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7 Attorney for Plaintiff
8 ENVIRONMENTAL RESEARCH CENTER, INC.

ENDORSED
FILED
ALAMEDA COUNTY

NOV 13 2017

CLERK OF THE SUPERIOR COURT

Anita Dhir

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

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

13 Plaintiff,

14 vs.

15 GAMMA ENTERPRISES, LLC, individually
16 and doing business as GAMMA LABS, a New
17 York limited liability company,

18 Defendant.

Case No. *RG 17 881 989*

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.5, *et seq.*

18 Plaintiff Environmental Research Center, Inc. ("PLAINTIFF" or "ERC") brings this
19 action in the interests of the general public and, on information and belief, hereby alleges:

INTRODUCTION

21 1. This action seeks to remedy the continuing failure of Defendant GAMMA
22 ENTERPRISES, LLC, individually and doing business as GAMMA LABS ("GAMMA
23 LABS" or "DEFENDANT") to warn consumers in California that they are being exposed to
24 lead, a substance known to the State of California to cause cancer, birth defects, and other
25 reproductive harm. DEFENDANT manufactures, packages, distributes, markets, and/or sells
26 in California certain products containing lead (collectively, the "PRODUCTS"):

- 1) Gamma Labs 24K Strength Formula Mixed Berry
- 2) Gamma Labs G Fuel Energy Formula Peach Mango
- 3) Gamma Labs G Fuel Energy Formula Blue Ice
- 4) Gamma Labs G Fuel Energy Formula Watermelon
- 5) Gamma Labs G Fuel Energy Formula Fazeberry
- 6) Gamma Labs G Fuel Energy Formula Blood Orange
- 7) Gamma Labs G Fuel Energy Formula Kiwi Strawberry
- 8) Gamma Labs G Fuel Energy Formula Caffeine Free Orange
- 9) Gamma Labs G Fuel Energy Formula Coconut
- 10) Gamma Labs G Fuel Energy Formula Green Apple
- 11) Gamma Labs G Fuel Energy Formula Pink Lemonade
- 12) Gamma Labs G Fuel Energy Formula Lemon Lime
- 13) Gamma Labs G Fuel Energy Formula Pineapple
- 14) Gamma Labs G Fuel Energy Formula Tropical Rain
- 15) Gamma Labs G Fuel Energy Formula Mystery Flavor
- 16) Gamma Labs G Fuel Energy Formula Fruit Punch
- 17) Gamma Labs G Fuel Energy Formula Grape
- 18) Gamma Labs G Fuel Energy Formula Lemonade

2. Lead (hereinafter, the "LISTED CHEMICAL") is a substance known to the State¹ of California to cause cancer, birth defects, and other reproductive harm.

3. The use and/or handling of the PRODUCTS causes exposures to the LISTED CHEMICAL at levels requiring a "clear and reasonable warning" under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code ("H&S Code") §25249.5, *et seq.* (also known as "Proposition 65"). DEFENDANT has failed to provide the

¹ All statutory and regulatory references herein are to California law, unless otherwise specified.

1 health hazard warnings required by Proposition 65.

2 4. DEFENDANT's past and continued manufacturing, packaging, distributing,
3 marketing, and/or sales of the PRODUCTS without the required health hazard warnings,
4 causes or threatens to cause individuals to be involuntarily and unwittingly exposed to levels of
5 the LISTED CHEMICAL that violate or threaten to violate Proposition 65.

6 5. PLAINTIFF seeks injunctive relief enjoining DEFENDANT from the continued
7 manufacturing, packaging, distributing, marketing, and/or sales of the PRODUCTS in
8 California without provision of clear and reasonable warnings regarding the risks of cancer,
9 birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICAL
10 through the use and/or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order
11 compelling DEFENDANT to bring its business practices into compliance with Proposition 65
12 by providing a clear and reasonable warning to each individual who has been and who in the
13 future may be exposed to the LISTED CHEMICAL from the use of the PRODUCTS.

14 PLAINTIFF also seeks an order compelling DEFENDANT to identify and locate each
15 individual person who in the past has purchased the PRODUCTS, and to provide to each such
16 purchaser a clear and reasonable warning that the use of the PRODUCTS will cause exposures
17 to the LISTED CHEMICAL.

18 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil
19 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by
20 Proposition 65 to remedy DEFENDANT's failure to provide clear and reasonable warnings
21 regarding exposures to the LISTED CHEMICAL.

22 **JURISDICTION AND VENUE**

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

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

7 9. Venue in this action is proper in the Alameda Superior Court because the
8 DEFENDANT has violated or threatens to violate California law in the County of Alameda.

