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13 Counsel for Plaintiff  
14 ECOLOGICAL RIGHTS FOUNDATION

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

12 ECOLOGICAL RIGHTS FOUNDATION,  
13  
14 Plaintiff,  
15 v.  
16 STAPLES, INC., BESTBUY.COM LLC,  
17 WOBBLEWORKS, INC., and DOES 1 through  
18 10, inclusive,  
19 Defendants.

Case No. **CGC-20-584232**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES

Health & Safety Code § 25249.5 et seq.  
(Other)

**ENDORSED  
FILED**  
*San Francisco County Superior Court*  
**APR 24 2020**  
**CLERK OF THE COURT**  
**BY: ANGELICA SUNGA**  
*Deputy Clerk*

**BY FAX**

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

### 3 **INTRODUCTION**

4 1. This Complaint seeks civil penalties and an injunction against STAPLES, INC.,  
5 BESTBUY.COM LLC, WOBBLEWORKS, INC. and DOES 1 through 10, inclusive (collectively  
6 “Defendants”) to remedy continuing failure to provide clear and reasonable warnings to individuals  
7 in California about exposures to styrene, a chemical known to the State of California to cause  
8 cancer.

9 2. Such exposures have occurred and continue to occur, through the use of (1) filaments -  
10 incorporating a styrene monomer including acrylonitrile-butadiene-styrene (ABS) filaments,  
11 polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments - intended  
12 to be used in the operation of 3D printers and 3D pens, as well as (2) 3D printers intended to be  
13 used with filaments incorporating a styrene monomer, and (3) 3D pens intended to be used with  
14 filaments incorporating a styrene monomer – which Defendants manufacture, distribute, market  
15 and/or sell in the State (3D printers and 3d pens and filaments incorporating a styrene monomer  
16 and hereinafter collectively referred to as “Products”).

17 3. When people use either 3D printers or 3D pens with filaments incorporating a styrene  
18 monomer, the filaments are heated by the 3D printers or 3D pens and thus release styrene into the  
19 air. People using the Products, and others present nearby, inhale styrene in the normal course of  
20 use.

21 4. Under California’s Proposition 65, California Health & Safety Code § 25249.5, *et seq.*, it is  
22 unlawful for businesses to knowingly and intentionally expose individuals in California to  
23 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without  
24 providing clear and reasonable warnings to individuals prior to their exposure. Defendants  
25 introduce Products into the California marketplace, exposing Product users to styrene. Despite the  
26 fact that Defendants expose consumers and individuals to styrene, Defendants provide no clear and  
27 reasonable warnings about the exposures to a listed carcinogen. Defendants’ conduct thus violates  
28 the warning provision of Proposition 65. Health & Safety Code § 25249.6.

1       5. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to  
2 compel each Defendant to bring its business practices into compliance with Proposition 65 by  
3 providing a clear and reasonable warning to each individual who has been exposed to styrene from  
4 use of the Products since April 24, 2017, and to those who in the future may be exposed to styrene  
5 from use of the Products. Plaintiff seeks an order that each Defendant identify and locate each  
6 person to whom it conveyed Products since April 24, 2017 and to provide to each such individual,  
7 as well as new purchasers and Product users, a clear and reasonable warning that use of the  
8 Products causes exposure to a chemical known to cause cancer.

9       6. In addition to injunctive relief, Plaintiff seeks civil penalties to remedy Defendants' failure  
10 to provide clear and reasonable warnings regarding exposure to a chemical known to cause cancer.

#### 11                                   **PARTIES**

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

18       8. STAPLES, INC. is a person in the course of doing business within the meaning of Health &  
19 Safety Code §25249.11(b). STAPLES, INC. manufactures, markets, distributes, and/or sells 3D  
20 printers intended to be used with filaments incorporating a styrene monomer for sale and use in the  
21 State of California.

22       9. BESTBUY.COM LLC is a person in the course of doing business within the meaning of  
23 Health & Safety Code §25249.11(b). BESTBUY.COM LLC manufactures, markets, distributes,  
24 and/or sells 3D printers intended to be used with filaments incorporating a styrene monomer for  
25 sale and use in the State of California.

26       10. WOBBLEWORKS, INC. is a person in the course of doing business within the meaning of  
27 Health & Safety Code §25249.11(b). WOBBLEWORKS, INC. manufactures, markets, distributes,  
28 and/or sells 3D pens intended to be used with filaments incorporating a styrene monomer for sale

1 and use in the State of California.

