

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

WELLNESS WATCHERS GLOBAL, LLC, and DOES 1-25, Inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ENVIRONMENTAL RESEARCH CENTER, a California non-profit corporation,

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DEC 06 2013

John A. Clarke, Executive Officer/Clerk

BY Nancy Alvarez Deputy
Nancy Alvarez

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte lo podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos extras por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Los Angeles County Superior Court
Central District, Stanley Mosk Courthouse, 111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:

(Número del Caso): BC 529471

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): NANCY ALVAREZ
William F. Wraith, 16485 Laguna Cyn. Rd., Ste 250, Encinitas, CA 92618; (949) 251-9977

DATE: DEC 06 2013
(Fecha)

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):

12:01:26 p.m. 12-06-2012

4

Wraith_Law_Fax

From Wraith_Law_Fax

Fri 06 Dec 2013 03:04:08 PM EST

Page 4 of 1

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William F. Wraith, SBN 183527 WRAITH LAW 16485 Laguna Canyon Road, Ste. 250 Irvine, CA 92618 TELEPHONE NO.: (949) 251-9977 FAX NO.: (949) 251-9978 ATTORNEY FOR (Name): Plaintiff Environmental Research Center		FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES DEC 06 2013 John A. Clarke, Executive Officer/Clerk BY <i>[Signature]</i> Deputy Nancy Alvarez	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: Los Angeles, CA 90012 CITY AND ZIP CODE: Central District, Stanley Mosk Courthouse BRANCH NAME:		CASE NAME: Environmental Research Center v. Wellness Watchers Global, LLC, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: JUDGE: BC 529 471 DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (08) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (4b) <input type="checkbox"/> Other PIP/DWD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **2**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 6, 2013
William F. Wraith

[Signature]

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form 1.012

SHORT TITLE: Environmental Research Center v. Wellness Watchers, et al.

CASE NUMBER

BC529471

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (BY FAX)
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item 1. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 7 HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – if you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- 1. Class actions must be filed in the Stanley Mosk Courthouse, central district.
- 2. May be filed in central (other county, or no bodily injury/property damage).
- 3. Location where cause of action arose.
- 4. Location where bodily injury, death or damage occurred.
- 5. Location where performance required or defendant resides.
- 6. Location of property or permanently garaged vehicle.
- 7. Location where petitioner resides.
- 8. Location wherein defendant/respondent functions wholly.
- 9. Location where one or more of the parties reside.
- 10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (46)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7260 Premises Liability (e.g., slip and fall)	1., 4.	
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.	
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.	

1 WILLIAM F. WRAITH, SBN 185927
WRAITH LAW
2 16485 Laguna Canyon Rd., Suite 250
Irvine, California 92618
3 Tel: (949) 251-9977
Fax: (949) 251-9978
4

5 Attorneys for Plaintiff
Environmental Research Center
6

7
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
9 CENTRAL DISTRICT, STANLEY MOSK COURTHOUSE
10

11
12 ENVIRONMENTAL RESEARCH) **Case No.:**
CENTER, a California non-profit)
13 corporation,)
14 Plaintiff,) **COMPLAINT FOR INJUNCTIVE**
) **RELIEF AND CIVIL PENALTIES**
15 vs.) **[Health & Safety Code § 25249.5, et seq.]**
16 WELLNESS WATCHERS GLOBAL,) **[UNLIMITED CIVIL CASE - AMOUNT**
LLC and DOES 1-25, Inclusive,) **DEMANDED EXCEEDS \$25,000]**
17 Defendants.)
18

19 Plaintiff Environmental Research Center, Inc. brings this action in the interests of the
20 general public and, on information and belief, hereby alleges:

21 **INTRODUCTION**

22 1. This action seeks to remedy Defendant's continuing failure to warn consumers in
23 California that they are being exposed to lead, a substance known to the State of California to
24 cause cancer, birth defects and other reproductive harm.

