

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 10 2017

CLERK OF THE SUPERIOR COURT

Anita Dhir

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2 Ryan Hoffman SBN 283297  
3 Michael Freund & Associates  
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5 Berkeley, CA 94704  
6 Telephone: (510) 540-1992  
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8 Attorneys for Plaintiff Environmental Research Center, Inc.

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

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

13 **Plaintiff,**

14 vs.

15 **MASON VITAMINS, INC., individually and**  
16 **doing business as MASON NATURAL, ITO**  
17 **EN (NORTH AMERICA) INC., individually**  
18 **and doing business as MASON NATURAL,**  
19 **MASON DISTRIBUTORS, INC., individually**  
20 **and doing business as MASON NATURAL,**  
21 **and DOES 1-100**

22 **Defendants.**

23 CASE NO. *RG17 785412*

24 **COMPLAINT FOR INJUNCTIVE**  
25 **AND DECLARATORY RELIEF AND**  
26 **CIVIL PENALTIES**

27 [Toxic Tort/Environmental (30)]  
28 Proposition 65, Health & Safety Code  
Section 25249.5 et seq.]

29 Plaintiff Environmental Research Center, Inc. hereby alleges:

30 I

31 **INTRODUCTION**

32 1. Plaintiff Environmental Research Center, Inc. (hereinafter "Plaintiff" or "ERC") brings  
33 this action as a private attorney general enforcer and in the public interest pursuant to Health &  
34 Safety Code section 25249.7, subdivision (d). The Safe Drinking Water and Toxic Enforcement  
35 Act of 1986 (Health & Safety Code section 25249.5 *et seq.*) also known as "Proposition 65,"

1 mandates that businesses with ten or more employees must provide a “clear and reasonable  
2 warning” prior to exposing any individual to a chemical known to the state to cause cancer or  
3 reproductive toxicity. Lead is a chemical known to the State of California to cause cancer, birth  
4 defects, and other reproductive harm. This complaint seeks injunctive and declaratory relief and  
5 civil penalties to remedy the ongoing failure of Defendants Mason Vitamins, Inc., individually  
6 and doing business as Mason Natural, ITO EN (North America) Inc., individually and doing  
7 business as Mason Natural, Mason Distributors, Inc., individually and doing business as Mason  
8 Natural (collectively "Mason Natural") and Does 1-100 (hereinafter individually referred to as  
9 “Defendant” or collectively as “Defendants”), to warn consumers that they have been exposed  
10 to lead from a number of Mason Natural’s nutritional health products as set forth in paragraph 3  
11 at levels exceeding the applicable Maximum Allowable Dose Level (“MADL”) and requiring a  
12 warning pursuant to Health & Safety Code section 25249.6.

## 13 II

### 14 PARTIES

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

19 3. Defendants Mason Vitamins, Inc., individually and doing business as Mason Natural,  
20 ITO EN (North America) Inc., individually and doing business as Mason Natural, and Mason  
21 Distributors, Inc., individually and doing business as Mason Natural, are each a business that  
22 develops, manufactures, markets, distributes, and/or sells nutritional health products that have  
23 exposed users to lead in the State of California within the relevant statute of limitations period.  
24 These “SUBJECT PRODUCTS” are: (1) Mason Natural Colon Herbal Cleanser, (2) Mason  
25 Natural Fat Burner Plus Super Citrimax with Chromium Picolinate, 5-HTP & Thermogenic  
26 Herbals, (3) Mason Natural Coral Calcium 1500mg Plus Vitamin D & Magnesium, (4) Mason  
27 Natural Garcinia Cambogia 500 mg, (5) Mason Natural Coral Calcium 1000mg, (6) Mason  
28 Natural Spirulina Blue-Green Algae 500 MG, (7) Mason Natural Coral Calcium 1500mg Plus

1 Vitamin D & Magnesium, (8) Mason Natural Fat Burner Plus Super Citrimax, (9) Mason  
2 Natural Echinacea 500 MG, (10) Mason Natural Double Strength +D Glucosamine Chondroitin  
3 Bone Health Plus Vitamin D<sup>3</sup> 2000iu, and (11) Mason Natural Glucosamine Sulfate 500 MG.  
4 Mason Natural is a company subject to Proposition 65 as it employs ten or more persons, and  
5 has employed ten or more persons at all times relevant to this action.

