

STATE OF MICHIGAN  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DEBRA MORWAY,

Plaintiff,

Case No.

Hon.

v.

DR. SCHOLL'S FOOT COMFORT SHOPS,  
INC., BROWN SHOE COMPANY, INC. and  
WAL-MART,

**NOTICE OF REMOVAL AND  
CERTIFICATE OF SERVICE**

Defendants.

PAUL G. VALENTINO (P34239)  
Attorney for Plaintiff  
43494 Woodward Avenue, Suite 203  
Bloomfield Hills, MI 48302  
(248) 334-7787; Fax (248) 334-7202

THOMAS M. DOUGLAS (P32319)  
Attorney for Brown Shoe & Walmart  
1441 W. Long Lake, Suite 305  
Troy, MI 48098  
(248) 312-7939; Fax (248) 312-7940

**NOTICE OF REMOVAL**

Defendants WAL-MART and BROWN SHOE COMPANY, INC., through their attorneys, Law Offices of Catherine A. Gofrank, by filing the within Notice, remove this action from the Wayne County Circuit Court to the United States District Court for the Eastern District of Michigan, Southern Division, and further state:

1. On June 30, 2011, Plaintiff Debra Morway filed this action in Oakland County Circuit Court, Case No. 11-120121-NP.

2. Plaintiff served a Summons and copy of the Complaint on Wal-Mart by certified mail, on or after July 13, 2011. Plaintiff served a Summons and copy of the Complaint on Brown Shoe Company, Inc. by certified mail, on or after July 18, 2011. Copies of the process, pleadings, and orders served on Defendants are attached to this Notice as **Exhibit A**.

3. Plaintiff alleges in her Complaint that she is a citizen of the State of Michigan.

4. Defendant Wal-Mart, is an Arkansas corporation with its principal place of business in the State of Arkansas.

5. Defendant Brown Shoe Company, Inc., is an Indiana corporation with its principal place of business in the State of Missouri.

6. Upon information and belief, Defendant Dr. Scholl's Foot Comfort Shops, Inc., is a Delaware corporation.

7. It is more likely than not that the amount in controversy exceeds \$75,000, exclusive of interest and costs, thereby satisfying the jurisdictional requirement set forth in 28 USC § 1332, for the following reasons:

- a. Plaintiff claims that Defendants' shoes contained an undisclosed chemical (PPDA) that caused her to experience a severe allergic reaction and develop contact dermatitis – requiring hospitalization;
- b. Plaintiff was quoted in a March 23, 2009 WDIV Detroit story as having experienced: "A tremendous amount of pain. There's no words I can even say to say how much pain all day and all night, for months. I had cracks and blisters and my feet were burned."
- c. Plaintiff's attorney advised Defendants' attorney by phone on August 9, 2011, that the value of the case is well above \$75,000 in his view;
- d. Plaintiff alleges in her Complaint damages consisting of medical expenses; past, present and future lost wages, lost benefits, and pain and suffering; loss of career opportunities; wrongful infliction of emotional distress; past, present and future disfigurement, loss of use and disability; as well as mental and emotional damages, including humiliation, embarrassment, public ridicule and disgrace.

8. This Court has original jurisdiction under 28 USC § 1332(a)(1) because this is an action between citizens of different states and the matter in controversy exceeds \$75,000, exclusive of interest and costs.

9. The parties in interest properly joined and served as defendants are not citizens of the State of Michigan.

10. A copy of this Notice of Removal has been filed with the Oakland County Circuit Court, as required by 28 USC § 1446(d).

11. By reason of the above, Defendants are entitled to remove the action to this Court pursuant to 28 USC § 1441.

LAW OFFICES OF CATHERINE A. GOFRANK

/s/ Thomas M. Douglas  
THOMAS M. DOUGLAS (P31224)  
Attorney for Brown Shoe & Walmart  
1441 W. Long Lake, Suite 305  
Troy, MI 48098-4436  
(248) 312-7939  
tdouglas@travelers.com

DATED: August 10, 2011

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 10, 2011, he electronically filed Wal-Mart's and Brown Shoe's Notice of Removal; and this Proof of Service, with the Clerk of the Court using the ECGF system which will send notification of such filing to the following: Paul G. Valentino, 43494 Woodward Avenue, Suite 203, Bloomfield Hills, Michigan 48302.

