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Laurence D. Haveson, State Bar No. 152631  
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Attorneys for Plaintiff  
MARK MOORBERG

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

MAY 27 2015

Sherri R. Carter, Executive Officer/Clerk  
By Raul Sanchez, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES - UNLIMITED CIVIL JURISDICTION

MARK MOORBERG,  
Plaintiff,

v.

CARAVAN CANOPY INT'L, INC.; THE  
SPORTS AUTHORITY INC.; and DOES  
1 -100, inclusive,  
Defendants.

Case No. BC 569198

**BY FAX**

**SECOND AMENDED COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**

(Health & Safety Code § 25249.6, *et seq.*)

**NATURE OF THE ACTION**

1  
2           1.     This is a representative action brought by plaintiff Mark Moorberg (“Plaintiff”)  
3 in the public interest of the citizens of the State of California to enforce the People’s right to be  
4 informed of the presence of Di(2-ethylhexyl)phthalate (“DEHP”), a toxic chemical found in  
5 foldable seats with vinyl/PVC shoulder straps sold in California. DEHP is a toxic chemical  
6 used to treat vinyl/PVC, which is used in a variety of products.

7           2.     By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failures to  
8 warn California citizens about the risk of exposure to DEHP present in and on foldable seats  
9 with vinyl/PVC shoulder straps manufactured, distributed, and offered for sale or use to  
10 consumers throughout the State of California.

11           3.     Detectable levels of DEHP are commonly found in and on foldable seats with  
12 vinyl/PVC shoulder straps that Defendants manufacture, distribute, and offer for sale to  
13 consumers throughout the State of California. Individuals in California, including infants and  
14 children, are exposed to DEHP in the products through dermal exposure to, and/or ingestion of,  
15 DEHP in and on foldable seats with vinyl/PVC shoulder straps.

16           4.     Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
17 Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the course  
18 of doing business shall knowingly and intentionally expose any individual to a chemical known  
19 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
20 warning to such individual . . . .” Health & Safety Code § 25249.6.

21           5.     Pursuant to Proposition 65, on October 24, 2003, California identified and listed  
22 DEHP as a chemical known to cause birth defects and other reproductive harm. DEHP became  
23 subject to the “clear and reasonable warning” requirements of the Act one year later on  
24 October 24, 2004. 27 Cal. Code Regs. § 27001(c); Health & Safety Code §§ 25249.8 &  
25 25249.10(b).

26           6.     In the April 2003 official state document explaining why DEHP met the criteria  
27 for being listed in California as a reproductive toxicant, the Office of Environmental Health  
28 Hazard Assessment of the California Environmental Protection Agency stated that: DEHP can

1 cause testicular damage in rats, including decreased testicular weight, marked testicular  
2 atrophy, and reduced fertility; DEHP and its metabolite MEHP are teratogenic and  
3 embryolethal to rodents, and have been correlated with reduced fetal body weights and/or  
4 increased incidence of malformations; exposure to DEHP during gestation, followed by  
5 postnatal exposure, resulted in the development of adverse testicular effects in the offspring,  
6 and there is increased sensitivity to DEHP-induced testicular effects during pre- and postnatal  
7 exposure, including gross disorganization of the seminiferous tubule structure, detachment of  
8 spermatogonial cells from basal membranes, and thickening of boundary tissues in the testes of  
9 male rats, significant decrease in average rat weight and average anogenital distance, and high  
10 levels of testicular and epididymal abnormalities, including atrophy and agenesis.

11 7. In its July 2014 Report, The Chronic Hazard Advisory Panel on Phthalates and  
12 Phthalate Alternatives, convened by the U.S. Consumer Product Safety Commission, stated  
13 that: phthalates cause a wide range of toxicities in laboratory rats, including abnormalities of  
14 the developing male reproductive tract structures characterized by malformations of the  
15 epididymis, vas deferens, seminal vesicles, prostate, external genitalia (hypospadias), and by  
16 cryptorchidism (undescended testes) and demasculinization of the perineum, resulting in  
17 reduced anogenital distance; this phthalate syndrome in rats bears a resemblance to the  
18 “testicular dysgenesis syndrome” in humans, which includes poor semen quality, testis cancer,  
19 cryptorchidism, and hypospadias; phthalate exposure during gestation may contribute to  
20 reduced anogenital distance and neurobehavioral effects in male infants or children; and that  
21 reduced anogenital distance has been associated with poorer semen quality (i.e., lower sperm  
22 concentration and motility, and poorer morphology), and has been found among infertile men  
23 as compared to fertile men.

