without first giving  
18 clear and reasonable warning

19 **II. PARTIES**

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

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

25 6. Defendant CALIFORNIA EXOTIC NOVELTIES LLC is a business entity with ten or  
26 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
27 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
28 California without first giving clear and reasonable warning.

1           7. Defendant CASTLE MEGASTORE GROUP, INC. 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 Adult Novelty Products that contain at least one Phthalate to consumers in  
4 California without first giving clear and reasonable warning.

5           8. Defendant CREATIVE CONCEPTIONS LLC is a business entity with ten or more  
6 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
7 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
8 California without first giving clear and reasonable warning.

9           9. Defendant DOC JOHNSON ENTERPRISES is a business entity with ten or more  
10 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
11 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
12 California without first giving clear and reasonable warning.

13           10. Defendant JACK AND JILL ADULT SUPERSTORE is a business entity with ten or  
14 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
15 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
16 California without first giving clear and reasonable warning.

17           11. Defendant NOVELTIES BY NASSWALK, INC. is a business entity with ten or more  
18 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
19 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
20 California without first giving clear and reasonable warning.

21           12. Defendant NS NOVELTIES is a business entity with ten or more employees that sells,  
22 or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale of Adult  
23 Novelty Products that contain at least one Phthalate to consumers in California without first giving  
24 clear and reasonable warning.

25           13. Defendant PIPEDREAM PRODUCTS, INC. is a business entity with ten or more  
26 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
27 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
28 California without first giving clear and reasonable warning.

1           14. Defendant THE PLEASURE CHEST LTD., LOS ANGELES is a business entity with  
2 ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
3 manufacture, distribution, or sale of Adult Novelty Products that contain at least one Phthalate to  
4 consumers in California without first giving clear and reasonable warning.

5           15. Defendant ROMANTIX, INC. D/B/A ROMANTIX.COM is a business entity with ten  
6 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
7 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
8 California without first giving clear and reasonable warning.

9           16. Defendant SPORTSHEETS INTERNATIONAL, INC. is a business entity with ten or  
10 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
11 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
12 California without first giving clear and reasonable warning.

13           17. Defendant TBMBM, INC. D/B/A PINKCHERRY.COM is a business entity with ten  
14 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
15 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
16 California without first giving clear and reasonable warning.

17           18. Defendant THE STOCKROOM, INC. is a business entity with ten or more employees  
18 that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale  
19 of ADULT NOVELTY PRODUCTS that contain a PHTHALATE to consumers in California  
20 without first giving clear and reasonable warning.

21           19. Defendant WEB MERCHANTS, INC. D/B/A EDEN'S FANTASY.COM is a  
22 business entity with ten or more employees that sells, or has, at times relevant to this complaint,  
23 authorized the manufacture, distribution, or sale of Adult Novelty Products that contain at least one  
24 Phthalate to consumers in California without first giving clear and reasonable warning.

25           20. Defendant WSM INVESTMENT D/B/A TOPCO SALES is a business entity with ten  
26 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
27 distribution, or sale of Adult Novelty Products that contain at least one Phthalate to consumers in  
28 California without first giving clear and reasonable warning.

1 21. Defendant XR LLC is a business entity with ten or more employees that sells, or has,  
2 at times relevant to this complaint, authorized the manufacture, distribution, or sale of Adult Novelty  
3 Products that contain at least one Phthalate to consumers in California without first giving clear and  
4 reasonable warning.

5 22. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,  
6 Plaintiff suspects they are business entities with ten or more employees that sell, or have, at times  
7 relevant to this complaint, authorized the manufacture, distribution, or sale of Adult Novelty Products  
8 that contain at least one Phthalate to consumers in California without first giving clear and reasonable  
9 warning.

10 23. Defendants named in paragraphs 6 through 22 have at all times relevant hereto sell, or  
11 have, at times relevant to this complaint, authorized the manufacture, distribution, or sale of Adult  
12 Novelty Products that contain at least one Phthalate to consumers in California without first giving  
13 clear and reasonable warning.

14 **III. JURISDICTION AND VENUE**

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

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

22 26. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles  
23 County because Defendants' products are sold and consumed in this county.

24 **IV. STATUTORY BACKGROUND**

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

27 28. The warning requirement of Proposition 65 is contained in Health & Safety Code §  
28 25249.6, which provides:

1 No person in the course of doing business shall knowingly and  
2 intentionally expose any individual to a chemical known to the state to  
3 cause cancer or reproductive toxicity without first giving clear and  
4 reasonable warning to such individual, except as provided in Section  
5 25249.10.

