

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>The Hillman Group</b>			
<b>CASE INFO</b>	COURT DOCKET NUMBER <b>BC613326</b>		COURT NAME <b>Los Angeles Superior Court</b>	
	SHORT CASE NAME <b>Shefa v. The Hillman Group</b>			
<b>REPORT INFO</b>	INJUNCTIVE RELIEF <b>Warning Labels</b>			
	PAYMENT: CIVIL PENALTY <b>\$3,000</b>	PAYMENT: ATTORNEYS FEES <b>\$12,000</b>	PAYMENT: OTHER <b>\$0.00</b>	For Internal Use Only
	WILL SETTLEMENT BE SUBMITTED TO COURT? <input checked="" type="radio"/> Yes <input type="radio"/> No	IF YES, AFTER ENTRY OF JUDGMENT BY COURT, REPORT OF ENTRY OF JUDGMENT MUST BE SUBMITTED TO ATTORNEY GENERAL	DATE SETTLEMENT SIGNED <b>9 / 27 / 2016</b>	
	<b>COPY OF SETTLEMENT MUST BE ATTACHED</b>			
NAME OF CONTACT <b>Daniel N. Greenbaum</b>				
<b>FILER INFO</b>	ORGANIZATION <b>The Law Office of Daniel Greenbaum</b>		TELEPHONE NUMBER <b>(818) 809-2199</b>	
	ADDRESS <b>7120 Hayvenhurst Ave., Suite 320</b>		FAX NUMBER <b>(424) 243-7689</b>	
	CITY <b>Van Nuys</b>	STATE <b>CA</b>	ZIP <b>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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2 The Hathaway Building  
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3 Van Nuys, CA 91406  
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5 Email: dgreenbaum@greenbaumlawfirm.com

6 Attorney for Plaintiff SHEFA LMV, LLC

7 LAW OFFICE OF JOHN E. DITTOE  
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8 70 Hazel Lane  
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9 Telephone: (510) 206-3244  
10 Facsimile: (510) 922-1730  
Email: jack@jdittoe.com

11 Attorney for Defendant THE HILLMAN GROUP, INC.

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 FOR THE COUNTY OF LOS ANGELES

15 SHEFA LMV, LLC,  
16 Plaintiff,

17 v.

18 THE HILLMAN GROUP, INC.;  
19 AMAZON.COM, INC.; and DOES 1 through  
20 25, inclusive,

21 Defendants.

Case No. BC613326

*Hon. Samantha P. Jessner*

**[PROPOSED] CONSENT JUDGMENT AS  
TO THE HILLMAN GROUP, INC.**

Action filed: March 10, 2016

1 **1. INTRODUCTION**

2 1.1 The parties to this Consent Judgment (“Parties”) are Shefa LMV, LLC (“Shefa”)  
3 and The Hillman Group, Inc. (“Settling Defendant”) (collectively the “Parties”).

4 1.2 The products covered by this Consent Judgment (“Covered Products”) are brass  
5 surface bolt products manufactured, distributed and/or sold by Settling Defendant that contain  
6 lead and or lead compounds (“Lead” or “Pb”), including but not limited to Brass Surface Bolt,  
7 UPC 008236988093.

8 1.3 On or about March 30, 2015, Shefa mailed a 60-Day Notice of Violation under  
9 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety  
10 Code §§ 25249.5, *et seq.*) (“Notice”) to Settling Defendant, Amazon.com, Inc., the California  
11 Attorney General, the District Attorneys of every County in the State of California, and the City  
12 Attorneys for every City in the State of California with a population greater than 750,000.

13 1.4 The Notice alleges violations of Proposition 65 with respect to the presence of  
14 Lead in certain of the Covered Products sold, distributed and/or manufactured by Settling  
15 Defendant.

16 1.5 On or about March 10, 2016, Shefa filed the Complaint in the instant matter  
17 (“Complaint”) alleging Proposition 65 violations as to the Covered Products sold in California  
18 by Settling Defendant and Amazon.com, Inc.

19 1.6 Settling Defendant denies the claims of alleged violations asserted against it in  
20 the Complaint and denies that it has any liability under Proposition 65.

21 1.7 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this  
22 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
23 applicable to Settling Defendant and personal jurisdiction over Settling Defendant as to the acts  
24 alleged in the Complaint; (ii) venue is proper in the County of Los Angeles; and (iii) this Court  
25 has jurisdiction to enter this Consent Judgment.

26 1.8 Nothing in this Consent Judgment is or shall be construed as an admission by the  
27 Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with

1 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
2 conclusion of law, issue of law, or violation of law.

