

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1500
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

REPORT OF CIVIL COMPLAINT FILING

Please print or type required information

☒ Original Filing ☐ Supplemental Filing ☐ Corrected Filing

PARTIES TO THE ACTION	PLAINTIFF(S) Andrew Burris, an individual	
	DEFENDANT(S) COSTCO WHOLESALE CORPORATION, a Washington Corporation; U.S. WIRE & CABLE CORPORATION, a New Jersey Corporation; FLEXON INDUSTRIES CORP., a New Jersey Corporation; ANDERSON INDUSTRIES, INC., a Delaware Corporation; and DOES 1-150, inclusive	
CASE INFO	COURT DOCKET NUMBER 30-2018-00980782	COURT NAME ORANGE COUNTY SUPERIOR COURT
	SHORT CASE NAME ANDREW BURRIS VS. COSTCO WHOLESALE CORPORATION	
REPORT INFO	TYPE OF CLAIM (Check All That Apply) <div> <input type="checkbox"/> Proposition 65 Unlawful Discharge <input checked="" type="checkbox"/> Proposition 65 Failure to Warn <input type="checkbox"/> B&P Code section 17200 <input type="checkbox"/> Other _____ </div>	
	RELIEF SOUGHT (Check All That Apply) <div> <input type="checkbox"/> Warning <input type="checkbox"/> Discharge Ban <input type="checkbox"/> Civil Penalty </div>	For Internal Use Only
COPY OF COMPLAINT MUST BE ATTACHED		
FILER INFO	NAME OF CONTACT JASON R. BURRIS	
	ORGANIZATION BURRIS LAW	TELEPHONE NUMBER ((714)) 941-8122
	ADDRESS 200 N. TUSTIN AVE	FAX NUMBER ((714)) 272-5795
	CITY SANTA ANA	STATE ZIP CA 92705-3828
E-MAIL ADDRESS jason@burris-law.net		

FILING INSTRUCTIONS: This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the complaint to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

Clear Form

SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT: See Attachment SUM-200(A)
(AVISO AL DEMANDADO):**

**YOU ARE BEING SUED BY PLAINTIFF: Andrew Burris, an individual
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

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

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

03/20/2018 at 10:35:20 PM

Clerk of the Superior Court
By Dollie Campos, Deputy Clerk

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

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

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

The name and address of the court is:

(El nombre y dirección de la corte es):

**Central Justice Center
700 Civic Center Drive West
Santa Ana 92701**

CASE NUMBER:
(Número del Caso): **30-2018-00980782-CU-MC-CJC**
Judge Linda Marks

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

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

**Jason R. Burris 268790 714-941-8122
1420 E. Chapman Avenue Orange California 92866**

DATE:
(Fecha) **03/20/2018**

DAVID H. YAMASAKI, Clerk of the Court

Clerk, by
(Secretario)



, Deputy
(Adjunto)

Dollie Campos

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

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

SHORT TITLE: Burris v. Costco Wholesale Corporation, et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons. If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

COSTCO WHOLESALE CORPORATION, a Washington Corporation; **U.S. WIRE & CABLE CORPORATION**, a New Jersey Corporation; **FLEXON INDUSTRIES CORP.**, a New Jersey Corporation; **ANDERSON INDUSTRIES, INC.**, a Delaware Corporation; and **DOES 1-150**, inclusive

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jason R. Burris 268790 Burris Law 1420 E. Chapman Avenue Orange California 92866 TELEPHONE NO.: 714-941-8122 FAX NO.: 949-272-5795 ATTORNEY FOR (Name): Plaintiff, Andrew Burris		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 03/20/2018 at 10:35:20 PM Clerk of the Superior Court By Dolie Campos, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: 700 Civic Center Drive West CITY AND ZIP CODE: Santa Ana 92701 BRANCH NAME: Central Justice Center			
CASE NAME: Burris v. Costco Wholesale Corporation, et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 30-2018-00980782-CU-MC-CJC JUDGE: Judge Linda Marks DEPT:

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

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

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (<i>not specified above</i>) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input checked="" type="checkbox"/> Other petition (<i>not specified above</i>) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (*check all that apply*): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (*specify*): **One (1): Violation of Proposition 65**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: **03/20/2018**

Jason R. Burris

(TYPE OR PRINT NAME)

Jason Burris

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

1 Jason R. Burris SBN 268790
2 Ariana A. Burris, SBN 267371
3 Karina M. Babikian SBN 309743
4 **BURRIS LAW**
5 1420 East Chapman Avenue
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9 Attorneys for Plaintiff,
10 ANDREW BURRIS

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 Andrew Burris, an individual
14 Plaintiff,

15 vs.

