

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Susan Bryant-Deason

Peter T. Sato (SBN: 238486)
Davitt, Lalley, Dey, & McHale, PC
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Suite 150N
Sacramento, CA 95833
Phone: 810-309-8235
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Attorneys for Plaintiff
Key Sciences, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

KEY SCIENCES, LLC,
Plaintiff,

vs.

SPROUTS FARMERS MARKETS, LLC, an
Arizona limited liability company: and DOES
1-20,

Defendants.

CASE NO. **20STCV45738**

**COMPLAINT FOR INJUNCTIVE
RELIEF, CIVIL PENALTIES, AND
OTHER RELIEF UNDER HEALTH AND
SAFETY CODE SECTION 25249.5, et seq
(PROPOSITION 65)**

Plaintiff Key Sciences, LLC (“Plaintiff” or “Key Sciences”) hereby alleges the
following on information and belief:

INTRODUCTION

1. This action seeks injunctive and declaratory relief and civil penalties to remedy the
continuing failure of Defendant SPROUTS FARMERS MARKETS, LLC (“Defendant”) to warn
consumers in California that they are being exposed to Lead, a chemical known to the State of
California to cause cancer and reproductive toxicity found in Sprouts Farmers Market Balsamic
Vinegar of Modena - Aged (16.9 fl. Oz) (“Aged Vinegar”) and Sprouts Farmers Market Organic
Balsamic Vinegar of Modena (16.9 fl. Oz) (“Organic Vinegar”) (Aged Vinegar and Organic

Vinegar are together referred to herein as the “Products”).

2. This action is brought in the public interest and is based on The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code § 25249.6 et seq.) also known as “Proposition 65.” This statute mandates that any person in the course of doing business must provide a clear and reasonable warning prior to exposing any individual to a chemical known to the state to cause cancer, birth defects or other reproductive harm.

PARTIES

3. Key Sciences is a limited liability corporation whose mission is to ensure accuracy of labeling for the benefit and protection of consumers of packaged goods through rigorous scientific testing. Key Sciences is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). Key Sciences, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).

4. Defendant is an Arizona limited liability company, doing business in the State of California at all relevant times herein.

5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the violations caused thereby. DOES 1-20 are each a person in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

6. At all times mentioned herein, the term “Defendants” includes Defendant and DOES 1-20.

7. Defendants employ ten or more persons and have employed ten or more persons at all times relevant to this action, and are each a person in the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

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2 **JURISDICTION AND VENUE**

3 8. This Court has jurisdiction pursuant to California Constitution Article VI, Section 10,
4 which grants the Superior Court original jurisdiction in all causes except those given by statute to
5 other trial courts. The statute under which this action is brought does not specify any other basis
6 for jurisdiction.

7 9. This Court has jurisdiction over this action pursuant to Health and Safety Code section
8 25249.7, which allows enforcement of violations of Proposition 65 in any Court of competent
9 jurisdiction.

10 10. This Court has jurisdiction over Defendants because Defendants either reside or are
11 located in this State or are foreign corporations authorized to do business in California, are
12 registered with the California Secretary of State, or Defendants have sufficient minimum
13 contacts with California, and otherwise intentionally avails itself of the California market
14 through the marketing, distribution, and/or sale of Products in the State of California, so as to
15 render the exercise of jurisdiction over Defendants by the California courts consistent with
16 traditional notions of fair play and substantial justice.

17 11. Venue is proper in the Los Angeles Superior Court because the cause of action arises out
18 of violations in the County of Los Angeles and/or because Defendants conducted, and continue
19 to conduct, business in the County of Los Angeles with respect to the consumer products that are
20 the subject of this action.

21 12. Plaintiffs seek injunctive and declaratory relief and civil penalties from Defendants'
22 violations of the prohibitions of Proposition 65 (Health and Safety Code § 25249.5 et seq.)