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

### 13 III

#### 14 JURISDICTION AND VENUE

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

19 6. This Court has jurisdiction over Mason Natural because Mason Natural is a business  
20 having sufficient minimum contacts with California, or otherwise intentionally availing itself of  
21 the California market through the marketing, distribution, and/or sale of the SUBJECT  
22 PRODUCTS in the State of California to render the exercise of jurisdiction over it by the  
23 California courts consistent with traditional notions of fair play and substantial justice.

24 7. The Complaint is based on allegations contained in a Notice of Violation dated  
25 December 16, 2016, served on the California Attorney General, other public enforcers, Mason  
26 Vitamins, Inc., individually and doing business as Mason Natural, ITO EN (North America)  
27 Inc., individually and doing business as Mason Natural, and Mason Distributors, Inc.,  
28 individually and doing business as Mason Natural. The Notice of Violation constitutes adequate

1 notice to Mason Natural because it provided adequate information to allow Mason Natural to  
2 assess the nature of the alleged violations, consistent with Proposition 65 and its implementing  
3 regulations. A certificate of merit and a certificate of service accompanied each copy of the  
4 Notice of Violation, both of which comply with Proposition 65 and its implementing  
5 regulations. The Notice of Violation served on Mason Vitamins, Inc., individually and doing  
6 business as Mason Natural, ITO EN (North America) Inc., individually and doing business as  
7 Mason Natural, and Mason Distributors, Inc., individually and doing business as Mason  
8 Natural, also included a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986  
9 (Proposition 65): A Summary." Service of the Notice of Violation and accompanying  
10 documents complied with Proposition 65 and its implementing regulations. Attached hereto as  
11 **Exhibit A** is a true and correct copy of this Notice of Violation and associated documents. More  
12 than 60 days have passed since ERC mailed the Notice of Violation and no public enforcement  
13 entity has filed a complaint in this case.

14 8. This Court is the proper venue for the action because the causes of action have arisen in  
15 the County of Alameda where some of the violations of law have occurred, and will continue to  
16 occur, due to the ongoing sale of Mason Natural's products. Furthermore, venue is proper in this  
17 Court under Code of Civil Procedure section 395.5 and Health & Safety Code section 25249.7.

#### 18 IV

#### 19 STATUTORY BACKGROUND

20 9. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
21 passed as "Proposition 65" by an overwhelming majority vote of the people in November of  
22 1986.

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

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

1 11. Implementing regulations for Proposition 65 define expose as “to cause to ingest, inhale,  
2 contact via body surfaces or otherwise come into contact with a listed chemical.” An individual  
3 may come into contact with a listed chemical through water, air, food, consumer products and  
4 any other environmental exposure as well as occupational exposures.” (Cal. Code Regs., tit. 27,  
5 § 25102, subd. (i).)

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

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

19 14. Proposition 65 establishes a procedure by which the State is to develop a list of  
20 chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code,  
21 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12-months after the  
22 chemical is published on the State list. (Health & Safety Code, § 25249.10, subd. (b).)

23 15. Lead was listed as a chemical known to the State of California to cause developmental  
24 toxicity in the fetus and male and female reproductive toxicity on February 27, 1987. Lead was  
25 listed as a chemical known to the State of California to cause cancer on October 1, 1992. (State  
26 of California EPA OEHHA Safe Drinking Water and Toxic Enforcement Act of 1986  
27 Chemicals Known to the State to Cause Cancer and Reproductive Toxicity.) The MADL for  
28 lead as a chemical known to cause reproductive toxicity is 0.5 micrograms per day. (Cal. Code

1 Regs., tit. 27, §25805, subd. (b).) The No Significant Risk Level for lead as a carcinogen is 15  
2 micrograms per day. (Cal. Code Regs., tit. 27, §25705, subd. (b).)

