



1 distribute, market, sell and/or otherwise continues to be involved in the chain of commerce of the  
2 following ingestible products, which contain the chemical lead and which have been and  
3 continue to be offered for sale, sold and/or otherwise provided for use and/or handling to  
4 individuals in California:

5 (1) Yoga Wellness LLC Bikram Yoga Bikram Balance Berry

6 (2) Yoga Wellness LLC Bikram Yoga Bikram Balance Original

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

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

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

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

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

27 **JURISDICTION AND VENUE**

28 7. This Court has jurisdiction over this action pursuant to California Constitution

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

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

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

15 **PARTIES**

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

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

22 12. ERC alleges on information and belief that Defendant YOGA WELLNESS, LLC  
23 is a business of unknown form that is a person within the meaning of H&S Code §25249.11(a).

24 13. Defendant manufactured, packaged, distributed, marketed, sold and/or has  
25 otherwise been involved in the chain of commerce, and continues to manufacture, package,  
26 distribute, market, sell and/or otherwise continues to be involved in the chain of commerce of  
27 THE PRODUCTS for sale or use in California. Defendant employs ten or more persons, and is  
28 thus a “person in the course of doing business” within the meaning of Proposition 65.



1 No person in the course of doing business shall knowingly and  
2 intentionally expose any individual to a chemical known to the state to  
3 cause cancer or reproductive toxicity without first giving clear and  
4 reasonable warning to such individual....

5 19. Proposition 65 provides that any person who “violates or threatens to violate” the  
6 statute “may be enjoined in any court of competent jurisdiction.” (H&S Code §25249.7(a).)  
7 “Threaten to violate” is defined to mean creating “a condition in which there is a substantial  
8 probability that a violation will occur.” (H&S Code §25249.11(e).) Violators are liable for civil  
9 penalties of up to \$2,500 per day for each violation of Proposition 65. (H&S Code §25249.7(b).)

10 **FACTUAL BACKGROUND**

11 20. On February 27, 1987, the State of California officially listed the chemical lead as  
12 a chemical known to cause developmental and reproductive toxicity. Lead became subject to the  
13 warning requirement one year later and was therefore subject to the “clear and reasonable”  
14 warning requirements of Proposition 65 beginning on February 27, 1988. (27 California Code of  
15 Regulations (“CCR”) §25000, *et seq.*; H&S Code §25249.5, *et seq.*)

16 21. On October 1, 1992, the State of California officially listed the chemical lead as a  
17 chemical known to cause cancer. Lead became subject to the warning requirement one year later  
18 and was therefore subject to the “clear and reasonable” warning requirements of Proposition 65  
19 beginning on October 1, 1993. (27 CCR §25000, *et seq.*; H&S Code §25249.5, *et seq.*)

20 22. Plaintiff is informed and believes, and based on such information and belief,  
21 alleges THE PRODUCTS have been marketed, distributed and/or sold to individuals in  
22 California without the requisite clear and reasonable warnings. THE PRODUCTS continue to be  
23 marketed, distributed and sold in California without the requisite warning information.

24 23. As a proximate result of acts by Defendant, as a person in the course of doing  
25 business within the meaning of H&S Code §25249.11(b), individuals throughout the State of  
26 California, including in the County of Los Angeles, have been exposed to lead without clear and  
27 reasonable warnings. The individuals subject to exposures to lead include normal and  
28 foreseeable users of THE PRODUCTS, as well as all other persons exposed to THE

1 PRODUCTS.

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

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

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

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

14 **FIRST CAUSE OF ACTION**

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

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

18 29. On December 13, 2013, Plaintiff sent a 60-Day Notice of Proposition 65  
19 violations to the requisite public enforcement agencies and to defendant YOGA WELLNESS,  
20 LLC, (“Notice of Violations”). The Notice of Violations was issued pursuant to, and in  
21 compliance with, the requirements of H&S Code §25249.7(d) and the statute’s implementing  
22 regulations regarding the notices of violations to be given to certain public enforcement agencies  
23 and to the violator. The Notice of Violations was issued as follows:

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

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Merit.

b. Defendant YOGA WELLNESS, 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).

30. 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.

31. 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.





1 Enforcement Act of 1986 (Proposition 65): A Summary,” which is also known as  
2 Appendix A to Title 27 of CCR § 25903.

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

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

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

26 40. By the above-described acts, Defendant is liable, pursuant to H&S Code  
27 §25249.7(b), for a civil penalty of \$2,500 per day for each violation of H&S Code §25249.6  
28 relating to THE PRODUCTS.