24 8. The fact that substitutes are readily available for DEHP, which substitutes have  
25 not been identified as being known to cause reproductive harm, makes Defendants’ sales of  
26 products containing DEHP more troubling, because there is no reason to use DEHP other than  
27 to save money, in disregard of the fact that exposure to DEHP is known to cause reproductive  
28 harm. Defendants’ sales of products containing DEHP thus unnecessarily put California

1 consumers at risk. DEHP is hereinafter referred to as the “Listed Chemical.”

2 9. Defendant Caravan Canopy Int’l, Inc. (“Caravan”) manufactures, distributes,  
3 imports, sells and/or offers for sale in California foldable seats with vinyl/PVC shoulder straps  
4 containing DEHP without a warning including, but not limited to, Sports Authority Foldable  
5 Steel Frame Event Seat, *SKU: 27135660, Style: 80009200000, UPC #6 8921580920 4.*

6 10. Defendant The Sports Authority, Inc. (“Sports Authority”) manufactures,  
7 distributes, imports, sells and/or offers for sale in California foldable seats with vinyl/PVC  
8 shoulder straps containing DEHP without a warning including, but not limited to, Sports  
9 Authority Foldable Steel Frame Event Seat, *SKU: 27135660, Style: 80009200000, UPC #6*  
10 *8921580920 4.*

11 11. All products containing the Listed Chemical as listed in paragraphs 10 and 11  
12 above, shall hereinafter be referred to as the “Products.”

13 12. For Defendants’ violations of Proposition 65, Plaintiff seeks preliminary and  
14 permanent injunctive relief to compel Defendants to provide purchasers or users of the  
15 Products with the required warning regarding the health hazards of the Listed Chemical in the  
16 Products. Health & Safety Code § 25249.7(a).

17 13. Pursuant to Health and Safety Code section 25249.7(b), Plaintiff also seeks civil  
18 penalties against Defendants for their violations of Proposition 65.

19 **PARTIES**

20 14. Plaintiff is a citizen of the State of California who is dedicated to protecting the  
21 health of California citizens through the elimination or reduction of toxic exposures from  
22 consumer products; and he brings this action in the public interest pursuant to Health and  
23 Safety Code section 25249.7(d).

24 15. Caravan is a person in the course of doing business within the meaning of Health  
25 and Safety Code sections 25249.6 and 25249.11.

26 16. Caravan manufactures, imports, distributes, sells, and/or offers the Products for  
27 sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
28 distributes, sells, and/or offers the Products for sale or use in the State of California.

1 17. Sports Authority is a person in the course of doing business within the meaning  
2 of Health and Safety Code sections 25249.6 and 25249.11.

3 18. Sports Authority manufactures, imports, distributes, sells, and/or offers the  
4 Products for sale or use in the State of California, or implies by its conduct that it manufactures,  
5 imports, distributes, sells, and/or offers the Products for sale or use in the State of California. A  
6 search performed on the California Attorney General's "60-Day Notice Search" website,  
7 <http://oag.ca.gov/prop65/60-day-notice-search>, reveals that, besides the Notice served by  
8 Plaintiff in this action, other citizen enforcers of Proposition 65 have served Sports Authority  
9 with fifteen (15) other 60-Day Notices of Violation of Proposition 65, beginning in 1999. The  
10 following table is a list of 60-Day Notices served on Sports Authority according to the  
11 California Attorney General's Proposition 65 website:

	<u>Date Served</u>	<u>Noticing Party</u>	<u>Product</u>	<u>Prop 65 Listed Chemicals</u>	<u>Alleged Violator</u>
14	1. 7/26/1999	Mateel Environmental Justice Foundation; Klamath Environmental Law Center	Fishing tackle	Lead	Sports Authority, et al.
15	2. 6/18/2001	Mateel Environmental Justice Foundation; Klamath Environmental Law Center	PVC coated hand weights	Lead	Sports Authority, et al.
16	3. 2/12/2010	John Moore	Gym mat	DEHP	Sports Authority
17	4. 6/03/2010	Anthony E. Held, Ph.D.	Children's backpacks	DEHP	Sports Authority, et al.
18	5. 6/17/2010	John Moore	Gym mat, Exercise ball	DEHP	Sports Authority
19	6. 11/12/2010	John Moore	Plastic coated weight equipment	Di-n-butyl phthalate	Sports Authority

