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Counsel for Plaintiff, ECOLOGICAL RIGHTS FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ECOLOGICAL RIGHTS FOUNDATION,

Plaintiff,

v.

BERGHOFF INTERNATIONAL, INC., BED
BATH & BEYOND, INC., TARGET
CORPORATION, SHOPPERSCHOICE.COM,
L.L.C., PACIFIC COAST MANUFACTURING,
INC., PATIO SITES, INC., HASTY-BAKE, INC.
d.b.a. HASTY-BAKE, AMAZON.COM, INC.,

Defendants.

Case No. **CGC-18-567066**

COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES

Health & Safety Code § 25249.5 et seq.

(Other)

ENDORSED
FILED
San Francisco County Superior Court
JUN 08 2018
CLERK OF THE COURT
BY: NEYL WEBB
Deputy Clerk

BY FAX
ONE LEGAL LLC

1 Plaintiff, Ecological Rights Foundation, in the public interest, based on information and
2 belief, and knowledge and investigation of counsel allege as follows:

3 **INTRODUCTION**

4 1. This Complaint seeks civil penalties and an injunction against Berghoff International, Inc.,
5 Bed Bath & Beyond, Inc., Target Corporation, ShoppersChoice.com, L.L.C., Pacific Coast
6 Manufacturing, Inc., Patio Sites, Inc., Hasty-Bake, Inc. d.b.a. Hasty-Bake, and Amazon.com, Inc.
7 (“Defendants”) to remedy Defendants’ continuing failure to warn individuals in California about
8 exposures to carbon monoxide, a chemical known to the State of California to cause reproductive
9 toxicity. Such exposures have occurred and continue to occur, through the use of charcoal grills that
10 Defendants manufacture, distribute and/or sell in the State (“Products”). These Products are intended
11 to be used with charcoal and are used for cooking. The combustion of charcoal in charcoal grills
12 causes carbon monoxide to be released into the air. People using charcoal grills, and those standing
13 near the Products when they are in use, inhale the released carbon monoxide.

14 2. Under California’s Proposition 65, California Health & Safety Code § 25249.5, *et seq.*, it is
15 unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals
16 known to the State to cause cancer, birth defects, or other reproductive harm without providing clear
17 and reasonable warnings to individuals prior to their exposure. Defendants introduce charcoal grills
18 into the California marketplace, exposing users of the Products, including pregnant women, to
19 carbon monoxide. Despite the fact that Defendants expose pregnant women and other consumers
20 and individuals to carbon monoxide, Defendants provide no warnings about the reproductive hazards
21 associated with such exposures. Defendants’ conduct thus violates the warning provision of
22 Proposition 65. Health & Safety Code § 25249.6.

23 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel
24 Defendants to bring their business practices into compliance with Proposition 65 by providing a clear
25 and reasonable warning to each individual who has been and who in the future may be exposed to
26 carbon monoxide in the ways set forth above. Plaintiff seeks an order that Defendants identify and
27 locate each individual person to whom the Defendants conveyed Products during the past three years
28 and to provide to each such individual, as well as new purchasers and Product users, a clear and

1 reasonable warning that use of the Products causes exposures to a chemical known to cause birth
2 defects and other reproductive harm.

3 4. In addition to injunctive relief, Plaintiff seeks civil penalties to remedy Defendants' failure
4 to provide clear and reasonable warnings regarding exposure to a chemical known to cause birth
5 defects and other reproductive harm.

6 **PARTIES**

7 5. Plaintiff, Ecological Rights Foundation ("EcoRights") is a non-profit public benefit
8 organization dedicated to, among other causes, protecting California residents from toxic exposures,
9 environmental and human health education, and consumer rights. Ecological Rights Foundation is
10 incorporated under the laws of the State of California and is a "person" pursuant to Health & Safety
11 Code §25249.11(a). EcoRights brings this enforcement action in the public interest pursuant to
12 Health & Safety Code §25249.7(d).

13 6. Berghoff International, Inc., is a person in the course of doing business within the meaning
14 of Health & Safety Code §25249.11(b). Berghoff International, Inc. markets, distributes, and/or sells
15 the Products for sale and use in the State of California.

16 7. Bed Bath & Beyond, Inc. is a person in the course of doing business within the meaning of
17 Health & Safety Code §25249.11(b). Bed Bath & Beyond, Inc. markets, distributes, and/or sells the
18 Products for sale and use in the State of California.