23 **STATUTORY BACKGROUND**

24 13. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
25 passed as "Proposition 65" by close to a two-to-one voting margin.

26 14. Proposition 65 requires that individuals be provided with a "clear and reasonable

warning” before being exposed to substances listed by the State of California as causing cancer or reproductive toxicity. The warning requirement of Proposition 65 is contained in Health & Safety Code § 25249.6, which provides,

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

15. In this case, the exposures are caused by consumer products. “Consumer product” means any article, or component part thereof, including food, that is produced, distributed, or sold for the personal use, consumption or enjoyment of a consumer. (27 California Code of Regulations § 25600.1(d)) “Consumer product exposure” means an exposure that results from a person's acquisition, purchase, storage, consumption, or any reasonably foreseeable use of a consumer product, including consumption of a food. (27 California Code of Regulations § 25600.1(e)).

16. Proposition 65 provides that any “person who violates or threatens to violate” the statute “may be enjoined in a court of competent jurisdiction.” (Health & Safety Code § 25249.7). Violators are liable for civil penalties of up to \$2,500 per day for each violation of the Act. (Health & Safety Code §25249.7(b)(1).)

17. Violations of Proposition 65 may be enforced by any person in the public interest, after providing a 60-day notice of the violations of the Attorney General, appropriate District Attorneys and City Attorneys and the alleged violator. (Health and Safety Code § 25249.7(d)(1).) Remedies include injunctive relief to prevent actual or threatened violations, and penalties up to \$2,500 per day per violation. (Health and Safety Code §25249.7(a) and (b).)

18. Proposition 65 requires the State to publish a list of chemicals known to cause cancer or birth defects or other reproductive harm (Health and Safety Code §25249.8.) This list now comprises over 800 chemicals.

19. Proposition 65 establishes a procedure by which the State is to develop a list of chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety, § 25249.8.)

20. Lead and lead compounds (“Lead”) were listed as chemicals known to the State of California to cause reproductive toxicity on February 27, 1987. Lead became subject to the warning requirement one year later and was therefore subject to the “clear and reasonable” warning requirements of Proposition 65 beginning on February 27, 1988. (27 California Code of Regulations § 25000, *et seq.*; Health & Safety Code § 25249.5, *et seq.*). Due to the toxicity of lead, the maximum allowable dose level is 0.5 micrograms a day. (27 California Code of Regulations § 25805(b).) As a point of reference, one microgram is equal to one millionth of a gram (1 microgram = 1/1,000,000 gram).

21. Lead and lead compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1992. Lead became subject to the warning requirement one year later and was therefore subject to the “clear and reasonable” warning requirements of Proposition 65 beginning on October 1, 1993. (27 California Code of Regulations § 25000, *et seq.*; Health & Safety Code §25249.5, *et seq.*). Due to the carcinogenicity of lead and lead compounds, the no significant risk level for lead is 15 micrograms a day. (27 California Code of Regulations § 25705(b)(1).)

FACTUAL BACKGROUND

22. Defendants are businesses that develop, manufacture, package, distribute, market, and/or sell the Products in the State of California.

23. Plaintiff hired a well-respected and accredited testing laboratory to test Defendant's Products for Lead. The results of the testing show that the Products contain Lead.

24. Plaintiff has tested a number of products within the same category as the Products at issue. Comparison of these tests show that the Lead level found in the Defendant's Organic Vinegar product is higher than 87 percent of all of the testing on similar products within the same category. Defendant's Aged Vinegar product has a Lead level higher than 95 percent of all of the testing on similar products within the same category.

25. Individuals are exposed to the Lead when they ingest the Products.

1 26. At all times relevant to this action, Defendants, therefore, have knowingly and
2 intentionally exposed the users of the Products to Lead without first giving a clear and
3 reasonable warning to such individuals. The Products continue to be distributed and sold in
4 California without providing the requisite warning, and thus the violations are ongoing and
5 continuous and will continue to occur into the future.