16 COSTCO WHOLESALE CORPORATION, a
17 Washington Corporation; U.S. WIRE & CABLE
18 CORPORATION, a New Jersey Corporation;
19 FLEXON INDUSTRIES CORP., a New Jersey
20 Corporation; ANDERSON INDUSTRIES, INC., a
21 Delaware Corporation; and DOES 1-150, inclusive,

22 Defendants.

Case Number: 30-2018-00980782-CU-MC-CJC
Judge Linda Marks

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Cal. Health & Safety Code §25239.6 et seq.)

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1 **NATURE OF ACTION**

2 1. This complaint is a representative action brought by plaintiff ANDREW BURRIS, an
3 individual ("PLAINTIFF"), in the public interest of the citizens of the State of California, to enforce the
4 people's right to be informed of the presence of di(2-ethylhexyl)phthalate, a toxic chemical, found in
5 certain consumer goods sold in California.

6 2. By this Complaint, PLAINTIFF seeks to remedy defendants' continuing failures to warn
7 citizens of California about their exposure to di(2-ethylhexyl)phthalate present in certain consumer
8 goods that defendants manufacture, distribute and/or offer for sale to consumers through the State of
9 California.

10 3. High levels of di(2-ethylhexyl)phthalate are commonly found in certain consumer goods
11 that defendants manufacture, distribute and/or offer for sale to consumers throughout the State of
12 California.

13 4. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California
14 Health & Safety Code §25249.6 *et seq.* ("Proposition 65"), "No person in the course of doing business
15 shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer
16 or reproductive toxicity without first giving clear and reasonable warning to such individual....." (*Cal.*
17 *Health & Safety Code §25249.6.*)

18 5. On October 24, 2003, California Identified and listed di(2-ethylhexyl)phthalate as a
19 chemical known to cause birth defects and other reproductive harm. Di(2ethylhexyl)phthalate
20 became subject to the warning requirement one year later and was therefore subject to the "clear
21 and reasonable warning" requirements of Proposition 65, beginning on October 24, 2004. (27 CCR
22 §27001; *Cal. Health & Safety Code §25249.8.*) Di(2-ethylhexyl)phthalate shall hereinafter be referred to
23 as the "LISTED CHEMICAL."

24 6. Defendants manufacture, distribute and/or offer for sale consumer goods and accessories
25 containing Di(2-ethylhexyl)phthalate including, but not limited to, ANDERSON INDUSTRIES FKA
26 US WIRE AND CABLE OUTDOOR LIGHTED EXTENSION CORDS 2-PACK, 2X 50 FT.
27 YELLOW 12/3 SJTW 3-WIRE GROUNDED 15 AMP 125V 1875W IMT./ART. 1107236, BARCODE
28 #44882101080). All such consumer goods containing the LISTED CHEMICAL shall hereinafter be

referred to as the “PRODUCTS.”

7. Defendant’s failure to warn consumers and/or other individuals in the State of California about their exposure to the LISTED CHEMICAL in conjunction with defendants’ sale of the PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder of such conduct as well as civil penalties for each such violation.

8. For defendants’ violations of Proposition 65, plaintiff seeks preliminary injunctive and permanent injunctive relief to compel defendants to provide purchasers or users of the PRODUCTS with the required warning regarding the health hazards of the LISTED CHEMICAL. (*Cal. Health & Safety Code §25249.7(a).*)

9. Plaintiff also seeks civil penalties against defendants for their violations of Proposition 65, as provided for by California Health & Safety Code §25249.7(b).

PARTIES

10. PLAINTIFF is a citizen of the City and County of Orange in the State of California who is dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposures from consumer products, and brings this action in the public interest pursuant to California Health & Safety Code §25249.7.

11. Defendant COSTCO WHOLESALE CORPORATION, a Washington Corporation (“COSTCO”) is a person in the course of doing business within the meaning of California Health & Safety Code §25249.11.

12. Defendant U.S. WIRE & CABLE CORPORATION, a New Jersey Corporation (“U.S. WIRE”) is a person in the course of doing business within the meaning of California Health & Safety Code §25249.11.

13. Defendant FLEXON INDUSTRIES CORP., a New Jersey Corporation, a division of U.S. WIRE, (“FLEXON”) is a person in the course of doing business within the meaning of California Health & Safety Code §25249.11.

14. Defendant ANDERSON INDUSTRIES, INC., a Delaware Corporation (“ANDERSON”) is a person in the course of doing business within the meaning of California Health & Safety Code §25249.11.

1 15. COSTCO, U.S. WIRE, FLEXON, and ANDERSON are collectively referred to as
2 “DEFENDANTS.”

3 16. DEFENDANTS manufacture, distribute and/or offer the PRODUCTS for sale or use in
4 the State of California, or implies by its conduct that it manufactures, distributes and/or offers the
5 PRODUCTS for sale or use in the State of California.