3 1.9 Nothing in this Consent Judgment shall prejudice, waive, or impair any right,  
4 remedy, argument, or defense the Parties may have in any other legal proceeding.

5 1.10 This Consent Judgment is the product of negotiation and compromise and is  
6 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in  
7 this action.

8 1.11 The term "Effective Date" means the date on which this Consent Judgment is  
9 approved and entered by the Court.

10 1.12 Shefa shall file a dismissal as to Amazon.com, Inc. within (thirty) 30 days after  
11 entry of this Consent Judgment.

12  
13 **2. INJUNCTIVE RELIEF**

14 2.1 **Warning Requirement.** Warnings in accordance with Section 2.2 shall be given  
15 for Covered Products that contain lead (Pb) and that are manufactured more than ninety (90)  
16 days after the Effective Date and that Settling Defendant sells in California, markets or  
17 distributes for sale in California, or offers for sale to a third party for retail sale in California.  
18 For purposes of Section 2 and this entire Consent Judgment, Covered Products will not be  
19 considered to "contain lead (Pb)" if they are manufactured using low lead brass<sup>1</sup> or brass that  
20 does not contain any lead.

21 2.2 **Proposition 65 Warnings.** Covered Products are compliant with Proposition 65  
22 and this Consent Judgment if warnings are either provided: (a) on the product label or packaging  
23 in accordance with Sections 2.3 and 2.4, or (b) in the stores in which the Covered Products are  
24 sold in accordance with Section 2.5.

25  
26 <sup>1</sup> Brass alloy containing 0.25% or less lead is known as "low lead" brass, as opposed to the more  
27 typical alloy which contains 5% lead.

1           2.3     **Product Labeling.** Warnings that are affixed to the packaging, labeling, or  
2 directly on each Covered Product sold at retail in California, shall state:

3           **CALIFORNIA PROPOSITION 65 WARNING:**

4           This product contains a chemical [chemicals] known to the State of California to cause  
5 cancer and birth defects or other reproductive harm. **Wash Hands After Handling.**

6           2.4     **Warning Placement.** Each warning shall be prominently placed with such  
7 conspicuousness as compared with other words, statements, designs, or devices as to render it  
8 likely to be read and understood by an ordinary individual under customary conditions of  
9 purchase or use. The warning must be at least the same size as the largest of any other health or  
10 safety warnings appearing on the product label, as applicable, of such product. To the extent any  
11 subsequent revisions to Proposition 65 or its implementing regulations require additional or  
12 different warning language, Settling Defendant may revise the above warning to comply with  
13 such new law or regulations.

14           2.5     **Point-of-Sale Warnings.** Alternatively, the Settling Defendant may provide  
15 warnings signs to its customers with retail stores in California with instructions to post warnings  
16 in close proximity to the point of display of the Covered Products that state:

17  
18           **WARNING:** This product [these products] contains a chemical [chemicals] known to the  
19 State of California to cause cancer and birth defects or other reproductive harm.

20  
21           Where more than one Covered Product is sold in proximity to other like items or to those  
22 that do not require a warning (*e.g.*, Covered Products that comply with the Section 2.1 lead  
23 standard), the following statement shall be used:

24  
25           **WARNING:** The following products contain a chemical known to the State of California  
26 to cause cancer and birth defects or other reproductive harm:

1            *[list products for which warning is required]*

2

3            Each warning sign shall not be covered or obscured, shall be affixed in a sufficiently  
4 conspicuous manner reasonably calculated to be seen by the ordinary consumer of the product  
5 requiring a warning.

6

7    **3. PAYMENTS**

8            3.1    Beginning ten (10) business days of the Effective Date, Settling Defendant shall  
9 make the Total Settlement Payment of \$15,000.00 by delivering checks payable to “Shefa LMV,  
10 LLC” and “Law Office of Daniel N. Greenbaum” as set forth below to counsel for Shefa.

11           3.2    The funds paid by Settling Defendant shall be allocated as follows:

12                    3.2.1    **Civil Penalty.** A civil penalty in the amount of \$3,000.00 payable to  
13                    “Shefa LMV, LLC,” pursuant to Health & Safety Code § 25249.7(b), with  
14                    such money to be apportioned and distributed by Shefa in accordance with  
15                    Health & Safety Code § 25249.12 as follows: 25% to Shefa and 75% to  
16                    the State of California's Office of Environmental Health Hazard  
17                    Assessment.