2 11. EcoRights is unaware of the true names and capacities of Defendants DOES 1 through 10,  
3 inclusive, and therefore sues said Defendants under fictitious names. EcoRights will amend its  
4 petition and complaint to show the true names and capacities of Does 1 through 10 when the same  
5 have been ascertained. Each of the Doe Defendants is the agent and/or employee of one of the  
6 other Defendants, and each performed acts on which this action is based within the course and  
7 scope of such Defendants' agency and/or employment. EcoRights is informed and believes and  
8 therefore alleges that each of the Defendants are legally responsible in some manner for the events  
9 and happenings referred to herein.

### 10 **JURISDICTION**

11 12. 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 13. This Court also has jurisdiction over Defendants because each Defendant business has  
17 sufficient minimum contacts in California and within the County of San Francisco. Defendants  
18 intentionally availed itself of the California and San Francisco County markets. It is thus consistent  
19 with traditional notions of fair play and substantial justice for the San Francisco County Superior  
20 Court to exercise jurisdiction over Defendants.

21 14. 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 15. 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  
27 exposing people to chemicals listed by the State of California as known to cause cancer, birth  
28 defects, or other reproductive harm without a "clear and reasonable warning" unless the business

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

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

7 16. On April 22, 2016, the State of California officially listed styrene as a chemical known to  
8 cause cancer. On April 22, 2017, styrene exposures became subject to the clear and reasonable  
9 warning requirements under Proposition 65. 27 C.C.R. § 27001(b); Health & Safety Code Section  
10 25249.10(b).

11 17. Plaintiff brings this enforcement action against Defendants pursuant to Health & Safety  
12 Code Section 25249.7(d). Attached hereto and incorporated by reference are copies of Notices of  
13 Violations dated April 24, 2019 and January 8, 2020 (“Notices of Violation”), the dates on which  
14 EcoRights sent to California's Attorney General, every county District Attorney in California, and  
15 to the City Attorneys of every California City with a population greater than 750,000. On April 24,  
16 2019, Plaintiff sent the April 24, 2019 Notice of Violation letter to STAPLES, INC. On January 8,  
17 2020, Plaintiff sent the January 8, 2020 Notice of Violation letter to BESTBUY.COM LLC and  
18 WOBBLEWORKS, INC. In compliance with Health & Safety Code § 25249.7(d) and 27 C.C.R. §  
19 25903(b), each of the Notices of Violation included the following information: (1) the name and  
20 address of each violator; (2) the statute violated; (3) the time period during which violations  
21 occurred; (4) specific descriptions of the violations, including (a) the routes of exposure to styrene  
22 from the Products, and (b) specific examples of Products sold and used in violation of Proposition  
23 65; and (5) the name of the specific Proposition 65-listed chemical that is the subject of the  
24 violations described in each Notice of Violation.

25 18. Accompanying each of the Notices of Violation sent to each Defendant was a summary of  
26 Proposition 65 that was prepared by California’s Office of Environmental Health Hazard  
27 Assessment. In addition, the Notices of Violation were accompanied by a Certificate of Service  
28 attesting to the service of the Notice of Violation on each entity which received it. Pursuant to  
Health & Safety Code Section 25249.7(d) and 11 C.C.R. § 3101, Plaintiff also sent a Certificate of

1 Merit with the Notices of Violation attesting to the reasonable and meritorious basis for the action.  
2 Plaintiff enclosed factual information sufficient to establish the basis of the Certificate of Merit  
3 with the Notice of Violation letters sent to the Attorney General.

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

8 20. Defendants knowingly and intentionally expose individuals to styrene. Under Proposition  
9 65, an exposure is "knowing" where the party responsible for such exposure has "knowledge of the  
10 fact that a[n] . . . exposure to a chemical listed pursuant to [Health & Safety Code § 25249.8(a)] is  
11 occurring. No knowledge that . . . exposure is unlawful is required." 27 C.C.R. § 25102(n). This  
12 knowledge may be either actual or constructive. *See, e.g.*, Final Statement of Reasons Revised  
13 (November 4, 1988) (pursuant to former 22 C.C.R. Division 2, § 12201). At all times since April  
14 22, 2016, the date styrene was listed by the State of California as known to cause cancer,  
15 Defendants have possessed actual and constructive knowledge that the Products contain and cause  
16 exposures to styrene. As a company that manufactures, markets, distributes and/or sells Products  
17 for use in the State of California, each Defendant knows or should know that styrene exposures to  
18 users of the Products are a natural and foreseeable consequence of Defendants' placing the  
19 Products into the stream of commerce. Defendants' knowledge and intent of exposure to styrene  
20 from ordinary use of the Products is also evidenced by Defendants' product manuals and by  
21 additional sources of information, including but not limited to: information provided by  
22 Defendants' vendors and suppliers, such as Material Safety Data Sheets; ingredient lists and  
23 warnings; information obtained from industry and trade groups; information obtained from its  
24 consultants and legal counsel; and information obtained from Plaintiff, including the 60-Day  
25 Notices of Violations.

