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8 *Attorneys for Plaintiff*

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**07/18/2022**  
Clerk of the Court  
BY: LAURA SIMMONS  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 DONATUS MCCOY,  
12 Plaintiff,

13 vs.

14 SPORTSMAN'S WAREHOUSE, INC.,  
15 Defendant.

Case No.:

**CGC-22-600785**

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et  
seq.)**

16 Plaintiff Donatus McCoy ("Plaintiff"), by and through his attorneys, alleges the following  
17 cause of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

19 1. Plaintiff brings this representative action on behalf of all California citizens to  
20 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
21 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,  
22 "[n]o person in the course of doing business shall knowingly and intentionally expose any  
23 individual to a chemical known to the state to cause cancer or reproductive toxicity without first  
24 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

25 2. This complaint is a representative action brought by Plaintiff in the public interest  
26 of the citizens of the State of California to enforce the People's right to be informed of the health  
27 hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP) and/or Bisphenol (BPA), toxic  
28 chemicals found in products sold and/or distributed by defendant Sportsman's Warehouse, Inc.  
("Sportsman's Warehouse" or "Defendant") in California.

1           3.       DEHP is a harmful chemical known to the State of California to cause cancer and  
2 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known  
3 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since  
4 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).  
5 On October 24, 2003, the State of California listed DEHP as a chemical known to cause  
6 reproductive toxicity.

7           4.       BPA is a harmful chemical known to the State of California to cause developmental  
8 defects and reproductive toxicity. On May 11, 2015, the State of California listed BPA as a  
9 chemical known to the State to cause Reproductive toxicity and BPA has come under the purview  
10 of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety  
11 Code §§ 25249.8 & 25249.10(b). On December 18, 2020, the State of California listed BPA as a  
12 chemical known to the State to cause developmental defects.

13           5.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
14 within California or sell products therein to comply with Proposition 65 regulations. Included in  
15 such regulations is the requirement that businesses must label any product containing a Proposition  
16 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
17 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
18 chemical.

19           6.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
20 for up to 365 days to be imposed upon defendants in a civil action for violations of Proposition 65.  
21 Health & Safety Code § 25249.7(b). Proposition 65 also allows for any court of competent  
22 jurisdiction to enjoin the actions of a defendant which “violate or threaten to violate” the statute.  
23 Health & Safety Code § 25249.7.

24           7.       Plaintiff alleges that Defendant distributes, sells and/or offers for sale in California,  
25 without a requisite exposure warning, (a) Ultralight Game Bags, (b) Predator Quest by Les Johnson  
26 hunting callers, (c) Field Proven Calls, (d) Bill Saunders Calls and Gear (collectively, the  
27 “Products”) that expose persons to Proposition 65 BPA and/or DEHP when used for their intended  
28 purpose.

1 8. Defendant's failure to warn consumers and other individuals in California of the  
2 health hazards associated with exposure to BPA and/or DEHP in conjunction with the sale and/or  
3 distribution of the Products is a violation of Proposition 65 and subjects Defendant to the  
4 enjoinder and civil penalties described herein.

5 9. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65  
6 in accordance with Health and Safety Code § 25249.7(b).

7 10. Plaintiff also seeks injunctive relief, preliminarily and permanently requiring  
8 Defendant to provide purchasers or users of the Products with required warnings related to the  
9 dangers and health hazards associated with exposure to BPA and/or DEHP, pursuant to Health and  
10 Safety Code § 25249.7(a).

11 11. Plaintiff further seeks a reasonable award of attorney's fees and costs.

12 **PARTIES**

13 12. Plaintiff is a citizen of the State of California acting in the interest of the general  
14 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
15 improve human health by reducing hazardous substances contained in such items. He brings this  
16 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

17 13. Defendant Sportsman's Warehouse, through its business, effectively imports,  
18 distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies  
19 by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the  
20 State of California.

21 14. Plaintiff alleges that defendant Sportsman's Warehouse is a "person" in the course  
22 of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

23 **VENUE AND JURISDICTION**

24 15. Venue is proper in the County of San Francisco because one or more of the  
25 instances of wrongful conduct occurred and continue to occur in this county and/or because  
26 Defendant conducted, and continues to conduct, business in the County of San Francisco with  
27 respect to the Products.