19 8. Target Corporation is a person in the course of doing business within the meaning of Health
20 & Safety Code §25249.11(b). Target Corporation markets, distributes, and/or sells the Products for
21 sale and use in the State of California.

22 9. ShoppersChoice.com, L.L.C. is a person in the course of doing business within the meaning
23 of Health & Safety Code §25249.11(b). ShoppersChoice.com, L.L.C. markets, distributes, and/or
24 sells the Products for sale and use in the State of California.

25 10. Pacific Coast Manufacturing, Inc. is a person in the course of doing business within the
26 meaning of Health & Safety Code §25249.11(b). Pacific Coast Manufacturing, Inc. markets,
27 distributes, and/or sells the Products for sale and use in the State of California.

28 11. Patio Sites, Inc. is a person in the course of doing business within the meaning of Health &

1 Safety Code §25249.11(b). Patio Sites, Inc. markets, distributes, and/or sells the Products for sale
2 and use in the State of California.

3 12. Hasty-Bake, Inc. d.b.a. Hasty-Bake is a person in the course of doing business within the
4 meaning of Health & Safety Code §25249.11(b). Hasty-Bake, Inc. d.b.a. Hasty-Bake markets,
5 distributes, and/or sells the Products for sale and use in the State of California.

6 13. Amazon.com, Inc. is a person in the course of doing business within the meaning of Health
7 & Safety Code §25249.11(b). Amazon.com, Inc. markets, distributes, and/or sells the Products for
8 sale and use in the State of California.

9 14. Each Defendant employs more than ten people.

10 **JURISDICTION**

11 15. The Court has jurisdiction over this action pursuant to California Health & Safety Code
12 Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court "original
13 jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6 of the
14 Health & Safety Code, which contains the statutes under which this action is brought, does not
15 grant jurisdiction to any other trial court.

16 16. This Court also has jurisdiction over Defendants because they are businesses that have
17 sufficient minimum contacts in California and within the County of San Francisco. Defendants
18 intentionally availed themselves of the California and San Francisco County markets. It is thus
19 consistent with traditional notions of fair play and substantial justice for the San Francisco County
20 Superior Court to exercise jurisdiction over Defendants.

21 17. Venue is proper in San Francisco County Superior Court because one or more of the
22 violations arise in the County of San Francisco.

23 **BACKGROUND**

24 18. The People of the State of California have declared by initiative under Proposition 65 their
25 right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
26 reproductive harm." Proposition 65, § 1(b). To effectuate this goal, Proposition 65 prohibits exposing
27 people to chemicals listed by the State of California as known to cause cancer, birth defects, or other
28 reproductive harm without a "clear and reasonable warning" unless the business responsible for the

1 exposure can prove that it fits within a statutory exemption. Health & Safety Code Section 25249.6
2 states, in pertinent part:

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

7 19. On July 1, 1989, the State of California officially listed carbon monoxide as a chemical
8 known to cause developmental reproductive toxicity, which means harm to the developing fetus. On
9 July 1, 1990, carbon monoxide exposures became subject to the clear and reasonable warning
10 requirements under Proposition 65. 27 C.C.R. § 27001(b); Health & Safety Code Section
11 25249.10(b).

12 20. Plaintiff brings this enforcement action against Defendants pursuant to Health & Safety
13 Code Section 25249.7(d). Attached hereto and incorporated by reference are copies of the Notices
14 of Violation dated October 10, 2017 and December 4, 2017, which on that date EcoRights sent to
15 California's Attorney General, every county District Attorney in California, and to the City Attorneys
16 of every California City with a population greater than 750,000. On the same day, Plaintiff sent a
17 substantively identical letter to each Defendant. In compliance with Health & Safety Code §
18 25249.7(d) and 27 C.C.R. § 25903(b), each of the Notices included the following information: (1)
19 the name and address of each violator; (2) the statute violated; (3) the time period during which
20 violations occurred; (4) specific descriptions of the violations, including (a) the routes of exposure
21 to carbon monoxide from the Products, and (b) the specific type of Products sold and used in
22 violation of Proposition 65; and (5) the name of the specific Proposition 65-listed chemical that is
23 the subject of the violations described in each Notice.