25 2. Defendant has manufactured, packaged, distributed, marketed, sold and/or have
26 otherwise been involved in the chain of commerce of, and continues to manufacture, package,
27 distribute, market, sell and/or otherwise continues to be involved in the chain of commerce of the
28 following ingestible products, which contain the chemical lead and which have been and

1 continue to be offered for sale, sold and/or otherwise provided for use and/or handling to
2 individuals in California:

- 3 a. Ceautamed Worldwide, LLC Greens First
- 4 b. Ceautamed Worldwide, LLC Greens First Berry
- 5 c. Ceautamed Worldwide, LLC Rice Fiber First Stabilized Rice Bran Caplets
- 6 d. Ceautamed Worldwide, LLC Herbal Cleanse First 7- Day, 24 Hour Inner
7 Cleansing Formula

8 These listed products are hereinafter referred to together as “THE PRODUCTS”.

9 3. The use and/or handling of THE PRODUCTS causes exposures to lead at levels
10 requiring a “clear and reasonable warning” under California’s Safe Drinking Water and Toxic
11 Enforcement Act of 1986, Health & Safety Code (“H&S Code”) §25249.5, *et. seq.* (also known
12 as “Proposition 65”). Defendant has failed to provide the health hazard warnings required by
13 Proposition 65.

14 4. The continued manufacturing, packaging, distributing, marketing and/or sales of
15 THE PRODUCTS without the required health hazard warnings, causes individuals to be
16 involuntarily and unwittingly exposed to levels of lead that violate Proposition 65.

17 5. Plaintiff seeks injunctive relief enjoining Defendant from the continued
18 manufacturing, packaging, distributing, marketing and/or selling of THE PRODUCTS for sale or
19 use in California without first providing clear and reasonable warnings, within the meaning of
20 Proposition 65, regarding the risks of cancer, birth defects and other reproductive harm posed by
21 exposure to lead through the use and/or handling of THE PRODUCTS. Plaintiff seeks an
22 injunctive order compelling Defendant to bring each of its business practices into compliance
23 with Proposition 65 by providing clear and reasonable warnings to each individual who may be
24 exposed to lead from the use and/or handling of THE PRODUCTS.

25 6. In addition to injunctive relief, Plaintiff seeks an assessment of civil penalties to
26 remedy Defendant’s failure to provide clear and reasonable warnings regarding exposures to the
27 lead.

28 ///

JURISDICTION AND VENUE

1
2 7. This Court has jurisdiction over this action pursuant to California Constitution
3 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except
4 those given by statute to other trial courts.” The statute under which this action is brought does
5 not specify any other basis for jurisdiction.

6 8. This Court has jurisdiction over Defendant because, based on information and
7 belief, each Defendant is a business having sufficient minimum contacts with California, or
8 otherwise intentionally availing itself of the California market through the marketing,
9 distribution and/or sale of THE PRODUCTS in the State of California to render the exercise of
10 jurisdiction over it by the California courts consistent with traditional notions of fair play and
11 substantial justice.

12 9. This Court is the proper venue for this action because each Defendant has violated
13 California law in the County of Los Angeles. Furthermore, this Court is the proper venue under
14 Code of Civil Procedure §395.5 and H&S Code §25249.7(a), which provides that any person
15 who violates or threatens to violate H&S Code §§25249.5 or 25249.6 may be enjoined in any
16 court of competent jurisdiction.

PARTIES

17
18 10. Plaintiff Environmental Research Center, Inc. (“ERC”) is a non-profit corporation
19 organized under California’s Non-Profit Benefit Corporation Law. ERC is dedicated to, among
20 other causes, reducing the use and misuse of hazardous and toxic substances, consumer
21 protection, worker safety and corporate responsibility.

22 11. ERC is a person within the meaning of H&S Code §25118 and brings this
23 enforcement action in the public interest pursuant to H&S Code §25249.7(d).

24 12. ERC alleges on information and belief that Defendant WELLNESS WATCHERS
25 GLOBAL, LLC is a Florida Limited Liability Company that is a person within the meaning of
26 H&S Code §25249.11(a).

27 13. Defendant manufactured, packaged, distributed, marketed, sold and/or has
28 otherwise been involved in the chain of commerce, and continues to manufacture, package,

1 distribute, market, sell and/or otherwise continue to be involved in the chain of commerce of
2 THE PRODUCTS for sale or use in California. Defendant employs ten or more persons, and is
3 thus a “person in the course of doing business” within the meaning of Proposition 65.

4 14. Defendants DOES 1-25 are named herein under fictitious names, as their true
5 names and capacities are unknown to Plaintiff. ERC is informed and believes, and thereon
6 alleges, that each of said DOES has manufactured, packaged, distributed, marketed, sold and/or
7 has otherwise been involved in the chain of commerce of, and continues to manufacture,
8 package, distribute, market, sell, and/or otherwise continues to be involved in the chain of
9 commerce of THE PRODUCTS for sale or use in California, and/or is responsible, in some
10 actionable manner, for the events and happenings referred to herein, either through its conduct or
11 through the conduct of its agents, servants or employees, or in some other manner, causing the
12 harms alleged herein. Plaintiff will seek leave to amend this Complaint to set forth the true
13 names and capacities of DOES when ascertained.

