

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1501  
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

**REPORT OF SETTLEMENT**

Please print or type required information

Original Filing    Supplemental Filing    Corrected Filing

<b>PARTIES TO THE ACTION</b>	PLAINTIFF(S) <b>Shefa LMV LLC</b>			
	DEFENDANT(S) INVOLVED IN SETTLEMENT <b>CPI Manufacturing, Inc.</b>			
<b>CASE INFO</b>	COURT DOCKET NUMBER <b>BC581912</b>		COURT NAME <b>Los Angeles Superior Court</b>	
	SHORT CASE NAME <b>Shefa LMV LLC v. CPI Manufacturing, Inc.</b>			
<b>REPORT INFO</b>	INJUNCTIVE RELIEF <b>Reformulation and/or Warning Label</b>			
	PAYMENT: CIVIL PENALTY <b>\$5,000</b>	PAYMENT: ATTORNEYS FEES <b>\$19,000</b>	PAYMENT: OTHER <b>0.00</b>	
	WILL SETTLEMENT BE SUBMITTED TO COURT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, AFTER ENTRY OF JUDGMENT BY COURT, REPORT OF ENTRY OF JUDGMENT MUST BE SUBMITTED TO ATTORNEY GENERAL	DATE SETTLEMENT SIGNED <b>12 / 03 / 2015</b>	
	<b>COPY OF SETTLEMENT MUST BE ATTACHED</b>			
<b>FILER INFO</b>	NAME OF CONTACT <b>Daniel N. Greenbaum</b>			
	ORGANIZATION <b>Law Office of Daniel Greenbaum</b>		TELEPHONE NUMBER ( <b>818</b> ) <b>809-2199</b>	
	ADDRESS <b>7120 Hayvenhurst Ave., Suite 320</b>		FAX NUMBER ( <b>424</b> ) <b>243-7698</b>	
	CITY <b>Van Nuys</b>	STATE   ZIP <b>CA 91406</b>	E-MAIL ADDRESS <b>dgreenbaum@greenbaumlawfirm.com</b>	

**FILING INSTRUCTIONS:** This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the settlement to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

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5 Email: dgreenbaum@greenbaumlawfirm.com

6 Attorney for Plaintiff SHEFA LMV, LLC

7 GLASER WEIL  
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8 10250 Constellation Blvd., 19th Floor  
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9 Telephone: (310) 553-3000  
10 Facsimile: (310) 785-3579  
Email: aallan@glaserweil.com

11 Attorneys for PARK SUPPLY OF AMERICA, INC.

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF LOS ANGELES

15  
16 SHEFA LMV, LLC,  
17 Plaintiff,

18 vs.

19 CPI MANUFACTURING & SUPPLY CO.;  
20 and DOES 1 through 100, Inclusive,  
21 Defendants.

Unlimited Jurisdiction

CASE NO. BC581912

*Honorable Suzanne G. Bruguera*

**[PROPOSED] CONSENT JUDGMENT AS  
TO PARK SUPPLY OF AMERICA, INC.  
(dba CPI MANUFACTURING & SUPPLY  
CO.) (dba BINFORD SUPPLY HOUSE)**

**Hearing Set For**

Date: January 20, 2016

Time: 10:00 a.m.

Place: 111 North Hill Street, Los Angeles

Courtroom: Department 71

Action filed: October 17, 2014

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26 Page 1

27 [PROPOSED] CONSENT JUDGMENT  
28 AS TO PARK SUPPLY OF AMERICA, INC.

1 **1. INTRODUCTION**

2 1.1 The parties to this Consent Judgment ("Parties") are Shefa LMV, LLC ("Shefa")  
3 and Park Supply of America, Inc., a Minnesota corporation (dba CPI MANUFACTURING &  
4 SUPPLY CO.) (dba BINFORD SUPPLY HOUSE) ("Settling Defendant"). Shefa and Settling  
5 Defendant are referred to collectively as the "Parties."

6 1.2 The products covered by this Consent Judgment ("Covered Products") are  
7 plumbing supplies manufactured, distributed and/or sold by Settling Defendant that contain lead  
8 and or lead compounds ("Lead"), including but not limited to diverter stems.

9 1.3 On or about October 16, 2014, May 12, 2015, and July 24, 2015, Shefa mailed a  
10 60-Day Notice of Violation under Proposition 65 (The Safe Drinking Water and Toxic  
11 Enforcement Act of 1986, California Health & Safety Code §§ 25249.5, *et seq.*) ("Notices") to  
12 Settling Defendant and one of its upstream distributors Barry E. Walter Sr. Company ("BEW"),  
13 the California Attorney General, the District Attorneys of every County in the State of  
14 California, and the City Attorneys for every City in the State of California with a population  
15 greater than 750,000.

