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Counsel for Plaintiff
ECOLOGICAL RIGHTS FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

ECOLOGICAL RIGHTS FOUNDATION, Plaintiff, v. STAPLES, INC., BESTBUY.COM LLC, WOBBLEWORKS, INC., and DOES 1 through 10, inclusive, Defendants.	Case No. CGC-20-584232 FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES Health & Safety Code § 25249.5 et seq. (Other)

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

INTRODUCTION

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

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

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

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

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

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

PARTIES

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

8. STAPLES, INC. is a person in the course of doing business within the meaning of Health & Safety Code §25249.11(b). STAPLES, INC. manufactures, markets, distributes, and/or sells (1) filaments - incorporating a styrene monomer including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments - intended to be used in the operation of 3D printers and 3D pens, as well as (2) 3D printers intended to be used with filaments incorporating a styrene monomer for sale and use in the State of California.

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

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

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

JURISDICTION

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

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

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

BACKGROUND

15. The People of the State of California have declared by initiative under Proposition 65 their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other

reproductive harm." Proposition 65, § 1(b). To effectuate this goal, Proposition 65 prohibits exposing people to chemicals listed by the State of California as known to cause cancer, birth defects, or other reproductive harm without a "clear and reasonable warning" unless the business responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety Code Section 25249.6 states, in pertinent part:

> 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 ... .

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

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

18. Accompanying each of the Notices of Violation sent to each Defendant was a summary of

Proposition 65 that was prepared by California's Office of Environmental Health Hazard Assessment. In addition, the Notices of Violation were accompanied by a Certificate of Service 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 Merit with the Notices of Violation attesting to the reasonable and meritorious basis for the action. Plaintiff enclosed factual information sufficient to establish the basis of the Certificate of Merit with the Notice of Violation letters sent to the Attorney General.

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

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

Notices of Violations.

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

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

FIRST CAUSE OF ACTION

(Violations of Health & Safety Code §25249.6)

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

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

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

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

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

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

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety Code;

2. That Defendants be ordered to make best efforts to identify and locate each individual in California to whom it, or its customers or agents, distributed or sold 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: June 26, 2020

LAW OFFICES OF BRIAN GAFFNEY APC

Brian Gaffney

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

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

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

Violator	Product
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**

Violator	Product
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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 edobroth@co.slo.ca.us	Office of the District Attorney Yolo County cfepd@yolocounty.org
Office of the District Attorney Contra Costa County sgrassini@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

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

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**

3D PRINTER VIOLATORS	**3D PRINTER Products**
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

3D PEN VIOLATORS	**3D PENS Products**
WOBBLEWORKS, INC.	3DOODLER CREATE+ 3D PEN UPC: 817005 022407

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.

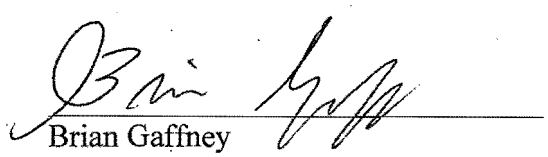
(2) I am the attorney for the noticing party.

(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:

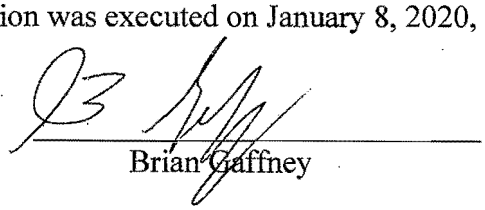
If so called, I could and would testify as follows: I am over eighteen. My business address is 446 Old County Road, Suite 100-310, Pacifica, CA 94044.

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

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

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

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

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

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
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 edobroth@co.slo.ca.us	Office of the District Attorney Yolo County cfepd@yolocounty.org
Office of the District Attorney Contra Costa County sgrassini@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 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

April 21, 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 April 24, 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 filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments in the operation of 3d printers or 3d pens. These filaments, used in the operation of 3d printers or 3d pens, expose people to styrene, a chemical known to the State of California to cause cancer. Filaments 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 filaments at issue in this notice can be used with 3d printers or 3d pens. When people use filaments incorporating a styrene monomer with 3d printers or 3d pens, the filaments are heated by the 3D printers or 3d pens and thus release styrene into

the air. People using the filaments incorporating a styrene monomer with 3d printers or 3d pens, and others in the same room where such filaments 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 filaments incorporating a styrene monomer with 3d printers or 3d pens. 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 filaments incorporating a styrene monomer, that use of these products in 3d printers or 3d pens will expose them to chemicals known to cause cancer. The above violations have occurred every day since at least April 24, 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 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 filaments so as not to contain styrene, or stop selling these filaments 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

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

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,

/S/Brian Gaffney
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 21, 2020

By:

/S/Brian Gaffney
Brian Gaffney

Attachment A – Violators – FILAMENTS

Staples, Inc.

ATTACHMENT B **FILAMENTS**

Proposition 65 Violator	Products Manufactured, Sold, Distributed and/or Marketed
Staples, Inc.	MONOPRICE PREMIUM 3D PRINTER FILAMENT ABS 1.75MM, 1KG WHITE ITEM# 10546 UPC: 757901 803796
Staples, Inc.	Robox Smart Reel ABS Hot Pink; ITEM#1590421; Model #: RBX-ABS-RD535
Staples, Inc.	Green Project 3-D ABS-1.75NT Nature; ITEM# 1M17U0578; Model: 3D-ABS-1.75NT

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 21, 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 April 21, 2020, at Pacifica, California.

/S/Brian Gaffney
Brian Gaffney

Service List – Noticed Violators

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

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

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 edobroth@co.slo.ca.us	Office of the District Attorney Yolo County cfepd@yolocounty.org
Office of the District Attorney Contra Costa County sgrassini@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 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	

PROOF OF SERVICE BY MAIL

Ecological Rights Foundation v. Staples et al
San Francisco Superior Court Case # CGC-20-584232

I am over the age of 18 years and not a party to the above entitled action. My business address is 446 Old County Road, Suite 100-310, Pacifica, CA 94044 and I am a resident of or employed in the County of San Mateo, California.

On June 26, 2020, I served the **FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES** attached hereto on the parties in this action located on the attached service list, by First Class Mail by placing a true copy thereof enclosed in a sealed envelope with first-class postage thereon fully paid, in the United States mail at San Mateo, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 26, 2020, at Pacifica, California.

Brian Gaffney

SERVICE LIST

Christine M. Monroe
GREBEN & ASSOCIATES
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Santa Barbara, CA 93101
Counsel for WOBBLEWORKS, INC.

BESTBUY.COM LLC
c/o CT Corporation System
818 West Seventh Street, Suite 930
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Staples, Inc.
ATTN: President / CEO
500 Staples Drive
Framingham, MA 01702