14 15. Plaintiff is informed and believes and thereon alleges that each of the defendants
15 is in some manner responsible for the events set forth in this Complaint and proximately caused
16 the injuries and damages to Plaintiff as alleged in this Complaint.

17 16. Plaintiff is informed and believes and thereon alleges that at all material times,
18 defendants, and each of them, were the agents, servants, and employees of the other defendant,
19 and each of them in such a way as to cause each defendant to be jointly and severally liable and
20 responsible for the conduct of one another. The conduct of each defendant was within the course
21 and scope of the authority granted each defendant by the other defendant. Each defendant ratified
22 and approved of the acts or omissions of each other such as to cause each to be jointly and
23 severally liable for the conduct of each other defendant.

24 **STATUTORY BACKGROUND**

25 17. The People of the State of California have declared in Proposition 65 their right
26 “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
27 reproductive harm.” (Section 1(b) of Initiative Measure, Proposition 65).

28 18. To effect this goal, Proposition 65 requires that individuals be provided with a

1 California, including in the County of Los Angeles, have been exposed to lead without clear and
2 reasonable warnings. The individuals subject to exposures to lead include normal and
3 foreseeable users of THE PRODUCTS, as well as all other persons exposed to THE
4 PRODUCTS.

5 24. At all times relevant to this action, Defendant has knowingly and intentionally
6 exposed the users and/or handlers of THE PRODUCTS to lead without first giving clear and
7 reasonable warnings to such individuals.

8 25. Individuals using or handling THE PRODUCTS are exposed to lead in excess of
9 the “maximum allowable daily” and “no significant risk” levels determined by the State of
10 California, as applicable.

11 26. At all times relevant to this action, Defendant has, in the course of doing business,
12 failed to provide individuals using and/or handling THE PRODUCTS with clear and reasonable
13 warnings that THE PRODUCTS expose individuals to lead.

14 27. Upon information and belief, Plaintiff alleges THE PRODUCTS continue to be
15 marketed, distributed, and/or sold in California without the requisite clear and reasonable
16 warnings.

17 **FIRST CAUSE OF ACTION**

18 **(Injunctive Relief for Violations of Health and Safety Code §25249.5, et seq.)**

19 28. Plaintiff hereby incorporates by reference each and every preceding allegation and
20 paragraph as though fully set forth in this cause of action.

21 29. On September 17, 2012, Plaintiff sent a 60-Day Notice of Proposition 65
22 violations to the requisite public enforcement agencies and to defendant WELLNESS
23 WATCHERS GLOBAL, LLC (“Notice of Violations”). The Notice of Violations was issued
24 pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d) and the
25 statute’s implementing regulations regarding the notices of violations to be given to certain
26 public enforcement agencies and to the violator. The Notice of Violations was issued as follows:

27 a. Defendant WELLNESS WATCHERS GLOBAL, LLC and the California
28 Attorney General were provided copies of the Notice of Violations, along with a

1 Certificate of Merit by the attorney for the noticing party stating that there is a
2 reasonable and meritorious cause for this action. The requisite county district
3 attorneys and city attorneys were provided copies of the Notices of Violations and
4 Certificate of Merit.

5 b. Defendant WELLNESS WATCHERS GLOBAL, LLC was provided, with the
6 Notice of Violations, a copy of a document entitled “The Safe Drinking Water
7 and Toxic Enforcement Act of 1986 (Proposition 65): A Summary,” which is also
8 known as Appendix A to Title 27 of CCR § 25903.

9 c. The California Attorney General was provided, with the Notice of Violations,
10 additional factual information sufficient to establish a basis for the Certificate of
11 Merit, including the identity of the persons consulted with and relied on by the
12 certifier, and the facts, studies, or other data reviewed by those persons, pursuant
13 to H&S Code §§25249.7(d)(1) and 25249.7(h)(2).

14 30. The appropriate public enforcement agencies have failed to commence and
15 diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against Defendant
16 based on the allegations herein.