1 16. This Court has jurisdiction over this action pursuant to California Constitution  
2 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
3 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
4 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
5 jurisdiction over this lawsuit.

6 17. This Court has jurisdiction over Defendant because Defendant is either a citizen of  
7 the State of California, has sufficient minimum contacts with the State of California, is registered  
8 with the California Secretary of State as a foreign corporation authorized to do business in the  
9 State of California, and/or has otherwise purposefully availed itself of the California market. Such  
10 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and  
11 permissible with traditional notions of fair play and substantial justice.

12 **STATUTORY BACKGROUND**

13 18. The people of the State of California declared in Proposition 65 their right “[t]o be  
14 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
15 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

16 19. To effect this goal, Proposition 65 requires that individuals be provided with a  
17 “clear and reasonable warning” before being exposed to substances listed by the State of California  
18 as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent part:

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

22 20. An exposure to a chemical in a consumer product is one “which results from a  
23 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
24 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
25 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
26 shall provide a warning to any person to whom the product is sold or transferred unless the product  
27 is packaged or labeled with a clear and reasonable warning.”  
28

1 21. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
2 more of the following methods individually or in combination:<sup>1</sup>

3 a. A warning that appears on a product’s label or other labeling.

4 b. Identification of the product at the retail outlet in a manner which provides  
5 a warning. Identification may be through shelf labeling, signs, menus, or a combination  
6 thereof.

7 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be  
8 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet  
9 with such conspicuousness, as compared with other words, statements, designs, or devices  
10 in the label, labeling or display as to render it likely to be read and understood by an  
11 ordinary individual under customary conditions of purchase or use.

12 d. A system of signs, public advertising identifying the system and toll-free  
13 information services, or any other system that provides clear and reasonable warnings.

14 22. Proposition 65 provides that any “person who violates or threatens to violate” the  
15 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
16 “threaten to violate” is defined to mean creating “a condition in which there is a substantial  
17 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil  
18 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
19 365 days.

20 **FACTUAL BACKGROUND**

21 23. On January 1, 1988, the State of California listed DEHP as a chemical known to  
22 the State to cause cancer and it has come under the purview of Proposition 65 regulations since  
23 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24  
25  
26  
27 <sup>1</sup> Alternatively, a person in the course of doing business may elect to comply with the warning  
28 requirements set out in the amended version of 27 CCR 25601, et.seq. as amended on August 30,  
2016, and operative on August 30, 2018.

1 On October 24, 2003, the State of California listed DEHP as a chemical known to cause  
2 reproductive toxicity.

3 24. BPA is a harmful chemical known to the State of California to cause developmental  
4 defects and reproductive toxicity. On May 11, 2015, the State of California listed BPA as a  
5 chemical known to the State to cause Reproductive toxicity and BPA has come under the purview  
6 of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety  
7 Code §§ 25249.8 & 25249.10(b). On December 18, 2020, the State of California listed BPA as a  
8 chemical known to the State to cause developmental defects.

9 25. The exposures that are the subject of the Notice result from the purchase,  
10 acquisition, handling, and recommended use of the Products.

11 26. The primary route of exposure to DEHP and BPA is through dermal absorption.  
12 Dermal absorption can occur through direct skin contact when the Products are contacted with  
13 bare hands or exposed skin. Exposure through ingestion will occur by touching the Products with  
14 subsequent touching of the user's hand to mouth.

15 27. Defendant has marketed, distributed, offered to sell and/or sold the Products in  
16 California since at least October 7, 2021. The Products continue to be distributed and sold in  
17 California without the requisite warning information.

18 28. At all times relevant to this action, Defendant has knowingly and intentionally  
19 exposed users of the Products to BPA and/or DEHP without first giving a clear and reasonable  
20 exposure warning to such individuals.