6 17. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each persons in the
7 course of doing business within the meaning of California Health & Safety Code §25249.11.

8 18. MANUFACTURER DEFENDANTS engage in the process of research, testing,
9 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they engage in
10 the process of research, testing, designing, assembling, fabricating, and/or manufacturing, one of more
11 of the PRODUCTS for sale or in use in the State of California.

12 19. Defendants DOES 101-150 (“RETAIL DEFENDANTS”) are each persons in the course
13 of doing business within the meaning of California Health & Safety Code §25249.11.

14 20. RETAIL DEFENDANTS offer the PRODUCTS for sale to individuals in the State of
15 California.

16 21. At this time, the true names of Defendants DOES 1 through 150, inclusive, are unknown
17 to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code of Civil
18 Procedure §474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously
19 named defendants is responsible for the acts and occurrences herein alleged. When ascertained, their
20 true names shall be reflected in an amended complaint.

21 **VENUE AND JURISDICTION**

22 22. Venue is proper in the Orange County Superior Court, pursuant to Code of Civil
23 Procedure §§394, 395, 395.5, because this Court is a court of competent jurisdiction, because one or
24 more instances of wrongful conduct occurred, and continue to conduct, business in this County with
25 respect to the PRODUCTS.

26 23. The California Superior Court has jurisdiction over this action pursuant to California
27 Constitution Article VI, §10, which grants the Superior Court “original jurisdiction in all causes
28 except those given by statute to other trial courts.” The statute under which this action is brought

does not specify any other basis of subject matter jurisdiction.

24. The California Superior Court has jurisdiction over DEFENDANTS based on PLAINTIFF's information and good faith belief that each defendant is a person, firm, corporation or association that either are citizens of the State of California, have sufficient minimum contacts in the State of California, or otherwise purposefully avail themselves of the California market. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California courts consistent with traditional notions of fair play and substantial justice.

STATUTORY BACKGROUND

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

26. To affect this goal, Proposition 65 requires that individuals be provided with a “clear and reasonable warning” before being exposed to substances listed by the State of California as causing cancer or reproductive toxicity. H&S Code section 25249.6 states, in pertinent part:

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...

27. An exposure to a chemical in a consumer product is one “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.” (27 CCR §25602, para (b).) H&S Code section 25603(c) state that “a person in the course of doing business...shall provide a warning to any person to whom the product is sold or transferred unless the product is packaged or labeled with a clear and reasonable warning.”

28. Pursuant to H&S Code section 25603.1, the warning may be provided by using one or more of the following methods singly or in combination:¹

(a) A warning that appears on a product's label or other labeling.

¹ Alternatively, a person in the course of doing business may elect to comply with the warning requirements set out in the amended version of 27 CCR 25601 *et seq.*, as amended on August 30, 2016, and operative until August 30, 2018.

(b) Identification of the product at the retail outlet in a manner which provides a warning. Identification may be through shelf labeling, signs, menus, or a combination thereof.

(c) The warnings provided pursuant to subparagraphs (a) and (b) shall be prominently placed upon a product's label or other labeling or displayed at the retail outlet with such conspicuousness, as compared with other words, statements, designs or devices in the label, labeling or display as to render it likely to be read and understood by an ordinary individual under customary conditions of purchases or use.

(d) A system of signs, public advertising identifying the system and toll-free information services, or any other system that provides clear and reasonable warnings.

29. Proposition 65 provides that "any person who violates or threatens to violate" the statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7.) The phrase "threaten to violate" is defined to mean creating "a condition in which there is a substantial probability that a violation will occur" (H&S Code §25249.11(e).) Violators are liable for civil penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

BASIS FOR INJUNCTIVE RELIEF FOR VIOLATIONS OF H&S CODE §25249.5, et seq.

30. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1-29, inclusive, as if specifically set for herein.

31. By committing the acts alleged in this Complaint, DEFENDANTS at all times relevant to this action, and continuing through the present, have violated, or threaten to violate, H&S Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing individuals in California to a chemical known to the State of California to cause cancer without first giving "clear and reasonable" warnings to such persons who use or consume the PRODUCTS containing the LISTED CHEMICAL, pursuant to H&S Code §§25249.6 and 25249.11(f).

32. By committing the acts alleged in this Complaint, DEFENDANTS have caused or threaten to cause irreparable harm for which there is no plain, speedy, or adequate remedy at law. In the absence of equitable relief, DEFENDANTS will continue to create a substantial risk of irreparable injury by continuing to cause consumers to be involuntarily and unwittingly exposed to cancer-causing chemicals through the foreseeable and/or intended use of the PRODUCTS.

