

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Holly Fujie

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

10 SHEFA LMV, INC.,) Unlimited Jurisdiction
11)
Plaintiff,)
12) CASE NO. 20STCV10389
vs.)
13)
LIFEWORCS TECHNOLOGY GROUP,) COMPLAINT FOR CIVIL PENALTY AND
14) INJUNCTIVE RELIEF
LLC; and DOES 1 through 100, Inclusive,)
15) (Health & Safety Code § 25249.5 et seq.)
Defendants.)
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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 LIFEWORKS TECHNOLOGY GROUP, LLC, is a business entity with ten
17 or more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,
18 distribution, or sale of plastic cable 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, Model 1H-
20 CT802B iHome 25-Ft Ethernet Cable; UPC812350147737, that contain DEHP, for sale within the
21 State of California, without first giving clear and reasonable warning.

22 6. 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 cable products
25 manufactured by or for Defendant, imported by or for Defendant, or distributed or sold by or for
26 Defendant, including, but not limited to, Model 1H-CT802B iHome 25-Ft Ethernet Cable;

1 UPC812350147737, that contain DEHP, for sale within the State of California, without first giving
2 clear and reasonable warning.

3 7. Defendants named in paragraphs 5 through 6 have at all times relevant to this
4 complaint, authorized the manufacture, distribution, or sale of plastic cable products manufactured by
5 or for Defendant, imported by or for Defendant, or distributed or sold by or for Defendant, including,
6 but not limited to, Model 1H-CT802B iHome 25-Ft Ethernet Cable; UPC81235014773, that contain
7 DEHP (hereinafter “PRODUCTS”), for sale within the State of California, without first giving clear
8 and reasonable warning.

9 **III. JURISDICTION AND VENUE**

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

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

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

19 **IV. STATUTORY BACKGROUND**

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

22 12. The warning requirement of Proposition 65 is contained in Health & Safety Code §
23 25249.6, which provides:

24
25 No person in the course of doing business shall knowingly and intentionally
26 expose any individual to a chemical known to the state to cause cancer or
27 reproductive toxicity without first giving clear and reasonable warning to
28 such individual, except as provided in Section 25249.10.

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

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

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

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

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

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

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

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

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

22 **V. FACTS**

23 22. DEHP was placed on the Governor’s list of chemicals known to the State to cause
24 cancer on January 1, 1988. (27 CCR 27001(b))

25 23. DEHP was placed on the Governor’s list of chemicals known to the State to cause
26 reproductive toxicity on October 24, 2003. (27 CCR 27001(b))

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

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

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

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

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

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

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

21 **VI. FIRST CAUSE OF ACTION**

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

23 41. Paragraphs 1 through 40 are re-alleged as if fully set forth herein.

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