6 29. An exposure to a chemical in a consumer product is one “which results from a  
7 person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a  
8 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR 25602(b))

9 30. Proposition 65 establishes a procedure by which the State develops a list of chemicals  
10 “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code § 25249.8.)

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

13 32. Any person “violating or threatening to violate” the statute may be enjoined in any  
14 court of competent jurisdiction. (Health & Safety Code, § 25249.7.)

15 33. The Statute defines to “threaten to violate” to mean “to create a condition in which  
16 there is a substantial probability that a violation will occur.” (Health & Safety Code § 25249.11(e).)

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

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

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

25 37. If no public prosecutors commence enforcement within sixty days, then the private  
26 party may sue. (Health & Safety Code § 25249.7(d).)

27 **V. FACTS**

1           38.    On January 1, 1988, the Office of Environmental Health Hazard Assessment  
2 (“OEHHA”) placed Di[2-Ethylhexyl] Phthalate (DEHP) on the Governor’s list of chemicals known  
3 to the State to cause cancer. (27 CCR 27001(b))

4           39.    On October 24, 2003, OEHHA placed Di[2-Ethylhexyl] Phthalate (DEHP) on the  
5 Governor’s list of chemicals known to the State to cause reproductive toxicity. (Id.)

6           40.    On December 20, 2013, OEHHA placed Diisononyl Phthalate (DINP) on the  
7 Governor’s list of chemicals known to the State to cause cancer. (Id.)

8           41.    On December 2, 2005, OEHHA placed Di-n-butyl Phthalate (DBP) on the Governor’s  
9 list of chemicals known to the State to cause reproductive toxicity. (Id.)

10          42.    On April 20, 2007, OEHHA placed Di-isodecyl Phthalate (DIDP) on the Governor’s  
11 list of chemicals known to the State to cause reproductive toxicity. (Id.)

12          43.    On December 2, 2005, OEHHA placed Benzyl Butyl Phthalate (BBP) on the  
13 Governor’s list of chemicals known to the State to cause reproductive toxicity. (Id.)

14          44.    On December 2, 2005, OEHHA placed Di-n-hexyl Phthalate (DnHP) on the  
15 Governor’s list of chemicals known to the State to cause reproductive toxicity. (Id.)

16          45.    Defendants are the manufacturers, distributors or retailers of the Adult Novelty  
17 Products that contain at least one Phthalate for use by individuals in the home and other endeavors.

18          46.    The Adult Novelty Products are sold through various retailers located in California for  
19 use by citizens of the State of California.

20          47.    In August 2016, Plaintiff began purchasing a variety Adult Novelty Products.

21          48.    Thereafter, Plaintiff’s consulting expert conducted a proprietary test on the Adult  
22 Novelty Products to check for the presence of Phthalates.

23          49.    This consulting expert confirmed the presence of Phthalates.

24          50.    In September 2016, Plaintiff’s consulting expert began to send pieces of Defendants’  
25 respective Adult Novelty Products to an accredited laboratory for non-destructive analysis.

26          51.    In September 2016, Plaintiff’s consulting expert began to prepare reports summarizing  
27 the results of said analysis, including the Phthalate content (in parts per million (ppm)) in the Adult  
28 Novelty Products.

1           52.     Based on the levels, Plaintiff's consulting expert opined that use of the Adult Novelty  
2 Products by the average user in the foreseeable and intended manner, would lead to exposure to at  
3 least one Phthalate above the safe harbor levels set by OEHHA.

4           53.     Based on the above-mentioned reports and opinions, Plaintiff and its counsel prepared  
5 a Notice of Violation.

6           54.     Pursuant to the statute and regulations referenced above, on November 14, 2016  
7 Plaintiff served the Notice of Violation on the Office of the Attorney General, the alleged violator(s)  
8 (i.e. Defendant), as well as all required public agencies.

9           55.     Since that time, on a rolling basis, Plaintiff continued to purchase and investigate  
10 Adult Novelty Products regarding the presence of Phthalates and the potential for exposure to users  
11 during their intended and foreseeable use.

12          56.     As above, Plaintiff and its counsel would consult with its expert, who would prepare  
13 analytical reports and provide an opinion regarding exposure to Phthalates.