26 21. Any person "violating or threatening to violate" Proposition 65 may be enjoined in any  
27 court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is defined  
28 to mean "to create a condition in which there is a substantial probability that a violation will

1 occur.” Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to  
2 exceed \$2,500 per day for each violation of the statute.

3 22. EcoRights has engaged in good faith efforts to resolve the claims alleged herein prior to  
4 filing this complaint.

5 **FIRST CAUSE OF ACTION**

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

7 23. EcoRights realleges and incorporates the facts and allegations contained in the above  
8 paragraphs as though specifically set forth herein.

9 24. That each Defendant is a person in the course of doing business within the meaning of  
10 Health & Safety Code § 25249.11(b) who, by manufacturing, marketing, distribution, sale or  
11 otherwise placing the Products into the stream of commerce, violated, violates or threatens to  
12 violate Proposition 65.

13 25. Styrene is a chemical listed by the State of California as known to cause cancer.

14 26. Defendants have knowledge and intent that typical use of the Products will expose users of  
15 the Products to styrene.

16 27. Defendants have failed and continue to fail, to provide clear and reasonable warnings  
17 regarding the carcinogenicity of styrene to users of the Products.

18 28. Since April 24, 2017, Defendants have violated Proposition 65 by knowingly and  
19 intentionally exposing individuals to styrene without first giving clear and reasonable warnings to  
20 such individuals regarding the carcinogenicity of styrene.

21 **PRAYER FOR RELIEF**

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

- 23 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained, and  
24 ordered to comply with the provisions of Section 25249.6 of the California Health  
25 & Safety Code;
- 26 2. That Defendants be ordered to make best efforts to identify and locate each  
27 individual in California to whom it, or its customers or agents, distributed or sold  
28

Products since April 24, 2017, and to provide a warning to each such person that use of the Product will expose that person to a chemical known to cause cancer;

3. That Defendants be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed to styrene in violation of Section 25249.6 of the 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: April 22, 2020

LAW OFFICES OF BRIAN GAFFNEY APC



Brian Gaffney  
Attorney for Plaintiff  
ECOLOGICAL RIGHTS FOUNDATION



**LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation**  
**446 Old County Road, Suite 100-310**  
**Pacifica, California 94044**  
**(650) 219 3187 Phone**  
**brian@gaffneylegal.com**

April 24, 2019

**Notice of Violations**  
**Safe Drinking Water and Toxic Enforcement Act**

By Certified Mail, Return Receipt Requested to Violators in U.S.A.  
By Registered Mail to Violators Located Outside U.S.A.  
By First Class U.S. Mail to Public Enforcement Agencies

Dear Public Enforcement Agencies / Violators:

This office and Ecological Rights Foundation ("ERF") gives you notice that, since at least April 24, 2016 the businesses listed on Attachment A have been, and continue to be, in violation of California Health & Safety Code §25249.6. ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals.

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 on the attached Certificate of Service.

The above referenced violations occur when California residents use 3D printers utilizing filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments. Use of 3D printers and the above identified filaments expose people to styrene, a chemical known to the State of California to cause cancer. 3D printers sold by the businesses listed on Attachment A expose consumers and workers to styrene via inhalation.

Examples of particular products manufactured, sold, distributed and/or marketed by the violators are attached as Attachment B. All of the 3D printers at issue in this notice can be used with filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS)

and thus release styrene into the air. People using the 3D printers utilizing filaments incorporating a styrene monomer, and others in the same room where such 3D printers are being used, inhale styrene in the normal course of use.

In addition, exposures in the environmental context occur in the homes, businesses, schools and public locations where the people use 3D printers utilizing filaments incorporating a styrene monomer. Exposures to styrene occur within the consumer and environmental contexts.

The businesses listed on Attachment A did not and do not provide clear and reasonable warnings to people who use 3D printers utilizing filaments incorporating a styrene monomer, that use of these products will expose them to chemicals known to cause cancer. The above violations have occurred every day since at least April 24, 2016 and will continue every day until clear and reasonable warnings are given.