24 21. Accompanying each of the Notices of Violation sent to the Defendants was a summary of
25 Proposition 65 that was prepared by California's Office of Environmental Health Hazard
26 Assessment. In addition, the Notices of Violation were accompanied by a Certificate of Service
27 attesting to the service of the Notice of Violation on each entity which received it. Pursuant to Health
28 & Safety Code Section 25249.7(d) and 11 C.C.R. § 3101, Plaintiff also sent a Certificate of Merit
29 with the Notices of Violation attesting to the reasonable and meritorious basis for the action. Plaintiff
30 enclosed factual information sufficient to establish the basis of the Certificate of Merit with the

1 Notice of Violation letters sent to the Attorney General.

2 22. None of the public prosecutors with the authority to prosecute violations of Proposition 65
3 has commenced and/or is diligently prosecuting a cause of action against Defendant under Health &
4 Safety Code Section 25249.5 *et seq.*, based on the claims asserted in EcoRights' Notices.

5 23. Defendants know and intend that individuals, including pregnant women, will use the
6 Products for cooking, thus exposing them to carbon monoxide. Under Proposition 65, an exposure
7 is "knowing" where the party responsible for such exposure has "knowledge of the fact that a[n] . . .
8 exposure to a chemical listed pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No
9 knowledge that . . . exposure is unlawful is required." 27 C.C.R. § 25102(n). This knowledge may
10 be either actual or constructive. *See, e.g.*, Final Statement of Reasons Revised (November 4, 1988)
11 (pursuant to former 22 C.C.R. Division 2, § 12201). Defendants have been informed of the carbon
12 monoxide exposures caused by the use of Products by the 60-Day Notice of Violation, and the
13 accompanying Certificate of Merit served on them by EcoRights. Defendants also have constructive
14 knowledge of the carbon monoxide exposures caused by Products. As companies that manufacture,
15 market, distribute and/or sell the Products for use in the State of California, Defendants know or
16 should know that carbon monoxide exposures to users of the Products are a natural and foreseeable
17 consequence of Defendants' placing the Products into the stream of commerce.

18 24. Any person "violating or threatening to violate" Proposition 65 may be enjoined in any court
19 of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is defined to mean
20 "to create a condition in which there is a substantial probability that a violation will occur." Health
21 & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to exceed \$2,500 per
22 day for each violation of the statute.

23 25. EcoRights has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this complaint.

25 **FIRST CAUSE OF ACTION**

26 **(Violations of Health & Safety Code §25249.6)**

27 26. EcoRights realleges and incorporates the facts and allegations contained in the above
28 paragraphs as though specifically set forth herein.

1 27. That each defendant is a person in the course of doing business within the meaning of Health
2 & Safety Code § 25249.11(b) who, by manufacturing, marketing, distribution, sale or otherwise
3 placing the Products into the stream of commerce, violated, violates or threatens to violate
4 Proposition 65.

5 28. Carbon monoxide is a chemical listed by the State of California as known to cause
6 developmental reproductive toxicity.

7 29. Defendants know that the average use of the Products will expose users of the Products to
8 carbon monoxide. Defendants intend that the Products be used in a manner that results in exposures
9 to carbon monoxide.

10 30. Defendants have failed and continues to fail, to provide clear and reasonable warnings
11 regarding the reproductive toxicity of carbon monoxide to users of the Products.

12 31. Since at least three years prior to the Notice of Violation Letters, Defendants have violated
13 Proposition 65 by knowingly and intentionally exposing individuals to carbon monoxide without
14 first giving clear and reasonable warnings to such individuals regarding the reproductive toxicity of
15 carbon monoxide.

16 **PRAYER FOR RELIEF**

17 Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 18 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained, and
19 ordered to comply with the provisions of Section 25249.6 of the California Health &
20 Safety Code;
- 21 2. That Defendants be ordered to make best efforts to identify and locate each individual
22 in California to whom it, or its customers or agents, distributed or sold Products
23 during the past three years, and to provide a warning to each such person that use of
24 the Product will expose that person to a chemical known to cause birth defects and
25 other reproductive harm;
- 26 3. That Defendants be assessed a civil penalty in an amount equal to \$2,500.00 per day
27 per individual exposed to carbon monoxide in violation of Section 25249.6 of the
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California Health & Safety Code, as the result of Defendants' marketing, distributing, and/or selling the Products for use in California.

4. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to Plaintiff the attorneys' fees and costs it incurred in bringing this enforcement action; and

5. For such other relief as this court deems just and proper.

Dated: June 7, 2018

ECOLOGY LAW CENTER



Fredric Evenson, Attorney for Plaintiff
ECOLOGICAL RIGHTS FOUNDATION

ECOLOGY LAW CENTER
P.O. BOX 1000
SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

OCTOBER 10, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT

Bed Bath & Beyond, Inc. c/o The Prentice-Hall Corporation System, Inc. Registered Agent, 2710 Gateway Oaks Dr. Ste. 150N Sacramento CA 95833	Raymond Vandenlangenbergh, Registered Agent c/o Berghoff International, Inc. 11064 State Road 54 Odessa, FL 33556
Raymond Vandenlangenbergh, CEO Berghoff International, Inc. 11063 State Road 54 Odessa, FL 33556	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Charcoal Grills

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

This Notice of Violations ("Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Attached for your reference is a summary, "Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the California Office of Environmental Health Hazard Assessment ("OEHHA"). Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is also attached.

The above-referenced violations occur when California residents use charcoal grills. These products are used primarily for cooking. Combustion of charcoal produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of charcoal causes carbon monoxide to be released into the air, people using charcoal-burning grills, and others standing near the products when charcoal is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below is a list of the products subject to this notice. Though specific models or SKU or product

numbers are given as examples, this Notice also pertains to all models, and all variations, of these vendors' charcoal grills sold through Bed Bath & Beyond.

BergHOFF Manual Table BBQ, UPC# 5413821057712

This non-exclusive list of examples of the type of products that are subject to this Notice is for the recipient's benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least October 10, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director
Ecological Rights Foundation
867 B Redwood Drive
Garberville, California 95542
Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):


Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, California 95061
Telephone: (831) 454-8216
Email: evenson@ecologylaw.com

Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement terms would require that the unwarned exposures described in this Notice of Violation be stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to this Notice, that the products be reformulated to eliminate the exposures described in the Notice,

or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,



Fredric Evenson

ECOLOGY LAW CENTER
P.O. Box 1000
SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

OCTOBER 10, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

Target Corporation c/o CT Corporation System, Registered Agent 111 Eighth Ave, 13th FL New York, NY 10011	Brian C. Cornell, CEO Target Corporation 1000 Nicollet Mall Mpls, MN 55403
Royal Gourmet Corp. c/o Xiaowei Zheng, Registered Agent 5425 Peachtree Industrial Blvd, Ste. F/G Norcross, GA, 30092	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Charcoal Grills

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

This Notice of Violations ("Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Attached for your reference is a summary, "Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the California Office of Environmental Health Hazard Assessment ("OEHHA"). Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is also attached.

The above-referenced violations occur when California residents use the charcoal grills listed below. These products are used primarily for cooking. Combustion of charcoal produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of charcoal causes carbon monoxide to be released into the air, people using charcoal grills, and others standing near the products when charcoal is

burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below are examples of products subject to this notice. Though specific models or SKU or product numbers are given as examples, this Notice also pertains to all models, and all variations, of the charcoal grills manufactured and/or distributed by the vendors of the following products.

RoyalGourmet® 30-inch Charcoal Grill with Offset Smoker CC1830F, UPC# 853252006081

It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least October 10, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director
Ecological Rights Foundation
867 B Redwood Drive
Garberville, California 95542
Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):

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Ecology Law Center
P.O. Box 1000
Santa Cruz, California 95061
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Email: evenson@ecologylaw.com

Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement

terms would require that the unwarned exposures described in this Notice of Violation be stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to this Notice, that the products be reformulated to eliminate the exposures described in the Notice, or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,



Fredric Evenson

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SANTA CRUZ, CALIFORNIA 95061
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EMAIL: EVENSON@ECOLOGYLAW.COM

OCTOBER 10, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

ShoppersChoice.com, L.L.C. c/o Michael Hackley, Registered Agent 10920 Coursey Blvd. Baton Rouge, LA 70816	President or CEO ShoppersChoice.com, L.L.C. 8151 Airline Hwy Baton Rouge, LA 70815
President or CEO Cajun Cast Iron 203 Lanse Meg Road Mamou, LA 70554	

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Charcoal Grills and Hibachis

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

This Notice of Violations ("Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Attached for your reference is a summary, "Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the California Office of Environmental Health Hazard Assessment ("OEHHA"). Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is also attached.

The above-referenced violations occur when California residents use charcoal-burning grills and hibachi grills. These products are used primarily for cooking. Combustion of charcoal produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of charcoal causes carbon monoxide to be released into the air, people using charcoal-burning grills and hibachi grills, and others standing near the

products when charcoal is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below are examples of the products subject to this notice. Though specific models or SKU or product numbers are given as examples, this Notice also pertains to all models, and all variations, of these vendors' charcoal grills and hibachi grills sold through ShoppersChoice.com.

