# SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

PETSMART, INC., a Delaware corporation; and DOES 1 through 10 inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ECOLOGICAL ALLIANCE, LLC, a California limited liability company.

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



OCT 3 1 2018

Shorri H. Carrer, Executive Office Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the trip rmation 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. JAVSOI 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 liame a un abogado inmediatamente. Si no conoce a un abogado, puede liamar 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.lawhelpcalifomia.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.

CASE NUMBER

STCV03170

The name and address of the court is: (El nombre y dirección de la corte es):

Los Angeles Superior Court (Stanley Mosk Branch)

111 North Hill St., Los Angeles, CA 90012

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): Custodio & Dubey LLP; 448 S. Hill St., Suite 615, Los Angeles, CA 90013; (213) 593-9095

DATE: UC! (Fecha)	3 1 2018	SHEREIT. CARTER	Clerk, by (Secretario)	URISHI	IAGRIJALVA	Deputy (Adjunto)
(For proof of se (Para prueba o	ervice of this su le entrega de e	mmons, use Proof of Service of Susta citation use el formulario Proof	of Service of Sun	nmons, <i>(POS-01</i>	0)).	
[SEAL]		NOTICE TO THE PERSON SEI  1. as an individual defend 2. as the person sued und	dant. der the fictitious r		) <i>:</i>	
			•		CCP 416.60 (minor) CCP 416.70 (conserva CCP 416.90 (authorize	•
		other (specify)  4. by personal delivery or				

# SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS:

Stanley Mosk Courthouse

111 North Hill Street, Los Angeles, CA 90012

# NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE

Reserved for Clerk's File Stamp

FILED

Superior Court of California County of Los Angeles

10/31/2018

Short R. Carter, Executive Officer's Clerk of Courses.

2. Chicking Brigaling Dispute

CASE NUMBER:

Your case is assigned for all purposes to the judicial officer indicated below.

18STCV03170

#### THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

ASSI	GNED JUDGE DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
✔ Holly E. Ke	endig 42				

Given to the Plaintiff/Cross-Complainant/Attorney of Record

Sherri R. Carter, Executive Officer / Clerk of Court

on 10/31/2018

By Cristina Grijalva

, Deputy Clerk

(Date)

### INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

### **APPLICATION**

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

## PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

#### CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

#### **TIME STANDARDS**

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

# **COMPLAINTS**

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

#### **CROSS-COMPLAINTS**

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

#### STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

#### FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

#### SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

#### Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

#### \*Provisionally Complex Cases

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

		<u>CM-010</u>				
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar nu Vineet Dubey #243208 Custodio & Dubey LLP	mber, and address):	FOR COURT USE ONLY				
448 S. Hill St., Suite 615 Los Angeles, CA 90013 TELEPHONE NO.: (213) 785-2909 ATTORNEY FOR (Name): Plaintiff Ecological A1	FAX NO.: (213) 785-2899 liance, LLC	CONFORMED COPY ORIGINAL FILED Superior Court of Californis				
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS STREET ADDRESS: 111 North Hill St.	Angeles	OCT 3 1 2018				
MAILING ADDRESS: Same CITY AND ZIP CODE: Los Angeles 90012		Sheri R. Carrer, Executive Ornoer/Clerk By: Cristina Grijalva, Deputy				
BRANCH NAME: Stanley Mosk						
CASE NAME:						
Ecological Alliance, LLC vs. Petsmar	t, Inc.					
CIVIL CASE COVER SHEET	Complex Case Designation	CASE NUMBER:				
Unlimited Limited	Counter Joinder					
(Amount (Amount demanded is	Filed with first appearance by defenda	189TCV03170				
exceeds \$25,000) \$25,000 or less)	(Cal. Rules of Court, rule 3.402)	DEPT:				
	v must be completed (see instructions on	page 2).				
1. Check one box below for the case type that t	_					
Auto Tort Auto (22)		ovisionally Complex Civil Litigation al. Rules of Court, rules 3.400—3.403)				
Uninsured motorist (46)	Rule 3.740 collections (09)	Antitrust/Trade regulation (03)				
Other PI/PD/WD (Personal Injury/Property	Other collections (09)	Construction defect (10)				
Damage/Wrongful Death) Tort	Insurance coverage (18)	Mass tort (40)				
Asbestos (04)	Other contract (37)	Securities litigation (28)				
Product liability (24)	Real Property	Environmental/Toxic tort (30)				
Medical malpractice (45)	Eminent domain/Inverse	Insurance coverage claims arising from the				
Other PI/PD/WD (23)	condemnation (14)	above listed provisionally complex case				
Non-PI/PD/WD (Other) Tort	Wrongful eviction (33)	types (41)				
Business tort/unfair business practice (07)	Other real property (26)	forcement of Judgment				
	Unlawful Detainer	Enforcement of judgment (20)				
Defamation (13)	Commercial (31)	scellaneous Civil Complaint				
Fraud (16)	Residential (32)	☐ RICO (27)				
Intellectual property (19)	☐ Drugs (38)	Other complaint (not specified above) (42)				
l 🗀	tudicial Basieur	scellaneous Civil Petition				
Other non-PI/PD/WD tort (35)	Asset forfeiture (05)					
Employment	Petition re: arbitration award (11)	Partnership and corporate governance (21) Other petition (not specified above) (43)				
Wrongful termination (36)	Writ of mandate (02)	Other peduon (not specified above) (43)				
Other employment (15)	Other judicial review (39)					
	ex under rule 3.400 of the California Rule	s of Court. If the case is complex, mark the				
factors requiring exceptional judicial manage						
a. Large number of separately represe						
b Extensive motion practice raising dif		h related actions pending in one or more courts				
issues that will be time-consuming to		s, states, or countries, or in a federal court				
c. Substantial amount of documentary	evidence f. Substantial post	judgment judicial supervision				
3. Remedies sought (check all that apply): a.		laratory or injunctive relief c. punitive				
4. Number of causes of action (specify): One						
5. This case is is is not a class						
<ol><li>If there are any known related cases, file and</li></ol>	serve a notice of related case. (You mag	y use form CM-015.)				
Date: October 31, 2018						
Vineet Dubey						
(TYPE OR PRINT NAME)	NOTICE	ATURE OF PARTY OR ATTORNEY FOR PARTY)				
<ul> <li>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</li> </ul>						
in sanctions.  • File this cover sheet in addition to any cover s	sheet required by local court rule.					
If this case is complex under rule 3.400 et se	q. of the California Rules of Court, you m					
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.

#### **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 P!/PD/WD (Personal Injury/ Property Damage/Wrongful Death)

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)

#### **CASE TYPES AND EXAMPLES**

#### 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

# 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

Other Civil Petition

# CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

- **Step 1:** After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.
- Step 2: In Column B, check the box for the type of action that best describes the nature of the case.
- **Step 3:** In Column C, circle the number which explains the reason for the court filing location you have chosen.

# Applicable Reasons for Choosing Court Filing Location (Column C)

- 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
- 2. Permissive filing in central district.
- 3. Location where cause of action arose.
- 4. Mandatory personal injury filing in North District.
- 5. Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.

- 7. Location where petitioner resides.
- 8. Location wherein defendant/respondent functions wholly.
- 9. Location where one or more of the parties reside.
- 10. Location of Labor Commissioner Office.
- 11. Mandatory filing location (Hub Cases unlawful detainer, limited non-collection, limited collection, or personal injury).

Auto Tort

Other Personal Injury/ Property Damage/ Wrongful Death Tort

Civil Case Cover Sheet Category No.	Type of Action (Check only one)	Applicable Reasons - See Step 3 Above
Auto (22)	□ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Asbestos (04)	□ A6070 Asbestos Property Damage □ A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
Product Liability (24)	□ A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
Medical Malpractice (45)	□ A7210 Medical Malpractice - Physicians & Surgeons □ A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
Other Personal Injury Property Damage Wrongful Death (23)	□ A7250 Premises Liability (e.g., slip and fall)     □ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)     □ A7270 Intentional Infliction of Emotional Distress     □ A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: Ecological Alliance vs. Petsmart, Inc.

