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12 Oakland, CA 94610  
13 Telephone: (510) 465-5860  
14 daavidroe@mail.com

15 Attorneys for Plaintiffs,  
16 CHRIS MANTHEY, BENSON CHILES and MATEEL ENVIRONMENTAL JUSTICE  
17 FOUNDATION

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
(Unlimited Jurisdiction)

CHRIS MANTHEY; BENSON CHILES and  
MATEEL ENVIRONMENTAL  
JUSTICE FOUNDATION,

Plaintiffs,

v.

CVS PHARMACY, INC.; GENERAL  
NUTRITION CORPORATION; NOW HEALTH  
GROUP, INC.; OMEGA PROTEIN, INC.;  
PHARMAVITE LLC; RITE AID  
CORPORATION; SOLGAR, INC.; and  
TWINLAB CORPORATION

Defendants,

CHRIS MANTHEY, BENSON CHILES and MATEEL ENVIRONMENTAL JUSTICE

COMPLAINT FOR INJUNCTION  
AND CIVIL PENALTIES

SUMMONING ISSUED

CASE MANAGEMENT CONFERENCE SET

JUL 30 2010 - 9:00 AM

DEPARTMENT 212

ENDORSED  
FILED  
San Francisco County Superior Court

MAR 02 2010

CLERK OF THE COURT  
BY: DEBORAH STEPPE  
Deputy Clerk

CASE NO CGC-10-497334

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

1 FOUNDATION allege as follows:

2 INTRODUCTION

3  
4 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
5 failure of defendants CVS PHARMACY, INC.; GENERAL NUTRITION CORPORATION;  
6 NOW HEALTH GROUP, INC.; OMEGA PROTEIN, INC.; PHARMAVITE LLC; RITE AID  
7 CORPORATION; SOLGAR, INC.; and TWINLAB CORPORATION, (hereinafter  
8 “Defendants”), to give clear and reasonable warnings to those residents of California, who  
9 handle, ingest and use dietary supplements that are, or that are made from, fish oil, fish liver oil,  
10 shark oil or shark liver oil (hereinafter “fish oil supplements”), that ingestion of these products  
11 causes those residents to be exposed to polychlorinated biphenyls (hereinafter, collectively,  
12 “PCBs”). PCBs are known to the State of California to cause cancer and birth defects.  
13  
14 Defendants manufacture, distribute, and/or market fish oil supplements. Defendants’ products  
15 cause exposures to PCBs, which are chemicals known to the State of California to cause cancer,  
16 birth defects and other reproductive harm.  
17

18  
19 2. Defendants are businesses that manufacture, market, and/or distribute fish oil  
20 supplements. Defendants intend that residents of California ingest fish oil supplements that  
21 Defendants manufacture, market, and/or distribute. When these products are ingested in their  
22 normally intended manner, they expose people to PCBs. In spite of knowing that residents of  
23 California were and are being exposed to PCBs when they ingest Defendants’ fish oil  
24 supplements, Defendants did not and do not provide clear and reasonable warnings that these  
25 products cause exposure to chemicals known to cause cancer, birth defects and other  
26 reproductive harm. The fish oil supplements to which this Complaint pertains are those  
27  
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referenced in the Products List that accompanied the 60 Day Notice Letter, which is appended to and incorporated by reference in this Complaint.

3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel Defendants to bring their business practices into compliance with section 25249.5 et seq. by providing a clear and reasonable warning to each individual who has been and who in the future may be exposed to the above mentioned toxic chemicals from the reasonably anticipated and intended use of Defendants' products.

4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that Defendants identify and locate each individual person who in the past has purchased Defendants' fish oil supplements and to provide to each such purchaser a clear and reasonable warning that those fish oil supplements cause exposures to chemicals known to cause cancer and birth defects.

PARTIES

5. Plaintiffs Christopher Manthey and Benson Chiles are individuals concerned about human health and environmental protection. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") is a non-profit corporation dedicated to, among other causes, the protection of the environment, promotion of human health, environmental education, and consumer rights. Mateel is based in Eureka, California, and is incorporated under the laws of the State of California. All plaintiffs are "persons" pursuant to Health & Safety Code Section 25118. Plaintiffs bring this enforcement action in the public interest pursuant to Health & Safety

1 Code §25249.7(d). Residents of California are regularly exposed to PCBs from fish oil  
2 supplements manufactured, distributed or marketed by Defendants and are intentionally so  
3 exposed without a clear and reasonable Proposition 65 warning.  
4