17 31. By committing the acts alleged in this Complaint, Defendant at all times relevant
18 to this action, and continuing through the present, has violated and continues to violate H&S
19 Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing
20 individuals who use or handle THE PRODUCTS to the chemical lead at levels exceeding
21 allowable exposure levels without Defendant first giving clear and reasonable warnings to such
22 individuals pursuant to H&S Code §§25249.6 and 25249.11(f). Defendant has manufactured,
23 packaged, distributed, marketed, sold and/or has otherwise been involved in the chain of
24 commerce of, and continues to manufacture, package, distribute, market, sell and/or otherwise
25 continue to be involved in the chain of commerce of THE PRODUCTS, which have been, are,
26 and will be used and/or handled by individuals in California, without Defendant providing clear
27 and reasonable warnings, within the meaning of Proposition 65, regarding the risks of cancer,
28 birth defects and other reproductive harm posed by exposure to lead through the use and/or

1 handling of THE PRODUCTS. Furthermore, Defendant has threatened to violate H&S Code
2 §25249.6 by THE PRODUCTS being marketed, offered for sale, sold and/or otherwise provided
3 for use and/or handling to individuals in California.

4 32. By the above-described acts, Defendant has violated H&S Code §25249.6 and is
5 therefore subject to an injunction ordering Defendant to stop violating Proposition 65, and to
6 provide required warnings to consumers and other individuals who will purchase, use and/or
7 handle THE PRODUCTS.

8 33. An action for injunctive relief under Proposition 65 is specifically authorized by
9 Health & Safety Code §25249.7(a).

10 34. Continuing commission by Defendant of the acts alleged above will irreparably
11 harm the citizens of the State of California, for which harm they have no plain, speedy, or
12 adequate remedy at law.

13 35. Wherefore, Plaintiff prays judgment against Defendant, as set forth hereafter.

14 **SECOND CAUSE OF ACTION**

15 **(Civil Penalties for Violations of Health and Safety Code §25249.5, et seq.)**

16 36. Plaintiff hereby incorporates by reference each and every preceding allegation and
17 paragraph as though fully set forth in this cause of action.

18 37. On September 17, 2012, Plaintiff sent a 60-Day Notice of Proposition 65
19 violations to the requisite public enforcement agencies and to defendant WELLNESS
20 WATCHERS GLOBAL, LLC (“Notice of Violations”). The Notice of Violations was issued
21 pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d) and the
22 statute’s implementing regulations regarding the notices of violations to be given to certain
23 public enforcement agencies and to the violator. The Notice of Violations was issued as follows:

24 a. Defendant WELLNESS WATCHERS GLOBAL, LLC and the California
25 Attorney General were provided copies of the Notice of Violations, along with a
26 Certificate of Merit by the attorney for the noticing party stating that there is a
27 reasonable and meritorious cause for this action. The requisite county district
28 attorneys and city attorneys were provided copies of the Notices of Violations and

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Certificate of Merit.

- b. Defendant WELLNESS WATCHERS GLOBAL, LLC was provided, with the Notice of Violations, a copy of a document entitled “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary,” which is also known as Appendix A to Title 27 of CCR § 25903.
- c. The California Attorney General was provided, with the Notice of Violations, additional factual information sufficient to establish a basis for the Certificate of Merit, including the identity of the persons consulted with and relied on by the certifier, and the facts, studies, or other data reviewed by those persons, pursuant to H&S Code §§25249.7(d)(1) and 25249.7(h)(2).

38. The appropriate public enforcement agencies have failed to commence and diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against Defendant based on the allegations herein.

39. By committing the acts alleged in this Complaint, Defendant at all times relevant to this action, and continuing through the present, has violated and continues to violate H&S Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing individuals who use or handle THE PRODUCTS to the chemical lead at levels exceeding allowable exposure levels without Defendant first giving clear and reasonable warnings to such individuals pursuant to H&S Code §§25249.6 and 25249.11(f). Defendant has manufactured, packaged, distributed, marketed, sold and/or has otherwise been involved in the chain of commerce of, and continues to manufacture, package, distribute, market, sell and/or otherwise continue to be involved in the chain of commerce of THE PRODUCTS, which have been, are, and will be used and/or handled by individuals in California, without Defendant providing clear and reasonable warnings, within the meaning of Proposition 65, regarding the risks of cancer, birth defects and other reproductive harm posed by exposure to lead through the use and/or handling of THE PRODUCTS. Furthermore, Defendant has threatened to violate H&S Code §25249.6 by THE PRODUCTS being marketed, offered for sale, sold and/or otherwise provided for use and/or handling to individuals in California.

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E. Such other and further relief as may be just and proper.

Dated: December 6, 2013

WRAITH LAW



By: _____
WILLIAM F. WRAITH
Attorney for Plaintiff Environmental
Research Center

WRAITH LAW
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