

1 George Rikos, Esq. (SBN 204864)  
2 **LAW OFFICES OF GEORGE RIKOS**  
3 555 West Beech Street, Suite 500  
4 San Diego, CA 92101  
5 Telephone: (858) 342-9161  
6 Facsimile: (858) 724-1453  
7 Email: george@georgerikoslaw.com

8 Attorneys for Plaintiff,  
9 Brad Van Patten

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/30/2020** at 12:19:10 PM  
Clerk of the Superior Court  
By Jose Hernandez, Deputy Clerk

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO**

13 BRAD VAN PATTEN, an individual

14 Plaintiff,

15 v.

16 BUSH BROTHERS & COMPANY, a  
17 Tennessee corporation; and DOES 1 through  
18 10, inclusive

19 Defendants.

Case No. 37-2020-00026752-CU-MC-CTL

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

20 Plaintiff Brad Van Patten (“Plaintiff”) brings this action in the interests of the general public  
21 and, on information and belief, hereby alleges:

22 **INTRODUCTION**

23 1. This action seeks to remedy the continuing failure of defendant Bush Brothers &  
24 Company (“Bush”) to warn individuals in California that they are being exposed to the chemical  
25 Furan by their product, Bush’s Country Style baked beans (“Product”).

26 2. California’s Proposition 65 (Health & Safety Code § 25249.5, *et seq.*), is a right to  
27 know statute. Under Proposition 65, it is unlawful for business to knowingly and intentionally  
28 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

1 exposure.

2 3. When consumers purchase and eat the Product, they are exposed to Furan without a  
3 “clear and reasonable warning” under Proposition 65. Yet Defendant has failed to provide any  
4 warning to consumers that they are being exposed to the carcinogenic chemical Furan.

5 4. Defendant’s past and continued manufacturing, distribution, and sale of the Product  
6 in California, without a clear and reasonable warning, causes individuals to be involuntarily and  
7 unwittingly exposed to Furan in violation of Proposition 65.

8 5. Plaintiff seeks injunctive relief enjoining Defendant from the continued  
9 manufacturing, distribution, and/or sales of the Products in California without providing clear and  
10 reasonable warnings regarding the risks of cancer posed by exposure to Furan through  
11 consumption of the Products. Plaintiff seeks an injunctive order compelling Defendant to bring  
12 their business practices into compliance with Proposition 65 by providing a clear and reasonable  
13 warning to each individual who has been and who in the future may be exposed to Furan from  
14 consumption of the Products. Plaintiff also seeks an order compelling Defendant to identify and  
15 locate each individual person who in the past has purchased the Product, and to provide to each  
16 such purchaser a clear and reasonable warning that use of the Product will cause exposures to  
17 Furan.

18 **JURISDICTION AND VENUE**

19 6. This Court has jurisdiction over this action pursuant to Health and Safety Code §  
20 25249.8, allowing enforcement of Proposition 65 in any court of competent jurisdiction, and  
21 pursuant to California Constitution Article VII, Section 10, which grants the Superior Court  
22 “original jurisdiction in all causes except those given by statute to other courts.” The causes of  
23 actions alleged herein are not given by statute to other trial courts.

24 7. This Court has jurisdiction over Defendant because Defendant is a business having  
25 sufficient minimum contacts with California, or otherwise intentionally availing themselves of the  
26 California market through the distribution and sale of the Products in the State of California to  
27 render the exercise of jurisdiction over this defendant by the California courts consistent with  
28 traditional notions of fair play and substantial justice.



1 15. Proposition 65 provides that any “person who violates or threatens to violate” the  
2 statute may be enjoined in a court of competent jurisdiction. Health & Safety Code § 25249.7.  
3 The phrase “threaten to violate” is defined to mean creating “a condition in which there is a  
4 substantial probability that a violation will occur.” Health & Safety Code § 25249.11(e).  
5 Violators are liable for visit penalties of up to \$2,500 per day for each violation of the Act. Health  
6 & Safety Code § 25249.7.

7 16. On October, 1, 1993, almost 27 years ago, the State of California officially listed  
8 the chemical Furan as a chemical known to cause cancer. Furan became subject to the warning  
9 requirement one year later and was therefore subject to the “clear and reasonable” warning  
10 requirements of Proposition 65 beginning on October 1, 1994. Health & Safety Code § 25249.6 *et*  
11 *seq.*; 27 Cal. Code Regs. §§ 25000, *et seq.* Due to the carcinogenicity of Furan, there is no safe  
12 harbor levels. 27 Cal. Code Regs. § 25705(b)(1). Any presence of Furan in the Product is a  
13 violation of Proposition 65 and the related statutes.

