

1398718

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**FILED**  
ALAMEDA COUNTY  
DEC 15 2015  
CLERK OF THE SUPERIOR COURT  
By *[Signature]* Deputy

6 Attorneys for Plaintiff Environmental Research Center, Inc.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**

11 **ENVIRONMENTAL RESEARCH CENTER,**  
12 **INC., a California non-profit corporation**

13 **Plaintiff,**

14 **vs.**

15 **PLEXUS WORLDWIDE, INC., PLEXUS**  
16 **WORLDWIDE LLC., PLEXUS HOLDINGS,**  
17 **INC., and DOES 1-100**

17 **Defendants.**

CASE NO. RG15780958

**FIRST AMENDED COMPLAINT FOR**  
**INJUNCTIVE AND DECLARATORY**  
**RELIEF AND CIVIL PENALTIES**

[Miscellaneous Civil Complaint (42)]  
Proposition 65, Health & Safety Code  
Section 25249.5 et seq.]

19 Plaintiff Environmental Research Center hereby alleges:

21 **INTRODUCTION**

22 1. Plaintiff Environmental Research Center (hereinafter "Plaintiff" or "ERC") brings this  
23 action as a private attorney general enforcer and in the public interest pursuant to Health & Safety  
24 Code section 25249.7, subdivision (d). The Safe Drinking Water and Toxic Enforcement Act of  
25 1986 (Health & Safety Code section 25249.5 et seq.) also known as "Proposition 65," mandates that  
26 businesses with ten or more employees must provide a "clear and reasonable warning" prior to  
27 exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity.  
28 Lead is a chemical known to the State of California to cause cancer, birth defects and other

DEC 15 2015

1 reproductive harm. This complaint seeks injunctive and declaratory relief and civil penalties to  
2 remedy the ongoing failure of Defendants Plexus Worldwide, Inc., Plexus Worldwide, LLC, and  
3 Plexus Holdings, Inc. (hereinafter "Plexus") and Does 1-100 (hereinafter individually referred to as  
4 "Defendant" or collectively as "Defendants") to warn consumers that they have been exposed to  
5 lead from several of Plexus' nutritional health products and at levels requiring a warning pursuant to  
6 Health & Safety Code section 25249.6.

## 7 II

### 8 PARTIES

9 2. Plaintiff ERC is a California non-profit corporation dedicated to, among other causes,  
10 helping safeguard the public from health hazards by reducing the use and misuse of hazardous and  
11 toxic chemicals, facilitating a safe environment for consumers and employees and encouraging  
12 corporate responsibility.

13 3. Defendant Plexus is a business that develops, manufactures, distributes and/or sells  
14 nutritional health products that have exposed users to lead in the State of California within the  
15 relevant statute of limitations period. These "Covered Products" are "Plexus Worldwide Inc.  
16 Fast Relief," "Plexus Worldwide Inc. 96 Protein Go-Pack Chocolate," "Plexus Worldwide Inc. Fast  
17 Relief Nerve Health Support," and "Plexus Worldwide Inc. Block." Plexus is a company subject to  
18 Proposition 65 as it employs ten or more persons, and has employed ten or more persons at all times  
19 relevant to this action.

20 4. Defendants Does 1-100, are named herein under fictitious names, as their true names and  
21 capacities are unknown to ERC. ERC is informed and believes, and thereon alleges, that each of  
22 said Does is responsible, in some actionable manner, for the events and happenings hereinafter  
23 referred to, either through said Defendant's conduct, or through the conduct of its agents, servants or  
24 employees, or in some other manner, causing the harms alleged by ERC in this complaint. When  
25 said true names and capacities of Does are ascertained, ERC will seek leave to amend this complaint  
26 to set forth the same.