9 10. On August 25, 2017, PLAINTIFF sent a 60-Day Notice of Proposition 65
10 Violation to the requisite public enforcement agencies and to GAMMA LABS. The Notice
11 was issued pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d)
12 and the statute's implementing regulations regarding the notice of the violations to be given to
13 certain public enforcement agencies and to the violators. The Notice included, *inter alia*, the
14 following information: the name, address, and telephone number of the noticing individuals;
15 the name of the alleged violator; the statute violated; the approximate time period during which
16 violations occurred; and descriptions of the violations, including the chemical involved, the
17 routes of toxic exposure, and the specific product or type of product causing the violations, and
18 was issued as follows:

- 19 a. DEFENDANT was provided a copy of the Notice by Certified Mail.
20 b. DEFENDANT was provided a copy of a document entitled "The Safe
21 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
22 Summary," which is also known as Appendix A to Title 27 of CCR §25903.
23 c. The California Attorney General was provided a copy of the Notice via
24 online submission.
25 d. The California Attorney General was provided with a Certificate of Merit by
26 the attorney for the noticing parties, stating that there is a reasonable and

1 meritorious case for this action, and attaching factual information sufficient
2 to establish a basis for the certificate, including the identity of the persons
3 consulted with and relied on by the certifier, and the facts, studies, or other
4 data reviewed by those persons, pursuant to H&S Code §25249.7(h) (2).

5 e. The district attorneys, city attorneys or prosecutors of each jurisdiction
6 within which the PRODUCTS are offered for sale within California were
7 provided with a copy of the Notice pursuant to H&S Code § 25249.7(d)(1).

8 11. At least 60-days have elapsed since PLAINTIFF sent the Notice to
9 DEFENDANT. The appropriate public enforcement agencies have failed to commence and
10 diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against
11 DEFENDANT based on the allegations herein.

12 **PARTIES**

13 12. PLAINTIFF is a non-profit corporation organized under California's
14 Corporation Law. ERC is dedicated to, among other causes, reducing the use and misuse of
15 hazardous and toxic substances, consumer protection, worker safety, and corporate
16 responsibility.

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

19 14. DEFENDANT GAMMA ENTERPRISES, LLC, individually and doing
20 business as GAMMA LABS is a limited liability company organized under the State of
21 New York's Corporation Law and is a person doing business within the meaning of H&S
22 Code §25249.11.

23 15. DEFENDANT has manufactured, packaged, distributed, marketed, and /or sold
24 the PRODUCTS for sale or use in California and the County of Alameda. ERC is informed and
25 believes, and thereupon alleges, that DEFENDANT continues to manufacture, package,
26 distribute, market and/or sell the PRODUCTS for sale or use in California and in Alameda

1 County. DEFENDANT knows and intends that the PRODUCTS are distributed, marketed and
2 sold to consumers in California.

3 **STATUTORY BACKGROUND**

4 16. The People of the State of California have declared in Proposition 65 their right
5 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
6 reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

7 17. To effect this goal, Proposition 65 requires that individuals be provided with a
8 "clear and reasonable warning" before being exposed to substances listed by the State of
9 California as causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent
10 part:

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

15 18. "'Knowingly' refers only to knowledge of the fact that a discharge of, release of,
16 or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No
17 knowledge that the discharge, release or exposure is unlawful is required." (27 California Code
18 of Regulations ("CCR") § 25102(n).)

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

24 **FACTUAL BACKGROUND**

25 20. On February 27, 1987, the State of California officially listed the chemical lead
26 as a chemical known to cause reproductive toxicity. Lead became subject to the warning
requirement one year later and was therefore subject to the "clear and reasonable" warning

1 requirements of Proposition 65 beginning on February 27, 1988. (27 CCR § 25000, *et seq.*;
2 H&S Code §25249.5, *et seq.*). Due to the high toxicity of lead, the maximum allowable dose
3 level for lead is 0.5 µg/day (micrograms per day) for reproductive toxicity. (27 CCR
4 § 25805(b).)

5 21. On October 1, 1992, the State of California officially listed the chemicals lead
6 and lead compounds as chemicals known to cause cancer. Lead and lead compounds became
7 subject to the warning requirement one year later and were therefore subject to the “clear and
8 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR §
9 25000, *et seq.*; H&S Code §25249.6 *et seq.*). Due to the carcinogenicity of lead, the no
10 significant risk level for lead is 15 µg/day (micrograms per day). (27 CCR § 25705(b)(1).)