7.	3/30/2011	Center for Environmental Health	Sport belts	Lead	Sports Authority, et al.
8.	05/11/2011	John Moore	Fitness suits, Exercise equipment	DEHP, Lead	Sports Authority, et al.
9.	09/20/2011	Michael DiPirro	Alcohol drinking games and novelties	Alcoholic beverages	Sports Authority, et al.
10.	9/21/2012	John Moore	Billiard and ping pong table covers	DEHP	Sports Authority, et al.
11.	12/03/2012	Russell Brimer	Flag football belt and flags	Lead	Sports Authority, et al.
12.	3/06/2014	Mateel Environmental Justice Foundation	Leaded brass components	Lead	Sports Authority, et al.
13.	5/02/2014	Russell Brimer	Flag Football Flags	DEHP, Lead	Sports Authority, et al.
14.	5/21/2014	Mark Mooreberg	Foldable seats with vinyl/PVC shoulder straps	DEHP	Caravan, Sports Authority
15.	6/23/2014	Evelyn Wimberley	Sport whistle	Lead	Sports Authority
16.	7/30/2014	Laurence Vinocur	Tent Fabric	Tris(1,3-dichloro-2-propyl) phosphate (TDCPP)	Sports Authority, et al.

19. Given Sports Authority's long history of receiving 60-Day Notices, it appears that Sports Authority is a serial violator of Proposition 65, that it ignores the requirements of Proposition 65, and knowingly and intentionally exposes California consumers to chemicals known to cause cancer and reproductive harm without the required health hazard warning.



1 Plaintiff's information and good faith belief that each of the Defendants is a person, firm,  
2 corporation, or association that is a citizen of the State of California, has sufficient minimum  
3 contacts in the State of California, and/or otherwise purposefully avails itself of the California  
4 market. Defendants' purposeful availment of California as a marketplace for the Products  
5 renders the exercise of personal jurisdiction by California courts over Defendants consistent  
6 with traditional notions of fair play and substantial justice.

7 **FIRST CAUSE OF ACTION**

8 **(Violation of Proposition 65 - Against All Defendants)**

9 26. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,  
10 Paragraphs 1 through 25, inclusive.

11 27. In enacting Proposition 65, in the preamble to the Safe Drinking Water and  
12 Toxic Enforcement Act of 1986, the People of California expressly declared their right "[t]o be  
13 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
14 harm."

15 28. Proposition 65 states, "[n]o person in the course of doing business shall  
16 knowingly and intentionally expose any individual to a chemical known to the state to cause  
17 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
18 individual . . . ." Health & Safety Code § 25249.6.

19 29. Plaintiff is not alleging that Defendants violated Proposition 65 through  
20 workplace and/or occupational exposures.

21 30. On May 21, 2014, Plaintiff served a sixty-day notice of violation of Proposition  
22 65 ("Notice"), together with the requisite certificate of merit, on Caravan, Sports Authority,  
23 and certain public prosecutors stating that, as a result of Defendants' sales of the Products  
24 containing DEHP, purchasers and users in the State of California were being exposed to DEHP  
25 resulting from their reasonably foreseeable use of the Products, without the individual  
26 purchasers and users first having been provided with a "clear and reasonable warning"  
27 regarding such toxic exposures, as required by Proposition 65. A true and correct copy of the  
28 Notice is attached hereof as Exhibit A.



1 31. Defendants have engaged in the manufacture, importation, distribution, sale, and  
2 offering of the Products for sale or use in California in violation of Health and Safety Code  
3 section 25249.6, and Defendants' violations have continued to occur beyond their receipt of  
4 Plaintiff's Notice. As such, Defendants' violations are ongoing and continuous in nature, and  
5 will continue to occur in the future. Caravan has engaged in the manufacture, importation,  
6 distribution, sale, and offering of the Products for sale or use in California through its principal  
7 place of business located in La Mirada, California. On information and belief, Sports Authority  
8 has offered the Products for sale in California both through its website, located at  
9 <http://www.sportsauthority.com/>, and through its 74 California retail stores.<sup>1</sup>

10 32. After receiving Plaintiff's Notice, the appropriate public enforcement agencies  
11 have failed to commence and diligently prosecute a cause of action against Defendants under  
12 Proposition 65.