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III

JURISDICTION AND VENUE

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

6. This Court has jurisdiction over Plexus because Plexus is a business having sufficient minimum contacts with California, or otherwise intentionally availing itself of the California market through the distribution and/or sale of the Covered Products in the State of California to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

7. The Complaint is based on allegations contained in Notices of Violation dated April 10, 2015 and August 28, 2015, served on the California Attorney General, other public enforcers and Plexus. The Notices of Violation constitute adequate notice to Plexus because they provided adequate information to allow Plexus to assess the nature of the alleged violations, consistent with Proposition 65 and its implementing regulations. Each copy of the Notices of Violation was accompanied by a certificate of merit and a certificate of service, both of which comply with Proposition 65 and its implementing regulations. The Notices of Violation served on Plexus also included a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary". Service of the Notices of Violation and accompanying documents complied with Proposition 65 and its implementing regulations. True and correct copies of the Notices of Violation and associated documents are attached hereto as Exhibit A. More than 60 days have passed since the Notices of Violation were mailed and no public enforcement entity has filed a complaint in this case.

8. This Court is the proper venue for the action because the causes of action have arisen in the County of Alameda where some of the violations of law have occurred. Furthermore, this Court is the proper venue under Code of Civil Procedure section 395.5 and Health & Safety Code section 25249.7.

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IV

STATUTORY BACKGROUND

9 The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute passed as "Proposition 65" by an overwhelming majority vote of the people in November of 1986.

10 The warning requirement of Proposition 65 is contained in Health & Safety Code section 25249.6, which provides:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual, except as provided in Section 25249.10.

11 Implementing regulations for Proposition 65 define expose as "to cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical." An individual may come into contact with a listed chemical through water, air, food, consumer products and any other environmental exposure as well as occupational exposures." (Cal. Code Regs., tit. 27, § 25102, subd. (i).)

12 In this case, the exposures at issue are caused by consumer products. Implementing regulations for Proposition 65 define a consumer product exposure as "an exposure which results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service." (Cal. Code Regs., tit. 27, § 25602, subd. (b).)

13 Whenever a clear and reasonable warning is required under Health & Safety Code section 25249.6, the "method employed to transmit the warning must be reasonably calculated considering the alternative methods available under the circumstances, to make the warning message available prior to exposure." (Cal. Code Regs., tit. 27, § 25601.) The warning requirement may be satisfied by a warning that appears on a product's label or other labeling, shelf labeling, signs, a system of signs, public advertising identifying the system and toll-free information services, or any other system, that provides clear and reasonable warnings. (Cal. Code Regs., tit. 27, § 25603.1, subd. (a)-(d).)

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1 14. Proposition 65 establishes a procedure by which the State is to develop a list of  
2 chemicals "known to the State to cause cancer or reproductive toxicity." (Health & Safety Code,  
3 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12-months after the  
4 chemical was published on the State list. (Health & Safety Code, § 25249.10, subd. (b).) Lead  
5 was listed as a chemical known to the State of California to cause developmental toxicity in the  
6 fetus and male and female reproductive toxicity on February 27, 1987. Lead was listed as a  
7 chemical known to the State of California to cause cancer on October 1, 1992. (State of California,  
8 Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Safe  
9 Drinking Water and Toxic Enforcement Act of 1986, Chemicals Known to the State of California to  
10 Cause Cancer or Reproductive Toxicity.)

11 15. The Maximum Allowable Dose Level for lead as a chemical known to cause  
12 reproductive toxicity is 0.5 micrograms per day. (Cal. Code Regs., tit. 27, § 25805.) The No  
13 Significant Risk Level for lead as a carcinogen is 15 micrograms per day. (Cal. Code Regs., tit.  
14 27, § 25705.)

15 16. Proposition 65 may be enforced by any person in the public interest who provides  
16 notice sixty days before filing suit to both the violator and designated law enforcement officials.  
17 The failure of law enforcement officials to file a timely complaint enables a citizen suit to be filed  
18 pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

19 17. Proposition 65 provides that any person "violating or threatening to violate" Proposition  
20 65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, § 25249.7,  
21 subd. (a).) To "threaten to violate" means "to create a condition in which there is a substantial  
22 probability that a violation will occur." (Health & Safety Code, § 25249.11, subd. (e).)  
23 Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation,  
24 (Health & Safety Code, § 25249.7, subd. (b)(1).)