Attachment B is a non-exclusive list of examples of these types of products. Though specific models or product numbers are given as examples, this Notice also pertains to all models and all variations of 3D printers utilizing filaments incorporating a styrene monomer sold in California. Attachment B 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 Violators are 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 violations and threatened violations will continue to occur everyday until these businesses either provide clear and reasonable warnings, reformulate their 3d printers so as not to use filaments incorporating a styrene monomer, or stop selling these 3d printers in California. These violations occur in all of California's 58 counties, both on and off of these businesses' properties.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, ERF is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

The following individual is the responsible individual within ERF for purposes of this Notice:

Fredric Evenson  
Ecological Rights Foundation  
P.O. Box 1000  
Santa Cruz, California 95061  
Telephone: (831) 454-8216  
Email: [evenson@ecologylaw.com](mailto:evenson@ecologylaw.com)

ERF has retained the following counsel to represent it in this matter. **Please direct communications to counsel.**

Brian Gaffney  
LAW OFFICES OF BRIAN GAFFNEY APC  
446 Old County Road, Suite 100-310  
Pacifica, California 94044  
(650) 219 3187  
[brian@gaffneylegal.com](mailto:brian@gaffneylegal.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,

  
Brian Gaffney

Enclosure to Violators "The Safe Drinking Water and Toxic Enforcement Act of 1986: A Summary." A Certificate of Merit is also attached.

**Certificate of Merit - Health & Safety Code Section 25249.7(d)**

I, Brian Gaffney, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am the attorney for the noticing party.

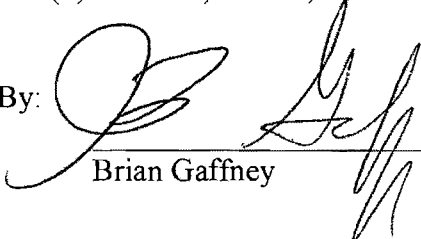
(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

(4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

(5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: April 24, 2019

By:

  
\_\_\_\_\_  
Brian Gaffney

## **Attachment A – Violators – 3D Printers**

Amazon.com Inc.

Robo 3D Inc.

Monoprice Inc.

Staples, Inc.

Print-Rite, N.A. Inc.

Afinia 3D

Microboards Technology LLC

Flashforge USA, Inc.

Walmart Inc.

TEVO 3D Electronic Technology Co. Ltd.,

XYZPRINTING, INC.

Kinpo Group

**ATTACHMENT B     3D PRINTERS**

<u>Violator</u>	<u>Product</u>
Amazon.com Inc.	Robo R1+ 3D PERSONAL 3D PRINTER UPC: 855076 005400 A1218BAT15000668
Robo 3D Inc.	Robo R1+ 3D PERSONAL 3D PRINTER UPC: 855076 005400 A1218BAT15000668
Monoprice Inc.	Monoprice MP Mini Delta 3D Printer UPC: 889028 049884
Staples, Inc.	Colido DIY3D Printer / LMD024XQ7J1 UPC: 6955530 944086
Print-Rite, N.A. Inc.	Colido DIY3D Printer / LMD024XQ7J1 UPC: 6955530 944086
Afinia 3D	AFINIA H400 3D Printer MODEL 3DP-12-4M UPC: 678621 110097
Microboards Technology LLC	AFINIA H400 3D Printer MODEL 3DP-12-4M UPC: 678621 110097
Flashforge USA, Inc.	FlashForge Creator Pro 3D Printer SKU: 4H8931 UPC: 0737557590219
Walmart Inc.	FlashForge Creator Pro 3D Printer SKU: 4H8931 UPC: 0737557590219

**ATTACHMENT B      3D PRINTERS**

<b><u>Violator</u></b>	<b><u>Product</u></b>
Walmart Inc.	TEVO TARANTULA i3 TR-01A SKU: 735845 TH6474
TEVO 3D Electronic Technology Co. Ltd.,	TEVO TARANTULA i3 TR-01A SKU: 735845 TH6474

Amazon.com Inc.	XYZ PRINTING DAVINCI 1.0 PRO UPC: 840710 108180
XYZPRINTING, INC.	XYZ PRINTING DAVINCI 1.0 PRO UPC: 840710 108180
Kinpo Group	XYZ PRINTING DAVINCI 1.0 PRO UPC: 840710 108180

## CERTIFICATE OF SERVICE

I, Brian Gaffney, declare:

If so called, I could and would testify as follows: I am over eighteen. My business address is 446 Old County Road, Suite 100-310, Pacifica, CA 94044.