21 29. As a proximate result of acts by Defendant, as a person in the course of doing  
22 business within the meaning of H&S Code § 25249.11, individuals throughout the State of  
23 California, including in San Francisco County, have been exposed to Proposition 65 listed  
24 chemicals without a clear and reasonable warning on the Products. The individuals subject to the  
25 violative exposures include normal and foreseeable users and consumers that use the Products, as  
26 well as all others exposed to the Products.

1 SATISFACTION OF NOTICE REQUIREMENTS

2 *The Alleged Violations of Health and Safety Code § 25249.6 to Sportsman’s Warehouse*

3 30. Plaintiff purchased the Products from Sportsman’s Warehouse. At the time of the  
4 purchases, Sportsman’s Warehouse did not provide a Proposition 65 exposure warning for BPA  
5 and/or DEHP in a manner consistent with H&S Code § 25603.1 as described *supra*.

6 31. Each Product was sent to a testing laboratory<sup>2</sup> to determine the phthalate content of  
7 the Product.

8 32. The results of these analyses<sup>3</sup> determined the Products expose users to DEHP  
9 and/or BPA (each, a “Chemical Test Report,” collectively, the “Chemical Test Reports”).

10 33. Plaintiff provided each Chemical Test Report and each Product to an analytical  
11 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable  
12 and foreseeable use of the Products, exposure to BPA and/or DEHP will occur at levels that require  
13 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of  
14 the California Code of Regulations.

15 34. Plaintiff received from the analytical chemist an exposure assessment report for  
16 each Product which concluded that persons in California who use the Products will be exposed to  
17 levels of DEHP or BPA that require a Proposition 65 exposure warning.

18 35. On October 7, 2021 (Ultralight Game Bags) (Exhibit A), October 19, 2021  
19 (Predator Quest and Field Proven) (Exhibit B and C), October 21, 2022 (Bill Saunders) (Exhibit  
20 D), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively,  
21

22 \_\_\_\_\_  
23 <sup>2</sup> The Ultralight Game Bags Chemical Test Report determined the Product exposes users to DEHP;  
24 the Predator Quest by Les Johnson hunting callers Test Report determined the Product exposes  
25 users to BPA; the Field Proven Calls Chemical Test Report determined the Product exposes users  
to BPA; the Bill Saunders Calls and Gear Chemical Test Report determined the Product exposes  
users to BPA.

26 <sup>3</sup> The Predator Quest by Les Johnson hunting callers Chemical Test Report was provided to  
27 Plaintiff on October 7, 2021; the Predator Quest by Les Johnson hunting callers Chemical Test  
28 Report was provided to Plaintiff on October 19, 2021; and the Field Proven Calls Chemical Test  
Report was provided to Plaintiff on October 19, 2021; the Bill Saunders Calls and Gear Chemical  
Test Report was provided to Plaintiff on October 21, 2022.

1 the “Notices”) to Defendant concerning the exposure of California citizens to DEHP or BPA from  
2 use of the Products without proper warning, subject to a private action to Defendant and to the  
3 California Attorney General’s office and the offices of the County District attorneys and City  
4 Attorneys for each city with a population greater than 750,000 persons wherein the herein  
5 violations allegedly occurred. See attached at Exhibits “A” – “D” a true and correct copy of the  
6 each Notice.

7 36. The Notices complied with all procedural requirements of Proposition 65 including  
8 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at  
9 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
10 DEHP or BPA exposure, and that counsel believed there was meritorious and reasonable cause for  
11 a private action.

12 37. After receiving the Notices, and to Plaintiff’s best information and belief, none of  
13 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
14 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are  
15 the subject of the Notices.

16 38. Plaintiff is commencing this action more than sixty (60) days from the date of each  
17 Notice to Defendant, as required by law.

18 **FIRST CAUSE OF ACTION**

19 **(By Plaintiff against Defendant for the Violation of Proposition 65)**

20 39. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 38 of  
21 this Complaint as though fully set forth herein.

22 40. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of  
23 the Products.

24 41. Use of the Products will expose users and consumers thereof to DEHP or BPA,  
25 hazardous chemicals found on the Proposition 65 list of chemicals known to be hazardous to  
26 human health.