25 V

26 STATEMENT OF FACTS

27 18. Plexus has developed, manufactured, distributed and/or sold the Covered Products  
28 containing lead into the State of California. Consumption of the Covered Products according to

1 the directions and/or recommendations provided for said products causes consumers to be  
2 exposed to lead at levels requiring a warning. Consumers have been ingesting these products for  
3 many years and continue to ingest these products without any knowledge of their exposure to  
4 lead, a very dangerous chemical.

5 19. For many years, Plexus has knowingly and intentionally exposed numerous persons to  
6 lead, without providing a Proposition 65 warning. Both prior and subsequent to ERC's Notices of  
7 Violation, Plexus failed to provide a warning on the label of the Covered Products. Plexus has at all  
8 times relevant hereto been aware that the Covered Products contained lead and that persons using  
9 these products have been exposed to the chemical. Through its website, Plexus has made various  
10 representations regarding the quality, purity, and beneficial nature of the company's products, as  
11 well as the steps purportedly taken to ensure these qualities:

- 12 • "Plexus Worldwide is committed to providing our Ambassadors with life-changing products  
13 ....."
- 14 • "Our core beliefs are simple: Be Trustworthy, Be Honest, Be Reliable and Be  
15 Responsible."
- 16 • "These beliefs encompass all that we do. You can have confidence in the quality of our  
17 products....."

18 Given the company's attention to product formulation, the team of nutritional experts  
19 employed during the manufacturing process, and the testing purportedly conducted on the  
20 ingredients used in the company's products, Plexus has undoubtedly been aware of the presence of  
21 lead in the Covered Products. Nevertheless, the company's website touts the company's  
22 commitment to consumers, and represents to the public that its products are of the highest quality  
23 with the implication that the products are completely pure and safe. Plexus has been aware of the  
24 lead in the Covered Products and has failed to disclose the presence of this chemical to the public,  
25 who undoubtedly believe they have been ingesting totally healthy and pure products pursuant to the  
26 company's statements.

27 20. Both prior and subsequent to ERC's Notices of Violation, Plexus failed to provide  
28 consumers of the Covered Products with a clear and reasonable warning that they have been

1 exposed to a chemical known to the State of California to cause cancer, birth defects and other  
2 reproductive harm. This failure to provide a warning is ongoing.

3 **FIRST CAUSE OF ACTION**

4 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear**  
5 **and Reasonable Warning under Proposition 65)**

6 21. ERC refers to paragraphs 1-20, inclusive, and incorporates them herein by this  
7 reference.

8 22. By committing the acts alleged above, Plexus has, in the course of doing business,  
9 knowingly and intentionally exposed users of the Covered Products to lead, a chemical known to  
10 the State of California to cause cancer, birth defects and other reproductive harm without first giving  
11 clear and reasonable warning to such individuals, within the meaning of Health & Safety Code  
12 section 25249.6.

13 23. Said violations render Plexus liable for civil penalties up to \$2,500 per day, for each  
14 violation.

15 **SECOND CAUSE OF ACTION**

16 **(Declaratory Relief)**

17 24. ERC refers to paragraphs 1-23, inclusive, and incorporates them herein by this  
18 reference.

19 25. There exists an actual controversy relating to the legal rights and duties of the parties,  
20 within the meaning of Code of Civil Procedure section 1060, between ERC and Plexus concerning  
21 whether Plexus has exposed individuals to a chemical known to the State of California to cause  
22 cancer, birth defects and other reproductive harm without providing clear and reasonable warning.

23 **VI**

24 **PRAYER**

25 WHEREFORE ERC prays for relief as follows:

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

28 //

1           2. On the First Cause of Action, and pursuant to Health & Safety Code section 25249.7  
2 subdivision (a), for such temporary restraining orders, preliminary and permanent injunctive orders,  
3 or other orders as are necessary to prevent Plexus from exposing persons to lead without providing  
4 clear and reasonable warning;

5           3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil  
6 Procedure section 1060 declaring that Plexus has exposed individuals to a chemical known to the  
7 State of California to cause birth defects and other reproductive harm without providing clear and  
8 reasonable warning; and

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

11           5. For costs of suit herein; and

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

13  
14 DATED: December 14, 2015

MICHAEL FREUND & ASSOCIATES

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17 \_\_\_\_\_  
18 Michael Freund  
19 Ryan Hoffman  
20 Attorneys for Plaintiff  
21 ENVIRONMENTAL RESEARCH CENTER,  
22 INC.  
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**Michael Freund & Associates**

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Berkeley, CA 94704  
Voice: 510.560 1992 • Fax: 510.540 5343

Michael Freund, Esq.  
Ryan Hoffman, Esq.