16 1.4 The Notices allege violations of Proposition 65 with respect to the presence of  
17 Lead in certain of the Covered Products sold, distributed and/or manufactured by Settling  
18 Defendant and BEW (hereinafter "Products").

19 1.5 On or about May 14, 2015, Shefa filed the Complaint in the matter of *Shefa LMV,*  
20 *LLC v. CPI Manufacturing & Supply Co., Inc., et al.*, Los Angeles County Superior Court No.  
21 BC581912, ("Complaint") alleging Proposition 65 violations as to Products sold in California by  
22 Settling Defendant.

23 1.6 Settling Defendant denies the claims of alleged violations asserted against it in  
24 the Complaint and denies that it has any liability under Proposition 65.

25 1.7 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this  
26 Court has jurisdiction over the allegations of violations contained in the operative Complaint

1 applicable to Settling Defendant and personal jurisdiction over Settling Defendant as to the acts  
2 alleged in the Complaint; (ii) venue is proper in the County of Los Angeles; and (iii) this Court  
3 has jurisdiction to enter this Consent Judgment.

4 1.8 Nothing in this Consent Judgment is or shall be construed as an admission by the  
5 Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with  
6 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
7 conclusion of law, issue of law, or violation of law.

8 1.9 Nothing in this Consent Judgment shall prejudice, waive, or impair any right,  
9 remedy, argument, or defense the Parties may have in any other legal proceeding.

10 1.10 This Consent Judgment is the product of negotiation and compromise and is  
11 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in  
12 this action.

13 1.11 The term "Effective Date" means the date on which this Consent Judgment is  
14 approved and entered by the Court.

15 **2. INJUNCTIVE RELIEF**

16 2.1 On or before ninety (90) days after the Effective Date, Settling Defendant shall  
17 provide warnings that comply with Proposition 65 on all newly manufactured Covered Products  
18 shipped or delivered for sale or distribution in California.

19 2.2 The Parties agree that labeling stating "WARNING: This product contains  
20 chemicals known to the State of California to cause cancer and birth defects or other  
21 reproductive harm" shall constitute compliance with Proposition 65 with respect to Paragraph  
22 2.1.

23 **3. PAYMENTS**

24 3.1 Within ten (10) business days of the Effective Date, Settling Defendant shall pay  
25 the Total Settlement Payment of \$24,000.00 by delivering checks payable to "Shefa LMV, LLC"  
26 and "Law Office of Daniel N. Greenbaum" as set forth below to counsel for Shefa.



1           4.2     **Individual Release:** Shefa, on behalf of itself, its past and current agents,  
2 representatives, attorneys, and successors and/or assignees, and *not* in its representative capacity,  
3 hereby provides a release that shall be effective as a full and final accord and satisfaction, as a  
4 bar to all Claims under Proposition 65, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, or any other  
5 statutory or common law, that are or may be asserted against Settling Defendant, Defendant  
6 Releasees, and Distributor Releasees, whether known or unknown, suspected or unsuspected,  
7 arising out of alleged exposures to, and/or failure to warn of alleged exposures to, Lead in the  
8 Covered Products shipped, distributed or sold by Settling Defendant prior to the Effective Date.

9           4.3     **General Release:** It is possible that other Claims not known to the Parties arising  
10 out of the facts alleged in the Notices or the Complaint will develop or be discovered. Shefa, on  
11 behalf of itself, its past and current agents, representatives, attorneys, and successors and/or  
12 assigns, and *not* in its representative capacity, acknowledges that this Consent Judgment is  
13 expressly intended to cover and include all such Claims, including all rights of action therefor.  
14 Shefa has full knowledge of the contents of California Civil Code § 1542. Shefa acknowledges  
15 that the Claims released in Sections 4.1 and 4.2 include unknown Claims, and Shefa nevertheless  
16 waives California Civil Code § 1542 as to any such unknown Claims. California Civil Code §  
17 1542 reads as follows:

18   "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
19   WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT  
20   TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
21   EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM  
22   OR HER MUST HAVE MATERIALLY AFFECTED HIS OR  
23   HER SETTLEMENT WITH THE DEBTOR."

23           Shefa, on behalf of itself, its past and current agents, representatives, attorneys, and  
24 successors and/or assignees, and *not* in its representative capacity, acknowledges and  
25 understands the significance and consequences of this specific waiver of California Civil Code §  
26 1542.



1 amenable to providing during the Parties' good faith attempt to resolve the dispute pursuant to  
2 Section 5.

3 6.3 Except as otherwise provided in this Consent Judgment, each Party shall bear its  
4 own attorneys' fees and costs.