27 42. The Products do not comply with the Proposition 65 warning requirements.



1           43.     Plaintiff, based on his best information and belief, avers that at all relevant times  
2 herein, and at least October 7, 2021, continuing until the present, that Defendant has continued to  
3 knowingly and intentionally expose California users and consumers of the Products to DEHP or  
4 BPA without providing required warnings under Proposition 65.

5           44.     The exposures that are the subject of the Notices result from the purchase,  
6 acquisition, handling and recommended use of the Products. The primary route of exposure to  
7 these chemicals is through dermal absorption. Dermal absorption of DEHP and BPA can occur  
8 through direct skin contact when the Products are contacted with bare hands or exposed skin.  
9 Exposure through ingestion will occur by touching the Products with subsequent touching of the  
10 user's hand to mouth, or direct contact with the user's mouth.

11           45.     Plaintiff, based on his best information and belief, avers that such exposures will  
12 continue every day until clear and reasonable warnings are provided to purchasers and users or  
13 until this known toxic chemical is removed from the Products.

14           46.     Defendant has knowledge that the normal and reasonably foreseeable use of the  
15 Products exposes individuals to DEHP or BPA, and Defendant intends that exposures to DEHP or  
16 BPA will occur by its deliberate, non-accidental participation in the importation, distribution, sale  
17 and offering of the Products to consumers in California

18           47.     Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
19 Complaint.

20           48.     Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
21 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

22           49.     Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
23 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
3 relief:

4 A. That the court assess civil penalties against defendant in the amount of \$2,500 per  
5 day for each violation for up to 365 days in accordance with Health and Safety Code §  
6 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant, mandating  
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the  
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: July 18, 2022

BRODSKY & SMITH

13 By:  \_\_\_\_\_

14 Evan J. Smith (SBN242352)  
15 Ryan P. Cardona (SBN302113)  
16 9595 Wilshire Boulevard, Suite 900  
17 Beverly Hills, CA 90212  
18 Telephone: (877) 534-2590  
19 Facsimile: (310) 247-0160

*Attorneys for Plaintiff*

# EXHIBIT "A"

LAW OFFICES  
**BRODSKY SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

October 7, 2021

Member/Manager Outdoor Business Ventures, LLC 8955 S. Ridgeline Blvd., Suite 1100 Highlands Ranch, CO 80129	Member/Manager Outdoor Business Ventures, LLC dba Caribou Gear 8955 S. Ridgeline Blvd., Suite 1100 Highlands Ranch, CO 80129
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Donatus McCoy ("McCoy"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, McCoy has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides 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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

- 1. Enforcer:** Donatus McCoy; 910 N. Tajauta, Compton, CA 90220; 424-302-3405.

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<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

2. **Alleged Violator(s):** Outdoor Business Ventures, LLC; Outdoor Business Ventures, LLC dba Caribou Gear; Sportsman’s Warehouse, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 2021 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Caribou Gear bags	Caribou Gear bags UPC# 837654476468

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators’ reference, enclosed is a copy of “Proposition 65: A Summary” that has been prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of McCoy against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, McCoy is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

McCoy has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).**

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is McCoy’s position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators’ custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,



---

Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

**CERTIFICATE OF SERVICE**

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


I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On October 7, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

Member/Manager Outdoor Business Ventures, LLC 8955 S. Ridgeline Blvd., Suite 1100 Highlands Ranch, CO 80129	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	Member/Manager Outdoor Business Ventures, LLC dba Caribou Gear 8955 S. Ridgeline Blvd., Suite 1100 Highlands Ranch, CO 80129

On October 7, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on October 7, 2021, in Bala Cynwyd, Pennsylvania.


  
\_\_\_\_\_  
Evan J. Smith

**CERTIFICATE OF MERIT**  
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Donatus McCoy.
- (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 chemicals that are the subject of the action.
- (4) Based on the information obtained through these 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 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(s) 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 information identified in Health & 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.