OF COUNSEL  
Denise Ferlich Hoffman, Esq.

April 10, 2015

**NOTICE OF VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified in California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Plexus Worldwide, Inc.  
Plexus Worldwide, LLC  
Plexus Holdings, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Plexus Worldwide Inc. Fast Relief – Lead  
Plexus Worldwide Inc. 96 Protein Go-Pack Chocolate – Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Exhibit A**

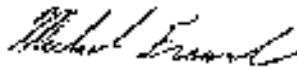
**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least April 10, 2012, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty, and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead.

Sincerely,



Michael Freund

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Plexus Worldwide, Inc.; Plexus Worldwide, LLC; Plexus Holdings, Inc. and their Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Plexus Worldwide, Inc.; Plexus Worldwide, LLC; and Plexus Holdings, Inc.**

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

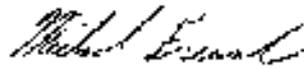
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through these consultants, and on 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 plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §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: April 10, 2015



Michael Freund

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 206 Jay Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On April 10, 2015, I served the following documents: NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1996 (PROPOSITION 65): A SUBMARRY" on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Mr. Teri Robinson, CEO  
Plexus Worldwide, Inc.  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

Osborn Maledon, PA  
(Plexus Worldwide, LLC's Registered Agent  
for Service of Process)  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Current President or CEO  
Plexus Worldwide, LLC  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

Osborn Maledon, PA  
(Plexus Holdings, Inc.'s Registered Agent  
for Service of Process)  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Current President or CEO  
Plexus Holdings, Inc.  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

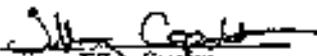
Mr. Teri Robinson, CEO  
Plexus Worldwide, Inc.  
7025 East Greenway Parkway, Suite 250  
Scottsdale, AZ 85254

On April 10, 2015, I verified the following documents: NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <http://top.ca.gov/comp65add-60-day-notice> :

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

On April 10, 2015, I served the following documents: NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on April 10, 2015, in Fort Oglethorpe, Georgia.

  
Tiffany Capellan

Notice of Violation of California Health & Safety Code §25249.5 et seq.

April 10, 2015

Page 5

Service List

District Attorney, Alameda County  
1225 Walnut Street, Suite 900  
Oakland, CA 94612

District Attorney, Alpine County  
P.O. Box 248  
Marblehead, CA 96120

District Attorney, Alameda County  
301 Union Street  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive, Suite 205  
Corvallis, CA 95965

District Attorney, Calaveras County  
691 Mountain Ranch Road  
San Andreas, CA 95266

District Attorney, Colusa County  
346 Fifth Street Suite 301  
Colusa, CA 95922

District Attorney, Contra Costa County  
400 Ward Street  
Martinez, CA 94553

District Attorney, De Marin County  
400 N. Street, Room 133  
Geyserville, CA 95531

District Attorney, El Dorado County  
516 Main Street  
Placerville, CA 95667

District Attorney, Fresno County  
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Fresno, CA 93721

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Willows, CA 95988

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Eureka, CA 95501

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El Centro, CA 92243

District Attorney, Inyo County  
235 W. Line Street  
Bishop, CA 93514

District Attorney, Kern County  
1215 Thurston Avenue  
Bakersfield, CA 93303

District Attorney, Kings County  
1425 West Lacey Boulevard  
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District Attorney, Lake County  
755 N. Forbes Street  
Lakeport, CA 95455

District Attorney, Lassen County  
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Susanville, CA 96130

District Attorney, Los Angeles County  
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District Attorney, Madera County  
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Madera, CA 93637