11 22. To test DEFENDANT’s PRODUCTS for lead, PLAINTIFF hired a well-
12 respected and accredited testing laboratory. The results of testing undertaken by PLAINTIFF
13 of DEFENDANT’s PRODUCTS show that the PRODUCTS tested were in violation of the 0.5
14 µg/day for lead “safe harbor” daily dose limits set forth in Proposition 65’s regulations. It is
15 significant that people are being exposed to lead through ingestion as opposed to other less
16 harmful methods of exposure such as dermal exposure. Ingestion of lead produces much
17 higher exposure levels and health risks than dermal exposure to this chemical.

18 23. At all times relevant to this action, DEFENDANT, therefore, has knowingly and
19 intentionally exposed the users and/or handlers of the PRODUCTS to the LISTED
20 CHEMICAL without first giving a clear and reasonable warning to such individuals.

21 24. The PRODUCTS have allegedly been sold by DEFENDANT for use in
22 California since at least August 25, 2014. The PRODUCTS continue to be distributed
23 and sold in California without the requisite warning information.

24 25. On August 25, 2017, ERC served DEFENDANT and each of the appropriate
25 public enforcement agencies with a Proposition 65 Notice, a document entitled “Notice of
26 Violations of California Health & Safety Code Section 25249.5” that provided DEFENDANT

1 and the public enforcement agencies with notice that DEFENDANT was in violation of
2 Proposition 65 for failing to warn purchasers and individuals using the PRODUCTS that the
3 use of the PRODUCTS exposes them to lead, a chemical known to the State of California to
4 cause cancer and/or reproductive toxicity (a true and copy of the 60-Day Notice is attached
5 hereto as **Exhibit A** and incorporated by reference).

6 26. As a proximate result of acts by DEFENDANT, as a person in the course of
7 doing business within the meaning of Health & Safety Code §25249.11, individuals throughout
8 the State of California, including in the County of Alameda, have been exposed to the LISTED
9 CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal
10 exposures include normal and foreseeable users of the PRODUCTS, as well as all other
11 persons exposed to the PRODUCTS.

12
13 **FIRST CAUSE OF ACTION**
14 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**
15 **the PRODUCTS described in the August 25, 2017, Prop. 65 Notice)**
16 **Against DEFENDANT**

17 27. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 26,
18 inclusive, as if specifically set forth herein.

19 28. By committing the acts alleged in this Complaint, DEFENDANT, at all times
20 relevant to this action, and continuing through the present, has violated or threatens to violate
21 H&S Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing
22 individuals who use or handle the PRODUCTS set forth in the Notice to the LISTED
23 CHEMICAL, without first providing a clear and reasonable warning to such individuals
24 pursuant to H&S Code §§ 25249.6 and 25249.11(f).

25 29. By the above-described acts, DEFENDANT has violated or threatens to violate
26 H&S Code § 25249.6 and is therefore subject to an injunction ordering DEFENDANT to stop
violating Proposition 65, to provide warnings to all present and future customers, and to

1 provide warnings to DEFENDANT's past customers who purchased or used the PRODUCTS
2 without receiving a clear and reasonable warning.

3 30. An action for injunctive relief under Proposition 65 is specifically authorized by
4 Health & Safety Code §25249.7(a).

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

8 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth
9 hereafter.

10
11 **SECOND CAUSE OF ACTION**
12 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. concerning the**
13 **PRODUCTS described in PLAINTIFF's Notice)**
14 **Against DEFENDANT**

15 32. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 31,
16 inclusive, as if specifically set forth herein.

17 33. By committing the acts alleged in this Complaint, DEFENDANT at all times
18 relevant to this action, and continuing through the present, has violated H&S Code §25249.6
19 by, in the course of doing business, knowingly and intentionally exposing individuals who use
20 or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICAL, without first
21 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§
22 25249.6 and 25249.11(f).

23 34. By the above-described acts, DEFENDANT is liable, pursuant to H&S Code
24 §25249.7(b), for a civil penalty of up to \$2,500 per day per violation for each unlawful
25 exposure to the LISTED CHEMICAL from the PRODUCTS.

26 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth
hereafter.

1 **THE NEED FOR INJUNCTIVE RELIEF**

2 35. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through
3 34, as if set forth below.

4 36. By committing the acts alleged in this Complaint, DEFENDANT has caused or
5 threatens to cause irreparable harm for which there is no plain, speedy or adequate remedy at
6 law. In the absence of equitable relief, DEFENDANT will continue to create a substantial risk
7 of irreparable injury by continuing to cause or threatening to cause consumers to be
8 involuntarily and unwittingly exposed to the LISTED CHEMICAL through the use and/or
9 handling of the PRODUCTS.