3 16. Proposition 65 provides that any person “violating or threatening to violate” Proposition  
4 65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, §25249.7,  
5 subd. (a).) To “threaten to violate” means “to create a condition in which there is a substantial  
6 probability that a violation will occur.” (Health & Safety Code, § 25249.11, subd. (e).)  
7 Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation.  
8 (Health & Safety Code, § 25249.7, subd. (b)(1).)

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

13 V

14 **STATEMENT OF FACTS**

15 18. Mason Natural has developed, manufactured, marketed, distributed, and/or sold the  
16 SUBJECT PRODUCTS containing lead into the State of California. Consumption of the  
17 SUBJECT PRODUCTS according to the directions and/or recommendations provided for said  
18 products causes consumers to be exposed to lead at levels exceeding the 0.5 micrograms per day  
19 MADL and requiring a warning. Consumers have been ingesting these products for many years,  
20 without any knowledge of their exposure to lead, a very dangerous chemical. For many years,  
21 Mason Natural has knowingly and intentionally exposed numerous persons to lead without  
22 providing a Proposition 65 warning. Prior to ERC’s Notice of Violation and this Complaint,  
23 Mason Natural failed to provide a warning on the labels of the SUBJECT PRODUCTS. Mason  
24 Natural has at all times relevant hereto been aware that the SUBJECT PRODUCTS contained  
25 lead and that persons using these products have been exposed to this chemical. On Mason  
26 Natural’s website, the company makes various representations regarding the quality and  
27 beneficial nature of the company’s products as well as the steps purportedly taken to ensure  
28 those qualities. These statements include but are not limited to the following:

- 1 • “Thank you for choosing Mason Natural, our company was established with one  
2 priority, to provide our customers with quality, affordable, safe products for the entire  
3 family.”
- 4 • “Our team is always hard at work making sure that our products are manufactured to the  
5 highest standards while bringing new innovative products to the market place.”
- 6 • “Our products are manufactured and tested in the USA using state of the art machinery  
7 and laboratories that are cGMP compliant.”
- 8 • “We know your health and families’ health is your number one priority. Therefore over  
9 the years we have added over 400 vitamins and supplements to our expanding line to fit  
10 your health needs.”

11 19. Given Mason Natural’s attention to product formulation, quality control and many years  
12 of research purportedly conducted on the ingredients used in the company’s products, Mason  
13 Natural has been aware of the presence of lead in the SUBJECT PRODUCTS and has failed to  
14 disclose the presence of this chemical to the public, who undoubtedly believe they have been  
15 ingesting totally healthy and pure products pursuant to the company’s statements.

16 20. Both prior and subsequent to ERC’s Notice of Violation, Mason Natural failed to  
17 provide consumers of the SUBJECT PRODUCTS with a clear and reasonable warning that they  
18 have been exposed to a chemical known to the State of California to cause cancer, birth defects  
19 and other reproductive harm. This failure to warn is ongoing.

20  
21 **FIRST CAUSE OF ACTION**  
22 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear and**  
23 **Reasonable Warning under Proposition 65)**

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

26 22. By committing the acts alleged above, Mason Natural has, in the course of doing  
27 business, knowingly and intentionally exposed users of the SUBJECT PRODUCTS to lead, a  
28 chemical known to the State of California to cause cancer, birth defects, and other reproductive

1 harm, without first giving clear and reasonable warning to such individuals within the meaning  
2 of Health & Safety Code section 25249.6. In doing so, Mason Natural has violated Health &  
3 Safety Code section 25249.6, and continues to violate the statute with each successive sale of  
4 the SUBJECT PRODUCTS.

5 23. Said violations render Mason Natural liable for civil penalties, up to \$2,500 per day for  
6 each violation, and subject Mason Natural to injunction.