Dated: October 7, 2021

  
\_\_\_\_\_  
Evan J. Smith  
Attorney for Donatus McCoy



## SERVICE LIST

The Honorable Nancy O'Malley Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	The Honorable Stacey Montgomery Lassen County District Attorney 220 South Lassen Street, Ste. B Susanville, CA 96130	The Honorable Candice Hooper San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203	The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
The Honorable Terese Draber Alpine County District Attorney 270 Laramie Street, PO BOX 244 Markleeville, CA 96120	The Honorable Jackie Lacey Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	The Honorable Eric Henryford Twinny County District Attorney P O Box 310 Weaverville, CA 96093
The Honorable Todd Hebe Amador County District Attorney 708 Court Street Jackson, CA 95842	The Honorable David Linn Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	The Honorable Bonnie Dumanis San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	The Honorable Tim Ward Tulare County District Attorney 221 South Mooney Boulevard, Rm 224 Visalia, CA 93291-4593
The Honorable Michael Rumay Butte County District Attorney 25 County Center Drive Oroville, CA 95965	The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94303	The Honorable George Gascon San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103	The Honorable Laura Krieg Tuolumne County District Attorney 423 North Washington Street Sonoma, CA 95370
The Honorable Barbara Yook Calaveras County District Attorney 391 Mountain Ranch Road San Andreas, CA 95249	The Honorable Thomas Cooke Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	The Honorable Tori Varber Salazar San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201	The Honorable Gregory Tolten Ventura County District Attorney 900 South Victoria Avenue Ventura, CA 93009
The Honorable Joan Poyner Colusa County District Attorney 345 Fifth Street Colusa, CA 95632	The Honorable C. David Eyster Mendocino County District Attorney 100 North State Street, P O Box 1000 Ukiah, CA 95482	The Honorable Dan Dow San Luis Obispo County District Atty 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408	The Honorable Jeff Reisig Yolo County District Attorney 301 Second Street Woodland, CA 95695
The Honorable Mark Peterson Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340	The Honorable Stephan Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Dale Trigg DeFazio County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Jordan Funk Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	The Honorable Joyce Dudley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	The Honorable Mike Feuer Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012
The Honorable Vern Pierson El Dorado County District Attorney 778 Pacific Street Placerville, CA 95667	The Honorable Tim Kendall Mono County District Attorney P O, Box 617 Bridgeport, CA 93517	The Honorable Jeffrey Rosen Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
The Honorable Lisa Santcamp Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721	The Honorable Dean Flippo Monterey County District Attorney P O, Box 1131 Salinas, CA 93902	The Honorable Jeff Rosell Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060	The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101
The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95988	The Honorable Allison Halsey Napa County District Attorney 1127 First Street, Suite C Napa, CA 94559	The Honorable Stephen Carlton Shasta County District Attorney 1355 West Street Redding, CA 96001	The Honorable Dennis Herrera Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
The Honorable Maggie Fleming Humboldt County District Attorney 825 3th Street, Fourth Floor Eureka, CA 95501	The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square Downville, CA 95935	The Honorable Richard Doyle Office of the City Attorney, San Jose 290 East Santa Clara Street, 18th Floor San Jose, CA 95113
The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable Tony Rackaukas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable James Kirk Andrus Siskiyou County District Attorney P O Box 986 Yreka, CA 96097	Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
The Honorable Thomas Hardy Inyo County District Attorney P O Drawer D Independence, CA 93526	The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable Krishna Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	
The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Jill Ravitch Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
The Honorable Keith Fagundas Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Michael Hestrin Riverside County District Attorney 3960 Orange Street Riverside, CA 92501	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354	
The Honorable Donald Anderson Lake County District Attorney 755 North Forbes Street Lakeport, CA 95453	The Honorable Anne Marie Schubert Sacramento County District Attorney 901 G Street Sacramento CA 95814	The Honorable Amanda Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City CA 95991	

# EXHIBIT “B”

LAW OFFICES  
**BRODSKY & SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

October 19, 2021

Member/Manager Predator Quest, LLC c/o Brad Moncrief 1239 North Burlington Avenue, Suite 200 Hastings, NE 68935	Erik Quisling, President Ad-Visor PO Box 8716 Rancho Santa Fe, CA 92067
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Donatus McCoy ("McCoy"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, McCoy has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides 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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Donatus McCoy; 910 N. Tajauta, Compton, CA 90220; (Phone) 424-302-3405.