18                    3.2.2    **Attorneys' fees and Costs.** A reimbursement of Shefa's attorney's fees  
19                    and costs in the amount of \$12,000.00 payable to the “Law Office of  
20                    Daniel N. Greenbaum.”

21

22    **4. CLAIMS COVERED AND RELEASED**

23            4.1    **Full and Binding Resolution of Proposition 65 Allegations:** This Consent  
24 Judgment is a full, final, and binding resolution between

25                    (i) Shefa on behalf of itself and the public interest; and

26                    (ii) Settling Defendant and its affiliates (“affiliate” means a person or entity who directly  
27 or indirectly owns or controls, is owned or controlled by, or is under common ownership or

28

1 control with, Settling Defendant), former affiliates, and its current and past directors, officers,  
2 shareholders, employees and attorneys (“Defendant Releasees”), and each entity to whom (or  
3 from whom) any of them directly or indirectly distribute, receive for distribution and/or sell  
4 Covered Products, including but not limited to distributors, wholesalers, customers, retailers  
5 (including, but not limited to, Amazon.com, Inc.), franchisees, cooperative members, licensors,  
6 and licensees (“Distributor Releasees”); of any violation of Proposition 65 that was or could  
7 have been asserted in the Complaint against Settling Defendant, Defendant Releasees, and  
8 Distributor Releasees, based on failure to warn about alleged exposure to lead contained in  
9 Covered Products that were shipped, distributed or sold by Settling Defendant and that had been  
10 manufactured less than ninety (90) days after the Effective Date.

11 4.2 Individual Release: Shefa, on behalf of itself, its past and current agents,  
12 representatives, attorneys, and successors and/or assignees, and *not* in its representative capacity,  
13 hereby provides a release that shall be effective as a full and final accord and satisfaction, as a  
14 bar to all Claims under Proposition 65, Bus. & Prof. Code §§ 17200 *et seq.*, or any other  
15 statutory or common law, that are or may be asserted against Settling Defendant, Defendant  
16 Releasees, and Distributor Releasees, whether known or unknown, suspected or unsuspected,  
17 arising out of alleged exposures to, and/or failure to warn of alleged exposures to, lead in  
18 Covered Products shipped, distributed or sold by Settling Defendant and that had been  
19 manufactured less than ninety (90) days after the Effective Date.

20 4.3 General Release: It is possible that other Claims not known to the Parties arising  
21 out of the facts alleged in the Notice or the Complaint will develop or be discovered. Shefa, on  
22 behalf of itself, its past and current agents, representatives, attorneys, and successors and/or  
23 assigns, and *not* in its representative capacity, acknowledges that this Consent Judgment is  
24 expressly intended to cover and include all such Claims, including all rights of action therefor.  
25 Shefa has full knowledge of the contents of Civil Code § 1542. Shefa acknowledges that the  
26 Claims released in Sections 4.1 and 4.2 include unknown Claims, and Shefa nevertheless waives  
27 Civil Code § 1542 as to any such unknown Claims. Civil Code § 1542 reads as follows:

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH  
2 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS  
3 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,  
4 WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY  
5 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

6 Shefa, on behalf of itself, its past and current agents, representatives, attorneys, and  
7 successors and/or assignees, and not in its representative capacity, acknowledges and  
8 understands the significance and consequences of this specific waiver of Civil Code § 1542.

9 4.4 Compliance with the terms of this Consent Judgment by Settling Defendant shall  
10 constitute compliance with Proposition 65 by Settling Defendant, Defendant Releasees, and  
11 Distributor Releasees with respect to any alleged failure to warn about lead in Covered Products  
12 that were distributed or sold by Settling Defendant and that were manufactured ninety (90) days  
13 or more after the Effective Date.

14 4.5 Nothing in this Section 4 affects Shefa's right to commence or prosecute an action  
15 under Proposition 65 against any person other than Settling Defendant, Defendant Releasees, or  
16 Distributor Releasees.

## 17 5. ENFORCEMENT

18 5.1 The Parties may, by motion or application for an order to show cause before the  
19 Superior Court of Los Angeles County, enforce the terms and conditions contained in this  
20 Consent Judgment.

21 5.2 Prior to bringing any motion or application to enforce the requirements of Section  
22 2 above, Shefa shall provide Settling Defendant with a Notice of Violation and proof of purchase  
23 and a copy of any test results which purportedly support the Notice of Violation.

24 5.3 The Parties shall then meet and confer regarding the basis for the anticipated  
25 motion or application in an attempt to resolve it informally, including providing Settling  
26 Defendant with a reasonable opportunity of at least thirty (30) days to cure any alleged violation.