13 33. The Products manufactured, imported, distributed, sold, and offered for sale or  
14 use in California by Defendants contain the Listed Chemical such that they require a "clear and  
15 reasonable" warning under Proposition 65.

16 34. Defendants knew or should have known that the Products they manufacture,  
17 import, distribute, sell, and offer for sale or use in California contain the Listed Chemical.

18 35. The Listed Chemical is present in or on the Products in such a way as to expose  
19 individuals to the Listed Chemical through dermal contact and/or ingestion during reasonably  
20 foreseeable use of the Products.

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23 <sup>1</sup> At the time of submitting this Proposed Second Amended Complaint, and according to Sports Authority's store  
24 locator webpage (<http://ca.sportsauthority.com/>), Sports Authority has 74 retail stores in the following California  
25 locations: (1) Antioch; (2) Bakersfield; (3) Burbank; (4) Camarillo; (5) Canoga Park; (6) Cerritos; (7) Chula Vista;  
26 (8) Citrus Heights; (9) Concord; (10) Corona; (11) Corte Madera; (12) Dublin; (13) East Palo Alto; (14) El Cajon;  
27 (15) Elk Grove; (16) Emeryville; (17) Encinitas; (18) Escondido; (19) Eureka; (20) Fairfield; (21) Folsom; (22)  
28 Fontana; (23) Fountain Valley; (24) Fresno; (25) Fullerton; (26) Gilroy; (27) Goleta; (28) Hawthorne; (29) Irvine;  
(30) La Habra; (31) La Mesa; (32) Lakewood; (33) Long Beach; (34) Los Angeles; (35) Milpitas; (36) Mission  
Viejo; (37) Modesto; (38) Montclair; (39) Moreno Valley; (40) Murrieta; (41) Northridge; (42) Novato; (43)  
Oceanside; (44) Ontario; (45) Orange; (46) Palm Desert; (47) Redding; (48) Riverside; (49) Roseville; (50)  
Sacramento; (51) San Diego; (52) San Francisco; (53) San Jose; (54) San Leandro; (55) San Luis Obispo; (56) San  
Mateo; (57) San Ramon; (58) Sand City; (59) Santa Ana; (60) Santa Clara; (61) Santa Cruz; (62) Santa Rosa; (63)  
Sherman Oaks; (64) Stockton; (65) Sunnyvale; (66) Temecula; (67) Torrance; (68) Tracy; (69) Union City; (70)  
Vacaville; (71) Ventura; (72) Walnut Creek; (73) West Los Angeles; and (74) Westlake Village.



1           1.     That the Court, pursuant to Health and Safety Code section 25249.7(b), assess  
2 civil penalties against Defendants in the amount of \$2,500 per day for each violation;

3           2.     That the Court, pursuant to Health and Safety Code section 25249.7(a),  
4 preliminarily and permanently enjoin Defendants from manufacturing, distributing, or offering  
5 the Products for sale or use in California without first providing a “clear and reasonable  
6 warning” as defined by the California Code of Regulations title 27, section 25601 *et seq.*, as to  
7 the harms associated with exposures the Listed Chemical;

8           3.     That the Court, pursuant to Health and Safety Code section 25249.7(a), issue  
9 preliminary and permanent injunctions mandating that Defendants recall all Products currently  
10 in the chain of commerce in California without a “clear and reasonable warning” as defined by  
11 California Code of Regulations title 27, section 25601 *et seq.*,

12           4.     That the Court grant Plaintiff his reasonable attorneys’ fees and costs of suit; and

13           5.     That the Court grant such other and further relief as may be just and proper.  
14

15 Dated: May 27, 2015

Respectfully Submitted,

MOSCONE EMBLIDGE & OTIS LLP

18 By: Laurence D. Haveson  
19 Laurence D. Haveson  
20 Attorneys for Plaintiff MARK MOORBERG  
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# Exhibit A

# 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

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**DATE:** May 21, 2014

**TO:** Lindy Park, President – Caravan Canopy Int'l, Inc.  
Michael Foss, Chief Executive Officer – The Sports Authority, Inc.  
California Attorney General's Office;  
District Attorney's Office for 58 Counties; and  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