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<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

2. **Alleged Violator(s):** Predator Quest, LLC; Ad-Visor; Sportsman's Warehouse, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 2021 and are continuing to this day.
4. **Listed Chemical:** Bisphenol A (BPA). BPA is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Predator Quest call	Predator Quest call UPC# 718122104710

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to BPA is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of McCoy against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, McCoy is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

McCoy has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto:esmith@brodskysmith.com).**

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is McCoy's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,



---

Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

**CERTIFICATE OF SERVICE**

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On October 19, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

Member/Manager Predator Quest, LLC c/o Brad Moncrief 1239 North Burlington Avenue, Suite 200 Hastings, NE 68935	Erik Quisling, President Ad-Visor PO Box 8716 Rancho Santa Fe, CA 92067
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

On October 19, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on October 19, 2021, in Bala Cynwyd, Pennsylvania.

  
\_\_\_\_\_  
Evan J. Smith

**CERTIFICATE OF MERIT**  
**Health & Safety Code Section 25249.7(d)**

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Donatus McCoy.
- (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 chemicals that are the subject of the action.
- (4) Based on the information obtained through these 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 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(s) 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 information identified in Health & 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.

Dated: October 19, 2021

  
\_\_\_\_\_  
Evan J. Smith  
Attorney for Donatus McCoy

## SERVICE LIST

The Honorable Nancy O'Malley Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	The Honorable Stacey Montgomery Lassen County District Attorney 220 South Lassen Street, Ste. 8 Susanville, CA 96130	The Honorable Candice Hooper San Benito County District Attorney 413 4th Street, Second Floor Hollister, CA 95023	The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
The Honorable Terese Drabec Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120	The Honorable Jackie Lacey Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	The Honorable Eric Heryford Trinity County District Attorney P O Box 310 Weaverville, CA 96093
The Honorable Todd Rieba Amador County District Attorney 708 Court Street Jackson, CA 95642	The Honorable David Linn Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	The Honorable Bonnie Dumanis San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	The Honorable Tim Ward Tulare County District Attorney 221 South Mooney Boulevard, Rm 224 Visalia, CA 93291-4593
The Honorable Michael Ramsey Butte County District Attorney 25 County Center Drive Oroville, CA 95965	The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	The Honorable George Gascon San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103	The Honorable Laura Krieg Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
The Honorable Barbara Yook Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	The Honorable Thomas Cooke Mariposa County District Attorney 5101 Jones Street, P O Box 730 Mariposa, CA 95338	The Honorable Tori Varber Salazar San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201	The Honorable Gregory Totten Ventura County District Attorney 300 South Victoria Avenue Ventura, CA 93009
The Honorable John Poyner Colusa County District Attorney 346 Fifth Street Colusa, CA 95932	The Honorable C. David Eyster Mendocino County District Attorney 100 North State Street, P.O. Box 1000 Ukiah, CA 95482	The Honorable Dan Dow San Luis Obispo County District Atty 1033 Palm Street, 4th Floor San Luis Obispo, CA 93408	The Honorable Jeff Reigis Yolo County District Attorney 301 Second Street Woodland, CA 95695
The Honorable Mark Peterson Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340	The Honorable Stephan Wagatalfa San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Dale Trigg Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Jordan Funk Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	The Honorable Joyce Dudley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	The Honorable Mike Feuer Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012
The Honorable Vern Pierson El Dorado County District Attorney 778 Pacific Street Placerville, CA 95667	The Honorable Tim Kendall Mono County District Attorney P O. Box 617 Bridgeport, CA 93517	The Honorable Jeffrey Rosen Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
The Honorable Lisa Smitcamp Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721	The Honorable Dean Filippo Monterey County District Attorney P O. Box 1131 Salinas, CA 93902	The Honorable Jeff Rosell Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060	The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101
The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95988	The Honorable Allison Halsey Napa County District Attorney 1127 First Street, Suite C Napa, CA 94559	The Honorable Stephen Carlton Shasta County District Attorney 1355 West Street Redding, CA 96001	The Honorable Dennis Herrera Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
The Honorable Maggie Fleming Humboldt County District Attorney 825 3th Street, Fourth Floor Eureka, CA 95501	The Honorable Clifford Newall Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square Downsville, CA 95936	The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street, 18th Floor San Jose, CA 95113
The Honorable Gilsan Chero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable Tony Rackaukas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable James Kirk Andrus Siskiyou County District Attorney P O Box 986 Yreka, CA 96097	Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
The Honorable Thomas Hardy Inyo County District Attorney P O Drawer D Independence, CA 93526	The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable Krishna Abrams Solano County District Attorney 875 Texas Street, Suite 4500 Fairfield, CA 94533	
The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Jill Ravitch Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
The Honorable Keith Fagundas Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Michael Hestrin Riverside County District Attorney 3960 Orange Street Riverside, CA 92501	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354	
The Honorable Donald Anderson Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	The Honorable Anne Marie Schubert Sacramento County District Attorney 901 G Street Sacramento CA 95814	The Honorable Amanda Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City CA 95991	