27 5.4 Should such attempts at informal resolution fail, Shefa may file an enforcement  
28 motion or application.



1 **6. ATTORNEYS' FEES**

2 6.1 Except as otherwise provided in this Consent Judgment, each Party shall bear its  
3 own attorneys' fees and costs.

4 6.2 Nothing in this Section 6 shall preclude a Party from seeking an award of  
5 sanctions pursuant to law.

6  
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 electronic mail to:

16 Douglas D. Roberts, Esq.  
17 General Counsel  
18 The Hillman Group, Inc.  
19 10590 Hamilton Ave.  
20 Cincinnati, Ohio 45231  
[Doug.Roberts@hillmangroup.com](mailto:Doug.Roberts@hillmangroup.com)

21 John E. Dittoe, Esq. (SBN 88244)  
22 LAW OFFICE OF JOHN E. DITTOE  
23 70 Hazel Lane  
Piedmont, CA 94611  
[jack@jdittoe.com](mailto:jack@jdittoe.com)

24 7.3 Any Party may modify the person and address to whom the notice is to be sent by  
25 sending the other Party notice by 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 **9. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(f)**

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

12  
13 **10. COURT APPROVAL**

14 10.1 This Consent Judgment shall become effective upon entry by the Court.

15 10.2 The Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a  
16 noticed motion is required to obtain judicial approval of this Consent Judgment. Shefa shall  
17 prepare and file such motion, and Settling Defendant shall not oppose it.

18 10.3 If this Consent Judgment is not entered by the Court, it shall be of no force or  
19 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
20 purpose other than to allow the Court to determine if there was a material breach of Section 10.2.

21  
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.

27

28

1           11.3 This Consent Judgment contains the sole and entire agreement and understanding  
2 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
3 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein  
4 and therein.

5           11.4 There are no warranties, representations, or other agreements between the Parties  
6 except as expressly set forth herein.

7           11.5 No representations, oral or otherwise, express or implied, other than those  
8 specifically referred to in this Consent Judgment have been made by any Party hereto.

9           11.6 This Court shall retain jurisdiction of this matter to implement or modify the  
10 Consent Judgment.

11           11.7 The stipulations to this Consent Judgment may be executed in counterparts and  
12 by means of facsimile or portable document format (pdf), which taken together shall be deemed  
13 to constitute one document.

14           11.8 Each signatory to this Consent Judgment certifies that he or she is fully  
15 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter  
16 into and execute the Consent Judgment on behalf of the Party represented and legally to bind  
17 that Party.

18           11.9 The Parties, including their counsel, have participated in the preparation of this  
19 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.

20           11.10 This Consent Judgment was subject to revision and modification by the Parties  
21 and has been accepted and approved as to its final form by all Parties and their counsel.

22           11.11 Accordingly, any uncertainty or ambiguity existing in this Consent Judgment  
23 shall not be interpreted against any Party as a result of the manner of the preparation of this  
24 Consent Judgment.

25           11.12 Each Party to this Consent Judgment agrees that any statute or rule of  
26 construction providing that ambiguities are to be resolved against the drafting Party should not  
27

1 be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby  
2 waive Civil Code § 1654.

3  
4 **12. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
5 **CONSENT JUDGMENT**


6 12.1 This Consent Judgment will be brought before this Court upon the request of the  
7 Parties. The Parties request the Court to review this Consent Judgment and to make the  
8 following findings pursuant to Health & Safety Code § 25249.7(f)(4):

- 9 a. The injunctive relief required by the Consent Judgment complies with Health &  
10 Safety Code § 25249.7;
- 11 b. The reimbursement of fees and costs to be paid pursuant to the Consent Judgment  
12 is reasonable under California law; and
- 13 c. The civil penalty amount to be paid pursuant to Consent Judgment is reasonable.  
14

15 AGREED TO:


16 Dated: 9/27/16

SHEFA LMV, LLC

17  
18 By:  \_\_\_\_\_  
19

20  
21  
22 Dated: 9/27/16

THE HILLMAN GROUP, INC.

23  
24 By:  \_\_\_\_\_  
25 Douglas A. Roberts  
26 Secretary and General Counsel  
27

**ORDER AND JUDGMENT**

1  
2 Based upon the stipulated Consent Judgment between Shefa LMV, LLC and The Hillman  
3 Group, Inc., the settlement is approved and the clerk is directed to enter judgment in accordance  
4 with the terms herein.

5 Dated: \_\_\_\_\_  
6

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8 \_\_\_\_\_  
9 Judge of the Superior Court  
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