**FROM:** Mark Moorberg

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## I. INTRODUCTION

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My name is Mark Moorberg. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the alleged violators, Caravan Canopy Int'l, Inc. and The Sports Authority, Inc. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VII. Exhibit A  
Listed Chemical: Di(2-ethylhexyl)phthalate ("DEHP")  
Routes of Exposure: Ingestion, Dermal  
Types of Harm: Birth Defects and Other Reproductive Harm

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## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

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The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the category covered by this Notice shall be referred to hereinafter as the "products." Exposures to the listed chemical from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as May 21, 2011. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the listed chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

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### **III. CONTACT INFORMATION**

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Please direct all questions concerning this notice to me through my counsel's office at the following address:

Mark Moorberg  
c/o Josh Voorhees  
The Chanler Group  
Parker Plaza  
2560 Ninth Street, Suite 214  
Berkeley, CA 94710  
Telephone: (510) 848-8880

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### **IV. PROPOSITION 65 INFORMATION**

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For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

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### **V. RESOLUTION OF NOTICED CLAIMS**

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Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

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**VI. ADDITIONAL NOTICE INFORMATION**

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Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warning” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Sports Authority Foldable Steel Frame Event Seat, SKU: 27135660, Style: 80009200000, UPC #6 89215 80920 4	The Sports Authority, Inc. Sacramento County, Northern California	Caravan Canopy Int’l, Inc.

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**VII. EXHIBIT A**

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<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Foldable Seats with Vinyl/PVC Shoulder Straps	Sports Authority Foldable Steel Frame Event Seat, SKU: 27135660, Style: 80009200000, UPC #6 89215 80920 4	Di(2-ethylhexyl)phthalate

\*The specifically identified example of the type of product that is subject to this Notice is for the recipients’ benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On May 21, 2014, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH  
HEALTH & SAFETY CODE § 25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE  
ATTORNEY GENERAL)**

on the entities listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entities listed below and providing each envelope to a United States Postal Service Representative:

Lindy Park, President  
Caravan Canopy Int'l, Inc.  
14600 Alondra Boulevard  
La Mirada, CA 90638

Michael Foss, Chief Executive Officer  
The Sports Authority, Inc.  
1050 West Hampden Avenue  
Englewood, CO 80110

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Electronically Uploaded to the Attorney General's website:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and  The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

*A list of addresses for each of these recipients is attached.*

Executed on May 21, 2014, at Berkeley, California.



Caroline Pak




# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the *alleged* exposure to the listed chemical that is the subject of this action;
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the plaintiff’s case can be established and the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute;
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and Safety Code § 25249.7(h)(2) (*i.e.*, (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons).

Dated: May 21, 2014



---

Clifford A. Chanler

# SERVICE LIST

The Honorable Nancy O'Malley  
Alameda County District Attorney  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable Terese Drabec  
Alpine County District Attorney  
270 Laramie Street, PO BOX 248  
Markleeville, CA 96120

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court Street  
Jackson, CA 95642

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive  
Oroville, CA 95965

The Honorable Barbara Yook  
Calaveras County District Attorney  
891 Mountain Ranch Road  
San Andreas, CA 95249

The Honorable John R. Poyner  
Colusa County District Attorney  
346 Fifth Street  
Colusa, CA 95932

The Honorable Mark Peterson  
Contra Costa County District Attorney  
900 Ward Street  
Martinez, CA 94553

The Honorable Jon Alexander  
Del Norte County District Attorney  
981 H Street  
Crescent City, CA 95531

The Honorable Vernon Pierson  
El Dorado County District Attorney  
515 Main Street  
Placerville, CA 95667

The Honorable Elizabeth Egan  
Fresno County District Attorney  
2220 Tulare Street, #1000  
Fresno, CA 93721

The Honorable Robert Maloney  
Glenn County District Attorney  
P.O. Box 430  
Willows, CA 95988

The Honorable Paul Gallegos  
Humboldt County District Attorney  
825 5<sup>th</sup> Street  
Eureka, CA 95501

The Honorable Gilbert Otero  
Imperial County District Attorney  
940 West Main Street, Suite 102  
El Centro, CA 92243

The Honorable Arthur Maillet  
Inyo County District Attorney  
P.O. Drawer D  
Independence, CA 93526

