

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Richard Fruin

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF LOS ANGELES
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10	SHEFA LMV, INC.,)	Unlimited Jurisdiction
11)	
12	Plaintiff,)	CASE NO.
13	vs.)	
14	G-III APPAREL GROUP, LTD.,)	COMPLAINT FOR CIVIL PENALTY AND
15	Defendant.)	INJUNCTIVE RELIEF
16)	(Health & Safety Code § 25249.5 et seq.)
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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”), a chemical known to the State of California to cause cancer
5 and/or 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. Defendant G-III APPAREL GROUP, LTD., is a business entity with ten or more
17 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,
18 distribution, or sale of plastic purse products manufactured by or for Defendant, imported by or for
19 Defendant, or distributed or sold by or for Defendant, including, but not limited to, Style:
20 HM8ET932, Color: Yellow Andrew Marc Purse; ID: 400170430421, that contain DEHP (hereinafter
21 “PRODUCTS”), for sale within the State of California, without first giving clear and reasonable
22 warning.

23 **III. JURISDICTION AND VENUE**

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

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

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

6 **IV. STATUTORY BACKGROUND**

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

9 10. The warning requirement of Proposition 65 is contained in Health & Safety Code §
10 25249.6, which provides:

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

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

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

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

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

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

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

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28. Plaintiff is unaware of any governmental prosecution against Defendant.

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

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

- a. contact between the item and the skin;
- b. transfer of DEHP from the skin to the mouth, both by transfer of DEHP directly from the hand to mouth, and indirectly by transfer of DEHP from the skin to objects that are placed in the mouth, such as food; and
- c. through absorption of DEHP through the skin.

31. Such individuals are thereby exposed to the DEHP that is present on or in the PRODUCTS during the intended and reasonably foreseeable use of the PRODUCTS.

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

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

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

35. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized the sale of the PRODUCTS, thereby exposing consumers to DEHP.

36. At all times material to this complaint, therefore, Defendants have knowingly and intentionally exposed individuals within the State of California to DEHP.

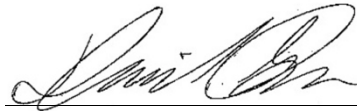
37. The exposure is knowing and intentional because it is the result of the Defendant's deliberate act of authorizing the sale of products known to contain DEHP, in a manner whereby these products were, and would inevitably be, sold to consumers within the state of California, and with the knowledge that the intended use of this PRODUCTS would result in exposures to DEHP by individuals within the State of California.

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Respectfully submitted,

DATED: February 28, 2019

LAW OFFICE OF DANIEL N. GREENBAUM



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