



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Rob Bonta
Attorney General

1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
OAKLAND, CA 94612-0550

Public: (510) 879-1300
Telephone: (510) 879-1300
Facsimile: (510) 622-2270
E-Mail: Susan.Fiering@doj.ca.gov

February 5, 2025

By US Mail and Electronic Delivery

Joel Joseph
P.O. Box 12184
La Jolla, CA 92039
Joeldjoseph@gmail.com

RE: Proposition 65 Notice No. 2024-5394

Dear Mr. Joseph:

We write to you pursuant to the Attorney General's authority under Health and Safety Code section 25249.7, subdivision (e)(1)(A), which is part of the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65." We have reviewed the above 60-day notice of violation and accompanying certificate of merit that you sent to Lipton Tea and Peets¹ on December 30, 2024. The notice alleges that the companies sell products that expose persons to "epichlorohydrin, polypropylene, Di-n-butyl phthalate, Bisphenol A" and other unspecified chemicals without providing a clear and reasonable warning.

As an initial matter, the notice is insufficient since there is no evidence that you complied with the various regulatory requirements, including serving the notice on the District Attorneys and the City Attorneys of certain size cities in California. There is also no evidence that you attached the required summary of Proposition 65. (Health & Saf. Code, § 25249.7, subd. (d); Cal. Code Regs., tit. 27, § 25903.) The notice is therefore not valid.

Further, based on our review of the notice, we have concluded that you have failed to provide sufficient information to indicate that there is a credible basis to conclude that there is merit to each element of the action on which plaintiff will have the burden of proof and that the information relied on does not prove that any affirmative defense has merit. The 60-day notice does not give you authority to file suit in the public interest, or to settle claims based on the alleged violations. We ask that you withdraw the notice immediately. Our position is discussed in more detail below.

Proposition 65 requires companies with ten or more employees to provide clear and reasonable warnings to persons prior to knowingly and intentionally exposing them to chemicals

¹ In the notes section of the Attorney General's website you noted that the "Same basic notice sent to Lipton, Celestial and Mighty Leaf." The only notice we have received from you is the one identified above.

Joel Joseph
February 5, 2025
Page 2

known to cause cancer or reproductive toxicity. (Health & Saf. Code, § 25249.6.) Persons acting in the public interest can bring a private action to enforce Proposition 65 at least 60 days after sending a 60-day notice to the alleged violators and public enforcers, unless the Attorney General or other public enforcer is diligently prosecuting an action against the violation. (*Id.*, § 25249.7, subd. (d).) Before sending a 60-day notice alleging a failure to warn, the private enforcer must consult with an expert who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical. Based on the consultation, the person sending the notice or his or her attorney must execute a certificate of merit stating his or her belief that, based on the consultation, “there is a reasonable and meritorious case for the private action.” (*Id.*, subd. (d)(1).) The enforcer must attach to the Attorney General’s copy of the certificate of merit factual information sufficient to establish the basis of the certificate of merit. (*Ibid.*) The Attorney General must maintain the submitted information as confidential official information to the full extent authorized in Evidence Code section 1040. (*Id.*, subd. (i).) The certificate of merit must document both exposure to the chemical and that there “is merit to each element of the action on which the plaintiff will have the burden of proof.” (Cal. Code Regs., tit. 11, § 3101, subd. (a).) Further, the certifier must certify that “the information relied upon does not prove that any affirmative defense has merit.” (*Ibid.*) If the Attorney General believes there is no merit to the action after reviewing the certificate of merit and meeting and conferring with the private enforcer, the Attorney General must serve a letter on the noticing party and the alleged violator stating this position and make the letter available to the public. (Health & Saf. Code, § 25249.7, subd. (e)(1).)

The referenced 60-day notice alleges that the companies expose persons to certain chemicals in tea products without providing the required warning. We are not able to disclose the contents of the supporting information for the certificate of merit. However, based on our review, we have concluded that you have failed to provide sufficient information to indicate that there is a credible basis to conclude that there is merit to each element of the action on which plaintiff will have the burden of proof and that the information relied upon does not prove that any affirmative defense has merit. Thus, the 60-day notice does not give you authority to file suit in the public interest, or to settle claims based on the alleged violations, and we ask that you withdraw the notice immediately.

Sincerely,

/S/ Susan S. Fiering

SUSAN S. FIERING
Deputy Attorney General

For ROB BONTA
Attorney General

cc: Pierre Laubies
CEO Lipton Tea
121 River St.
Hoboken, NJ 07030
plaubies@ekaterratea.com

Joel Joseph
February 5, 2025
Page 3

Eric Lauterbach
CEO Peet's
1400 Park Avenue
Emeryville, CA 94608
elauterbach@peets.com

SF1994IN0809