14 **FACTUAL BACKGROUND**

15 17. To test Defendant’s Products for Furan, Plaintiff hired a well-  
16 respected and accredited testing laboratory. The results of testing undertaken by Plaintiff of the  
17 Products were positive for Furan and therefore in violation of the Proposition 65’s regulations.

18 18. Based on testing results, on May 6, 2020, Plaintiff sent a 60-Day Notice of  
19 Proposition 65 Violations (“Notice”) to defendant regarding the Product. A true and correct copy  
20 of the 60-Day Notice letter is attached here as **Exhibits A** and is incorporated herein by reference.

21 19. On the same day they were sent to Defendant, each Notice was also sent to the  
22 requisite public enforcement agencies.

23 20. The Notice described above was issued pursuant to, and in compliance with, the  
24 requirements of Health & Safety Code § 25249.7(d) and the statute’s implementing regulations  
25 regarding the notice of the violations to be given to certain public enforcement agencies and to the  
26 violators. The Notice included, *inter alia*, the following information: the name, address, and  
27 telephone number of the noticing individuals; the name of the alleged violator; the statute violated;  
28 the approximate time period during which violations occurred; and descriptions of the violations,

1 including the chemical involved, the routes of toxic exposure, and the specific product or type of  
2 product causing the violations, and was issued as follows:

- 3 a. The relevant Defendant was provided a copy of the Notice by U.S. Mail.
- 4 b. The relevant Defendant was provided a copy of the document entitled “The  
5 Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A  
6 Summary,” which is also known as Appendix A to Title 27 of Cal. Code Regs §  
7 25903.
- 8 c. The California Attorney General was provided a copy of the Notice via online  
9 submission.
- 10 d. The California Attorney General was provided with a Certificate of Merit by  
11 the attorney for the noticing party, stating that there is a reasonable and  
12 meritorious case for this action, and attaching factual information sufficient to  
13 establish a basis for the certificate, including the identity of the persons  
14 consulted with and relied on by the certified, and the facts, studies, or other data  
15 reviewed by those persons, pursuant to Health & Safety Code § 25249.7(h)(2).
- 16 e. The district attorneys, city attorneys or prosecutors of each jurisdiction within  
17 which the Product is offered for sale within California were provided with a  
18 copy of the Notice pursuant to Health & Safety Code § 25249.7(d)(1).

19 21. At least 60-days have elapsed since Plaintiff sent the Notice to Defendant.

20 The appropriate public enforcement agencies have failed to commence and diligently prosecute a  
21 cause of action under Health & Safety Code § 25249.5, *et seq.* against Defendant based on the  
22 allegations herein.

23 22. On information and belief, the Products have been manufactured,  
24 distributed, and/or sold by Defendant for consumption in California. On information and belief,  
25 the Product continues to be distributed and sold in California without the requisite warning  
26 information.

27 23. At all times relevant to this action, Defendant has knowingly and intentionally  
28 exposed the users of the Products to Furan without first giving a clear and reasonable warning to

1 such individuals.

2           24.       As a proximate result of acts of Defendant as persons in the course of doing  
3 business within the meaning of Health & Safety Code § 25249.11, individuals throughout the  
4 State of California, including the County of San Diego, have been exposed to Furan without a  
5 clear and reasonable warning. The individuals subject to the illegal exposures include normal and  
6 foreseeable users of the Products, as well as all other persons exposed to the Products.

7

8   **FIRST CAUSE OF ACTION**  
9   **(Violations of Health and Safety Code § 25249.5, et seq.)**

9

10           25.       Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 24,  
11 inclusive, as if specifically set forth herein.

12           26.       Defendant is a person doing business within the meaning of Health & Safety Code  
13 § 25249.11.

14           27.       Furan is listed on the State of California as a chemical known to cause cancer.

15           28.       Defendant has and continues to knowingly and intentionally expose individuals  
16 who ingest the Products to the chemical Furan without first providing a clear and reasonable  
17 warning to such individuals pursuant to Health & Safety Code §§ 25249.6 and 25249.11(f).

18           29.       Continuing commission by Defendant of the acts alleged above will irreparably  
19 harm the citizens of the State of California, for which harm they have no plain, speedy, or  
20 adequate remedy at law.