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San Rafael, CA 94903

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Mariposa, CA 95301

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District Attorney, Merced County  
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Merced, CA 95340

District Attorney, Modoc County  
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Salinas, CA 95068

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Nevada City, CA 95959

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Santa Ana, CA 92701

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Roseville, CA 95678

District Attorney, Plumas County  
510 Main Street, Room 404  
Quincy, CA 95971

District Attorney, Riverside County  
3940 Orange Street  
Riverside, CA 92501

District Attorney, Sacramento County  
901 "C" Street  
Sacramento, CA 95834

District Attorney, San Benito County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

District Attorney, San Bernardino County  
116 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney, San Diego County  
330 West Broadway, Suite 1509  
San Diego, CA 92101

District Attorney, San Francisco County  
150 Bryant Street, Suite 322  
San Francisco, CA 94105

District Attorney, San Joaquin County  
242 E. Weber Ave. Rm. 202  
Stockton, CA 95210

District Attorney, San Luis Obispo County  
1051 Palm St., Room 450  
San Luis Obispo, CA 93408

District Attorney, San Mateo County  
600 County Dr., 2nd Floor  
Redwood City, CA 94061

District Attorney, Santa Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney, Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney, Santa Cruz County  
703 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
1355 West Street  
Redding, CA 96001

District Attorney, Sierra County  
PO Box 457  
Downsville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 916  
Yreka, CA 96097

District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

District Attorney, Sonoma County  
600 Administration Drive,  
Room 212  
Santa Rosa, CA 95405

District Attorney, Stanislaus County  
632 22nd Street, Ste 300  
Modesto, CA 95354

District Attorney, Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama County  
Post Office Box 513  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tulare County  
2215 Motony Blvd., Room 234  
Yuba City, CA 95291

District Attorney, Contra Costa County  
423 N. Washington Street  
Sacramento, CA 95802

District Attorney, Ventura County  
800 South Victoria Ave, Suite 310  
Ventura, CA 93009

District Attorney, Yolo County  
301 2nd Street  
Woodland, CA 95694

District Attorney, Yuba County  
215 Fifth Street, Suite 152  
Marysville, CA 95901

Los Angeles City Attorney's Office  
City Hall East  
206 N. Main Street, Suite 400  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1020  
San Diego, CA 92101

San Francisco City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

San Jose City Attorney's Office  
200 East Santa Clara Street,  
16th Floor  
San Jose, CA 95113

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

#### THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### WHAT DOES PROPOSITION 65 REQUIRE?

*The "Governor's List."* Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as

<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at:

[http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

**Clear and reasonable warnings.** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies; for example, when exposures are sufficiently low (see below). The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

**Prohibition from discharges into drinking water.** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### **DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?**

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

**Grace Period.** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

**Governmental agencies and public water utilities.** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

**Businesses with nine or fewer employees.** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 et seq. of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 et seq. of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in a Food.** Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4)

### **HOW IS PROPOSITION 65 ENFORCED?**

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

### **FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...**

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65PublicComments@oehha.ca.gov](mailto:P65PublicComments@oehha.ca.gov).

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

**Michael Freund & Associates**

1919 Addison Street, Suite 105  
Berkeley, CA 94704  
Voice: 510.540.1992 • Fax: 510.540.5543

Michael Freund, Esq.  
Ryan Hoffman, Esq.

OF COUNSEL:  
Denise Ferlich Hoffman, Esq.

August 28, 2015

**NOTICE OF VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Hepburn. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Plexus Worldwide, Inc.  
Plexus Worldwide, LLC  
Plexus Holdings, Inc.

**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Plexus Worldwide Inc. Fast Relief Nerve Health Support - Lead  
Plexus Worldwide Inc. Block - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1993, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to this

Notice of Violation of California Health & Safety Code §25249.5 et seq.

August 28, 2015

Page 2

chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least August 28, 2012, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead.

Sincerely,



---

Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Plexus Worldwide, Inc.; Plexus Worldwide, LLC; Plexus Holdings, Inc. and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

Re: **Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Plexus Worldwide, Inc.; Plexus Worldwide, LLC; and Plexus Holdings, Inc.**

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

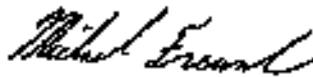
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.

