

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Laura Seigle

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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. 21STCV11159  
vs. )  
13 )  
14 SEAICH CARD & SOUVENIR ) COMPLAINT FOR CIVIL PENALTY AND  
CORPORATION; HANDBAG REPUBLIC, ) INJUNCTIVE RELIEF  
15 INC.; and DOES 1 through 100, Inclusive, )  
16 Defendants. ) (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 SEAICH CARD & SOUVENIR CORPORATION, is a business entity  
17 with ten or more employees that sells, or has, at times relevant to this complaint, authorized the  
18 manufacture, distribution, or sale of plastic purse products manufactured by or for Defendant,  
19 imported by or for Defendant, or distributed or sold by or for Defendant, including, but not limited to,  
20 Handmade Donna Bella Maisie Tote; UPC: 20112120034; Item No: S-0142, that contain DEHP, for  
21 sale within the State of California, without first giving clear and reasonable warning.

22 6. Defendant HANDBAG REPUBLIC, INC., is a business entity with ten or more  
23 employees that sells, or has, at times relevant to this complaint, authorized the manufacture,  
24 distribution, or sale of plastic purse products manufactured by or for Defendant, imported by or for  
25 Defendant, or distributed or sold by or for Defendant, including, but not limited to, Handmade Donna  
26 Bella Maisie Tote; UPC: 20112120034; Item No: S-0142, that contain DEHP, for sale within the  
27 State of California, without first giving clear and reasonable warning



1           13.     The warning requirement of Proposition 65 is contained in Health & Safety Code §  
2 25249.6, which provides:

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

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

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

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

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

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

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

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

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

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

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**V. FACTS**

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

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

25. Defendant SEAICH CARD & SOUVENIR CORPORATION and Defendant HANDBAG REPUBLIC, INC. are the manufacturers and distributors of the PRODUCTS for use by individuals in the home and other endeavors.

26. The PRODUCTS are sold through various retailers, including but not limited to Overstock.com, to consumers located in California for use by citizens of the State of California.

27. On March 25, 2020, Plaintiff’s expert prepared a report summarizing the results of analysis on the PRODUCTS, including the amount of the DEHP in the product.

28. Based on the levels, Plaintiff’s expert opined that use of the PRODUCTS would lead to exposure to DEHP above the safe harbor levels set by the Office of Environment Health Hazard Assessment (OEHHA).

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

30. Pursuant to the statute and regulations referenced above, on April 6, 2020, Plaintiff served the Notices of Violation on the Office of the Attorney General, Defendants, as well as all required public agencies.

31. Plaintiff is unaware of any governmental prosecution against Defendants.

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

33. 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;

1 b. transfer of DEHP from the skin to the mouth, both by transfer of DEHP  
2 directly from the hand to mouth, and indirectly by transfer of DEHP from the skin to objects  
3 that are placed in the mouth, such as food; and

4 c. through absorption of DEHP through the skin.

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

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

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

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

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

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

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

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

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**VI. FIRST CAUSE OF ACTION**

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

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

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

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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that the Court:

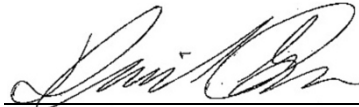
1. Pursuant to the First Cause of Action, grant civil penalties of \$2,500 per violation per day, going back one year from the date of filing, which at the time of filing is \$2,500;
2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting Defendants from 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 Plaintiff the costs of suit;
4. Pursuant to Code of Civil Procedure § 1021.5, award Plaintiff their reasonable attorney’s fees and costs of at least \$20,000 as of the filing of this Complaint, and an anticipated additional \$7,500 of attorney’s fees to obtain a default judgment, if a default is entered; and
5. Grant such other and further relief as the court deems just and proper.

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Respectfully submitted,

DATED: March 23, 2021

LAW OFFICE OF DANIEL N. GREENBAUM



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