21

22   **PRAYER FOR RELIEF**

23           Wherefore, Plaintiff prays for the following relief:

24           1. A preliminary and permanent injunction, pursuant to Health & Safety Code §  
25 25249.7(b), enjoining Defendants, their agents, employees, assigns and all persons acting in  
26 concert or participating with Defendants, from distributing or selling the Products in California  
27 without first providing a clear and reasonable warning that consumers of the Products are exposed  
28 to Furan;

                    2. An injunctive order, pursuant to Health & Safety Code § 25249.7(b), compelling

1 Defendants to identify and locate each individual who has purchased the Product and to provide a  
2 warning to such persons that consumption of the Product will expose the consumers to a chemical  
3 known to cause cancer.

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

6           4. An award to Plaintiff of its reasonable attorney's fees and costs of suit pursuant to  
7 California Code of Civil Procedure § 1021.5, as Plaintiff shall specify in further application to the  
8 Court; and,

9           5. Such other and further relief as may be just and proper.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED: July 30, 2020

**LAW OFFICES OF GEORGE RIKOS**

*George Rikos*  
\_\_\_\_\_  
George Rikos  
Attorney for Plaintiff  
Brad Van Patten

# Exhibit A



LAW OFFICES OF GEORGE RIKOS

---

555 West Beech Street, Suite 500 • San Diego, CA 92101 • TEL: (858) 342-9161 • FAX: (858) 724-1453

May 6, 2020

**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 see.)*  
*(“Proposition 65”)*

Amy Counts  
Registered Agent for Bush Brothers & Company  
1016 E. Weisgarber Road  
Knoxville, TN 37909-2669

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

Re: Violations of Proposition 65 concerning **Bush’s Country Style baked beans containing  
Furan**

To Whom it May Concern:

**Brad Van Patten**, the noticing party, located at **555 West Beech Street, Suite 500, San Diego, California, 92101**, serves this Notice of Violation (“Notice”) upon **Bush Brothers & Company** (“Violator”) pursuant to and in compliance with Proposition 65. The Violator may contact Law Offices of George Rikos concerning this Notice through its designated person, George Rikos, 555 West Beech, Suite 500, San Diego, California 92101, Telephone no. (858) 342-9161, email: [George@georgerikoslaw.com](mailto:George@georgerikoslaw.com). This Notice satisfies a prerequisite for **Brad Van Patten** to commence an action against Violator in any Superior Court of California to enforce Proposition 65. The violations addressed by this Notice occurred at numerous locations in each county in California as reflected in the district attorney addresses listed in the attached distribution list. **Brad Van Patten** is serving this Notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for each county where alleged violations occurred, and the City Attorney for each city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

- **Brad Van Patten** is a resident of the State of California. By sending this Notice, **Brad Van Patten** is acting “in the public interest” pursuant to Proposition 65. **Brad Van Patten** is a

concerned citizen and resident of California and is dedicated to protecting the environment, improving human health, and supporting environmentally sound practices.

- This Notice concerns violations of the warning prong of Proposition 65, which states that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual ...” *Cal. Health & Safety Code* § 25249.6.
- **Bush’s Country Style baked beans** contains **Furan**, which is known to the State of California to cause cancer. **Furan** was added to the Proposition 65 list in 1993.
  - An exemplar of the violations caused by **Bush’s Country Style baked beans** includes but is not limited to: **Bush’s Country Style baked beans**
- This Notice addresses consumer products exposures. A “[c]onsumer products exposure’ is an exposure which results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs. 27* § 25602(b).

Violator caused consumer product exposures in violation of Proposition 65 by producing or making available for distribution or sale in California to consumers **Bush’s Country Style baked beans**. The packaging for **Bush’s Country Style baked beans** (meaning any label or other written, printed or graphic matter affixed to or accompanying the product or its container or wrapper) contains no Proposition 65-compliant warning. Nor did Violator, with regard to **Bush’s Country Style baked beans**, provide a system of signs, public advertising identifying the system and toll-free information services, or any other system, which provided clear and reasonable warnings. Nor did Violator, with regard to **Bush’s Country Style baked beans**, provide identification of the product at retail outlets/websites in a manner that provided a warning through shelf labeling, signs, or a combination thereof.

The principal routes of exposure were through ingestion.

Proposition 65 requires that notice of intent to sue be given to the violator(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code* § 25249.7(d)(1). With this letter, **Brad Van Patten** gives notice of the alleged violation to Violators and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice (plus five (5) calendar days because the place of address is within the State of California), **Brad Van Patten** may file suit. *See Cal. Health & Safety Code* § 25249.7(d)(1); *Cal. Code Regs. 27* § 25903(d)(1); and *Cal. Code Civ. Proc.* § 1013. **Brad Van Patten** remains open to discussing the possibility of resolving its grievances short of formal litigation.

Bush Brothers & Company  
May 6, 2020  
Re: Page 3

---

With the copy of this notice submitted to the Violators, a copy of the following is attached: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.

