

1 Michael Freund SBN 99687  
2 1915 Addison Street  
3 Berkeley, CA 94704  
4 Phone: (510) 540-1992  
5 Facsimile: (510) 540-5543  
6 E-Mail [freundl@aol.com](mailto:freundl@aol.com)

7 J. Scott Kuhn (State Bar No. 190517)  
8 COMMUNITIES FOR A BETTER ENVIRONMENT  
9 5610 Pacific Blvd., Suite 203  
10 Huntington Park, CA 90255  
11 Tel: (323) 826-9771; Fax: (323) 588-7079

12 Attorney for Plaintiff  
13 Communities for a Better Environment

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF LOS ANGELES

16 COMMUNITIES FOR A BETTER  
17 ENVIRONMENT, a California non-profit  
18 corporation,

19 Plaintiff

20 vs.

21 DYN MAVERICK, INC. dba CAMEO  
22 CLEANERS and DOES I-X,

23 Defendants.

CASE NO. BC327818

FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF AND CIVIL PENALTIES

[Health & Safety Code §§ 25249.6  
et seq.]

24  
25 Plaintiff, Communities for a Better Environment ("CBE") hereby alleges:

26 **I**

27 **INTRODUCTION**

28 1. CBE brings this action as a private attorney general on behalf of the People

1 of the State of California and in the public interest pursuant to Health Safety Code section 25249.7  
2 (d). Based on the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety  
3 Code section 25249.5 et seq) also known as "Proposition 65," this Amended Complaint seeks  
4 injunctive and declaratory relief and civil penalties based on DYN Maverick, Inc. dba Cameo  
5 Cleaners' ("Cameo") failure to warn residents and workers in and around Los Angeles, California,  
6 that they have been and continue to be exposed to perchloroethylene (PCE), a chemical known to  
7 the State of California to cause cancer, from the Cameo facility. Under Proposition 65, businesses  
8 with ten or more employees must provide persons with a "clear and reasonable warning" prior to  
9 exposing them to chemicals listed by the State to cause cancer in excess of the no significant risk  
10 level for that chemical. CBE hereby amends the Complaint filed on January 26, 2005 due to  
11 erroneously named defendants and substitutes the correct defendants DYN Maverick Inc. dba  
12 Cameo Cleaners.  
13  
14

## 15 II

### 16 PARTIES

17  
18 2. Plaintiff CBE is an environmental health and justice organization and a 501 (c) (3) non-  
19 profit California corporation with over 25 years of experience in working to prevent and reduce  
20 toxic hazards to human health and the environment. CBE is a membership organization with  
21 approximately 20,000 members throughout the state of California, including thousands living,  
22 working, breathing, owning property, and recreating in the Los Angeles area. CBE has offices in  
23 Oakland and Huntington Park. CBE's organizational goals include protecting and enhancing the  
24 environment and public health by reducing air pollution in California's urban areas, including the  
25 greater Los Angeles metropolitan area. CBE was awarded the Attorney of the Year Award in  
26 2001 for Environmental Law from the State Bar's California Lawyer Magazine. In 2003, CBE  
27  
28

1 received a Good Environmental Stewardship award from the South Coast Air Quality  
2 Management District. CBE lawsuits have resulted in settlements and court orders requiring  
3 companies to spend millions of dollars on the installation of pollution control devices and the  
4 elimination of millions of pounds of toxic, cancer-causing, and ozone layer depleting chemicals.  
5

6 3. DYN Maverick, Inc. is a corporation licensed to do business in the State of California.  
7 doing business as Cameo Cleaners. Cameo operates a dry cleaning facility at 3650 Crenshaw Blvd.,  
8 Los Angeles California 90016.  
9

10 4. Defendants DOES I-X, are named herein under fictitious names, as their true names and  
11 capacities are unknown to Plaintiff. CBE is informed and believes, and thereon alleges, that each of  
12 said DOES is responsible, in some actionable manner, for the events and happenings hereinafter  
13 referred to, either through said Cameo's conduct, or through the conduct of its agents, servants or  
14 employees, or in some other manner, causing the harms alleged by Plaintiff in this Amended  
15 Complaint. When said true names and capacities of DOES are ascertained, CBE will amend the  
16 Complaint to set forth the same.  
17

### 18 III

#### 19 JURISDICTION AND VENUE

20 5. This Court has jurisdiction pursuant to California Constitution Article VI, section 10.  
21

22 6. CBE has performed any and all conditions precedent to the filing of a legal action  
23 pursuant to Proposition 65 by mailing a Notice of Violation, dated July 20, 2004, to the Attorney  
24 General of the State of California, the Los Angeles County District Attorney, Los Angeles City  
25 Attorney, and Cameo. A true and correct copy of this Notice is attached herein as Exhibit A.  
26 More than 60 days have passed since CBE mailed its Notice and no public enforcement entity  
27 has filed a legal action in this case.  
28



1 the chemical was published on the state list. PCE was listed as a carcinogen by the State of  
2 California on April 1, 1988.