CASE NUMBER

	A Civil Case Cover Sheet Category No.			B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
	Business Tort (07)		A6029	Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
perty h Tort	Civil Rights (08)		A6005	Civil Rights/Discrimination	1, 2, 3
ry/ Pro I Deat	Defamation (13)		A6010	Defamation (slander/libel)	1, 2, 3
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Fraud (16)	0	A6013	Fraud (no contract)	1, 2, 3
e/ Wr	Denfaceional Magliagnes (OF)	-	A6017	Legal Malpractice	1, 2, 3
on-Pe amag	Professional Negligence (25)		A6050	Other Professional Malpractice (not medical or legal)	1, 2, 3
ŽÕ	Other (35)	ū	A6025	Other Non-Personal Injury/Property Damage tort	1, 2, 3
ent	Wrongful Termination (36)		A6037	Wrongful Termination	1, 2, 3
Employment	Other Employment (15)		A6024	Other Employment Complaint Case	1, 2, 3
Em	Other Employment (15)		A6109	Labor Commissioner Appeals	10
			A6004	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
	Breach of Contract/ Warranty (06)		A6008	Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
	(not insurance)		A6019	Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
			A6028	Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
ract	Collections (09)		A6002	Collections Case-Seller Plaintiff	5, 6, 11
Contract	Collections (09)		A6012	Other Promissory Note/Collections Case	5, 11
0			A6034	Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11
	Insurance Coverage (18)	0	A6015	Insurance Coverage (not complex)	1, 2, 5, 8
		0	A6009	Contractual Fraud	1, 2, 3, 5
	Other Contract (37)		A6031	Tortious Interference	1, 2, 3, 5
			A6027	Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9
	Eminent Domain/Inverse Condemnation (14)	D.	A7300	Eminent Domain/Condemnation Number of parcels	2, 6
Real Property	Wrongful Eviction (33)		A6023	Wrongful Eviction Case	2, 6
를 -			A6018	Mortgage Foreclosure	2, 6
2	Other Real Property (26)		A6032	Quiet Title	2, 6
-		□	A6060	Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6
<u>.</u>	Unlawful Detainer-Commercial (31)		A6021	Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
Unlawful Detainer	Unlawful Detainer-Residential (32)		A6020	Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
awful	Unlawful Detainer- Post-Foreclosure (34)	0	A6020F	Unlawful Detainer-Post-Foreclosure	2, 6, 11
5	Unlawful Detainer-Drugs (38)		A6022 I	Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: Ecological Alliance vs. Petsmart, Inc.

	A Civil Case Cover Sheet Category No.			B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
	Asset Forfeiture (05)		A6108	Asset Forfeiture Case	2, 3, 6
ew	Petition re Arbitration (11)		A6115	Petition to Compel/Confirm/Vacate Arbitration	2, 5
Judicial Review			A6151	Writ - Administrative Mandamus	2, 8
<u>:0</u>	Writ of Mandate (02)		A6152	Writ - Mandamus on Limited Court Case Matter	2
Jud			A6153	Writ - Other Limited Court Case Review	2
	Other Judicial Review (39)	(39) A6150 Other Writ / Judicial Review 2		2, 8	
E	Antitrust/Trade Regulation (03)		A6003	Antitrust/Trade Regulation	1, 2, 8
itigati	Construction Defect (10)		A6007	Construction Defect	1, 2, 3
Provisionally Complex Litigation	Claims Involving Mass Tort (40)	0	A6006	Claims Involving Mass Tort	1, 2, 8
y Con	Securities Litigation (28)		A6035	Securities Litigation Case	1, 2, 8
isional	Toxic Tort Environmental (30)		A6036	Toxic Tort/Environmental	1, 2, 3, 8
Prov	Insurance Coverage Claims from Complex Case (41)	0	A6014	Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
			A6141	Sister State Judgment	2, 5, 11
++			A6160	Abstract of Judgment	2,6
men men	Enforcement		A6107	Confession of Judgment (non-domestic relations)	2,9
Enforcement of Judgment	of Judgment (20)		A6140	Administrative Agency Award (not unpaid taxes)	2, 8
a Fire			A6114	Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
			A6112	Other Enforcement of Judgment Case	2, 8, 9
99	RICO (27)		A6033	Racketeering (RICO) Case	1, 2, 8
Miscellaneous ivil Complaints		-	A6030	Declaratory Relief Only	1, 2, 8
lane	Other Complaints		A6040	Injunctive Relief Only (not domestic/harassment)	2, 8
Miscel Civil Co	(Not Specified Above) (42)		A6011	Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
Ē Š		Ø	A6000	Other Civil Complaint (non-tort/non-complex)	1, 2, 8
	Partnership Corporation Governance (21)	_	A6113	Partnership and Corporate Governance Case	2, 8
			A6121	Civil Harassment	2, 3, 9
SIIS			A6123	Workplace Harassment	2, 3, 9
anec	04		A6124	Elder/Dependent Adult Abuse Case	2, 3, 9
Miscellaneous Civll Petítions	Other Petitions (Not Specified Above) (43)			Election Contest	2
C Z			A6110	Petition for Change of Name/Change of Gender	2,7
				Petition for Relief from Late Claim Law	2, 3, 8
				Other Civil Petition	2, 3, 6
L					£, 0