On April 24, 2019, I caused the attached

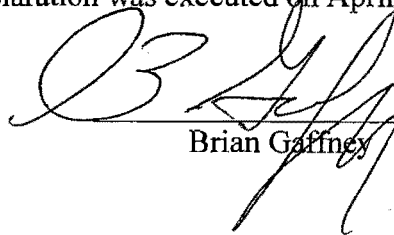
(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (2) Certificate of Merit: Health and Safety Code Section 25249.7(d), (3) Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary, (4) Certificate of Service to be served by CERTIFIED MAIL to each private business entity listed on the attached SERVICE LIST-Noticed Parties, except for each private business located outside of the U.S.A. which are served by REGISTERED MAIL. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected.

In addition, on the same date and I caused the attached

(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (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 the Attorney General), (4) Certificate of Service by FIRST CLASS U.S. MAIL on those public enforcement agencies listed on the attached SERVICE LIST-Public Enforcers. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected, and

by sending portable document format (PDF) files of the same to the electronic mail addresses to each of the public prosecutors identified by the California Attorney General as having authorized electronic service of notices. These public enforcement agencies appear on the attached Service List with their electronic mail addresses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 24, 2019, at Pacifica, California.

  
\_\_\_\_\_  
Brian Gaffney



**SERVICE LIST-Noticed Parties  
3D PRINTERS**

Jeffrey P. Bezos or  
Current President or CEO,  
Amazon.Com Inc.  
410 Terry Avenue  
North Seattle WA 98109-5210

Robo 3D Inc.,  
ATTN: President/CEO  
5070 SANTA FE Street, STE C  
SAN DIEGO CA 92109

Staples, Inc.  
c/o CT Corporation System  
818 West Seventh Street, Suite 930 Los  
Angeles, CA 90017

Print-Rite, N.A., Inc.  
ATTN: President/CEO  
201 SPEAR STREET, STE 1100 #3204  
SAN FRANCISCO CA 94105

Flashforge USA Inc.  
c/o PAUL CHENG  
17747 RAILROAD STREET  
CITY OF INDUSTRY CA 91748

XYZPrinting, Inc.  
c/o TIM T CHANG  
One Wilshire Blvd., Suite 2000,  
LA CA 90017

Kinpo Group  
10th Floor., 99 NanKing East Road  
Sec 5, Taipei, 105 Taiwan

Amazon.Com Inc.  
c/o CSC - LAWYERS INCORPORATING  
SERVICE  
2710 Gateway Oaks Dr., Ste. 150N  
Sacramento CA 95833

Monoprice, Inc.  
c/o BERNARD LUTHI  
ONE POINTE DR. ,SUITE#400  
BREA, CA 92821

Staples, Inc.,  
ATTN: President/CEO  
500 Staples Drive  
Framingham, MA, 01702

Afinia 3D  
ATTN: President/CEO  
8150 Mallory Ct  
Chanhassen, MN 55317

Walmart, Inc.,  
c/o CT Corporation System  
818 West Seventh Street, Suite 930 Los  
Angeles, CA 90017

XYZ Printing  
ATTN: President/CEO  
20191 Windrow Drive, Suite B  
Lake Forest CA 92630

XYZPrinting, Inc.,  
147, Beishen Rd., Sec. 3,  
New Taipei City,  
22201 Taiwan

Robo 3d Inc.  
c/o TAILORED LEGAL, A PROFESSION  
CORPORATION,  
3555 4th Avenue  
San Diego, CA 92103

Monoprice, Inc.  
Attn: President/CEO  
ONE POINTE DR., SUITE#400  
BREA, CA 92821

Print-Rite N.A., Inc.  
c/o JEMMA JANG  
1077 Timber Crest Drive  
SAN JOSE CA 95120

Microboards Technology LLC  
ATTN: President/CEO  
8150 Mallory Ct, PO Bx 846  
Chanhassen, MN 55317

Walmart Inc.  
ATTN: President/CEO  
708 SW 8th Street  
Bentonville, AR 72716

TEVO 3D Electronic Technology Co.  
Ltd., ATTN: President/CEO, 9  
Ruiyunnan Road West, Mazhang |  
Zhanjiang, China, 524000