5 6.4 Nothing in this Section 6 shall preclude a Party from seeking an award of  
6 sanctions pursuant to law.

7 **7. NOTICE**

8 7.1 When Shefa is entitled to receive any notice under this Consent Judgment, the  
9 notice shall be sent by first class and electronic mail to:

10 Daniel N. Greenbaum  
11 Law Office of Daniel N. Greenbaum  
12 7120 Hayvenhurst Ave., Suite 320  
13 Van Nuys CA 91406  
[dgreenbaum@greenbaumlawfirm.com](mailto:dgreenbaum@greenbaumlawfirm.com)

14 7.2 When Settling Defendant is entitled to receive any notice under this Consent  
15 Judgment, the notice shall be sent by first class and electronic mail to:

16 Gordon Wichterman  
17 President  
18 Park Supply of America, Inc.  
19 2727 East 26th St.  
20 Minneapolis, MN 55406  
[gordy@parksupplyofamerica.com](mailto:gordy@parksupplyofamerica.com)

21 Aaron Allan, Esq.  
22 GLASER WEIL  
23 10250 Constellation Blvd., 19th Floor  
24 Los Angeles, CA 90067  
[aallan@glaserweil.com](mailto:aallan@glaserweil.com)

25 7.3 Any Party may modify the person and address to whom the notice is to be sent by  
26 sending the other Party notice by first class and electronic mail.



1 **8. MODIFICATION**

2 8.1 **Written Consent.** This Consent Judgment may be modified from time to time by  
3 express written agreement of the Parties with the approval of the Court, or by an order of this  
4 Court upon motion and in accordance with law.

5 8.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
6 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
7 modify the Consent Judgment.

8 **9. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(f)**

9 9.1 Shefa agrees to comply with the reporting form requirements referenced in  
10 California Health and Safety Code § 25249.7(f).

11 **10. COURT APPROVAL**

12 10.1 This Consent Judgment shall become effective upon entry by the Court.

13 10.2 Shefa shall prepare and file a Motion for Approval of this Consent Judgment and  
14 Settling Defendant shall support entry of this Consent Judgment.

15 10.3 The Parties acknowledge that, pursuant to California Health & Safety Code §  
16 25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment, and  
17 Shefa shall draft and file such motion within fifteen (15) days of the date this Consent Judgment  
18 is fully executed by the Parties, and Settling Defendant shall not oppose it.

19 10.4 If this Consent Judgment is not entered by the Court, it shall be of no force or  
20 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
21 purpose other than to allow the Court to determine if there was a material breach of Section 10.2.

22 **11. OTHER TERMS**

23 11.1 The terms of this Consent Judgment shall be governed by the laws of the State of  
24 California.

25 11.2 This Consent Judgment shall apply to and be binding upon Shefa, Settling  
26 Defendant, its affiliates, and successors or assigns of any of them.



1 into and execute the Consent Judgment on behalf of the Party represented and legally to bind  
2 that Party.

3 11.13 The Parties, including their counsel, have participated in the preparation of this  
4 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.

5 11.14 This Consent Judgment was subject to revision and modification by the Parties  
6 and has been accepted and approved as to its final form by all Parties and their counsel.

7 11.15 Accordingly, any uncertainty or ambiguity existing in this Consent Judgment  
8 shall not be interpreted against any Party as a result of the manner of the preparation of this  
9 Consent Judgment.

10 11.16 Each Party to this Consent Judgment agrees that any statute or rule of  
11 construction providing that ambiguities are to be resolved against the drafting Party should not  
12 be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby  
13 waive California Civil Code § 1654.

14  
15 **12. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
16 **CONSENT JUDGMENT**

17 12.1 This Consent Judgment came before this Court upon the request of the Parties.  
18 The Parties request the Court to review this Consent Judgment and to make the following  
19 findings pursuant to Cal. Health & Safety Code § 25249.7(f)(4):


- 20 a. The injunctive relief required by the Consent Judgment complies with Cal.  
21 Health & Safety Code § 25249.7;
- 22 b. The reimbursement of fees and costs to be paid pursuant to the Consent  
23 Judgment is reasonable under California law; and
- 24 c. The civil penalty amount to be paid pursuant to Consent Judgment is  
25 reasonable.

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AGREED TO:

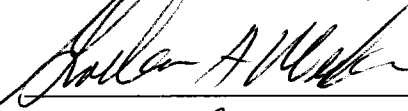
Dated: 12/03/2015

SHEFA LMV, LLC

By: 

Dated: 12-1-15

PARK SUPPLY OF AMERICA, INC.

By:   
RTS PARS

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**ORDER AND JUDGMENT**

Based upon the stipulated Consent Judgment between Shefa LMV, LLC and Park Supply of America, Inc., the settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court