SHORT TITLE: Ecological A	lliance vs. Petsmart, I	nc.		CASE NUMBER
type of action	f Reason and Addre that you have selected quired for class action	d. Enter the	e appropriate boxes address which is th	s for the numbers shown under Column C for the e basis for the filing location, including zip code
REASON:	5. 🗆 6. 🗆 7. 🗆 8. 🗀 9.	10. 🛭 11.	ADDRESS: 1418 Yorkshire Li	ane
СПҮ:	STATE:	ZIP CODE:		
La Habra	CA	90631		

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: Octob	er 31,	2018
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(SIGNATURE OF ATTORNEY/FILING PARTY)

# PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

- 1. Original Complaint or Petition.
- 2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
- 3. Civil Case Cover Sheet, Judicial Council form CM-010.
- Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
- 5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
- A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
- Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

CONFORMED COPY ORIGINAL FILED 1 MIGUEL CUSTODIO, STATE BAR NO. 248744 VINEET DUBEY, STATE BAR NO. 243208 2 CUSTODIO & DUBEY LLP 448 S. Hill St., Suite 615 **DOT 3.1 2018** 3 Los Angeles, CA 90013 Shenri R. Carter, Executive Officer/Glerk Telephone: (213) 593-9095 By: Cristine Grijalva, Deputy Facsimile: (213) 785-2899 4 5 Attorneys for Plaintiff ECOLOGICAL ALLIANCE, LLC 6 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 **COUNTY OF LOS ANGELES** 9 UNLIMITED CIVIL JURISDICTION 10 ECOLOGICAL ALLIANCE, LLC, a CASE NO. 18 ST CV 0 3 1 7 0 California limited liability company, 11 Plaintiffs, COMPLAINT FOR CIVIL PENALTIES 12 AND INJUNCTIVE RELIEF VS. 13 (Health & Safety Code. § 25249.6 et seq.) PETSMART, INC., a Delaware corporation; 14 and DOES 1 through 10, inclusive, 15 Defendants. 16 17 18 19 20 21 22 23 24 25 26 27 28

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

# NATURE OF THE ACTION

- 1. This Complaint is brought by plaintiff ECOLOGICAL ALLIANCE, LLC ("Plaintiff") in the public interest of the People of the State of California to enforce their right to be informed of the presence of chemicals listed by the State of California, pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.6 et seq. ("Proposition 65"), including Di-n-butyl Phthalate (DBP).
- 2. Plaintiffs seek to remedy Defendants' failure to warn citizens of the State of California, in violation of Proposition 65, about the presence of DBP ("Listed Chemical") in Defendant's fish nets offered for sale throughout the State of California ("Products").
  - Defendant's Products contain the Listed Chemical and consumers of Products in the State of California are exposed to the Listed Chemical through dermal exposure and ingestion of Products.
  - 4. Defendants know and intend that their Products expose consumers in the State of California to the Listed Chemical.
  - 5. Attached hereto and incorporated by reference are copies of a letter ("60-Day Notices"), dated May 14, 2018, which Plaintiff sent to Defendant and California's Attorney General. Identical letters were sent to every District Attorney in the state, to the City Attorneys of every California city with a population greater than 750,000, and to all Defendants. Attached to the 60-Day Notices were Certificates of Merit attesting to the reasonable and meritorious basis for this action, Certificates of Service attesting to service of the letters on each entity described above, and a description of Proposition 65 prepared by the California Office of Environmental Health Hazard Assessment. Furthermore, factual information sufficient to establish the basis of the Certificates of Merit was enclosed with the 60-Day Notice sent to California's Attorney General.
  - 6. After receiving the claims asserted in the 60-Day Notice, the public enforcement agencies identified in Paragraph 5 have failed to commence and diligently prosecute a cause of action against Defendants under Proposition 65.