33. By the above described acts, DEFENDANTS have violated, or threaten to violate, H&S Code §25249.6 and are therefore subject to preliminary and permanent injunctions ordering

1 DEFENDANTS to stop violating Proposition 65, to provide warnings to all present and future
2 customers, and possibly be required to provide warnings to DEFENDANTS' past customers who
3 purchased or used the PRODUCTS without receiving a clear and reasonable warning.

4 34. An action for injunctive relief under Proposition 65 is specifically authorized by H&S
5 Code §25249.7(a).

6 35. Continuing commission by DEFENDANTS of the acts alleged above will irreparably
7 harm the citizens of the State of California, for which harm they have no plain, speedy, or adequate
8 remedy at law.

9 36. In the absence of preliminary and then permanent injunctive relief, DEFENDANTS will
10 continue to create a substantial risk of irreparable injury by continuing to cause consumers to be
11 involuntarily, unknowingly, and unwittingly exposed to the LISTED CHEMICAL through the use,
12 consumption and/or handling of the PRODUCTS.

13 **FIRST CAUSE OF ACTION**

14 **(Violation of Proposition 65)**

15 37. PLAINTIFF re-alleges and incorporates by reference, as if fully set forth herein,
16 Paragraphs 1 through 36, inclusive.

17 38. The citizens of the State of California have expressly stated in the Safe Drinking Water
18 and Toxic Enforcement Act of 1986, California Health & Safety Code §25249.5, *et seq.* (Proposition 65)
19 that they must be informed "about exposures to chemicals that cause cancer, birth defects and other
20 reproductive harm." (*Cal. Health & Safety Code §25249.6.*)

21 39. Proposition 65 states, "No person in the course of doing business shall knowingly and
22 intentionally expose any individual to a chemical known to the state to cause cancer or reproductive
23 toxicity without first giving clear and reasonable warning to such individual...."

24 40. On April 21, 2017, a sixty-day notice of violation, together with the requisite certificate
25 of merit, was provided to DEFENDANTS, and various public enforcement agencies, stating that as a
26 result of the DEFENDANTS' sale of the PRODUCTS, purchasers and users in the State of California
27 were being exposed to the LISTED CHEMICAL resulting from the reasonably foreseeable uses of the
28 PRODUCTS, without the individual purchasers, and users first having been provided with a "clear and

reasonable warning” regarding such toxic exposures. A true and correct copy of the sixty-day notice is attached hereto as “EXHIBIT 1” and is hereby incorporated by reference, and is available on the Attorney General’s website located at <http://oag.ca.gov/prop65>.

41. DEFENDANTS have engaged in the manufacture, distribution and/or offering of the PRODUCTS for sale or use in violation of California Health & Safety Code §25249.6, and DEFENDANTS’ manufacture, distribution and/or offering of the PRODUCTS for sale or use in the violation of California Health & Safety Codes §25249.6 has continued to occur beyond DEFENDANTS’ receipt of plaintiff’s sixty-day notice of violation. Plaintiff further alleges and believes that such violations will continue to occur into the future.

42. After receipt of the claims asserted in the sixty-day notice of violation, the appropriate public enforcement agencies have failed to commence and diligently prosecute a cause of action against DEFENDANTS under Proposition 65.

43. The PRODUCTS manufactured, distributed, and/or offered for sale or use in California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state limits.

44. DEFENDANTS knew or should have known that the PRODUCTS manufactured, distributed, and/or offered by sale or use by DEFENDANTS in California contained the LISTED CHEMICAL.

45. The LISTED CHEMICAL was present in or on the PRODUCTS in such a way as to expose individuals to the LISTED CHEMICAL through dermal contact and ingestion during the reasonably foreseeable use of the PRODUCTS.

46. The normal and reasonably foreseeable use of the PRODUCTS has caused and continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure is defined by 27 CCR §25601(b).

47. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact and ingestion.

48. DEFENDANTS intended that such exposures to the LISTED CHEMICAL from the reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-accidental

1 participation in the manufacture, distribution and/or offer for sale or use of the PRODUCTS to
2 individuals in the State of California.

3 49. DEFENDANTS failed to provide a “clear and reasonable warning” to those consumers
4 and/or other individuals in the State of California who were or who could become exposed to the
5 LISTED CHEMICAL through dermal contact and ingestion during the reasonably foreseeable use of the
6 PRODUCTS.

7 50. Contrary to the express policy and statutory prohibition of Proposition 65, enacted
8 directly by California voters, individuals exposed to the LISTED CHEMICAL through dermal contact
9 and ingestion resulting from the reasonably foreseeable use of the PRODUCTS, sold by DEFENDANTS
10 without “clear and reasonable warning,” have suffered and continue to suffer, irreparable harm, for
11 which harm they have no plain, speedy, or adequate remedy at law.