Dated: May 6, 2020

*George Rikos*

---

George Rikos, Esq.  
Attorney for Brad Van Patten

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

#### THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

**The "Proposition 65 List."** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

---

<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

***Clear and reasonable warnings.*** A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***Governmental agencies and public water utilities.*** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in Food.** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

---

<sup>2</sup> See Section 25501(a)(4).

## *HOW IS PROPOSITION 65 ENFORCED?*

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.



**Bush's Country Style baked beans containing Furan**

**CERTIFICATE OF MERIT**

Health & Safety Code Section 25249.7(d)

I, George Rikos, hereby declares:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has 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 at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is 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 plaintiffs' 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 certified, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 6, 2020

By: George Rikos  
George Rikos

## CERTIFICATE OF SERVICE

Health & Safety Code Section 25249.7(d)

I am over the age of 18 and not a party to this case. I am a resident of employed in the county where the mailing occurred. My business address is 555 West Beech Street, Suite 500, San Diego, California 92101.

ON THE DATE SHOWN BELOW, I CAUSED TO BE SERVED THE FOLLOWING:

- 1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary by enclosing copies of the same in a sealed envelope, along with an unsigned copy of this declaration, addressed to each person shown below and depositing the envelope in the U.S. mail with the postage fully prepaid. Place of Mailing: San Diego, California

**Name and address of each party to whom documents were mailed:**

Amy Counts  
Registered Agent for  
Bush Brothers & Company  
1016 E. Weisgarber Road  
Knoxville, TN 37909-2669

**Name and address of each public prosecutor to whom documents were mailed:**

**SEE ATTACHED SERVICE LIST**

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

Date of Mailing: May 6, 2020 By:

  
\_\_\_\_\_  
George Rikos

# MAIL SERVICE LIST

The Honorable Michael Atwell  
Alpine County District Attorney  
P.O. Box 248  
Markleeville, CA 96120

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court Street  
Jackson, CA 95642

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive, Suite 245  
Oroville, CA 95965

The Honorable Barbara Yook  
Calaveras County District Attorney  
891 Mountain Ranch Road  
San Andreas, CA 95249

The Honorable Matthew R. Beauchamp  
Colusa County District Attorney  
346 Fifth Street, Suite 101  
Colusa, CA 95932

The Honorable Diana Becton  
Contra Costa County District Attorney  
900 Ward Street  
Martinez, CA 94553

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

The Honorable Vern Pierson  
El Dorado County District Attorney  
515 Main Street  
Placerville, CA 95667

The Honorable Lisa Smittcamp  
Fresno County District Attorney  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721

The Honorable Dwayne Stewart  
Glenn County District Attorney  
P.O. Box 430  
Willows, CA 95988

The Honorable Maggie Fleming  
Humboldt County District Attorney  
825 5th Street, Fourth Floor  
Eureka, CA 95501

The Honorable Gilbert Otero  
Imperial County District Attorney  
940 West Main Street, Suite 102  
El Centro, CA 92243

The Honorable Thomas Hardy  
Inyo County District Attorney  
P.O. Box Drawer D  
Independence, CA 93526

The Honorable Lisa Green  
Kern County District Attorney  
1215 Truxtun Avenue, 4<sup>th</sup> Floor  
Bakersfield, CA 93301

The Honorable Keith Fagundes  
Kings County District Attorney  
1400 West Lacey Boulevard  
Hanford, CA 93230

The Honorable Donald Anderson  
Lake County District Attorney  
255 North Forbes Street  
Lakeport, CA 95453

The Honorable Stacey Montgomery  
Lassen County District Attorney  
2950 Riverside Drive, Suite 102  
Susanville, CA 96130

The Honorable Jackie Lacey  
Los Angeles County District Attorney  
211 West Temple Street, Suite 1200  
Los Angeles, CA 90012

The Honorable David Linn  
Madera County District Attorney  
209 West Yosemite Avenue  
Madera, CA 93637

The Honorable Edward Berberian  
Marin County District Attorney  
3501 Civic Center Drive, Suite 145  
San Rafael, CA 94903

The Honorable Thomas Cooke  
Mariposa County District Attorney  
P.O. Box 730  
Mariposa, CA 95338

The Honorable C. David Eyster  
Mendocino County District Attorney  
P.O. Box 1000  
Ukiah, CA 95482

The Honorable Larry Morse II  
Merced County District Attorney  
550 W. Main Street  
Merced, CA 95340

The Honorable Jordan Funk  
Modoc County District Attorney  
204 S. Court Street, Suite 202  
Alturas, CA 96101