6 27. On April 3, 2020, Plaintiff served Defendant and each appropriate public enforcement
7 agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of Intent to Sue for
8 Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“Notice 2020-
9 00905”) that provided Defendant and the public enforcement agency with notice that Defendant
10 was in violation of Proposition 65 for failing to warn purchasers and consumers of the Aged
11 Vinegar that ingestion of the product exposes them to Lead, a chemical known to the State of
12 California to cause cancer and reproductive toxicity. The Notice of Violation is designated with
13 Attorney General number 2020-00905. The Notice of Violation constitutes adequate notice to
14 Defendant because it provided adequate information to allow Defendant to assess the nature of
15 the alleged violations. A certificate of merit and a certificate of service accompanied the Notice
16 of Violation, and both certificates comply with Proposition 65 and its implementing regulations.
17 A true and correct copy of the Notice of Violation is attached here as Exhibit A and is
18 incorporated herein by reference.

19 28. On April 10, 2020, Plaintiff served Defendant and each appropriate public enforcement
20 agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of Intent to Sue for
21 Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“Notice 2020-
22 00977”) that provided Defendant and the public enforcement agency with notice that Defendant
23 was in violation of Proposition 65 for failing to warn purchasers and consumers of the Organic
24 Vinegar that ingestion of the product exposes them to Lead, a chemical known to the State of
25 California to cause cancer and reproductive toxicity. The Notice of Violation is designated with
26 Attorney General number 2020-00977. The Notice of Violation constitutes adequate notice to

1 Defendant because it provided adequate information to allow Defendant to assess the nature of
2 the alleged violations. A certificate of merit and a certificate of service accompanied the Notice
3 of Violation, and both certificates comply with Proposition 65 and its implementing regulations.
4 A true and correct copy of the Notice of Violation is attached here as Exhibit B and is
5 incorporated herein by reference.

6 29. More than 60 days have passed since Plaintiff mailed Notice 2020-00905 and Notice
7 2020-00977 and no public enforcement entity has filed a Complaint in this case.

8 30. As a proximate result of acts by Defendants, persons in the course of doing business
9 within the meaning of Health & Safety Code § 25249.11(b), individuals throughout the State of
10 California, including in the County of Los Angeles, have been exposed to Lead without a clear
11 and reasonable warning.

12 **FIRST CAUSE OF ACTION**

13 **(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable**
14 **Warning under Proposition 65 – Against Defendant and DOES 1-10)**

15 31. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 30, inclusive, as if
16 superficially set forth herein.

17 32. By committing the acts alleged above, Defendants have, in the course of doing business,
18 knowingly and intentionally exposed users of the Aged Vinegar to Lead, a chemical known to
19 the State of California to cause cancer and reproductive toxicity without first giving clear and
20 reasonable warning to such individuals within the meaning of Health & Safety Code § 25249.6
21 and continue to violate the statute with each successive sale of the Aged Vinegar.

22 33. Said violations render Defendants liable for civil penalties, up to \$2,500 per day for each
23 violation, and subject Defendants to injunction.

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1 **SECOND CAUSE OF ACTION**

2 **(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable**
3 **Warning under Proposition 65 – Against Defendant and DOES 11-20)**

4 34. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 33, inclusive, as if
5 superficially set forth herein.

6 35. By committing the acts alleged above, Defendants have, in the course of doing business,
7 knowingly and intentionally exposed users of the Organic Vinegar to Lead, a chemical known to
8 the State of California to cause cancer and reproductive toxicity without first giving clear and
9 reasonable warning to such individuals within the meaning of Health & Safety Code § 25249.6
10 and continue to violate the statute with each successive sale of the Organic Vinegar.

11 36. Said violations render Defendants liable for civil penalties, up to \$2,500 per day for each
12 violation, and subject Defendants to injunction.