10
11 **PRAAYER FOR RELIEF**

12 Wherefore, PLAINTIFF accordingly prays for the following relief:

13 A. a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
14 enjoining DEFENDANT, its agents, employees, assigns, and all persons acting in concert or
15 participating with DEFENDANT, from distributing or selling the PRODUCTS in California
16 without first providing a clear and reasonable warning, within the meaning of Proposition 65,
17 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICAL;

18 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling
19 DEFENDANT to identify and locate each individual who has purchased the PRODUCTS since
20 August 25, 2014, and to provide a warning to such person that the use of the PRODUCTS will
21 expose the user to a chemical known to birth defects and other reproductive harm;

22 C. an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),
23 against DEFENDANT in the amount of \$2,500 per day for each violation of Proposition 65;

24 D. an award to PLAINTIFF of its reasonable attorney's fees and costs of suit
25 pursuant to California Code of Civil Procedure §1021.5, as PLAINTIFF shall specify in further
26 application to the Court; and,

1 E. such other and further relief as may be just and proper.
2

3 DATED: November 13, 2017

LAW OFFICE OF RICHARD M. FRANCO

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7 Richard M. Franco
8 Attorney for Plaintiff
9 Environmental Research Center, Inc.
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EXHIBIT A

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LAW OFFICE OF RICHARD M. FRANCO

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RICK@RFANCOLAW.COM

VIA CERTIFIED MAIL

Current President or CEO
Gamma Enterprises, LLC,
individually and doing business as
Gamma Labs
113 Alder Street
West Babylon, NY 11704

Current President or CEO
Gamma Enterprises, LLC,
individually and doing business as
Gamma Labs
115 Alder Street
West Babylon, NY 11704

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VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

District Attorneys of Select California
Counties and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent the Environmental Research Center, Inc. ("ERC") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

Gamma Enterprises, LLC, individually and doing business as Gamma Labs

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

1. **Gamma Labs 24K Strength Formula Mixed Berry - Lead**
2. **Gamma Labs G Fuel Energy Formula Peach Mango - Lead**
3. **Gamma Labs G Fuel Energy Formula Blue Ice - Lead**
4. **Gamma Labs G Fuel Energy Formula Watermelon - Lead**

5. **Gamma Labs G Fuel Energy Formula Fazeberry - Lead**
6. **Gamma Labs G Fuel Energy Formula Blood Orange - Lead**
7. **Gamma Labs G Fuel Energy Formula Kiwi Strawberry -Lead**
8. **Gamma Labs G Fuel Energy Formula Caffeine Free Orange -Lead**
9. **Gamma Labs G Fuel Energy Formula Coconut - Lead**
10. **Gamma Labs G Fuel Energy Formula Green Apple - Lead**
11. **Gamma Labs G Fuel Energy Formula Pink Lemonade - Lead**
12. **Gamma Labs G Fuel Energy Formula Lemon Lime - Lead**
13. **Gamma Labs G Fuel Energy Formula Pineapple - Lead**
14. **Gamma Labs G Fuel Energy Formula Tropical Rain - Lead**
15. **Gamma Labs G Fuel Energy Formula Mystery Flavor - Lead**
16. **Gamma Labs G Fuel Energy Formula Fruit Punch - Lead**
17. **Gamma Labs G Fuel Energy Formula Grape - Lead**
18. **Gamma Labs G Fuel Energy Formula Lemonade - 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.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since August 25, 2014, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive

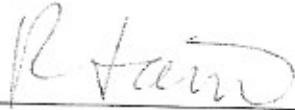
August 25, 2017

Page 4

resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



Rick Franco

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Gamma Enterprises, LLC, individually and doing business as Gamma Labs)
- Additional Supporting Information for Certificate of Merit (to AG only)

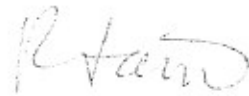
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Gamma Enterprises, LLC, individually and doing business as Gamma Labs

I, Rick Franco, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party 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 Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 25, 2017



Rick Franco

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 25, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Gamma Enterprises, LLC,
individually and doing business as
Gamma Labs
113 Alder Street
West Babylon, NY 11704

Current President or CEO
Gamma Enterprises, LLC,
individually and doing business as
Gamma Labs
115 Alder Street
West Babylon, NY 11704

On August 25, 2017, between 10:00 a.m. and 4:30 p.m. Eastern Time, 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 August 25, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, 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:

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

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Allison Haley, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
August 25, 2017
Page 7

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Yen Dang, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
jbarnes@sonoma-county.org

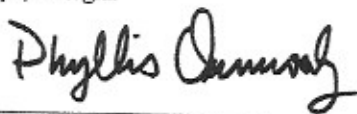
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

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

On August 25, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS, 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 with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on August 25, 2017, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92401	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Mateo County 400 County Cir., 3rd Floor Redwood City, CA 94063	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett Pl. San Francisco, CA 94102
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230		District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901	