7  
8 **SECOND CAUSE OF ACTION**  
9 **(Declaratory Relief)**

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

12 25. There exists an actual controversy relating to the legal rights and duties of the Parties,  
13 within the meaning of Code of Civil Procedure section 1060, between ERC and Mason Natural,  
14 concerning whether Mason Natural has exposed individuals to a chemical known to the State of  
15 California to cause cancer, birth defects, and other reproductive harm without providing clear  
16 and reasonable warning.

17 **VI**

18 **PRAYER**

19 WHEREFORE ERC prays for relief as follows:

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

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

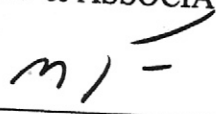
26 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil  
27 Procedure section 1060 declaring that Mason Natural has exposed individuals to lead without  
28 providing clear and reasonable warning; and



- 1 4. On all Causes of Action, for reasonable attorneys' fees pursuant to Code of Civil
- 2 Procedure section 1021.5 or the substantial benefit theory;
- 3 5. For costs of suit herein; and
- 4 6. For such other relief as the Court may deem just and proper.
- 5

6 DATED: 3/8, 2017

MICHAEL FREUND & ASSOCIATES



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Michael Freund  
Ryan Hoffman  
Attorneys for Plaintiff  
ENVIRONMENTAL RESEARCH CENTER, INC.

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EXHIBIT A

**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 Ferkich Hoffman, Esq.

December 16, 2016

**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 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:

**Mason Vitamins, Inc., individually and doing business as Mason Natural  
ITO EN (North America) Inc., individually and doing business as Mason Natural  
Mason Distributors, Inc., individually and doing business as Mason Natural**

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

1. **Mason Natural Colon Herbal Cleanser - Lead**
2. **Mason Natural Fat Burner Plus Super Citrimax with Chromium Picolinate, 5-HTP & Thermogenic Herbals - Lead**
3. **Mason Natural Coral Calcium 1500mg Plus Vitamin D & Magnesium - Lead**
4. **Mason Natural Garcinia Cambogia 500 mg - Lead**
5. **Mason Natural Coral Calcium 1000mg - Lead**
6. **Mason Natural Spirulina Blue-Green Algae 500 MG - Lead**
7. **Mason Natural Coral Calcium 1500mg Plus Vitamin D & Magnesium- Lead**
8. **Mason Natural Fat Burner Plus Super Citrimax - Lead**
9. **Mason Natural Echinacea 500 MG - Lead**

**10. Mason Natural Double Strength +D Glucosamine Chondroitin Bone Health Plus Vitamin D<sup>3</sup> 2000iu - Lead**

**11. Mason Natural Glucosamine Sulfate 500 MG - 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.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least December 16, 2013, 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 or at [freund1@aol.com](mailto:freund1@aol.com).**

Sincerely,



Michael Freund

**Attachments**

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Mason Vitamins, Inc. individually and doing business as Mason Natural, ITO EN (North America) Inc., individually and doing business as Mason Natural, Mason Distributors, Inc., individually and doing business as Mason Natural, 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 Mason Vitamins, Inc., individually and doing business as Mason Natural, ITO EN (North America) Inc., individually and doing business as Mason Natural, and Mason Distributors, Inc., individually and doing business as Mason Natural**

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: December 16, 2016



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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 December 16, 2016, 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 1986 (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:

Current CEO or President  
Mason Vitamins, Inc., individually and  
doing business as Mason Natural  
15750 NW 59<sup>th</sup> Avenue  
Miami Lakes, FL 33014

The Corporation Trust Company  
(ITO EN (North America) Inc., individually  
and doing business as Mason Natural's Registered  
Agent for Service of Process)  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

Current CEO or President  
Mason Distributors, Inc., individually and  
doing business as Mason Natural  
15750 NW 59<sup>th</sup> Avenue  
Miami Lakes, FL 33014

CT Corporation System  
(ITO EN (North America) Inc., individually  
and doing business as Mason Natural's Registered  
Agent for Service of Process)  
1200 South Pine Island Road  
Plantation, FL 33324