LAW OFFICES OF CATHERINE A. GOFRANK

/s/ Thomas M. Douglas  
THOMAS M. DOUGLAS (P31224)  
Attorney for Brown Shoe & Walmart  
1441 W. Long Lake, Suite 305  
Troy, MI 48098-4442  
(248) 312-7939  
tdouglas@travelers.com

DATED: August 10, 2011

# EXHIBIT A

[www.DebbieSchlusser.com](http://www.DebbieSchlusser.com)

RECEIVED FOR FILING  
OAKLAND COUNTY CLERK

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

2011 JUN 30 PM 4:18

DEBRA MORWAY,

Plaintiff,

BY: \_\_\_\_\_  
DEPUTY COUNTY CLERK

OAKLAND  
COUNTY 11-120121-NP  
JUDGE Nanci J. Grant  
MORWAY, DEBRA, v DR SCHOLLS F.

vs

No.

Dr. SCHOLL'S FOOT COMFORT SHOPS,  
INC., a Missouri corporation, BROWN SHOE  
COMPANY, INC., and WAL-MART, a Delaware  
Corporation,

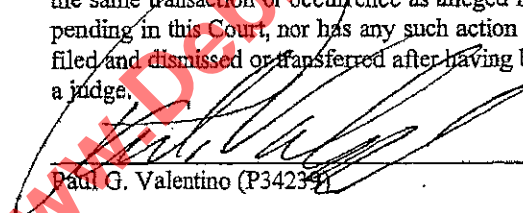
Hon.

Defendants.

PAUL G. VALENTINO (P34239)  
Attorney for Plaintiff  
LEHMAN & VALENTINO, P.C.  
43494 Woodward Ave., Ste. 203  
Bloomfield Hills, Michigan 48302  
(248) 334-7787



There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

  
Paul G. Valentino (P34239)

**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COMES the plaintiff, DEBRA MORWAY, by and through her counsel, LEHMAN & VALENTINO, P.C., and for her cause of action says:

1. That the amount in controversy is in excess of \$25,000.0 and this cause of action is otherwise within the jurisdiction of this Honorable Court.

2. That at all times relevant hereto, the plaintiff was a resident of the County of Oakland, State of Michigan.

3. That the defendant, DR. SCHOLL'S FOOPT COMFORT SHOPS, INC. (Hereinafter referred to as "Dr. Scholl's"), is and was a foreign corporation whose resident agent is C T Corporation system, 314, North Broadway, St. Louis, Missouri, 63102.

4. That the defendant, BROWN SHOE COMPANY, INC. (Hereinafter referred to as "Brown Shoe"), is and was at all times relevant hereto a foreign corporation incorporated under the laws of the state of Missouri and whose resident agent is CSC-Layers, Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri

5. That at all times relevant hereto defendant, WAL-MART SUPERCENTER (hereinafter referred to as "Wal-Mart"), whose resident agent is The corporation Company, 30600 Telegraph Road, Bingham Farms, Michigan.

6. That at all times relevant hereto Dr. Scholl's was a Missouri corporation with its principal place of business in Jefferson city, Missouri and did regularly and systematically advertise and sell their products in Michigan.

7. That at all times relevant hereto defendant, Wal-Mart Supercenter is an Arizona corporation which did regularly and systematically advertise and operate a store located at 2500 South Adams Road, Rochester Hills, Michigan.

8. That this cause of action arises out of a chemical reaction to a substance incorporated into the manufacture of the shoe by defendant, Dr. School's and Brown Shoe known as paraphenylenedia-mine (PPDA) listed as a hazardous substance pursuant to 15 USC §1261 et seq. which were purchased at the Wal-Mart Supercenter in Rochester Hills, Michigan.