5 6. Each Defendant is a person doing business within the meaning of Health & Safety  
6 Code Section 25249.11. Each defendant is a business that manufactures, distributes, and/or  
7 markets fish oil supplements in California, including in the City and County of San Francisco.  
8 Manufacture, distribution and/or marketing of these products in the City and County of San  
9 Francisco, and/or to people who live in San Francisco, causes people to be intentionally exposed  
10 to PCBs while they are physically present in the City and County of San Francisco.  
11

12 7. Plaintiffs bring this enforcement action against Defendants pursuant to Health &  
13 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of the  
14 60-day Notice letter, dated August 6, 2009, which Plaintiffs sent to California's Attorney  
15 General. Letters identical in substance were sent to every District Attorney in the state, and to the  
16 City Attorneys of every California city with a population greater than 750,000. On the same  
17 date, Plaintiffs sent an identical 60 Day Notice letter to Defendants. Attached to the 60-Day  
18 Notice Letter sent to the Defendants was a summary of Proposition 65 that was prepared by  
19 California's Office of Environmental Health Hazard Assessment. In addition, the 60-Day Notice  
20 Letter Plaintiffs sent was accompanied by a Certificate of Service attesting to the service of the  
21 60-Day Notice Letter on each entity which received it. Pursuant to California Health & Safety  
22 Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis  
23 for the action was also sent with the 60-Day Notice Letter. Factual information sufficient to  
24 establish the basis of the Certificate of Merit was enclosed with the 60-Day Notice letter  
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1 Plaintiffs sent to the Attorney General.

2 8. Each Defendant is a business that employs more than ten people.

3 JURISDICTION

4  
5 9. The Court has jurisdiction over this action pursuant to California Health & Safety  
6 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court  
7 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6  
8 of the Health & Safety Code, which contains the statutes under which this action is brought, does  
9 not grant jurisdiction to any other trial court.  
10

11 10. This Court also has jurisdiction over Defendants because they are businesses that  
12 have sufficient minimum contacts in California and within the City and County of San Francisco.  
13 Defendants intentionally availed themselves of the California and San Francisco County markets  
14 for fish oil supplements. It is thus consistent with traditional notions of fair play and substantial  
15 justice for the San Francisco Superior Court to exercise jurisdiction over them.  
16

17 11. Venue is proper in this Court because Defendants market their products in and  
18 around San Francisco and thus intentionally cause people to ingest PCBs while those people are  
19 physically present in San Francisco. Liability for Plaintiffs' causes of action, or some parts  
20 thereof, has accordingly arisen in San Francisco during the times relevant to this Complaint and  
21 Plaintiffs accordingly seek civil penalties and forfeitures imposed by statutes.  
22

23 FIRST CAUSE OF ACTION  
24 (Claim for Injunctive Relief)

25  
26 12. Plaintiff's reallege and incorporate by reference into this First Cause of Action, as  
27 if specifically set forth herein, paragraphs 1 through 11, inclusive.

28 13. The People of the State of California have declared by referendum under

1 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed  
2 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

3  
4 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates  
5 that persons who, in the course of doing business, knowingly and intentionally expose any  
6 individual to a chemical known to the State of California to cause cancer or birth defects, must  
7 first provide a clear and reasonable warning to such individual prior to the exposure.  
8

9 15. Since at least August 6, 2006, Defendants have engaged in conduct that violates  
10 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and  
11 intentionally exposing to PCBs, those California residents who ingest fish oil supplements. The  
12 normally intended use of fish oil supplements causes people to ingest PCBs, which are chemicals  
13 known to the State of California to cause cancer, birth defects and other reproductive harm.  
14 Defendants have not provided clear and reasonable warnings within the meaning of Health &  
15 Safety Code Sections 25249.6 and 25249.11.  
16

17 16. At all times relevant to this action, Defendants knew that the fish oil supplements  
18 they manufactured, distributed or marketed were causing exposures to PCBs. Defendants  
19 intended that residents of California ingest fish oil supplements thereby causing significant  
20 exposures to these chemicals.  
21

22 17. By the above described acts, Defendants have violated Cal. Health & Safety Code  
23 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition  
24 65, to provide warnings to all present and future customers, and to provide warnings to their past  
25 customers who purchased Defendants' products without receiving a clear and reasonable  
26 warning.  
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19. By the above described acts, Defendants and each of them are liable, pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of up to \$2,500.00 per day for each exposure of an individual to PCBs without proper warning from the use of Defendants' fish oil supplements.

Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

B. Pursuant to the Second Cause of Action, that Defendants be assessed a civil penalty in an amount equal to \$2,500.00 per individual knowingly and intentionally exposed per day, in violation of Section 25249.6 of the California Health & Safety Code, to PCBs as the result of Defendants' manufacturing, distributing or marketing of fish oil supplements;

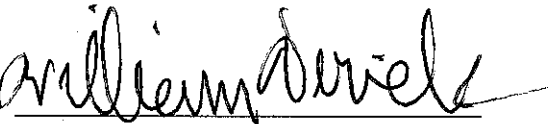
C. That Defendants be ordered to identify and locate each individual who purchased their fish oil supplements and to provide a warning to each such person that the purchased fish oil supplements have exposed, or will expose, that person to chemicals known to cause cancer and birth defects.

1 D. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to  
2 Plaintiffs the attorneys fees and costs it incurred in bringing this enforcement action.

3  
4 5. For such other relief as this court deems just and proper.  
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7

8 Dated: February 24, 2010

KLAMATH ENVIRONMENTAL LAW CENTER

9  
10 By 

11 William Verick

12 Attorney for Plaintiffs Christopher Manthey,  
13 Benson Chiles and the Mateel Environmental Justice  
14 Foundation  
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August 6, 2009

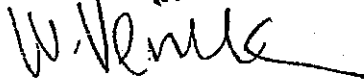
EDWARD G. WEIL  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY GENERAL  
P.O. BOX 70550  
OAKLAND CA 94612-0550

Re: Notice of Violation of Cal. Health & Safety Code § 25249.6 (PCB Exposure)

Greetings:

The Mateel Environmental Justice Foundation ("Mateel"), Chris Manthey and Benson Chiles give you notice that the private businesses listed on the attached Service List have been, are, will be and threaten to be in violation of Cal. Health & Safety Code §25249.6. Mateel, Mr. Manthey and Mr. Chiles are private enforcers of Proposition 65, all may be contacted at the below listed address and telephone number. I am a responsible individual at Mateel. The Noticing Parties are also represented by David Roe. Mr. Roe may be reached at: Law Offices of David Roe, 1061 Walker Ave, Oakland, CA 94610, (510) 465-5860. The above referenced violations occur and have occurred when people ingest dietary supplements that are made wholly, or partly, from fish oil ("fish oil dietary supplements"). Some examples of these types of products are: cod liver oil, Omega -3 oils, supplements made from fish body oils, EPA fish oil concentrates, fish oil concentrates, and DHA fish oil supplements. Specific examples of these types of products are listed in the enclosed Product List. Though a specific variety or brand is mentioned, or an item, SKU or product number is provided as an example, this notice pertains to all kinds, and all variations, of the specific type of fish oil supplement of which the named variety is an example. These fish oil dietary supplements come in caplet form or are spooned out of a bottle. Each and every one of these fish oil dietary supplements exposes the people who take them to polychlorinated biphenyls ("PCBs") via the ingestion, dermal absorption and absorption through mucous membrane routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to PCBs. The above referenced violations have occurred every day since at least August 6, 2006 and will continue every day until the PCBs are taken out of these products or until warnings are given.