## Service List - Public Enforcers

Office of the District Attorney Alameda County CEPDProp65@acgov.org	Office of the District Attorney Lassen County mlatimer@co.lassen.ca.us	Office of the District Attorney San Benito County 419 4th Street Hollister, CA 95023	Office of the District Attorney Tehama County P.O. Box 519 Red Bluff, CA 96080
Office of the District Attorney Alpine County P.O. Box 248 Markleeville, CA 96120	Office of the District Attorney Los Angeles County 211 W. Temple Street, Suite 1200 Los Angeles, CA 90012	Office of the District Attorney San Bernardino County 303 W. Third Street San Bernardino, CA 92415	Office of the District Attorney Trinity County P.O. Box 310 Weaverville, CA 96093
Office of the District Attorney Amador County 708 Court Street, #202 Jackson, CA 95642	Office of the District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637	Office of the District Attorney San Diego County CityAttyProp65@sandiego.gov	Office of the District Attorney Tulare County Prop65@co.tulare.ca.us
Office of the District Attorney Butte County 25 County Center Drive Oroville, CA 95965	Office of the District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	Office of the District Attorney San Francisco County gregory.alker@sfgov.org	Office of the District Attorney Tuolumne County 423 N. Washington Street Sonora, CA 95370
Office of the District Attorney Calaveras County Prop65Env@co.calaveras.ca.us	Office of the District Attorney Mariposa County P.O. Box 730 Mariposa, CA 95338	Office of the District Attorney San Joaquin County DAConsumer.Environmental@sjcda.org	Office of the District Attorney Ventura County daspecialops@ventura.org
Office of the District Attorney Colusa County 346 5th Street, Suite 101 Colusa, CA 95932	Office of the District Attorney Mendocino County P.O. Box 1000 Ukiah, CA 95482	Office of the District Attorney San Luis Obispo County edbroth@co.slo.ca.us	Office of the District Attorney Yolo County cfepe@yolocounty.org
Office of the District Attorney Contra Costa County sggrassini@contracostada.org	Office of the District Attorney Merced County 550 West Main Street Merced, CA 95340	Office of the District Attorney San Mateo County 400 County Center, Third Floor Redwood City, CA 94063	Office of the District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
Office of the District Attorney Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	Office of the District Attorney Modoc County 204 S. Court Street Room 202 Alturas, CA 96101	Office of the District Attorney Santa Barbara County DAProp65@co.santa-barbara.ca.us	Oakland City Attorney City Hall, 6th Floor 1 Frank Ogawa Plaza Oakland, California 94612
Office of the District Attorney El Dorado County 515 Main Street Placerville, CA 95667	Office of the District Attorney Mono County P.O. Box 617 Bridgeport, CA 93517	Office of the District Attorney Santa Clara County EPU@da.sccgov.org	Office of the City Attorney City of San Francisco City Hall, Room 234 1 Dr. Carlton B. Goodlett Pl. San Francisco, CA 94102
Office of the District Attorney Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Office of the District Attorney Monterey County Prop65DA@co.monterey.ca.us	Office of the District Attorney Santa Cruz County Prop65DA@santacruzcounty.us	Office of the City Attorney City of Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
Office of the District Attorney Glenn County P.O. Box 430 Willows, CA 95988	Office of the District Attorney Napa County CEPD@countyofnapa.org	Office of the District Attorney Shasta County 1355 West Street Redding, CA 96001	Office of the City Attorney City of San Jose 200 E. Santa Clara St. San Jose, CA 95113
Office of the District Attorney Humboldt County 825 5th Street, 4th Floor Eureka, CA 95501	Office of the District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959	Office of the District Attorney Sierra County P.O. Box 457 Downieville, CA 95936	Office of the City Attorney City of Los Angeles 200 N. Main Street, Suite 800 Los Angeles, CA 90012
Office of the District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	Office of the District Attorney Orange County 401 Civic Center Drive West Santa Ana, CA 92701	Office of the District Attorney Siskiyou County P.O. Box 986 Yreka, CA 96097	Office of the City Attorney City of San Diego 1200 Third Ave., Suite 1620 San Diego, CA 92101
Office of the District Attorney Inyo County inyoda@inyocounty.us	Office of the District Attorney Placer County 10810 Justice Center Drive Roseville, CA 95678	Office of the District Attorney Solano County 675 Texas Street, Suite 4500 Fairfield, CA 94533	Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator 1515 Clay Street, Suite 2000 P.O. Box 70550 Oakland, CA 94612
Office of the District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	Office of the District Attorney Plumas County 520 Main Street, Room 404 Quincy, CA 95971	Office of the District Attorney Sonoma County jbarnes@sonoma-county.org	
Office of the District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230	Office of the District Attorney Riverside County Prop65@rivcoda.org	Office of the District Attorney Stanislaus County 832 12th Street, Suite 300 Modesto, CA 95354	
Office of the District Attorney Lake County 255 N. Forbes Street Lakeport, CA 95453	Office of the District Attorney Sacramento County Prop65@sacda.org	Office of the District Attorney Sutter County 446 Second Street, Suite 102 Yuba City, CA 95991	

**LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation**  
**446 Old County Road, Suite 100-310**  
**Pacifica, California 94044**  
**(650) 219 3187 Phone**  
**brian@gaffneylegal.com**

January 8, 2020

**Notice of Violations**  
**Safe Drinking Water and Toxic Enforcement Act**

By Certified Mail, Return Receipt Requested to Violators in U.S.A.  
By Registered Mail to Violators Located Outside U.S.A.  
By First Class U.S. Mail to Public Enforcement Agencies

Dear Public Enforcement Agencies / Violators:

This office and Ecological Rights Foundation ("ERF") gives you notice that, since at least January 8, 2017 the businesses listed on Attachment A have been, and continue to be, in violation of California Health & Safety Code §25249.6. ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals.