3  
4 13. Proposition 65 may be enforced by any person in the public interest who provides notice  
5 sixty days before filing suit to both the violator and designated law enforcement officials. The  
6 failure of law enforcement officials to file a timely legal action enables a citizen suit to be filed  
7 pursuant to Health and Safety Code section 25249.7 (c).

8  
9 14. Proposition 65 provides for injunctive relief and a civil fine of up to \$2,500 per day for each  
10 violation. Health and Safety Code section 25249.7(a) (b). Each individual exposure without  
11 warning is a separate violation.

12 **V**

13 **STATEMENT OF FACTS**

14  
15 15. Cameo conducts dry cleaning operations that include the use of PCE at its Los Angeles  
16 facility. During the course of operations, PCE is emitted into the air and surrounding community as  
17 a fugitive emission.

18  
19 16. PCE has been identified as a hazardous air pollutant pursuant to section 112 of the federal  
20 Clean Air Act (42 U.S.C. section 7412(b)) and has been designated as a toxic air contaminant  
21 pursuant to Health and Safety Code section 39657. Sufficient exposure to PCE can cause also  
22 significant adverse health effects, including central nervous system depression, headache, slurred  
23 speech, drowsiness, dizziness, nausea, loss of coordination and equilibrium, irritation to eyes, nose  
24 and throat, and cancer.

25  
26 17. Cameo reported 3,858 pounds of PCE emissions for the 2002-2003 period to the South Coast  
27 Air Quality Management District. Cameo is one of the higher emitters of PCE in the South Coast  
28 Air Basin. Furthermore, within the last several years, the Air District has issued several Notices of

1 Violation to Cameo for violating air pollution regulations including violations for vapor leaks,  
2 failure to keep records of operation and maintenance functions, failure to document vapor leak, and  
3 failure to operate its waste water separator and evaporator so that no PCE is allowed to vaporize.  
4

5 18. Despite the availability and feasibility of safer solvents, Cameo has failed to eliminate PCE  
6 by substituting a less toxic solvent. Cameo has also failed to install emission control technology at  
7 its facility that would obviate the need to provide a warning to the surrounding community.

8 19. Cameo's facility is located close<sup>d</sup> to residents and workers from other businesses.  
9 The closest residents live approximately 20 meters from the facility; the closest workers are just a  
10 few feet from the facility. Nearby residents, Cameo's workers and workers from other businesses  
11 have been and continue to be exposed to Cameo's PCE emissions.  
12

13 20. The Proposition 65 standard to require a warning in California is 10 excess cancer  
14 risks per one-million persons. Air dispersion modeling using the most sophisticated Environmental  
15 Protection Agency model ISCST3, demonstrates that numerous residents and workers have been  
16 exposed to levels of PCE above the Proposition 65 warning threshold. The study concludes that  
17 there are 95 residents and 36 workers exposed at concentrations requiring a warning; 42 residents  
18 and 17 workers are exposed at concentrations two times the warning level; 15 residents and 6  
19 workers are exposed at concentrations five times the warning level; and 6 residents and 2 workers  
20 are exposed at concentrations ten times the warning level. People are exposed to significant risk  
21 levels of perchloroethylene at distances as far away as 680 feet northeast of the facility.  
22

23 21. Cameo has not provided clear and reasonable warnings to those residents and workers in the  
24 surrounding community who are exposed to PCE from its facility as required by Proposition 65.  
25

26 22. Cameo has knowingly and intentionally exposed families living nearby and workers at its  
27 facility and in the surrounding neighborhood to PCE without providing a clear and reasonable  
28

1 Proposition 65 warning. Cameo has at all times relevant hereto been aware that its operations use a  
2 large amount of PCE, that the chemical escapes into the air as a fugitive emission, that safer  
3 solvents are feasible and available, and that improved emission control technology exists. Cameo  
4 has always been aware that a residential community and other workers are situated close by.  
5 Cameo has operated its facility with knowledge that exposures to these chemicals have occurred.  
6

7 **FIRST CAUSE OF ACTION**

8 **(Violation of section 25249.6 of the Health and Safety Code, Failure to Provide Clear and**  
9 **Reasonable Warning under Proposition 65)**

10 23. CBE refers to paragraphs 1-22, inclusive, and incorporates them herein by this reference.