14          57.     Following such consultation, on a rolling basis, Plaintiff and its counsel would prepare  
15 additional Notices of Violation, and serve them on the Office of the Attorney General, the alleged  
16 violator(s), as well as all required public agencies.

17          58.     Plaintiff is unaware of any governmental prosecution against any Defendant.

18          59.     At least sixty (60) days have elapsed since service of any Notice of Violation related  
19 to the Defendants named in this lawsuit.

20          60.     Based upon consultation with experts, Plaintiff alleges that individuals who purchase,  
21 handle, or use the Adult Novelty Products are exposed to at least one Phthalate, chiefly through:

- 22           a.     contact between the Adult Novelty Products and the skin or orifice;
- 23           b.     transfer of at least one Phthalate from the skin to the mouth, both by transfer of  
24 the Phthalate(s) directly from the hand to mouth and indirectly by transfer of the Phthalate(s)  
25 from the skin to objects placed in the mouth, such as food or smoking; and
- 26           c.     through absorption of at least one Phthalate through the skin or orifice.



1           61.     The Adult Novelty Products are designed and intended to be used before or during  
2 Sexual Activities, including, but not limited to foreplay, oral, penetrative and non-penetrative  
3 intercourse, outercourse and masturbation.

4           62.     The Sexual Activities involve sensitive body parts, including but not limited to, the  
5 vagina, penis, anus, mouth, wrists, ankles, neck, and other areas of the body where the tissue is thin  
6 and permeable, which increases the potential for Phthalates to enter the bloodstream directly.

7           63.     Such individuals are thereby exposed to at least one Phthalate present on or in the  
8 Adult Novelty Products during their intended and reasonably foreseeable use (i.e. Sexual Activities).

9           64.     At all times material to this complaint, Defendants have had knowledge that the Adult  
10 Novelty Products contain at least one Phthalate and that an individual may contact a Phthalate  
11 directly through their intended and reasonably foreseeable use.

12           65.     At all times material to this complaint, Defendants have had knowledge that  
13 individuals within the State of California handle the Adult Novelty Products, which contain at least  
14 one Phthalate.

15           66.     At all times material to this complaint, Defendants sold and/or distributed the Adult  
16 Novelty Products throughout the State of California.

17           67.     Defendants profited from such sales.

18           68.     Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized  
19 the sale of the Adult Novelty Products, thus exposing consumers to at least one Phthalate.

20           69.     Therefore, at all times material to this complaint, Defendants have knowingly and  
21 intentionally exposed individuals within the State of California to at least one Phthalate.

22           70.     The exposure is “knowing and intentional” (as defined by Proposition 65) because it is  
23 the result of the Defendants’ deliberate act of authorizing the sale of Adult Novelty Products known  
24 to contain at least one Phthalate, in a manner whereby these Adult Novelty Products were, and would  
25 inevitably be, sold to consumers within the state of California, and with the knowledge that the  
26 intended use of these Adult Novelty Products would result in exposures to at least one Phthalate by  
27 individuals within the State of California.

28

1 71. Defendants have failed to provide clear and reasonable warnings that the use of the  
2 Adult Novelty Products in California results in exposure to at least one Phthalate, known to the State  
3 of California to cause cancer, birth defects, and other reproductive harm.

4 **VI. FIRST CAUSE OF ACTION**

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

6 72. Paragraphs 1 through 71 are re-alleged as if fully set forth herein.

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

11 74. Said violations render Defendants liable to Plaintiffs for civil penalties not to exceed  
12 \$2,500 per day for each violation, as well as other remedies.

13  
14 **PRAYER FOR RELIEF**

15  
16 WHEREFORE, Plaintiffs pray that the Court:

17  
18 1. Pursuant to the First Causes of Action, grant civil penalties according to proof;

19 2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders,  
20 preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from  
21 exposing persons within the State of California to Listed Chemicals caused by the use of their  
22 products without providing clear and reasonable warnings, as Plaintiffs shall specify in further  
23 application to the court;

24 3. Award Plaintiffs their costs of suit;

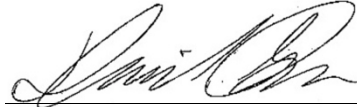
25 4. Grant such other and further relief as the court deems just and proper.  
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Respectfully submitted,

DATED: October 6, 2017

LAW OFFICE OF DANIEL N. GREENBAUM



By: DANIEL N. GREENBAUM  
Attorneys for Plaintiff  
Shefa LMV, INC.