Cordially,

  
William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

# SERVICE LIST

EDWARD G. WEIL DEPUTY ATTORNEY GENERAL OFFICE OF THE ATTORNEY GENERAL P.O. BOX 70550 OAKLAND CA 94612-0550	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF GLENN P.O. BOX 430 WILLOWS, CA 95988	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONTEREY 240 CHURCH STREET P.O. BOX 1131 SALINAS, CA 93902	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SISKIYOU P.O. BOX 986 YREKA, CA 96097	KARI RIEDEL, PRESIDENT SOLGAR, INC. 2100 SMITHTOWN AVENUE RONKONKOMA, NY 11779
OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND 565 14TH ST. 12TH FLOOR OAKLAND, CA 94612	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF HUMBOLDT 825 5TH ST. EUREKA, CA 95501	COUNTY OF NAPA 931 PARKWAY MALL P.O. BOX 720 NAPA, CA 94559-0720	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SOLANO 600 UNION AVE FAIRFIELD, CA 94533	WILLIAM W NICHOLSON, CEO TWINLAB CORPORATION 632 BROADWAY 11TH FL NEW YORK, NY 10012
OFFICE OF THE CITY ATTORNEY CITY OF SAN FRANCISCO CITY HALL ROOM 206 400 VAN NESS SAN FRANCISCO, CA 94102	COUNTY OF IMPERIAL COURTHOUSE, FLOOR 2 939 W. MAIN ST EL CENTRO, CA 92243	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF NEVADA 110 UNION STREET NEVADA CITY, CA 95959	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SONOMA 600 ADMINISTRATION DR. #212J SANTA ROSA, CA 95403	
OFFICE OF THE CITY ATTORNEY CITY OF SACRAMENTO PO BOX 1948 SACRAMENTO, CA 95812-1948	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF INYO P.O. DRAWER D INDEPENDENCE, CA 93526	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ORANGE 401 CIVIC CENTER DR WEST SANTA ANA, CA 92701	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF STANISLAUS 11001 ST. #200 MODESTO, CA 95354	
OFFICE OF THE CITY ATTORNEY CITY OF SAN JOSE 200 EAST SANTA CLARA STREET SAN JOSE, CA 95113	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF KERN 1215 TRUXTON AVE. FLOOR 4 BAKERSFIELD, CA 93301	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF PLACER 11562 B AVE AUBURN, CA 95603-2687	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SUTTER 1160 CIVIC CENTER BLVD. #A YUBA CITY, CA 95993	
OFFICE OF THE CITY ATTORNEY CITY OF LOS ANGELES 240 N. MAIN ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF KINGS 1400 W. LACEY BLVD. HAWFORD, CA 93230	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF PLUMAS 520 MAIN STREET #404 QUINCY, CA 95971	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TEHAMA P.O. BOX 519 REDBLUFF, CA 96080	
OFFICE OF THE CITY ATTORNEY CITY OF SAN DIEGO CONSUMER & ENVIRONMENTAL PROTECTION 1200 THIRD AVENUE, SUITE 700 SAN DIEGO, CA 92101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LAKE 255 N. FORBES ST. # 424 LAKEPORT, CA 95453	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF RIVERSIDE 4075 MAIN ST. RIVERSIDE, CA 92501	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TRINITY P.O. BOX 310 WEAVERVILLE, CA 96093	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALAMEDA 1225 FALLON STREET ROOM 900 OAKLAND, CA 94612	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LASSEN 220 SOUTH LASSEN ST. STE 8 SUSANVILLE, CA 96130	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SACRAMENTO 901 G STREET SACRAMENTO, CA 95814	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TULARE COURTHOUSE #224 VISALIA, CA 93291	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALPINE P.O. BOX 248 MARKLEVILLE, CA 96120	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LOS ANGELES 18000 CRIMINAL COURTS BUILDING 210 W. TEMPLE ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN BENITO 419 4TH ST HOLLISTER, CA 95023	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TUOLUMNE 2 S. GREEN ST. SONORA, CA 95370	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF AMADOR 708 COURT STREET JACKSON, CA 95642	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MADERA 209 W. YOSEMITE AVE MADERA, CA 93637	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN BERNARDINO 316 MT. VIEW AVE. SAN BERNARDINO, CA 92415-0004	VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE 806 SOUTH VICTORIA AVE VENTURA, CA 93009	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF BUTTE 25 COUNTY CENTER DR. OROVILLE, CA 95965	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIN HALL OF JUSTICE #183 SAN RAFAEL, CA 94903	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN DIEGO 510 W. BROADWAY SAN DIEGO, CA 92101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YOLO 301 SECOND STREET WOODLAND, CA 95695	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CALAVERAS GOVERNMENT CENTER 891 MOUNTAIN RANCH ROAD SAN ANDREAS, CA 95249	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIPOSA P.O. BOX 730 MARIPOSA, CA 95338	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN FRANCISCO 850 BRYANT ST #322 SAN FRANCISCO, CA 94103	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YUBA 215 5TH ST. MARYSVILLE, CA 95901	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF COLUSA 347 MARKET STREET COLUSA, CA 95932	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MENDOCINO PO BOX 1000 UKIAH, CA 95482	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN JOAQUIN 722 E. WEBER AVE #202 STOCKTON, CA 95202	THOMAS M RYAN, CEO CVS PHARMACY, INC. ONE CVS DRIVE WOONSOCKET, RI 02895	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CONTRA COSTA P.O. BOX 670 MARTINEZ, CA 94553	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MERCED 2222 M ST. MERCED, CA 95340	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN LUIS OBISPO COUNTY GOVERNMENT CENTER #450 SAN LUIS OBISPO, CA 93408	THOMAS M RYAN, CEO LONG DRUG STORES, L.L.C. C/O CVS PHARMACY, INC. ONE CVS DRIVE WOONSOCKET, RI 02895	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF DEL NORTE 450 H ST. #171 CRESCENT CITY, CA 95531	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MODOC 204 SOUTH COURT STREET ALTURAS, CA 96101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN MATEO HALL OF JUSTICE AND RECORDS REDWOOD CITY, CA 94063	JOSEPH FORTUNATO, CEO GENERAL NUTRITION CORPORATION 300 SIXTH AVE PITTSBURGH, PA 15222	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF EL DORADO 515 MAIN ST. PLACERVILLE, CA 95667	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONO P.O. BOX 617 BRIDGEPORT, CA 95317	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA BARBARA 1112 SANTA BARBARA ST. SANTA BARBARA, CA 93101	ALBERT P POWERS, PRESIDENT NOW HEALTH GROUP, INC. 395 S GLEN ELLYN RD BLOOMINGDALE, IL 60108	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF FRESNO 2220 TULARE ST #1000 FRESNO, CA 93721		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CRUZ 701 OCEAN ST. #200 SANTA CRUZ, CA 95060	JOSEPH L. VON ROSENBERG III, PRESIDENT OMEGA PROTEIN, INC. 2101 CITY WEST BLVD, BLDG 3, STE 500 HOUSTON, TX 77042	
		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SHASTA 1525 COURT ST. REDDING, CA 96001	SHUN UCHIDA, CEO PHARMAVITE LLC 810 BALBOA BLVD STE 100 NORTHBRIDGE, CA 91325	
		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SIERRA P.O. BOX 457 DOWNTONVILLE, CA 95936	CONNIE BARRY, CEO PHARMAVITE LLC 8570 BALBOA BLVD STE 100 NORTHBRIDGE, CA 91325	
			MARY SAMMONS, CEO RITE AID CORPORATION 30 HUNTER LANE CAMP HILL, PA 17011	