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 on the attached Certificate of Service.

The above referenced violations occur when California residents use either 3D printers or 3D pens utilizing filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments. Use of 3D printers or 3D pens with the above identified filaments expose people to styrene, a chemical known to the State of California to cause cancer. 3D printers and 3D pens sold by the businesses listed on Attachment A expose consumers and workers to styrene via inhalation.

Examples of particular products manufactured, sold, distributed and/or marketed by the violators are attached as Attachment B. All of the 3D printers and 3D pens at issue in this notice can be used with filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS)

filaments. When people use either these 3D printers or 3D pens, the above filaments are heated by the 3D printers and 3D pens and thus release styrene into the air. People using either 3D printers or 3D pens utilizing filaments incorporating a styrene monomer, and others in the same room where such 3D printers and 3D pens are being used, inhale styrene in the normal course of use.

In addition, exposures in the environmental context occur in the homes, businesses, schools and public locations where the people use either 3D printers or 3D pens utilizing filaments incorporating a styrene monomer. Exposures to styrene occur within the consumer and environmental contexts.

The businesses listed on Attachment A did not and do not provide clear and reasonable warnings to people who use 3D printers and 3D pens utilizing filaments incorporating a styrene monomer, that use of these products will expose them to chemicals known to cause cancer. The above violations have occurred every day since at least January 8, 2017 and will continue every day until clear and reasonable warnings are given.

Attachment B is a non-exclusive list of examples of these types of products. Though specific models or product numbers are given as examples, this Notice also pertains to all models and all variations of 3D printers and 3D pens utilizing filaments incorporating a styrene monomer sold in California. Attachment B 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 Violators are 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 violations and threatened violations will continue to occur everyday until these businesses either provide clear and reasonable warnings, reformulate their 3D printers and 3D pens so as not to use filaments incorporating a styrene monomer, or stop selling these 3D printers and 3D pens in California. These violations occur in all of California's 58 counties, both on and off of these businesses' properties.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, ERF is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

The following individual is the responsible individual within ERF for purposes of this Notice:

Fredric Evenson  
Ecological Rights Foundation  
P.O. Box 1000  
Santa Cruz, California 95061  
Telephone: (831) 454-8216  
Email: [evenson@ecologylaw.com](mailto:evenson@ecologylaw.com)

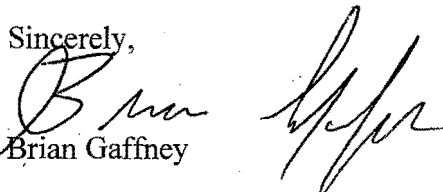
ERF has retained the following counsel to represent it in this matter. **Please direct communications to counsel.**

Brian Gaffney  
LAW OFFICES OF BRIAN GAFFNEY APC  
446 Old County Road, Suite 100-310  
Pacifica, California 94044  
(650) 219 3187  
[brian@gaffneylegal.com](mailto:brian@gaffneylegal.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,

  
Brian Gaffney

Enclosure to Violators "The Safe Drinking Water and Toxic Enforcement Act of 1986: A Summary." A Certificate of Merit is also attached.

**Attachment A – Violators - January 8, 2020 Notice**

**3D Printer Violators**

BESTBUY.COM LLC

Ingram Micro, Inc.

PRINT-RITE IMAGING TECHNOLOGY INC.

XYZPrinting, INC.

**3D Pen Violators**

WOBBLEWORKS, INC.

**ATTACHMENT B****January 8, 2020 Notice**

<b>3D PRINTER VIOLATORS</b>	<b>3D PRINTER Products</b>
Ingram Micro, Inc.	FlashForge Creator Pro 3D Printer SKU: 4H8931 UPC: 0737557590219
BESTBUY.COM LLC	da Vinci Junior Pro 3D printer, Item #XYZ-3F1JPXUS00B, UPC #840710105653
XYZPrinting, INC.	da Vinci Junior Pro 3D printer, Item #XYZ-3F1JPXUS00B, UPC #840710105653
PRINT-RITE IMAGING TECHNOLOGY INC.	Colido DIY3D Printer / LMD024XQ7J1 UPC: 6955530 944086

<b>3D PEN VIOLATORS</b>	<b>3D PENS Products</b>
WOBBLEWORKS, INC.	3DOODLER CREATE+ 3D PEN UPC: 817005022407

**Certificate of Merit - Health & Safety Code Section 25249.7(d)**

I, Brian Gaffney, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am the attorney for the noticing party.