The Honorable Lisa Green  
Kern County District Attorney  
1215 Truxtun Avenue  
Bakersfield, CA 93301

The Honorable Greg Strickland  
Kings County District Attorney  
1400 West Lacey Boulevard  
Hanford, CA 93230

The Honorable Donald Anderson  
Lake County District Attorney  
255 North Forbes Street  
Lakeport, CA 95453

The Honorable Robert Burns  
Lassen County District Attorney  
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Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
ATTN: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

1 **PROOF OF SERVICE**

2 *Moorberg v. Caravan Canopy Int'l Inc., et al*  
3 Los Angeles County Superior Court  
4 Case No. BC569198

5 I, Michael R. Colello, declare as follows:

6 I am a citizen of the United States, over the age of eighteen years and not a party to the  
7 within entitled action. On May 27, 2015, I served the attached:

- 8 • **SECOND AMENDED COMPLAINT FOR CIVIL PENALTIES AND  
9 INJUNCTIVE RELIEF**

10 on the interested party(ies) named below:

11 Michael P. Newman  
12 14600 Alondra Blvd.  
13 La Mirada, CA 90638

14 *Attorneys for Defendant CARAVAN  
15 CANOPY INT'L INC. and THE SPORTS  
16 AUTHORITY INC.*

17 I served the attached document(s) in the manner indicated below:

18  **BY MAIL:** I caused true and correct copy(ies) of the above documents to be placed and sealed  
19 in envelope(s) addressed to the addressee(s) named above and, following ordinary business  
20 practices, placed said envelope(s) at the Law Offices of Moscone Emblidge & Otis LLP, 220  
21 Montgomery, Ste. 2100, San Francisco, California, 94104, for collection and mailing with the  
22 United States Postal Service and there is delivery by the United States Post Office at said  
23 address(es). In the ordinary course of business, correspondence placed for collection on a  
24 particular day is deposited with the United States Postal Service that same day.

25  **BY PERSONAL SERVICE:** I caused true and correct copies of the above documents to  
26 be placed and sealed in envelope(s) addressed to the addressee(s) and I caused such  
27 envelope(s) to be delivered by hand on the office(s) of the addressee(s).

28  **BY FACSIMILE:** I caused a copy(ies) of such document(s) to be transmitted via  
facsimile machine. The fax number of the machine from which the document was  
transmitted was (415) 362-2006. The fax number(s) of the machine(s) to which the  
document(s) were transmitted are listed above. The fax transmission was reported as  
complete and without error.


**BY FEDERAL EXPRESS OVERNIGHT:** I caused true and correct copies of the above  
documents to be placed and sealed in envelope(s) addressed to the addressee(s) named  
above and, following ordinary business practices, placed said envelope(s) at the Law Offices  
of Moscone Emblidge & Otis LLP, 220 Montgomery Street, Ste. 2100, San Francisco,  
California, 94104, for collection and mailing with Federal Express. I am informed that there  
is delivery service by Federal Express at the address(es) of the addressee(s) named above.

1 In the ordinary course of business, correspondence placed for collection on a particular day  
2 is deposited with Federal Express that same day.

3  **BY ELECTRONIC MAIL:** I caused true and correct copies of the above documents to  
4 be sent via e-mail to the e-mail addressee(s) named above. I did not receive, within a  
5 reasonable amount of time after the transmission, any electronic message other  
6 indication that the transmission was unsuccessful.

7  **BY CERTIFIED MAIL:** I caused true and correct copy(ies) of the above documents to be  
8 placed and sealed in envelope(s), certified mail, return receipt requested, addressed to the  
9 addressee(s) named above and, following ordinary business practices, placed said envelope(s) at  
10 the Law Offices of Moscone Emblidge & Otis LLP, 220 Montgomery, Ste. 2100, San Francisco,  
11 California, 94104, for collection and mailing with the United States Postal Service and there is  
12 delivery by the United States Post Office at said address(es). In the ordinary course of business,  
13 correspondence placed for collection on a particular day is deposited with the United States Postal  
14 Service that same day.

15 I declare under penalty of perjury under the laws of the State of California that the  
16 foregoing is true and correct. Executed on May 27, 2015, at San Francisco, California.

17   
18 \_\_\_\_\_  
19 Michael Colello