4. Based on the information obtained through those consultants, and on 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 plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §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: August 28, 2015



Michael Freund

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 28, 2015, I served the following documents: NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1996 (PROPOSITION 65): A SUMMARY" on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Mr. Tarr Robinson, CEO  
Plexus Worldwide, Inc.  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

Current President or CEO  
Plexus Worldwide, LLC  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

Current President or CEO  
Plexus Holdings, Inc.  
15649 North Greenway Hayden Loop  
Scottsdale, AZ 85260

Mr. Tarr Robinson, CEO  
Plexus Worldwide, Inc.  
7025 East Greenway Parkway, Suite 230  
Scottsdale, AZ 85254

Osborn Maledon, PA  
(Plexus Worldwide, LLC's Registered Agent  
for Service of Process)  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

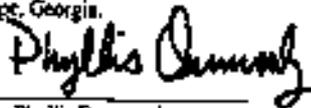
Osborn Maledon, PA  
(Plexus Holdings, Inc.'s Registered Agent  
for Service of Process)  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

On August 28, 2015, I verified the following documents: NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(E) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>;

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

On August 28, 2015, I served the following documents: NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on August 28, 2015, in Fort Oglethorpe, Georgia.

  
Phyllis Dunwoody

Notice of Violation of California Health & Safety Code §25249.5 et seq.