The Honorable Tim Kendall  
Mono County District Attorney  
P.O. Box 617  
Bridgeport, CA 93517

The Honorable Clifford Newell  
Nevada County District Attorney  
201 Commercial Street  
Nevada City, CA 95959

The Honorable Tony Rackaukas  
Orange County District Attorney  
401 Civic Center Drive West  
Santa Ana, CA 92701

The Honorable R. Scott Owens  
Placer County District Attorney  
10810 Justice Center Drive, Suite 240  
Roseville, CA 95678

The Honorable David Hollister  
Plumas County District Attorney  
520 Main Street, Room 404  
Quincy, CA 95971

The Honorable Anne Marie Schubert  
Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814

The Honorable Candice Hooper  
San Benito County District Attorney  
419 4th Street  
Hollister, CA 95023

The Honorable Michael Ramos  
San Bernardino County District Attorney  
303 West 3rd Street, 6th Floor  
San Bernardino, CA 92415-0502

The Honorable Summer Stephan  
San Diego County District Attorney  
330 W. Broadway Street  
San Diego, CA 92101

The Honorable Tori Verber Salazar  
San Joaquin County District Attorney  
P.O. Box 990  
Stockton, CA 95201

The Honorable Stephen Wagstaffe  
San Mateo County District Attorney  
400 County Center  
Redwood City, CA 94063

The Honorable Jeffrey Rosen  
Santa Clara County District Attorney  
70 West Hedding Street, West Wing  
San Jose, CA 95110

The Honorable Jeff Rosell  
Santa Cruz County District Attorney  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

The Honorable Stephanie Bridgett  
Shasta County District Attorney  
1355 West Street  
Redding, CA 96001

The Honorable Lawrence Allen  
Sierra County District Attorney  
P.O. Box 886  
Downieville, CA 95936

The Honorable James Kirk Andrus  
Siskiyou County District Attorney  
311 4<sup>th</sup> Street  
Yreka, CA 96097

The Honorable Krishna Abrams  
Solano County District Attorney  
675 Texas Street, Suite 4500  
Fairfield, CA 94533

The Honorable Jill Ravitch  
Sonoma County District Attorney  
600 Administration Drive, Room 212 J  
Santa Rosa, CA 95403

The Honorable Birgit Fladager  
Stanislaus County District Attorney  
832 12th Street, Suite 300  
Modesto, CA 95354

The Honorable Amanda Hopper  
Sutter County District Attorney  
463 Second Street, Suite 102  
Yuba City, CA 95991

The Honorable Gregg Cohen  
Tehama County District Attorney  
444 Oak Street, Room L  
Red Bluff, CA 96080

The Honorable Megan D. Marshall  
Trinity County Acting District Attorney  
P.O. Box 310  
Weaverville, CA 96093

The Honorable Tim Ward  
Tulare County District Attorney  
221 South Mooney Boulevard, Rm 224  
Visalia, CA 93291-4593

The Honorable Laura Krieg  
Tuolumne County District Attorney  
423 North Washington Street  
Sonora, CA 95370

The Honorable Gregory Totten  
Ventura County District Attorney  
800 South Victoria Avenue, Suite 314  
Ventura, CA 93009

The Honorable Patrick McGrath  
Yuba County District Attorney  
215 Fifth Street  
Marysville, CA 95901

The Honorable Mike Feuer  
Office of the City Attorney, Los Angeles  
James K. Hahn City Hall East  
200 North Main Street, 8<sup>th</sup> Floor  
Los Angeles, CA 90012

The Honorable James Sanchez  
Office of the City Attorney, Sacramento  
915 I Street, 4th Floor  
Sacramento, CA 95814

The Honorable Mara Elliott  
Office of the City Attorney, San Diego  
1200 Third Avenue, Suite 1620  
San Diego, CA 92101

The Honorable Dennis Herrera  
Office of the City Attorney, San Francisco  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

The Honorable Richard Doyle  
Office of the City Attorney, San Jose  
200 East Santa Clara Street, 16th Floor  
San Jose, CA 95113

## EMAIL SERVICE LIST

Nancy O'Malley, District Attorney  
Alameda County  
7776 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Jeff W. Reisig, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney  
Napa County  
1127 First Street, Suite C  
Napa, CA 94559  
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney  
Riverside County  
3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
gregory.alker@sfgov.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Govt Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District  
Attorney  
Santa Barbara County  
1112 Santa Barbara St.  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

## ELECTRONIC UPLOAD SERVICE LIST

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
ATTN: Prop 65 Coordinator  
P.O. Box 70550  
Oakland, CA 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>