COUNT I

9. That the plaintiff herein repleads each paragraph set forth above in this count as if they were restated word for word and paragraph by paragraph.

10. That the defendant, Dr. Scholl's and/or Brown Shoe designed, manufactured and originally sold the aforementioned shoes.

11. That as designers, manufacturers and sellers of the aforementioned shoes defendants owed certain duties to the plaintiff and others.

12. That each of the aforementioned defendants did breach their duties in the following particulars:

- a. That defendant Dr. Scholl's and/or Brown Shoe manufactured shoes without a warning label regarding their use of PPDA in their products;
- b. That defendant Wal-Mart Supercenter sold the Dr. Scholl's products knowing there was no warning label regarding the use of paraphenylenediamine (PPDA) in the Dr. Scholl's products;
- c. That defendants and each of them failed to comply with 15 USC §1261, et seq., and 16 CFR Part 1500 with respect to the use and disclosure of the use of PPDA.
- c. That defendants, and each of them failed to warn potential consumers regarding Dr. Scholl's products use of the aforementioned dangerous propensities of PPDA, in violation of MCL 600.2947(4).

13. That the defendant, Wal-Mart Supercenter, as a distributor owner of the aforementioned shoes, owed certain duties to your plaintiff and others.

14. That the aforementioned negligence and breaches of duty on the part of each of your defendants were a proximate cause of the numerous incidents of contact dermatitis to plaintiff's feet.

15. That as a direct and proximate result of the acts, commissions, and omissions on the part of the Defendant, Plaintiff suffered damages and injuries which are continuing in nature and which include, by way of illustration and without limitation, the following:

- a. Medical Expenses;
- b. Lost wages, past, present, and future;
- c. Lost health care and other employment benefits, past, present, and future;
- d. Loss of career opportunities;
- e. Wrongful infliction of emotional distress;
- f. Mental and emotional damages and injury including humiliation, embarrassment, public ridicule and disgrace.
- g. Disfigurement, loss of use, disability past present and in the future, will cause pain, suffering and disability and mental anguish

WHEREFORE, your plaintiff prays for a judgment against each of defendant, jointly and severally, in an amount which is fair and just in excess of Twenty Five Thousand (\$25,000.00) Dollars.

#### **COUNT II**

16. Plaintiff herein repleads each and every allegation as set forth above as if same were repeated word for word and paragraph by paragraph.

17. That your defendants, Dr. Scholl's, Brown Shoes and Wal-Mart Supercenter, as designers, manufacturers, and sellers of the aforementioned shoes did warrant to your plaintiff and others, both expressly and impliedly, that said shoes were of merchantable quality, fit for its intended or reasonably foreseeable purpose, free from defects, and not unreasonably dangerous.



18. That your defendants, Dr. Scholl's, Brown Shoes and Wal-Mart Supercenter, did breach their warranties, both expressly and impliedly, in that the aforementioned shoes were not of merchantable quality, were not fit for their intended purpose, were defective, and were unreasonably dangerous with regard to the shoes containing no warning label regarding paraphenylenediamine (PPDA).

19. That the aforementioned breaches of warranty were a proximate cause of the damages to your plaintiff.

20. That the defendants and each of them failed to act reasonably with regard to the product.

21. As a result of the injuries to your plaintiff, plaintiff has suffered damages and injuries as more fully set forth in Count I of plaintiff's complaint incorporated herein by reference.

WHEREFORE, your plaintiff prays for a judgment against each of your defendants, jointly and severally, in an amount which is fair and just in excess of Twenty Five Thousand (\$25,000.00) Dollars.

Respectfully submitted,

LEHMAN & VALENTINO, P.C.

  
Paul G. Valentino (P34239)

Attorney for Plaintiff

43494 Woodward Avenue, Suite 203

Bloomfield Hills, Michigan 48302

(248) 334-7787

Dated: May 13, 2011