August 28, 2015

Page 5

Service List

- District Attorney, Alameda County  
1221 Fallon Street, Suite 900  
Oakland, CA 94612
- District Attorney, Alpine County  
P.O. Box 268  
Marblehead, CA 94126
- District Attorney, Amador County  
709 Court Street  
Jackson, CA 95814
- District Attorney, Butte County  
25 County Center Drive, Suite 245  
Orlando, CA 95969
- District Attorney, Colusa County  
691 McKinley Ranch Road  
San Andreas, CA 95149
- District Attorney, Colusa County  
360 Hwy 387N Suite 191  
Colusa, CA 95622
- District Attorney, Contra Costa  
County  
980 Ward Street  
Livermore, CA 94550
- District Attorney, Del Norte County  
138 H Street, Room 211  
Crescent City, CA 95531
- District Attorney, El Dorado County  
515 Main Street  
Placerville, CA 95667
- District Attorney, Fresno County  
2229 Tulare Street, Suite 1000  
Fresno, CA 93727
- District Attorney, Glenn County  
Post Office Box 438  
Weaverville, CA 95982
- District Attorney, Humboldt County  
425 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501
- District Attorney, Imperial County  
500 West Main Street, Ste 802  
7000, CA 92543
- District Attorney, Inyo County  
134 W. Lake Street  
Bishop, CA 93514
- District Attorney, Kern County  
1713 Tyndall Avenue  
Palmdale, CA 93551
- District Attorney, Kings County  
1400 West Liberty Boulevard  
Hanford, CA 93230
- District Attorney, Lake County  
255 N. Farley Street  
Lakeport, CA 94553
- District Attorney, Lassen County  
270 South Lassen Street, Ste. B  
Susanville, CA 96130
- District Attorney, Los Angeles  
County  
138 West Temple Street, Suite  
#8000  
Los Angeles, CA 90012
- District Attorney, Madera County  
207 West Yosemite Avenue  
Madera, CA 93637
- District Attorney, Marin County  
1901 Civic Center Drive, Room 120  
San Rafael, CA 94903
- District Attorney, Mariposa County  
Post Office Box 750  
Mariposa, CA 95338
- District Attorney, Mendocino  
County  
Post Office Box 1000  
Ukiah, CA 95422
- District Attorney, Merced County  
158 W. Main Street  
Holtwood, CA 95340
- District Attorney, Merced County  
284 S. Court Street, Room 202  
Alhambra, CA 95101-8829
- District Attorney, Mono County  
Post Office Box 917  
Bridgeport, CA 95217
- District Attorney, Monterey County  
Post Office Box 1151  
Salinas, CA 95069
- District Attorney, Mono County  
977 Parkway Mall  
Yuba, CA 95159
- District Attorney, Nevada County  
585 Commercial Street  
Nevada City, CA 95959
- District Attorney, Orange County  
481 West Civic Center Drive  
Santa Ana, CA 92709
- District Attorney, Placer County  
10810 Rustic Center Drive, Ste 201  
Roseville, CA 95678
- District Attorney, Plumas County  
320 Main Street, Room 634  
Dunsmuir, CA 95924
- District Attorney, Riverside County  
3950 Orange Street  
Riverside, CA 92501
- District Attorney, San Bernardino  
County  
901 W. 9<sup>th</sup> Street  
Sedgwick, CA 92314
- District Attorney, San Benito  
County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023
- District Attorney, San Bernardino  
County  
116 N. Mountain View Avenue  
San Bernardino, CA 92415-0404
- District Attorney, San Diego County  
330 West Broadway, Suite 1300  
San Diego, CA 92101
- District Attorney, San Francisco  
County  
630 Bryant Street, Suite 323  
San Francisco, CA 94109
- District Attorney, San Joaquin  
County  
222 E. Weber Ave., Box 202  
Stockton, CA 95202
- District Attorney, San Luis Obispo  
County  
823a Palm St., Room 438  
San Luis Obispo, CA 94680
- District Attorney, San Mateo County  
409 County Cir., 3rd Floor  
Redwood City, CA 94063
- District Attorney, Santa Barbara  
County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101
- District Attorney, Santa Clara  
County  
38 West Holladay Street  
San Jose, CA 95110
- District Attorney, Santa Cruz  
County  
180 Castro Street, Room 100  
Santa Cruz, CA 95060
- District Attorney, Shasta County  
1385 Main Street  
Redding, CA 96001
- District Attorney, Sierra County  
PO Box 437  
Downsville, CA 95926
- District Attorney, Siskiyou County  
Post Office Box 686  
Yreka, CA 96097
- District Attorney, Solano County  
675 Tuttle Street, Ste 4500  
Fairfield, CA 94533
- District Attorney, Sonoma County  
600 Administration Drive,  
Room 2121  
Santa Rosa, CA 95403
- District Attorney, Stanislaus County  
832 12th Street, Ste 300  
Modesto, CA 95204
- District Attorney, Sutter County  
445 Second Street  
Yuba City, CA 95994
- District Attorney, Tehama County  
Post Office Box 159  
East Hill, CA 96080
- District Attorney, Trinity County  
Post Office Box 146  
Weaverville, CA 96093
- District Attorney, Tulare County  
211 S. Broadway Blvd., Room 224  
Visalia, CA 93278
- District Attorney, Tuolumne County  
427 N. Washington Street  
Sonora, CA 95350
- District Attorney, Ventura County  
800 South Ventura Ave, Suite 214  
Ventura, CA 93009
- District Attorney, Yuba County  
301 3rd Street  
Woodland, CA 95695
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215 Fifth Street, Suite 152  
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- San Diego City Attorney's Office  
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San Diego, CA 92101
- San Francisco City Attorney  
City Hall E, Room 236  
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- San Jose City Attorney's Office  
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**Exposures that pose no significant risk of cancer.** For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 et seq. of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 et seq. of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in a Food.** Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

<sup>2</sup> See Section 25501(a)(4)

#### *HOW IS PROPOSITION 65 ENFORCED?*

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

#### *FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65PublicComments@oehha.ca.gov](mailto:P65PublicComments@oehha.ca.gov).

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

CERTIFICATE OF SERVICE

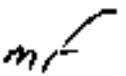
I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On December 22, 2015 I served the within:

First Amended Complaint for Injunctive and Declaratory Relief and Civil Penalties (Environmental Research Center v. Plexus Worldwide, Inc. et al., Alameda Case No. RG15780958)

on the parties in said action, via electronic mail and/or 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:

Peg Toledo  
Toledo Don LLP  
3001 Douglas Blvd., Suite 340  
Roseville, CA 95661

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on December 22, 2015 at Berkeley, California.

  
\_\_\_\_\_  
Michael Freund