Current CEO or President  
ITO EN (North America) Inc., individually  
and doing business as Mason Natural  
20 Jay Street, Suite 530  
Brooklyn, NY 11201

Rona Tison  
(ITO EN (North America) Inc., individually  
and doing business as Mason Natural's Registered  
Agent for Service of Process)  
19334 Spring Drive  
Sonoma, CA 95476

CorpDirect Agents, Inc.  
(Mason Distributors, Inc., individually  
and doing business as Mason Natural's  
Registered Agent for Service of Process)  
1200 South Pine Island Road  
Plantation, FL 33324

NRAI Services, Inc.  
(Mason Vitamins, Inc., individually and  
doing business as Mason Natural's  
Registered Agent for Service of Process)  
1200 South Pine Island Road  
Plantation, FL 33324

On December 16, 2016, 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 <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 December 16, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

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

December 16, 2016

Page 5

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator  
Lassen County  
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mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney  
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Stephan R. Passalacqua, District Attorney  
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Sonoma, CA 95403  
jbarnes@sonoma-county.org

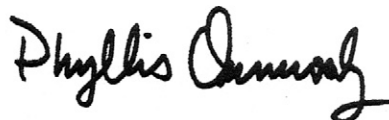
Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
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Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
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daspecialops@ventura.org

Jeff W. Reisig, District Attorney  
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301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

On December 16, 2016, 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 December 16, 2016, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

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

District Attorney, Alpine County  
P.O. Box 248  
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District Attorney, Amador County  
708 Court Street, Suite 202  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive, Suite 245  
Oroville, CA 95965

District Attorney, Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney, Colusa County  
346 Fifth Street Suite 101  
Colusa, CA 95932

District Attorney, Del Norte County  
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Crescent City, CA 95531

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

District Attorney, Fresno County  
2220 Tulare Street, Suite 1000  
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District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

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El Centro, CA 92243

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230 W. Line Street  
Bishop, CA 93514

District Attorney, Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

District Attorney, Lake County  
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Lakeport, CA 95453

District Attorney, Los Angeles County  
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Los Angeles, CA 90012

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San Rafael, CA 94903

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Ukiah, CA 95482

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Merced, CA 95340

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204 S Court Street, Room 202  
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520 Main Street, Room 404  
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Los Angeles, CA 90012

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San Diego, CA 92101

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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. Please refer 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.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) 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 "Proposition 65 List."** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. 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 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 Proposition 65. 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. The warning given must be "clear and

reasonable.” This means that the warning must: (1) clearly say 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 to that chemical. 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 Periods.*** 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 under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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 causing the exposure 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 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 Food.** Certain exposures to chemicals that naturally occur in foods (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 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.

### **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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement 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.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off- premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;

Date: December 16, 2016

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.

Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108

Phone number: 619-500-3090

## **SPECIAL COMPLIANCE PROCEDURE**

### **PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

**The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:**

1. You have actually taken the corrective steps that you have certified in this form
2. The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice
3. The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.
4. This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.

### **PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

### **IMPORTANT NOTES:**

1. You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.
2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date: December 16, 2016

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.  
Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108  
Phone number: 619-500-3090

**PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

\_\_\_\_\_  
Signature of alleged violator or authorized representative Date

\_\_\_\_\_  
Name and title of signatory

**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 [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2014

<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>.

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

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

## **HISTORY**

1. New Appendix A filed 4-22-97; operative 4-22-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 17).
2. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12903 and Appendix A to title 27, section 25903 and Appendix A, including amendment of appendix, filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).
4. Amendment filed 11-19-2012; operative 12-19-2012 (Register 2012, No. 47).
5. Amendment of appendix and Note filed 11-19-2014; operative 1-1-2015 (Register 2014, No. 47).

This database is current through 9/18/15 Register 2015, No. 38

27 CCR Appendix A, 27 CA ADC Appendix A