11 24. Cameo operates a business, which employs ten or more persons.

12 25. By committing the acts alleged above, Cameo has, in the course of doing business,  
13 knowingly and intentionally exposed individuals to a chemical known to the State of California to  
14 cause cancer without first giving clear and reasonable warning to such individuals, within the  
15 meaning of Health and Safety Code section 25249.6.  
16

17 26. Said violations render Cameo liable for civil fines up to \$2,500 (two thousand, five hundred  
18 dollars) per day, for each such violation.  
19

20 27. Cameo's continued violation of the law will irreparably harm CBE and the public  
21 interest in whose behalf Plaintiff brings this action, for which there is no adequate remedy at law.  
22

23 **SECOND CAUSE OF ACTION**

24 **(Declaratory Relief)**

25 28. CBE refers to paragraphs 1-27, inclusive, and incorporates them herein by this reference.

26 29. There exists an actual controversy relating to the legal rights and duties of the parties, within  
27 the meaning of Code of Civil Procedure section 1060, between Plaintiff and Cameo concerning:  
28

1 a. whether Cameo has exposed individuals to a chemical known to the State of California to  
2 cause cancer without providing clear and reasonable warning; and

3  
4 **VI**

5 **JURY DEMAND**

6 30. CBE demands a jury trial.

7 **VII**

8 **PRAYER**

9 WHEREFORE, CBE prays for relief against Cameo as follows:  
10

11 1. On the First Cause of Action, for civil penalties for each and every violation according to  
12 proof;

13 2. On the First Cause of Action, and pursuant to Health and Safety Code section 25249.7 (a), for  
14 such temporary restraining orders, preliminary and permanent injunctive orders, or other orders,  
15 prohibiting Cameo from exposing persons to PCE without providing clear and reasonable warnings;

16 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil  
17 Procedure section 1060 declaring:  
18

19 a. that Cameo has exposed individuals to a chemical known to the State of California to cause  
20 cancer without providing clear and reasonable warning; and  
21

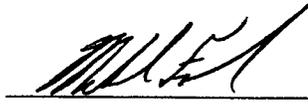
22 4. On all Causes of Action, for reasonable attorneys' fees pursuant to section 1021.5 of the Code  
23 of Civil Procedure or the substantial benefit theory;

24 5. For costs of suit herein; and  
25  
26  
27  
28

1 6. For such other relief as the Court may deem just and proper.

2 Dated: March 10, 2005

3  
4 By



5 Michael Freund  
6 Attorney for Communities for a Better Environment

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MICHAEL FREUND  
ATTORNEY AT LAW  
1915 ADDISON STREET  
BERKELEY, CALIFORNIA 94704-1101

TEL 510/540-1992  
FAX 510/540-5543  
EMAIL FREUND1@ACL.COM

March 11, 2005

Bill Lockyer, Attorney General  
Edward Weil, Deputy Attorney General  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-1413

Steve Cooley, District Attorney  
Los Angeles District Attorney's Office  
210 W. Temple Street  
Room 18-709  
Los Angeles, CA 90012

Rockard Delgadillo, City Attorney  
Los Angeles City Attorney  
200 Main Street  
Los Angeles, CA 90012

Re: Amended Notice of Violation

Dear Prosecutors:

I represent the Communities for a Better Environment ("CBE"), a non-profit California corporation with over 25 years of experience in working to prevent and reduce toxic hazards to human health and the environment. This letter constitutes notification that DYN Maverick, Inc. dba Cameo Cleaners ("Cameo Cleaners"), located at 3650 Crenshaw Blvd., Los Angeles, California 90016, has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this company has exposed and continues to expose numerous individuals within the surrounding area to the following chemical subject to Proposition 65: tetrachloroethylene (perchloroethylene) listed as a carcinogen on April 1, 1988. The time period of this violation commenced one year after the listing of the chemical. The route of exposure has been primarily through inhalation of these chemicals; however additional exposures may arise through dermal contact with, or ingestion of, these chemicals. The general geographic location of the unlawful exposure to the residential community and occupational area lies within a radius of approximately .2 mile from the facility.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Cameo Cleaners is in violation of Proposition 65 because it failed to provide a warning to persons residing and working in the area