12 51. As a consequence of the above-described acts, DEFENDANTS are liable for a maximum
13 civil penalty of \$2,500.00 per day for each violation pursuant to California Health & Safety Code
14 §25249.7(b).

15 52. As a consequence of the above-described acts, California Health & Safety Code
16 §25249.7(a) also specifically authorizes the Court to grant injunctive relief against DEFENDANTS.

17 53. Wherefore, plaintiff prays judgment against DEFENDANTS as set forth hereinafter.

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1 **PRAYER FOR RELIEF**

2 Wherefore, PLAINTIFF prays for judgment against DEFENDANTS as follows:

3 1. That the Court, pursuant to California Health & Safety Code §25249.7(b), assess civil
4 penalties against DEFENDANTS in the amount of \$2,500 per day for each violation alleged herein;

5 2. That the Court, pursuant to California Health & Safety Code §25249.7(a), preliminarily
6 and permanently enjoin DEFENDANTS from manufacturing, distributing and/or offering the
7 PRODUCTS for sale or use in the California, without providing “clear and reasonable warnings” as
8 defined by 27 CCR §25601, as to the harm associated with exposures to the LISTED CHEMICAL;

9 3. That the Court grant PLAINTIFF his reasonable attorneys’ fees and costs of suit; and

10 4. That the Court grant such other and further relief as may be just and proper.

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12
13 Dated: March 20, 2018

Respectfully Submitted,
BURRIS LAW

14
15 /s/ Jason R. Burris

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17 _____
Jason R. Burris
Attorney for Plaintiff,
18 ANDREW BURRIS
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EXHIBIT A

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: April 19, 2017

TO: CEO – Costco Wholesale Corporation
Vice President – Flexon Industries
Vice President – U.S. Wire & Cable, Inc.
President or CEO– Anderson Industries, LLC
CEO - Anderson Industries, Inc.
California Attorney General’s Office
District Attorney’s Office for 58 counties
City Attorney for Montclair

FROM: Jason R. Burris, Esq.

I. INTRODUCTION

My name is Andrew Burris. I hold a master’s degree in analytical chemistry. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”). As noted above, notice is also being provided to the alleged violators, Flexon Industries, U.S. Wire & Cable corporation, Anderson Industries, Inc., Anderson Industries, LLC. (collectively “Violator”). The violations covered by this Notice consist of the product exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemicals (“listed chemicals”) identified below, as follows:

Product Exposure:	See Section VII. Exhibit A
Listed Chemicals:	Bis(2-ethylhexyl)phthalate (“DEHP”); Diisononyl phthalate (“DINP”); Diisodecyl phthalate (“DIDP”)
Routes of Exposure:	Ingestion, Dermal Absorption
Types of Harm:	Birth Defects and Other Reproductive Harm; Cancer

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, are listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the categories covered by this Notice shall be referred to hereinafter as the “products.” Exposures to the listed chemicals from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as April 19, 2014. Without proper warnings regarding the toxic effects of exposures to the listed chemicals resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the listed chemicals from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemicals. By way of example, but not limitation, exposures occur when California consumers and other individuals, including women of childbearing age, ingest the listed chemicals when they, among other activities, touch the products and transfer the listed chemicals from the products to their mouths through hand-to-mouth activities (including hand-to-food-to-mouth, hand-to-cigarette-to-lung). Exposure also occurs through chemical transfers onto the hands through routine touching of the products containing readily available surface amounts of the listed chemical(s) and is subsequently absorbed through the skin or ingested via inhalation, or hand-to-mouth behavior, in the course of using, connecting, plugging-in, inserting, moving, storing, or otherwise handling these products that may continue to occur for a significant period after initial contact with the products, or after all contact with the product stops. Additionally, consumers and other individuals, including women of childbearing age, are exposed to the listed chemicals through direct dermal contact when they, among other activities, handle, touch or otherwise use the products. The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my office at the following address:

Jason R. Burris, Esq.
BURRIS LAW
1420 East Chapman Avenue
Orange, CA 92866-2229
Telephone: (714) 941-8122

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP, DINP and DIDP exposures; and (3) pay

an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violator is interested in resolving this dispute without resorting to time consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warning” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
ANDERSON INDUSTRIES FKA US WIRE AND CABLE OUTDOOR LIGHTED EXTENSION CORDS 2-PACK, 2X 50 FT. YELLOW 12/3 SJTW 3-WIRE GROUNDED 15 AMP 125V 1875W IMT./ART. 1107236, BARCODE # 44882101080, MODEL # 74050PK2V2.	Costco Wholesale Corporation	Flexon Industries; U.S. Wire & Cable, Inc.; Anderson Industries, Inc.; Anderson Industries, LLC