# EXHIBIT “C”

LAW OFFICES  
**BRODSKY & SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

October 19, 2021

President/CEO Field Proven Calls, Inc. c/o Justin Field Hudnall 7008 W. Hwy. 524 Westport, KY 40077	President/CEO Field Proven Calls, Inc. PO Box 80 Westport, KY 40077-0080
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Donatus McCoy ("McCoy"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, McCoy has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides 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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

- 1. Enforcer:** Donatus McCoy; 910 N. Tajauta, Compton, CA 90220; (Phone) 424-302-3405.

---

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

2. **Alleged Violator(s):** Field Proven Calls, Inc.; Sportsman's Warehouse, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 2021 and are continuing to this day.
4. **Listed Chemical:** Bisphenol A (BPA). BPA is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Field Proven Calls duck call	Field Proven Calls duck call UPC# 855857003175

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to BPA is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of McCoy against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, McCoy is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

McCoy has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is McCoy's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,

  
\_\_\_\_\_  
Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

**CERTIFICATE OF SERVICE**

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On October 19, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Field Proven Calls, Inc. c/o Justin Field Hudnall 7008 W. Hwy. 524 Westport, KY 40077	President/CEO Field Proven Calls, Inc. PO Box 80 Westport, KY 40077-0080
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

On October 19, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on October 19, 2021, in Bala Cynwyd, Pennsylvania.

  
\_\_\_\_\_  
Evan J. Smith

**CERTIFICATE OF MERIT**  
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Donatus McCoy.
- (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 chemicals that are the subject of the action.
- (4) Based on the information obtained through these 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 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(s) 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 information identified in Health & 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.