surrounding the facility that they have been and continue to be exposed to perchloroethylene. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to this chemical, without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) Moreover, based on the exposure involved, we believe the method of warning should be "... a notice mailed or otherwise delivered to each occupant in the affected area. Such notice shall be provided at least once in any three-month period." (22 C.C.R. section 12601 (d) (1) (B)).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, CBE gives notice of the alleged violation to the noticed party and the appropriate governmental authorities and provides the requisite intent to sue to remedy the violations discussed herein. This notice covers all violations of Proposition 65 that are currently known to CBE from information now available to us. CBE is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

The noticing party is Communities for a Better Environment, 5610 Pacific Blvd., Suite 203, Huntington Park, CA 90255. Telephone: 323: 826-9771. CBE can be contacted through my office, at 1915 Addison Street, Berkeley, CA 94704. Telephone: (510) 540-1992.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: Scott Kuhn, Esq., CBE Legal Director

Enclosure: Proposition 65 Summary prepared by the Office of Environmental Health Hazard Assessment sent to Cameo Cleaners and counsel

## CERTIFICATE OF MERIT

### Health and Safety Code Section 25249.7 (d)

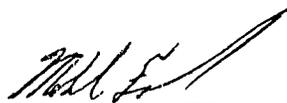
I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings to those persons exposed to tetrachloroethene (also known as perchloroethylene) in and around its facility.
2. I am the attorney for the noticing party Communities for a Better Environment ("CBE").
3. CBE is a non-profit California corporation with over 25 years of experience in working to prevent and reduce toxic hazards to human health and the environment.
4. The Notice of Violation alleges that the party identified emits perchloroethylene into the atmosphere such that nearby residences and workers are exposed to the chemical at levels that require a warning pursuant to Proposition 65. Perchloroethylene was listed as a chemical known to the State of California to cause cancer on April 1, 1988. Please refer to the Notice of Violation for additional details regarding the alleged violations.
5. I have consulted with a scientist with more than 20 years of regulatory and private-sector experience in air quality issues. The consultant has the appropriate experience and expertise regarding the exposure issues in this case. The consultant has reviewed facts, studies or other data regarding the exposure to the listed chemical that is the subject of this action. These facts, studies or other data overwhelmingly demonstrate that the party identified in the Notice exposes residents and workers in and around the facility to a chemical known to the State of California to cause cancer.

6. Based on my consultation with an experienced consultant in this field and especially the results of the exposure assessment, it is clear that there is sufficient evidence that human exposures exist from the emission of perchloroethylene from the noticed party's facility. Furthermore, as a result of the above, I have concluded that 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 violator will be able to establish any of the affirmative defenses set forth in the statute.

7. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 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: July 20, 2004



---

Michael Freund  
Attorney for Communities for a  
Better Environment

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On March 11, 2005 I served the within:

Amended Notice of Violation and Certificate of Merit (Supporting documentation pursuant to 11 CCR section 3102 sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California and/or by hand delivery to said parties addressed as follows:

Attorney General's Office  
Attn: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Oakland, CA 94612

Rockard Delgadillo, City Attorney  
Los Angeles City Attorney  
200 Main Street  
Los Angeles, CA 90012

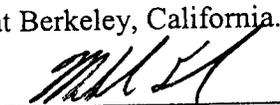
Steve Cooley, District Attorney  
Los Angeles District Attorney's Office  
210 West Temple Street  
Room 18-709  
Los Angeles, CA 90012

Fred Nik  
Cameo Cleaners  
3650 Crenshaw Blvd.  
Los Angeles, CA 90016

Law Offices of Omid Nosrati (counsel for Cameo Cleaners)  
3055 Wilshire Blvd., Suite 630  
Los Angeles, CA 90010

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2005 at Berkeley, California.



Michael Freund

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On May 16, 2005 I served the within:

First Amended Complaint for Injunctive and Declaratory Relief and Civil Penalties on the parties in said action, by facsimile and placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California and/or by hand delivery to said parties addressed as follows:

California Attorney General  
Attn: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Oakland, CA 94612

Law Offices of Omid Nosrati  
3055 Wilshire Blvd., Suite 630  
Los Angeles, CA 90010

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2005 at Berkeley, California.



---

Michael Freund