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Extension Cords	ANDERSON INDUSTRIES FKA US WIRE AND CABLE OUTDOOR LIGHTED EXTENSION CORDS 2-PACK, 2X 50 FT. YELLOW 12/3 SJTW 3-WIRE GROUNDED 15 AMP 125V 1875W IMT./ART. 1107236, BARCODE # 44882101080, MODEL # 74050PK2V2.	Bis(2-ethylhexyl) phthalate (“DEHP”); Diisononyl phthalate (“DINP”); Diisodecyl phthalate (“DIDP”)

*The specifically identified example of the type of product that is subject to this Notice is for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemicals from other items within the product categories/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that

may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Jason Burris, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the *alleged* exposure to the listed chemicals that are the subject of this action;
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the plaintiff’s case can be established and the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute;
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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 19, 2017



JASON BURRIS

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 27001.¹ 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.

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 full and part-time 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 a 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 contaminant² 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

¹ 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>

² See Section 25501(a)(4).

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 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;
- An exposure to 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;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties or any reimbursement for costs and attorney's fees, if the notice of violation was served on or after October 5, 2013, and the alleged violator has done all of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city greater than 750,000 in population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>. The notice is reproduced here:

IN RE: Prop 65 - US Wire & Cable

**DECLARATION OF MAILING
CERTIFICATE OF SERVICE
(CERTIFIED MAIL)**

On 4/21/2017, I did cause a copy of the following documents, described below,
60-Day Notice of Violation,

to be served for delivery by the United States Postal Service, via First Class United States Mail, CERTIFIED, Return Receipt Requested, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

I caused these documents to be served by utilizing the services of BK Attorney Services, LLC d/b/a certificateofservice.com, a Administrative Office of the United States Bankruptcy Courts, Approved Notice Provider. A copy of the declaration of service is attached hereto and incorporated as if fully set forth herein.

DATED: 4/21/2017

/s/ Jason Burris
Jason Burris
Burris Law
1420 E Chapman Ave
Orange, CA 92866
714 941
jason@burris-law.net

Burris Law
Jason Burris
1420 E Chapman Ave
Orange, CA 92866

DATE RECEIVED: Apr 19 2017

TIME RECEIVED: 05:33PM

TOTAL SERVED: 70

IN RE: Prop 65 - US Wire & Cable

**CERTIFICATE OF SERVICE
(CERTIFIED MAIL)**

On 4/21/2017, a copy of the following documents, described below,

60-Day Notice of Violation,

were deposited for delivery by the United States Postal Service, CERTIFIED, Return Receipt Requested, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the mailing list attached hereto in the manner shown and prepared the Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: 4/21/2017



/s/ Jay S. Jump
BK Attorney Services, LLC
d/b/a certificateofservice.com, for
Burris Law
Jason Burris
1420 E Chapman Ave
Orange, CA 92866