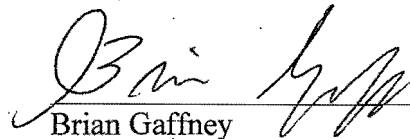
(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

(4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

(5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: January 8, 2020

By:

  
Brian Gaffney



## CERTIFICATE OF SERVICE

I, Brian Gaffney, declare:

If so called, I could and would testify as follows: I am over eighteen. My business address is 446 Old County Road, Suite 100-310, Pacifica, CA 94044.

On January 8, 2020, I caused the attached

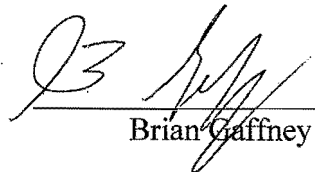
(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (2) Certificate of Merit: Health and Safety Code Section 25249.7(d), (3) Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary, (4) Certificate of Service to be served by CERTIFIED MAIL to each private business entity listed on the attached SERVICE LIST-Noticed Parties, except for each private business located outside of the U.S.A. which are served by REGISTERED MAIL. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected.

In addition, on the same date and I caused the attached

(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (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 the Attorney General), (4) Certificate of Service by FIRST CLASS U.S. MAIL on those public enforcement agencies listed on the attached SERVICE LIST-Public Enforcers. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected, and

by sending portable document format (PDF) files of the same to the electronic mail addresses to each of the public prosecutors identified by the California Attorney General as having authorized electronic service of notices. These public enforcement agencies appear on the attached Service List with their electronic mail addresses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 8, 2020, at Pacifica, California.

  
\_\_\_\_\_  
Brian Gaffney

## **SERVICE LIST -- JANUARY 8, 2020**

### **SERVICE LIST - 3D PRINTERS**

**BESTBUY.COM LLC**  
**c/o CT Corporation System Inc**  
**818 West Seventh Street**  
**Suite 930**  
**Los Angeles, CA 90017**

**Print-Rite Imaging Technology Inc.**  
**c/o Corporation Trust Company**  
**Corporation Trust Center**  
**1209 Orange Street**  
**Wilmington, CE 19801**

**XYZ Printing, Inc.**  
**ATTN: President/CEO**  
**20191 Windrow Drive, Suite B**  
**Lake Forest CA 92630**

**Ingram Micro, Inc.**  
**Attn: Alain Moine**  
**3351 Michelson Drive, Suite 100**  
**Irvine, CA 92612**

**XYZPrinting, Inc.**  
**c/o TIM T CHANG**  
**One Wilshire Blvd., Suite 2000,**  
**LA CA 90017**

**XYZPrinting, Inc.**  
**147, Beishen Rd., Sec. 3**  
**New Taipei City 22201**  
**Taiwan**

### **SERVICE LIST - 3D PENS**

**Wobbleworks, Inc.**  
**c/o CT Corporation System**  
**155 Federal Street, Suite 700**  
**Boston, MA 02110**

## Service List - Public Enforcers

Office of the District Attorney Alameda County CEPDProp65@acgov.org	Office of the District Attorney Lassen County mlatimer@co.lassen.ca.us	Office of the District Attorney San Benito County 419 4th Street Hollister, CA 95023	Office of the District Attorney Tehama County P.O. Box 519 Red Bluff, CA 96080
Office of the District Attorney Alpine County P.O. Box 248 Markleeville, CA 96120	Office of the District Attorney Los Angeles County 211 W. Temple Street, Suite 1200 Los Angeles, CA 90012	Office of the District Attorney San Bernardino County 303 W. Third Street San Bernardino, CA 92415	Office of the District Attorney Trinity County P.O. Box 310 Weaverville, CA 96093
Office of the District Attorney Amador County 708 Court Street, #202 Jackson, CA 95642	Office of the District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637	Office of the District Attorney San Diego County CityAttyProp65@sandiego.gov	Office of the District Attorney Tulare County Prop65@co.tulare.ca.us
Office of the District Attorney Butte County 25 County Center Drive Oroville, CA 95965	Office of the District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	Office of the District Attorney San Francisco County gregory.alker@sfgov.org	Office of the District Attorney Tuolumne County 423 N. Washington Street Sonora, CA 95370
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