7. Plaintiff seeks preliminary and permanent injunctive relief to compel Defendants to provide the warning required under Proposition 65 regarding the Products.

8. Pursuant to Health and Safety Code section 25249.7(b), Plaintiff also seeks civil penalties against Defendants for violations of Proposition 65.

# **PARTIES**

- 9. Plaintiff is a California limited liability company. It brings this action in the public interest pursuant to Health and Safety Code section 25249.7(d).
- 10. The Defendant is a "Person" in the course of doing business within the meaning of Health and Safety Code section 25249.11(a) "Person" means an individual, trust, firm, joint stock company, corporation, company, partnership, limited liability company, and association."
- 11. The Defendant is a Delaware corporation that manufactures, distributes, and/or offers for sale in the State of California, Products that contain the Listed Chemical.
- 12. Defendants DOES 1-10, which manufacture, distribute, and/or offers for sale in the State of California Products that contain the Listed Chemical, are each persons in the course of doing business within the meaning of Health and Safety Code section 25249.11. At this time, the true names and capacities of defendants DOES 1 through 10, inclusive, are unknown to Plaintiff, who, therefore, sues said defendants by their fictitious names pursuant to Code of Civil Procedure section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible for the acts and occurrences alleged herein. When ascertained, their true names and capacities shall be reflected in an amended complaint.

# VENUE AND JURISDICTION

13. The Court has jurisdiction over this action pursuant to Health and Safety Code section 25249.7. Pursuant to California Constitution Article VI, section 10, the California Superior Court has "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other trial courts that should have jurisdiction.

- 14. The 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 is a citizen of the State of California, has sufficient minimum contacts in the State of California, and/or otherwise purposefully avails itself of the California market. Defendants' purposeful availment renders the exercise of personal jurisdiction by the Court consistent with traditional notions of fair play and substantial justice.
- 15. Venue is proper in this Court because Defendants manufacture, distribute, offer for sale, sell, and/or serve Products that contain the Listed Chemical. Liability for Plaintiff's causes of action, or some parts thereof, has accordingly arisen during the times relevant to this Complaint and Plaintiff accordingly seeks civil penalties and forfeitures imposed by statutes.

# FIRST CAUSE OF ACTION

# (Violation of Proposition 65 - Against All Defendants)

- 16. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 15, inclusive.
- 17. Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the above-described acts, Defendants are liable for a violation of Proposition 65.

# PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 1. That the Court, pursuant to Health and Safety Code section 25249.7(a), preliminarily and permanently enjoin Defendants from manufacturing, distributing, offering for sale, selling, and/or serving in the State of California Products that contain the Listed Chemical without first providing a "clear and reasonable warning" under Proposition 65;
  - 2. That the Court grant Plaintiff's reasonable attorneys' fees and costs of suit;
- 3. That the Court, pursuant to Health and Safety Code section 25249.7(b), assess civil penalties against Defendants in such amount as the Court deems appropriate; and
  - 4. That the Court grant such other and further relief as may be just and proper.

1	Dated: October 31, 2018	Respectfully Submitted, CUSTODIO & DUBEY LLP
2		COSTODIO & DOBET LLP
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4		Ву:
5		Vineet Dubey Custodio & Dubey LLP Attorneys for Plaintiff ECOLOGICAL ALLIANCE, LLC
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May 14, 2018

Petsmart, Inc. c/o Corporate Creations Network, Inc. 4640 Admiralty Way, 5th Floor Marina del Rey, CA 90292

Re: NOTICE OF VIOLATION AGAINST PETSMART, INC. OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.6

To Whom It May Concern and to Public Prosecutors:

Ecological Alliance, LLC, a California limited liability company ("Alliance") is a California company acting in the interest of the general public seeking to further, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, the improvement of workers and consumer rights, environmental education and corporate accountability. As described below, Alliance has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "Act"), codified at Cal. Health & Safety Code §25249.5 et seq. by Petsmart, Inc., a Delaware corporation (collectively the "Violators"). This letter serves to provide Alliance's notification of these violations to the Violators and elected prosecutors. Pursuant to §25249.7(d) of the statute, Alliance intends to bring an enforcement action sixty (60) days or more after effective service of this notice unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

The products which are causing an exposure without a warning in violation of Proposition 65, are fish nets, including but not limited to UPC #737257322172 ("Products") manufactured/distributed and offered for sale by Petsmart, Inc., to California consumers.

A copy of the Proposition 65 summary prepared by the Office of Environmental Health Hazard Assessment is attached, to the copy of this letter served to the Violators.

Because of this lack of a warning, consumers were exposed to the following chemicals without the proper required Proposition 65 warnings: 1) Di-n-butyl Phthalate (DBP). The routes of exposure for this chemical are ingestion and dermal. Such exposure can cause cancer, birth defects and other reproductive harm. Exposures to the listed chemical from the use of the Products have been occurring

Vineet Dubey, Esq. dubey@CD-Lawyers.com

without the clear and reasonable warnings required by Proposition 65, dating as far back as May 14, 2017, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the Products. Without proper warnings regarding the toxic effects of exposures to the listed chemical 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 chemical from reasonable foreseeable use of the Products.

Alliance intends to file a private enforcement action as provided for in the Act for the alleged violations by the Violators, unless Violaters agree in an enforceable written instrument to: (1) recall the listed products so as to eliminate further exposures to the identified chemicals; or (2) affix clear and reasonable Proposition 65 warning labels for products sold in the future or reformulate such products to eliminate the exposures; and (3) pay an appropriate civil penalty.

Consistent with the public interest goals of Proposition 65, Alliance is interested in seeking a constructive resolution to this matter, and invites Violators, should they seek early resolution of this matter, to communicate directly with Alliance's attorneys. Such resolution will avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all questions concerning this notice to Alliance's attorney, Vineet Dubey (dubey@cd-lawyers.com), Custodio & Dubey LLP, 448 S. Hill St., Suite 612, Los Angeles, CA 90013, 213-785-2909.

Sincerely,

Vineet Dubey

Custodio & Dubey LLP

cc: see attached distribution list

Attachments:

Proposition 65 summary

Certificate of Merit

Certificate of Service

# CERTIFICATE OF MERIT Health and Safety Code Section 25249.7(d)

Re: Ecological Alliance, LLC's Notice of Proposition 65 Violations by Petsmart, Inc.

- I, Vineet Dubey, hereby declare:
- 1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- 2. I am an attorney for the noticing party.
- 3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical that is the subject of the notice.
- 4. Based on the information obtained 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. 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 the information identified in California Health & Safety Code §25249.7(h)(2).

Dated: May 14, 2018

Vineet Dubey, Attorney at Law

# **CERTIFICATE OF SERVICE**

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 448 S. Hill St., Ste 612, Los Angeles, CA 90013.

On the date shown below, I served the following:

- 1) 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6
- 2) Certificate of Merit; Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy); Factual information sufficient to establish the basis of the certificate of merit (only sent to Attorney General)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); A Summary

on the alleged violator listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Petsmart, Inc. c/o Corporate Creations Network, Inc. 4640 Admiralty Way, 5th Floor Marina del Rey, CA 90292

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to the parties listed on the attached Distribution List.

