

1 Evan J. Smith, Esquire (SBN 242352)  
2 Ryan P. Cardona, Esquire (SBN 302113)  
3 BRODSKY SMITH  
4 9465 Wilshire Blvd., Ste. 300  
5 Beverly Hills, CA 90212  
6 Telephone: (877) 534-2590  
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

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

**07/16/2024**  
Clerk of the Court  
BY: AUSTIN LAM  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

CGC-24-616455

10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 DOLLAR GENERAL CORPORATION,

15 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND  
INJUNCTIVE RELIEF**

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

16 Plaintiff Gabriel Espinoza (“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 lead and/or di(2-ethylhexyl) phthalate (DEHP), toxic chemicals  
28 found in products sold and/or distributed by defendant Dollar General Corporation (“Dollar  
General” or “Defendant”) in California.

1           3.       Lead<sup>1</sup> and DEHP<sup>2</sup> are harmful chemicals known to the State of California to cause  
2 cancer and birth defects or other reproductive harm.

3           4.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
4 within California or sell products therein to comply with Proposition 65 regulations. Included in  
5 such regulations is the requirement that businesses must label any product containing a Proposition  
6 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
7 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
8 chemical.

9           5.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
10 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
11 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
12 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
13 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
14 25249.7.

15           6.       Plaintiff alleges that Defendant distributes and/or offers for sale in California,  
16 without a requisite exposure warning, (a) *True Living Outdoors*® bypass loppers, # 430001670795  
17 (DEHP) and (b) *Clover Valley*® Mexican rice tuna bowls, UPC # 8852084503012 (lead)  
18 (collectively, the “Products” and each a “Product”) that expose persons to lead and/or DEHP when  
19 used for their intended purpose.  
20  
21

22 \_\_\_\_\_  
23 <sup>1</sup> On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and  
24 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.  
25 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State  
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

26 <sup>2</sup> On January 1, 1988, the State of California listed DEHP as a chemical known to the State to  
27 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
28 Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24,  
2003, the State of California listed DEHP as a chemical known to cause birth defects or other  
reproductive harm.





1 19. 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>3</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 20. 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 (up to a maximum civil penalty amount per violation of \$912,000.00).

20 **FACTUAL BACKGROUND**

21 21. On October 1, 1992, the state of California listed lead as a chemical known to cause  
22 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code  
23 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,  
24 1987, the State of California listed lead as a chemical known to cause birth defects or other  
25

26  
27 <sup>3</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 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the  
2 State to cause cancer and birth defects or other reproductive harm.

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

8         23.     The exposures that are the subject of the Notices result from the purchase,  
9 acquisition, handling, and recommended use of the Products. The primary route of exposure to  
10 lead in food products is through ingestion. When foods contaminated with lead are consumed,  
11 ingestion of lead will occur which will increase blood lead levels. The primary route of exposure  
12 to DEHP is through dermal absorption directly through the skin when consumers use, touch, or  
13 handle the Products. Exposure through ingestion will occur by touching the Products with  
14 subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided  
15 with the Products regarding the health hazards of exposure.

16         24.     Defendant has processed, marketed, distributed, offered to sell and/or sold the  
17 Products in California since at least July 21, 2023 with respect to the *True Living Outdoors*®  
18 Product; and since at least July 31, 2023 with respect to *Clover Valley*® Product. The Products  
19 continue to be distributed and sold in California without the requisite warning information.

20         25.     At all times relevant to this action, Defendant has knowingly and intentionally  
21 exposed users and/or consumers of the Products to lead and/or DEHP without first giving a clear  
22 and reasonable exposure warning to such individuals.

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

**SATISFACTION OF NOTICE REQUIREMENTS**

1  
2           27. Plaintiff purchased the Products from Dollar General. At the time of purchase,  
3 Defendant did not provide a Proposition 65 exposure warning for lead, DEHP, or any other  
4 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described  
5 *supra*.