13 **THIRD CAUSE OF ACTION**
14 **(Declaratory Relief – Against all Defendants)**

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

17 38. There exists an actual controversy relating to the legal rights and duties of the Parties
18 within the meaning of the Code of Civil Procedure § 1060, between Plaintiff and Defendants,
19 concerning whether Defendants' Products have exposed individuals to Lead, a chemical known
20 to the State of California to cause cancer, birth defects, and other reproductive harm without
21 providing clear and reasonable warning.

22 **PRAYER**

23 Wherefore, Plaintiff accordingly prays for the following relief:

24 39. An assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b), against
25 Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

26 40. An injunctive order, pursuant to Health & Safety Code § 25249.7(a), for such temporary

1 restraining orders, preliminary and permanent injunctive orders as are necessary to prevent
2 Defendants from exposing individuals to Lead without providing a clear and reasonable warning
3 for the Products;

4 41. On all Causes of Action, an award to Plaintiff of its reasonable attorneys' fees and costs;

5 42. For such other relief as the Court may deem just and proper.

6 DATED: November 30, 2020

DAVITT, LALLEY, DEY, & MCHALE, PC

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10 Peter T. Sato
11 Attorney for Plaintiff
12 Key Sciences, LLC
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EXHIBIT A



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

April 3, 2020

Re: Violations of Proposition 65 concerning food products containing Lead and Lead compounds
 (“Lead”)

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents Key Sciences (“Key Sciences”), a limited liability company acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

Key Sciences has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of Key Sciences 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

SPROUTS FARMER’S MARKET, LLC

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

1. Sprouts Farmer’s Market Balsamic Vinegar of Modena – Aged (16.9 fl. Oz)

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that Key Sciences may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least 6, February, 2020, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Key Sciences is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

Key Sciences has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Shelley Clark

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Sprouts Farmer's Market, LLC, and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations Sprouts Farmer's Market, LLC

I, Shelley Clark, declare:

1. This Certificate of Merit accompanies the attached 60-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 Associate Attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 3, 2020



Shelley Clark

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 250 Steele Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On April 3, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY” on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Sprouts Farmer’s Market, LLC
2 N North Central Ave #2200
Phoenix, AZ 85004

Mark P Goss
Sprouts Farmer’s Market, LLC
2 N North Central Ave #2200
Phoenix, AZ 85004

On April 3, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On April 3, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class 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 an envelope to a United States Postal Service Representative.

Executed on April 3, 2020, in Denver, CO


Christine Alford

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp64@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@sanidiego.gov
San Diego County District Attorney CityAttyCrimProp65@sanidiego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfeprd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT B



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

April 10, 2020

Re: Violations of Proposition 65 concerning food products containing Lead and Lead compounds
 (“Lead”)

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents Key Sciences (“Key Sciences”), a limited liability company acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items.

Key Sciences has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of Key Sciences 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

SPROUTS FARMER’S MARKET, LLC

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

1. Sprouts Farmers Market Organic Balsamic Vinegar of Modena (16.9 fl. Oz)

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that Key Sciences may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least July 23, 2019, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Key Sciences is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

Key Sciences has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Shelley Clark

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Sprouts Farmer's Market LLC and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Sprouts Farmer's Market LLC

I, Shelley Clark, declare:

1. This Certificate of Merit accompanies the attached 60-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 Associate Attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 10, 2020



Shelley Clark

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 250 Steele Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On April 10, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY” on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Sprouts Farmer’s Market, LLC
2 N North Central Ave #2200
Phoenix, AZ 85004

Mark P Goss
Sprouts Farmer’s Market, LLC
2 N North Central Ave #2200
Phoenix, AZ 85004

On April 10, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On April 10, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class 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 an envelope to a United States Postal Service Representative.

Executed on April 10, 2020, in Denver, CO


Christine Alford

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp64@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@sanidiego.gov
San Diego County District Attorney CityAttyCrimProp65@sanidiego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113