#10447 Cajun Classic Cast Iron Hibachi Grill 15" Round, UPC#838040001981
--

This non-exclusive list of examples of the type of products that are subject to this Notice is for the recipient's benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least October 10, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director
Ecological Rights Foundation
867 B Redwood Drive
Garberville, California 95542
Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):

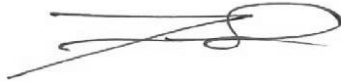
Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, California 95061
Telephone: (831) 454-8216
Email: evenson@ecologylaw.com

Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement terms would require that the unwarned exposures described in this Notice of Violation be

stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to this Notice, that the products be reformulated to eliminate the exposures described in the Notice, or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,



Fredric Evenson

ECOLOGY LAW CENTER
P.O. Box 1000
SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

DECEMBER 4, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

James Poremba, Registered Agent Pacific Coast Manufacturing, Inc. 5270 Edison Ave. Chino, CA 91710	Todd Raemond Maltbie, Registered Agent Patio Sites, Inc. 234 Oak St. Brentwood, CA 94513
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AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Charcoal Grills

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

This Notice of Violations ("Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Attached for your reference is a summary, "Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the California Office of Environmental Health Hazard Assessment ("OEHHA"). Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is also attached.

The above-referenced violations occur when California residents use charcoal-burning grills. These products are used primarily for cooking. Combustion of charcoal produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of charcoal causes carbon monoxide to be released into the air, people using charcoal-burning grills, and others standing near the products when charcoal is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below is a list of the products subject to this notice. Though specific models or SKU or product numbers are given as examples, this Notice also pertains to all models, and all variations, of these

vendors' charcoal grills.

PCM 30-Inch Built-In Stainless Steel Charcoal Grill with Adjustable Charcoal Tray,
Model# 400-CG30

This non-exclusive list of examples of the type of products that are subject to this Notice is for the recipient's benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least December 4, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director
Ecological Rights Foundation
867 B Redwood Drive
Garberville, California 95542
Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, California 95061
Telephone: (831) 454-8216
Email: evenson@ecologylaw.com

Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement terms would require that the unwarned exposures described in this Notice of Violation be stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to

this Notice, that the products be reformulated to eliminate the exposures described in the Notice, or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,

A handwritten signature in blue ink, appearing to be "Fredric Evenson", written over a horizontal line.

Fredric Evenson

ECOLOGY LAW CENTER
P.O. Box 1000
SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

DECEMBER 4, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

Richard C Alexander, Registered Agent Hasty-Bake, Inc. d.b.a. Hasty-Bake 1313 S. Lewis Ave. Tulsa, OK 74104	Jeff Bezos, President Amazon.com, Inc. c/o CSC - Lawyers Incorporating Service 2710 Gateway Oaks Dr. Ste. 150N Sacramento CA 95833
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AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Charcoal Grills

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

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The above-referenced violations occur when California residents use charcoal-burning grills. These products are used primarily for cooking. Combustion of charcoal produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of charcoal causes carbon monoxide to be released into the air, people using charcoal-burning grills, and others standing near the products when charcoal is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below is a list of the products subject to this notice. Though specific models or SKU or product

numbers are given as examples, this Notice also pertains to all models, and all variations, of these vendors' charcoal grills sold through Amazon.com.

Hasty-Bake 131 Legacy Powder Coated Charcoal Grill
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This non-exclusive list of examples of the type of products that are subject to this Notice is for the recipient's benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least December 4, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

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867 B Redwood Drive
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or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,

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Fredric Evenson

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SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

DECEMBER 4, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

Jeff Bezos, President Amazon.com, Inc. c/o CSC - Lawyers Incorporating Service 2710 Gateway Oaks Dr. Ste. 150N Sacramento CA 95833	
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AND THE PUBLIC PROSECUTORS LISTED ON THE DISRIBUTION LIST
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Below is a non-exclusive list of examples of these types of products. Though specific models or SKU or product numbers are given as examples, this Notice pertains to all models, and all variations, of the specific type of product of which the named model is an example.

VMI Outdoor Living 14" Portable Charcoal Barbecue Kettle, UPC# 696901001187

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These products cause carbon monoxide exposures to occur in peoples yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed parties did not and do not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least December 4, 2014 and will continue every day until clear and reasonable warnings are given.

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Frédéric Evenson