I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

May 14, 2018

Vineet Dubey

		dube
Alameda County District Attorney 1225 Fallon St. Room 900 Oakland, CA 94612	Los Angeles County District Attorney 210 W Temple St. 18th Floor Los Angeles, CA 90012	Mone County District Attorney P0 Box 617 Bridgeport, CA 93517
Alpine County District Attorney	Madera County District Attorney	San Joaquin County District Attorney PO Box 990
PO Box 248 Markleeville, CA 96120	209 W Yosemite Ave Madera, CA 93637	Stockton, CA 95201-0990
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	San Francisco County District Attorney 850 Bryant St. Rm 322 San Francisco, CA 94103
Butte County District Attorney 25 County Center Dr.	Marin County District Attorney 3501 Civic Center Drive. #130	San Diego County District Attorney
Oroville, CA 95965-3385  Calayeras County District Attorney	San Rafael, CA 94903  Mendocino County District Attorney	San Diego, CA 92101-3803 San Bernardino County District Attorney
891 Mountain Ranch Road San Andreas, CA 95249	P.O. Box 1000 Ukiah, CA 95482	316 N Mountain View Ave San Bernardino. CA 92415-0004
Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102
Colusa County District Attorney Courthouse, 547 Market St Colusa, CA 95932	Inyo County District Attorney P.O. Drawer D Independence, CA 93526	Placer County District Attorney 10810 Justice Center Drive Suite 240 Roseville, CA 95678-6231
Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553	Orange County District Attorney P0 Box 808 Santa Ana, CA 92702	Merced County District Attorney 550 W. Main St. Merced. CA 95340
Del Norte County District Attorney 450 "H" St.	Nevada County District Attorney 10075 Levon Ave. Truckee, CA 96161	Napa County District Attorney P0 Box 720 Nana, CA 94559-0720
Crescent City, CA 95531 El Dorado County District Attorney 515 Main St.	Plumas County District Attorney 520 Main Street, Rm 404	Riverside County District Attorney 3960 Orange Street, Suite 6
Placerville, CA 95667-5697 Fresno County District Attorney 2220 Tulare St, Stc. 1000	Ouiney, CA 95971 Sacramento County District Attorney 901 G Street	Riverside, CA 92501 San Benito County District Attorney 419 4th St
Fresno, CA 93721 Glenn County District Attorney PO Box 430	Sacramento, CA 95814 San Luis Obispo County District Attorney County Government Center, Rm 450	Hollister, CA 95023 Siskiyou County District Attorney PO Box 986
Willows, CA 95988 Humboldt County District Attorney 825 5th St., 4th Floor	San Luis Obispo, CA 93408 San Mateo County District Attorney 400 County Center	Yreka, CA 96097  Solano County District Attorney 600 Union Ave
Eureka, CA 95501 Imperial County District Attorney	Redwood City, CA 94063 Santa Barbara County District Attorney	Fairfield, CA 94533 Sonoma County District Attorney
939 W. Main St., 2nd Floor El Centro, CA 92243-2860	1112 Santa Barbara Št. Santa Barbara. CA 93101	600 Administration Dr. Rm 212-J Santa Rosa, CA 95403
Kern County District Attorney 1215 Truytun Ave.	Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110	Shasta County District Attorney 1355 West St. Redding, CA 96001-1632
Bakersfield, CA 93301 Kings County District Attorney Gov't Ctr. 1400 W Lacey Blvd	Santa Cruz County District Attorney 701 Ocean St., Room 200	Sierra County District Attorney PO Box 457
Hanford, CA 93230 Lake County District Attorney 255 N Forbes St	Santa Cruz, CA 95060 Stanislaus County District Attorney P0 Box 442	Downieville, CA 95936-0457 Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Lakeport, CA 95453-4790 Modoc County District Attorney	Modesto, CA 95353  Sutter County District Attorney	Yuba County District Attorney
204 S. Court Street Alturas, CA 96101-4020	446 Second Street Yuba City, CA 95991	215 5th St Marysville, CA 95901
San Diego City Attorney City Cemer Plaza 1200 3rd Ave ≠ 1100	Lassen County District Attorney 200 S Lassen St. Suite 8 Susanville, CA 96130	Monterey County District Attorney PO Box 1131 Salinas, CA 93902
San Diego, CA 92101 Fuolumne County District Attorney 2 S Green St	Tulare County District Attorney County Civic Center, Rm224	Yolo County District Attorney 310 Second St
Sonora, CA 95370 Ventura County District Attorney	Visalia, CA 93291 Tehama County District Attorney	Woodland, CA 95695 San,JoseCity Attorney
800 S Victoria Ave Ventura, CA 93009	P.O. Box 519 Red Bluff; CA 96080	200 E. Santa Clara St 16th Floor