CERTIFIED

1 DISTRICT ATTORNEY
COLUSA COUNTY
547 MARKET STREET STE. 102
COLUSA CA 95932

CERTIFIED

2 DISTRICT ATTORNEY
MADERA COUNTY
209 WEST YOSEMITE AVENUE
MADERA CA 93637

CERTIFIED

3 DISTRICT ATTORNEY
SAN BENITO COUNTY
419 4TH STREET
HOLLISTER CA 95023-380 I

CERTIFIED

4 DISTRICT ATTORNEY
STANISLAUS COUNTY
832 12TH STREET STE. 300
MODESTO CA 95353

CERTIFIED

5 DISTRICT ATTORNEY
DEL NORTE COUNTY
450 H STREET ROOM 171
CRESCENT CITY CA 95531

CERTIFIED

6 DISTRICT ATTORNEY
MARIN COUNTY
350 I CIVIC CENTER DRIVE
ROOM 130
SAN RAFAEL CA 94903

CERTIFIED

7 DISTRICT ATTORNEY
SAN JOAQUIN COUNTY
PO BOX 990
STOCKTON CA 95202

CERTIFIED

8 DISTRICT ATTORNEY
SUTTER COUNTY
446 2ND STREET SUITE 102
YUBA CITY CA 95991

CERTIFIED

9 DISTRICT ATTORNEY
ALPINE COUNTY
PO BOX 248
MARKLEEVILLE CA 96120

CERTIFIED

10 DISTRICT ATTORNEY
SAN LUIS OBISPO COUNTY
1035 PALM STREET
SAN LUIS OBISPO CA 93408

CERTIFIED

11 DISTRICT ATTORNEY
TEHAMA COUNTY
PO BOX 519
RED BLUFF CA 96080

CERTIFIED

12 DISTRICT ATTORNEY
MARIPOSA COUNTY
PO BOX 730
MARIPOSA CA 95338

CERTIFIED

13 DISTRICT ATTORNEY
EL DORADO COUNTY
515 MAIN STREET
PLACERVILLE CA 95667

CERTIFIED

14 DISTRICT ATTORNEY
SAN MATEO COUNTY
400 COUNTY CENTER THIRD FLOOR
REDWOOD CITY CA 94063

CERTIFIED

15 DISTRICT ATTORNEY
TRINITY COUNTY
POBOX310
WEAVERVILLE CA 96093

CERTIFIED

16 DISTRICT ATTORNEY
MENDOCINO COUNTY
PO BOX 1000
UKIAH CA 95482

CERTIFIED

17 DISTRICT ATTORNEY
AMADOR COUNTY
708 COURT STREET #202
JACKSON CA 95642

CERTIFIED

18 DISTRICT ATTORNEY
SANTA BARBARA COUNTY
1112 SANTA BARBARA STREET
SANTA BARBARA CA 93101

CERTIFIED

19 DISTRICT ATTORNEY
TUOLUMNE COUNTY
423 NO. WASHINGTON STREET
SONORA CA 95370

CERTIFIED

20 DISTRICT ATTORNEY
MERCED COUNTY
2222 M STREET
MERCED CA 95340

CERTIFIED

21 DISTRICT ATTORNEY
FRESNO COUNTY
2220 TULARE STREET STE. 1000
FRESNO CA 93721

CERTIFIED

22 DISTRICT ATTORNEY
SANTA CRUZ COUNTY
701 OCEAN STREET ROOM 200
SANTA CRUZ CA 95060

CERTIFIED

23 DISTRICT ATTORNEY
YUBA COUNTY
215 FIFTH STREET STE. 152
MARYSVILLE CA 95901

CERTIFIED

24 DISTRICT ATTORNEY
MODOC COUNTY
204 S. COURT STREET ROOM 202
ALTURAS CA 96101

CERTIFIED

25 DISTRICT ATTORNEY
GLENN COUNTY
PO BOX 430
WILLOWS CA 95988

CERTIFIED

26 DISTRICT ATTORNEY
SHASTA COUNTY
1355 WEST STREET
REDDING CA 96001

CERTIFIED

27 DISTRICT ATTORNEY
ALAMEDA COUNTY
1225 FALLON STREET ROOM 900
OAKLAND CA 94612

CERTIFIED

28 DISTRICT ATTORNEY
MONO COUNTY
PO BOX 617
BRIDGEPORT CA 93546

CERTIFIED

29 DISTRICT ATTORNEY
BUTTE COUNTY
25 COUNTY CENTER DRIVE STE 245
ADMINISTRATION BUILDING
OROVILLE CA 95965

CERTIFIED

30 DISTRICT ATTORNEY
SIERRA COUNTY
100 COURTHOUSE SQUARE
DOWNIEVILLE CA 95936

CERTIFIED

31 DISTRICT ATTORNEY
SAN DIEGO COUNTY
330 W. BROADWAY SUITE 1300
SAN DIEGO CA 92101

CERTIFIED

32 DISTRICT ATTORNEY
SISKIYOU COUNTY
PO BOX986
YREKA CA 96097

CERTIFIED

33 DISTRICT ATTORNEY
HUMBOLDT COUNTY
825 5TH STREET
EUREKA CA 95501

CERTIFIED

34 DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
210 WEST TEMPLE STREET
SUITE 18000
LOS ANGELES CA 90012-3210

CERTIFIED

35 DISTRICT ATTORNEY
IMPERIAL COUNTY
940 WEST MAIN STREET STE. 102
EL CENTRO CA 92243

CERTIFIED

36 DISTRICT ATTORNEY
SOLANO COUNTY
675 TEXAS STREET STE. 4500
FAIRFIELD CA 94533

CERTIFIED

37 DISTRICT ATTORNEY
