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ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAY 15 2018

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

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

10 SHEFA LMV, INC.,
11 Plaintiff,

12 vs.

13 CALRAD ELECTRONICS, INC.; and DOES
14 1 through 100, Inclusive,
15 Defendants.

) Unlimited Jurisdiction

) **BC 7 0 6 2 9 6**
) CASE NO.

) COMPLAINT FOR CIVIL PENALTY AND
) INJUNCTIVE RELIEF

) (Health & Safety Code § 25249.5 et seq.)

) TOXIC TORT/ENVIRONMENTAL

) **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 Diisononyl Phthalate (“DINP”), a chemical known to the State of California to cause cancer.

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

9 3. Plaintiff alleges that Defendant(s) failed to provide such warning before exposing
10 individuals to DINP.

11 **II. PARTIES**

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

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

17 6. Defendant CALRAD ELECTRONICS, 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 plastic computer cable products, but not limited to, Ultra Slim HDMI Cable;
20 (Model 55-658-S-0.5) UPC: 601520658056, that contain DINP, for sale within the State of
21 California, without first giving clear and reasonable warning.

22 7. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,
23 Plaintiff suspects they are business entities with at least ten or more employees that at all times
24 relevant to this complaint, authorized the manufacture, distribution, or sale of plastic computer cable
25 products, but not limited to, Ultra Slim HDMI Cable; (Model 55-658-S-0.5) UPC: 601520658056, that
26 contain DINP, for sale within the State of California, without first giving clear and reasonable
27 warning.

1 8. Defendants named in paragraphs 6 and 7 have at all times relevant to this complaint,
2 authorized the manufacture, distribution, or sale of plastic computer cable products, but not limited
3 to, Ultra Slim HDMI Cable; (Model 55-658-S-0.5) UPC: 601520658056 (hereinafter
4 “PRODUCTS”), that contain DINP, for sale within the State of California, without first giving clear
5 and reasonable warning.

6 **III. JURISDICTION AND VENUE**

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

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

14 11. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles
15 County because Defendant’s PRODUCTS are sold and consumed in this county.

16 **IV. STATUTORY BACKGROUND**

17 12. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
18 passed as “Proposition 65” by a vote of the people in November of 1986.

19 13. The warning requirement of Proposition 65 is contained in Health & Safety Code §
20 25249.6, which provides:

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

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

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

1 16. No warning must be provided concerning a listed chemical until twelve (12) months
2 after the chemical first appears on the list. (Health & Safety Code § 25249.10(b).)

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

5 18. Proposition 65 defines to “threaten to violate” as “to create a condition in which there
6 is a substantial probability that a violation will occur.” (Health & Safety Code § 25249.11(e).)

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

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

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

15 22. If no public prosecutors commence enforcement within sixty (60) days, then the
16 private party may sue. (Health & Safety Code § 25249.7(d).)

17 **V. FACTS**

18 23. The Office of Environmental Health Hazard Assessment (“OEHHA”) is the California
19 agency tasked (in part) with providing the regulatory and scientific framework for Proposition 65.

20 24. OEHHA placed DINP on the list of chemicals known to California to cause cancer on
21 December 20, 2013. (27 CCR 27001(b))

22 25. Defendant CALRAD ELECTRONICS, INC is the manufacturer(s) and distributor(s)
23 of the PRODUCTS for use by individuals in the home and other endeavors.

24 26. On April 22, 2017, Plaintiff purchased the PRODUCTS from a Samy’s Camera, Inc.,
25 retail location in California.

26 27. On May 17, 2017, Plaintiff’s expert prepared a report summarizing the results of
27 analysis on the PRODUCTS, including the amount of the DINP in the PRODUCTS.

1 28. Based on the levels found in analysis, Plaintiff's expert opined the use of the
2 PRODUCTS would lead to exposure to DINP above the safe harbor levels set by the Office of
3 Environment Health Hazard Assessment (OEHHA).

4 29. Based on that report and opinion, Plaintiff and its counsel prepared a Notice of
5 Violation.

6 30. Pursuant to the statute and regulations referenced above, on May 26, 2017 Plaintiff
7 served the Notice of Violation on the Office of the Attorney General, Defendant, as well as all
8 required public agencies.

9 31. Plaintiff is unaware of any governmental prosecution against Defendant.

10 32. At least sixty (60) days have elapsed since service of the Notice of Violation.

11 33. Based upon consultation with experts, Plaintiff alleges that individuals who purchase,
12 handle, or use the PRODUCTS are exposed to DINP chiefly through:

13 a. contact between the item and the skin;

14 b. transfer of DINP from the skin to the mouth, both by transfer of DINP directly
15 from the hand to mouth, and indirectly by transfer of DINP from the skin to objects that are
16 placed in the mouth, such as food or cigarettes; and

17 c. through direct absorption of DINP through the skin.

18 34. Such individuals are thereby exposed to the DINP that is present on or in the
19 PRODUCTS during the intended and reasonably foreseeable use of the PRODUCTS.

20 35. At all times material to this complaint, Defendants have had knowledge that the
21 PRODUCTS contain DINP and that an individual's skin may contact DINP through the intended and
22 reasonably foreseeable use of the PRODUCTS.

23 36. At all times material to this complaint, Defendants have had knowledge that
24 individuals within the State of California handle the PRODUCTS, which contain DINP.

25 37. At all times material to this complaint, Defendants knew that the PRODUCTS were
26 sold throughout the State of California in large numbers, and Defendants profited from such sales.
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1 38. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized
2 the sale of the PRODUCTS, thereby exposing consumers to DINP.

3 39. At all times material to this complaint, therefore, Defendants have knowingly and
4 intentionally exposed individuals within the State of California to DINP.

5 40. The exposure is knowing and intentional because it is the result of the Defendants'
6 deliberate act of authorizing the sale of PRODUCTS known to contain DINP, in a manner whereby
7 these PRODUCTS were, and would inevitably be, sold to consumers within the state of California,
8 and with the knowledge that the intended use of this PRODUCTS would result in exposures to DINP
9 by individuals within the State of California.

10 41. Defendants have failed to provide clear and reasonable warnings that the use of the
11 PRODUCTS in question in California results in exposure to a chemical known to the State of
12 California to cause cancer, and no such warning was provided to those individuals by any other
13 person.

14 **VI. FIRST CAUSE OF ACTION**

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

16 42. Paragraphs 1 through 41 are re-alleged as if fully set forth herein.

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

21 44. Said violations render Defendants liable to Plaintiffs for civil penalties not to exceed
22 \$2,500 per day for each violation, as well as other remedies.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs pray that the Court:

- 25 1. Pursuant to the First Causes of Action, grant civil penalties according to proof;
26 2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders,
27 preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from
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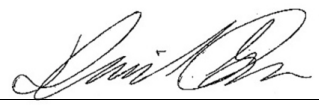
exposing persons within the State of California to Listed Chemicals caused by the use of their PRODUCTS without providing clear and reasonable warnings, as Plaintiffs shall specify in further application to the court;

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

Respectfully submitted,

DATED: May 14, 2018

LAW OFFICE OF DANIEL N. GREENBAUM



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