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

AUG 28 2018

Sherri R. Carter, Executive Officer/clerk

By Shaunya Bolden, Deputy

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF LOS ANGELES

9 SHEFA LMV, INC.,

11 Plaintiff,

13 vs.

14 PROMARKBRANDS, INC.; PROMARK
INTERNATIONAL, INC.; SAMY'S
15 CAMERA, INC.; and DOES 1 through 100,
16 Inclusive,

17 Defendants.

) Unlimited Jurisdiction

) CASE NO.

) COMPLAINT FOR CIVIL PENALTY AND
) INJUNCTIVE RELIEF

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

) TOXIC TORT/ENVIRONMENTAL

BC 719597

19 **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 Lead (“Pb”), which is a chemical known to the State of California to cause cancer, birth defects, or
5 other reproductive harm.

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

10 **II. PARTIES**

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

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

16 5. PROMARKBRANDS, INC. is a business entity with ten or more employees that sells,
17 or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale of brass
18 light stand adapter products, including but not limited to 1/4 x 20 to 3/8” Dual Male RS-3138P; UPC:
19 034447039163, that contain Pb, for sale within the State of California, without first giving clear and
20 reasonable warning.

21 6. Defendant PROMARK INTERNATIONAL, INC. is a business entity with ten or
22 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,
23 distribution, or sale of brass light stand adapter products, including but not limited to 1/4 x 20 to 3/8”
24 Dual Male RS-3138P; UPC: 034447039163, that contain Pb, for sale within the State of California,
25 without first giving clear and reasonable warning.

26 7. Defendant SAMY’S CAMERA, INC. is a business entity with ten or more employees
27 that sells, or has, at times relevant to this complaint, authorized the manufacture, distribution, or sale
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1 of brass light stand adapter products, including but not limited to 1/4 x 20 to 3/8” Dual Male RS-
2 3138P; UPC: 034447039163, that contain Pb, for sale within the State of California, without first
3 giving clear and reasonable warning.

4 8. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,
5 Plaintiff suspects they are business entities with at least ten or more employees that have sold,
6 authorized the distribution, or sale of brass light stand adapter products, including but not limited to
7 1/4 x 20 to 3/8” Dual Male RS-3138P; UPC: 034447039163, that contain Pb, for sale within the State
8 of California, without first giving clear and reasonable warning.

9 9. Defendants (hereinafter and collectively known as the “Defendants”) named in
10 paragraphs 5 through 8 have at all time relevant hereto authorized the manufacture, distribution, or
11 sale of brass light stand adapter products, including but not limited to 1/4 x 20 to 3/8” Dual Male RS-
12 3138P; UPC: 034447039163 that contain lead and/or lead compounds (“Lead” or “Pb”) (hereinafter
13 “PRODUCTS), for sale within the State of California, without first giving clear and reasonable
14 warning.

15 **III. JURISDICTION AND VENUE**

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

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

23 12. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles
24 County because Defendant’s products are sold and consumed in this county.

25 **IV. STATUTORY BACKGROUND**

26 **A. Proposition 65**

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

3 14. The warning requirement of Proposition 65 is contained in Health & Safety Code §
4 25249.6, which provides:

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

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

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

14 17. No warning need be given concerning a listed chemical until one year after the
15 chemical first appears on the list. (Health & Safety Code § 25249.10(b).)

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

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

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

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

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

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1 33. Pursuant to the statute and regulations referenced above, on August 29, 2017, Plaintiff
2 served the Sixty Day Notice of Violation on the Office of the Attorney General, Defendant, as well as
3 all required public agencies.

4 34. Plaintiff is unaware of any governmental prosecution against Defendant.

5 35. At least sixty days have elapsed since service of the Notice of Violation.

6 36. Individuals who purchase, handle, or use the PRODUCTS are exposed to Pb chiefly
7 through:

8 a. contact between the item and the skin;

9 b. transfer of Pb from the skin to the mouth, both by transfer of Pb directly from
10 the hand to mouth and by transfer of Pb from the skin to objects that are put in the mouth,
11 such as food, and

12 c. through absorption of Pb through the skin.

13 37. Such individuals are thereby exposed to the Pb that is present on or in the
14 PRODUCTS in the course of the intended and reasonably foreseeable use of the PRODUCTS.

15 38. At all times material to this complaint, Defendants have had knowledge that the
16 PRODUCTS contain Pb and that an individual's skin may come into contact with Pb through the
17 intended and reasonably foreseeable use of the PRODUCTS.

18 39. At all times material to this complaint, Defendants have had knowledge that
19 individuals within the State of California handle the PRODUCTS, which contain Pb.

20 40. At all times material to this complaint, Defendants knew that the PRODUCTS were
21 sold throughout the State of California in large numbers, and Defendants profited from such sales.

22 41. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized
23 the sale of the PRODUCTS, thereby exposing consumers to Pb.

24 42. At all times material to this complaint, therefore, Defendants have knowingly and
25 intentionally exposed individuals within the State of California to Pb.

26 43. The exposure is knowing and intentional because it is the result of the Defendants'
27 deliberate act of authorizing the sale of products known to contain Pb, in a manner whereby these
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1 products were, and would inevitably be, sold to consumers within the state of California, and with the
2 knowledge that the intended use of these PRODUCTS would result in exposures to Pb by individuals
3 within the State of California.

4 44. Defendants have failed to provide clear and reasonable warnings that the use of the
5 PRODUCTS in question in California results in exposure to a chemical known to the State of
6 California to cause cancer, birth defects, and other reproductive harm, and no such warning was
7 provided to those individuals by any other person.

8 **VI. FIRST CAUSE OF ACTION**

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

10 45. Paragraphs 1 through 44 are re-alleged as if fully set forth herein.

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

15 47. Said violations render Defendants liable to Plaintiff for civil penalties not to exceed
16 \$2,500 per day for each violation, as well as other remedies.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff pray that the Court:

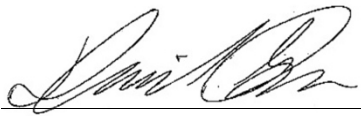
- 19 1. Pursuant to the First Causes of Action, grant civil penalties according to proof;
 - 20 2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders,
21 preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from
22 exposing persons within the State of California to Listed Chemicals caused by the use of their
23 PRODUCTS without providing clear and reasonable warnings, as Plaintiff shall specify in
24 further application to the court;
 - 25 3. Award Plaintiff their costs of suit;
 - 26 4. Grant such other and further relief as the court deems just and proper.
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Respectfully submitted,

DATED: August 28, 2018

LAW OFFICE OF DANIEL N. GREENBAUM



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