NEVADA COUNTY
201 COMMERCIAL STREET
NEVADA CITY CA 95959

CERTIFIED

38 DISTRICT ATTORNEY
CALAVERAS COUNTY
891 MOUNTAIN RANCH ROAD
SAN ANDREAS CA 95249

CERTIFIED

39 DISTRICT ATTORNEY
PLUMAS COUNTY
520 MAIN STREET ROOM 404
QUINCY CA 95971

CERTIFIED

40 DISTRICT ATTORNEY
ORANGE COUNTY
401 CIVIC CENTER DRIVE WEST
SANTA ANA CA 92701

CERTIFIED

41 DISTRICT ATTORNEY
INYO COUNTY
PO DRAWER D
INDEPENDENCE CA 93526

CERTIFIED

42 DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 N. MOUNTAIN VIEW AVE
SAN BERNARDINO CA 92415-0004

CERTIFIED

43 DISTRICT ATTORNEY
KERN COUNTY
1215 TRUXTUN AVENUE
BAKERSFIELD CA 93301

CERTIFIED

44 DISTRICT ATTORNEY
KINGS COUNTY
1400 WEST LACEY BLVD.
HANFORD CA 93230

CERTIFIED

45 DISTRICT ATTORNEY
PLACER COUNTY
10810 JUSTICE CENTER DRIVE
ROSEVILLE CA 95678

CERTIFIED

46 DISTRICT ATTORNEY
LAKE COUNTY
255 N. FORBES STREET
LAKEPORT CA 95453

CERTIFIED

47 DISTRICT ATTORNEY
COTUSA COUNTY
346 FIFTH STREET
COTUSA CA 95932

CERTIFIED

48 DISTRICT ATTORNEY
CONTRA COSTA COUNTY
900 WARD STREET
MARTINEZ CA 94553

CERTIFIED

49 DISTRICT ATTORNEY
LASSEN COUNTY
220 SOUTH LASSEN STREET STE. 8
SUSANVILLE CA 96130

CERTIFIED

50 DISTRICT ATTORNEY
MONTEREY COUNTY
P.O. BOX 1131
SALINAS CA 93902

CERTIFIED

51 DISTRICT ATTORNEY
NAPA COUNTY
CARITHERS BUILDING
931 PARKWAY MAIL
P.O. BOX 720

CERTIFIED

52 DISTRICT ATTORNEY
RIVERSIDE COUNTY
3960 ORANGE STREET
RIVERSIDE CA 92501

CERTIFIED

53 DISTRICT ATTORNEY
SACRAMENTO COUNTY
901 G STREET
SACRAMENTO CA 95814

CERTIFIED

54 DISTRICT ATTORNEY
SAN FRANCISCO COUNTY
850 BRYANT STREET ROOM 322
SAN FRANCISCO CA 94103

CERTIFIED

55 DISTRICT ATTORNEY
SANTA CLARA COUNTY
70 WEST HEDDING STREET WEST WING
SAN JOSE CA 95110

CERTIFIED

56 DISTRICT ATTORNEY
SONOMA COUNTY
600 ADMINISTRATION DRIVE ROOM 212J
SANTA ROSA CA 95403

CERTIFIED

57 DISTRICT ATTORNEY
TULARE COUNTY
221 SOUTH MOONEY BOULEVARD
RM 224
VISALIA CA 93291-4593

CERTIFIED

58 DISTRICT ATTORNEY
VENTURA COUNTY
800 SOUTH VICTORIA AVENUE
VENTURA CA 93009

CERTIFIED

59 DISTRICT ATTORNEY
YOLO COUNTY
301 SECOND STREET
WOODLAND CA 95695

CERTIFIED

60 COSTCO WHOLESALE CORPORATION
C/O CT CORPORATION SYSTEM
818 W 7TH ST. STE 930
LOS ANGELES CA 90017

CERTIFIED

61 U.S. WIRE & CABLE INC.
ATTN: JOSEPH FOLKMAN VICE
PRESIDENT
1 FLEXON PLAZA
NEWARK NJ 07114

CERTIFIED

62 FLEXON INDUSTRIES
ATTN: DAVID RAUCH VICE PRESIDENT
1 FLEXON PLAZA
NEWARK NJ 07114

CERTIFIED

63 ANDERSON INDUSTRIES INC.
ATTN: JOEL SOLKMAN CEO
5201 OLD PEARMAN DAIRY RD
ANDERSON SC 29625-5347

CERTIFIED

64 ANDERSON INDUSTRIES INC.
C/O THE CORPORATION TRUST
COMPANY
CORPORATION TRUST CENTER
1209 ORANGE ST.

CERTIFIED

65 COSTCO WHOLESALE CORPORATION
ATTN: WALTER CRAIG JELINEK CEO
999 LAKE DR.
ISSAQUAH WA 98027

CERTIFIED

66 U.S. WIRE & CABLE CORPORATION
ATTN: JOSEPH FOLKMAN VICE
PRESIDENT
33 QUEEN ST.
NEWARK NJ 07114

CERTIFIED

67 FLEXON INDUSTRIES
ATTN: DAVID RAUCH VICE PRESIDENT
366 FRELINGHUYSEN AVE.
NEWARK NJ 07114

CERTIFIED

68 ANDERSON INDUSTRIES LLC
ATTN: JAMES CASSIDY ESQ.
1052 N. CHURCH ST.
GREENVILLE SC 29601

CERTIFIED

69 ANDERSON INDUSTRIES LLC
C/O CORPORATION SERVICE COMPANY
2711 CENTERVILLE RD. SUITE 400
WILMINGTON DE 19808

CERTIFIED

70 CITY OF MONTCLAIR
OFFICE OF CITY ATTORNEY
201 W F ST.
ONTARIO CA 91762