Dated: October 19, 2021

  
\_\_\_\_\_  
Evan J. Smith  
Attorney for Donatus McCoy

## SERVICE LIST

The Honorable Nancy O'Malley Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	The Honorable Stacey Montgomery Lassen County District Attorney 220 South Lassen Street, Ste. 8 Susanville, CA 96130	The Honorable Candice Hooper San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203	The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room 1 Red Bluff, CA 96080
The Honorable Teresa Drabec Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120	The Honorable Jackie Lacey Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 8th Floor San Bernardino, CA 92415-0502	The Honorable Eric Henlyford Trinity County District Attorney P O Box 310 Weaverville, CA 96093
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The Honorable Barbara Yock Calaveras County District Attorney 991 Mountain Ranch Road San Andreas, CA 95249	The Honorable Thomas Cooke Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	The Honorable Tori Varber Salazar San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201	The Honorable Gregory Totten Ventura County District Attorney 800 South Victoria Avenue Ventura, CA 93009
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The Honorable Mark Peterson Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340	The Honorable Stephan Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Dale Trigg Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Jordan Funk Madoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	The Honorable Joyce Dudley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	The Honorable Mike Feuer Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012
The Honorable Vern Pierson El Dorado County District Attorney 778 Pacific Street Placerville, CA 95667	The Honorable Tim Kendall Mono County District Attorney P O Box 617 Bridgeport, CA 93517	The Honorable Jeffrey Rosen Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
The Honorable Lisa Smith-ramp Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721	The Honorable Dean Filippo Monterey County District Attorney P.O. Box 1131 Salinas, CA 93902	The Honorable Jeff Rossel Santa Cruz County District Attorney 701 Ocean Street, Room 230 Santa Cruz, CA 95060	The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1820 San Diego, CA 92101
The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95388	The Honorable Allison Haley Napa County District Attorney 1127 First Street, Suite C Napa, CA 94559	The Honorable Stephen Carlton Shasta County District Attorney 1355 West Street Redding, CA 96001	The Honorable Dennis Herrera Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
The Honorable Maggie Fleming Humboldt County District Attorney 825 3th Street, Fourth Floor Eureka, CA 95501	The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square Downsville, CA 95936	The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable Tony Raskauskas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable James Kirk Andrus Siskiyou County District Attorney P O Box 986 Yreka, CA 96097	Office of the California Attorney General Proposition 85 Enforcement Reporting ATTN: Prop 85 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
The Honorable Thomas Hardy Inyo County District Attorney P O Drawer D Independence, CA 93526	The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable Krishna Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	
The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Jill Ravitch Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
The Honorable Keith Fagundas Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Michael Hestrin Riverside County District Attorney 3960 Orange Street Riverside, CA 92501	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354	
The Honorable Donald Anderson Lake County District Attorney 255 North Forbes Street Lakeport CA 95453	The Honorable Donald Marie Schubert Sacramento County District Attorney 901 G Street Sacramento CA 95814	The Honorable Anne Marie Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City CA 95991	

# EXHIBIT “D”



LAW OFFICES  
**BRODSKY & SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
www.brodskysmith.com

**NEW JERSEY OFFICE**  
1310 NORTH KINGS HIGHWAY  
CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

October 21, 2021

Member/Manager Bill Saunders Calls and Gear, LLC c/o Bill Saunders 2913 S. Huntington Ct. Kennewick, WA 99337	Owner Quisling Media 17465 Calle Mayor PO Box 8716 Rancho Santa Fe, CA 92067
President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Donatus McCoy ("McCoy"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, McCoy has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides 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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Donatus McCoy; 910 N. Tajauta, Compton, CA 90220; (Phone) 424-302-3405.

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

2. **Alleged Violator(s):** Bill Saunders Calls and Gear, LLC; Sportsman’s Warehouse, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 2021 and are continuing to this day.
4. **Listed Chemical:** Bisphenol A (BPA). BPA is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Bill Saunders hunting call	Bill Saunders hunting call UPC# 689076121590

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to BPA is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user’s hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

**II. PROPOSITION 65 INFORMATION**

For the Violators’ reference, enclosed is a copy of “Proposition 65: A Summary” that has been prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

**III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of McCoy against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, McCoy is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

McCoy has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

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<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is McCoy’s position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators’ custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,

  
\_\_\_\_\_  
Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

**CERTIFICATE OF SERVICE**

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On October 21, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

Member/Manager Bill Saunders Calls and Gear, LLC c/o Bill Saunders 2913 S. Huntington Ct. Kennewick, WA 99337	Owner Quisling Media 17465 Calle Mayor PO Box 8716 Rancho Santa Fe, CA 92067
President/CEO Sportsman's Warehouse, inc. c/o CT Corporation System 1108 E. South Union Ave. Midvale, UT 84047	President/CEO Sportsman's Warehouse, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

On October 21, 2021, I served the following documents: **Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary** on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on October 21, 2021, in Bala Cynwyd, Pennsylvania.

\_\_\_\_\_  
Evan J. Smith



**CERTIFICATE OF MERIT**  
Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Donatus McCoy.
- (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 chemicals that are the subject of the action.
- (4) Based on the information obtained through these 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 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(s) 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 information identified in Health & 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.

Dated: October 21, 2021

  
\_\_\_\_\_  
Evan J. Smith  
Attorney for Donatus McCoy

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