## PRODUCT LIST

### CVS PHARMACY, INC.

NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200 MG 60 SOFTGELS UPC CODE: 031604 014162 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### GENERAL NUTRITION CORPORATION

GNC CHOLESTEROL FREE FISH BODY OILS WITH GLA UPC CODE: 048107 073312; GNC LIQUID COD LIVER OIL 16 FL OZ UPC CODE: 049107 057657; GNC CHOLESTEROL FREE FISH BODY OILS WITH GLA 1000 MG 180 SOFTGELS UPC CODE: 048107 073305; GNC LIQUID NORWEGIAN COD LIVER OIL 16 FL OZ UPC CODE: 048107 057657 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### NOW HEALTH GROUP, INC.

DOUBLE STRENGTH COD LIVER OIL 650 MG / 100 SOFTGELS UPC CODE: 733739 017406; NOW FOODS SALMON OIL 100 SOFTGELS UPC CODE: 733739 016706; SHARK LIVER OIL 400 MG 120 SOFTGELS UPC CODE: 733739 003256; NOW FOOD MOLECULARLY DISTILLED OMEGA-3 100 SOFTGELS UPC CODE: 733739 016508 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### OMEGA PROTEIN, INC.

OMEGAPURE OMEGA-3 DIETARY SUPPLEMENT 1000MG 90 CAPSULES These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### PHARMAVITE LLC

NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200 MG 60 SOFTGELS UPC CODE: 031604 014162; NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### RITE AID CORPORATION

NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200MG 60 SOFTGELS UPC CODE: 031604 014162 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### SOLGAR, INC.

SOLGAR 100% PURE NORWEGIAN SHARK LIVER OIL COMPLEX 500 MG 60 SOFTGELS UPC CODE: 033984 025660; SOLGAR NORWEGIAN COD LIVER OIL 100 SOFTGELS UPC CODE: 033984 009400 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

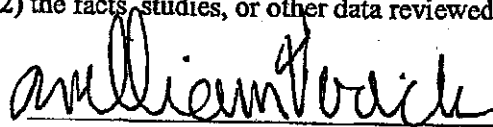
### TWINLAB CORPORATION

TWINLAB EMULSIFIED NORWEGIAN COD LIVER OIL 12 FL OZ UPC CODE: 027434 012102; TWINLAB NORWEGIAN COD LIVER OIL 12 FL OZ UPC CODE: 027434 012249 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

### CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. 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 exposure to the listed chemical that is the subject of the action. 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 plaintiffs' 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. 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 the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 6, 2009

  
William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

### CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On August 6, 2009, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 6, 2009, at Eureka, California.

  
Nicole Frank