6           28. The *True Living Outdoors*® Product was sent to a testing laboratory for phthalate  
7 testing to determine the DEHP content of the Product; and the *Clover Valley*® Product was sent  
8 to a testing laboratory to determine if, and what amount of, lead a consumer would be exposed to  
9 per serving size.

10           29. For each Product that was sent to the laboratory, Plaintiff received a chemical test  
11 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The  
12 Chemical Test Reports findings determined the *True Living Outdoors*® Product exposes users to  
13 DEHP; and the *Clover Valley*® Product exposes consumers to lead.

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

19           31. On July 21, 2023, Plaintiff received from the analytical chemist exposure  
20 assessment report for the *True Living Outdoors*® Product that concluded that persons in California  
21 who use the *True Living Outdoors*® Product will be exposed to levels of DEHP that require a  
22 Proposition 65 exposure warning. On July 31, 2023, Plaintiff received from the analytical chemist  
23 an exposure assessment report for the *Clover Valley*® Product that concluded that persons in  
24 California who use the *Clover Valley*® Product will be exposed to levels of lead that require a  
25 Proposition 65 exposure warning.

26           32. On July 21, 2023 (*True Living Outdoors*® bypass loppers) and July 31, 2023  
27 (*Clover Valley*® Mexican rice tuna bowls), Plaintiff gave notice of alleged violation of Health and  
28 Safety Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning

1 the exposure of California citizens to lead and/or DEHP contained in the Products without proper  
2 warning, subject to a private action to Defendant and to the California Attorney General's office  
3 and the offices of the County District attorneys and City Attorneys for each city with a population  
4 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at  
5 Exhibits "A" – "B" a true and correct copy of the Notices.

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

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

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

17 **FIRST CAUSE OF ACTION**

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

19 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of  
20 this Complaint as though fully set forth herein.

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

23 38. Use of the Products will expose users or consumers to lead and/or DEHP, hazardous  
24 chemicals found on the Proposition 65 list of chemicals known to be hazardous to human health.

25 39. The Products do not comply with the Proposition 65 warning requirements.

26 40. Plaintiff, based on his best information and belief, avers that at all relevant times  
27 herein, and since at least July 21, 2023 with respect to the *True Living Outdoors*® Product; and  
28 since at least July 31, 2023 with respect to *Clover Valley*® Product, continuing until the present,

1 that Defendant has continued to knowingly and intentionally expose California users and  
2 consumers of the Products to lead and/or DEHP without providing required warnings under  
3 Proposition 65.

4 41. The exposures that are the subject of the Notices result from the purchase,  
5 acquisition, handling, and recommended use of the Products. The primary route of exposure to  
6 lead in food products is through ingestion. When foods contaminated with lead are consumed,  
7 ingestion of lead will occur which will increase blood lead levels. The primary route of exposure  
8 to DEHP is through dermal absorption directly through the skin when consumers use, touch, or  
9 handle the Products. Exposure through ingestion will occur by touching the Products with  
10 subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided  
11 with the Products regarding the health hazards of exposure.

12 42. Plaintiff, based on his best information and belief, avers that such exposures will  
13 continue every day until clear and reasonable warnings are provided to purchasers, users, or  
14 consumers or until these known toxic chemicals are removed from the Products.

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

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

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

23 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
24 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 (up to a maximum civil penalty amount per  
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

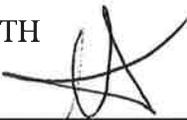
7 B. That the court preliminarily and permanently enjoin Defendant mandating  
8 Proposition 65 compliant warnings on the Products;

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 16, 2024

BRODSKY SMITH

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

14 Evan J. Smith (SBN242352)  
15 Ryan P. Cardona (SBN302113)  
16 9465 Wilshire Boulevard, Suite 300  
17 Beverly Hills, CA 90212  
18 Telephone: (877) 534-2590  
19 Facsimile: (310) 247-0160

20 *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

July 21, 2023

President/CEO Dollar General Corporation c/o Corporation Service Company 2908 Poston Ave. Nashville, TN 37203-1312	President/CEO Dollar General Corporation 100 Mission Ridge Goodlettsville, TN 37072-2171
Member/Manager Dolgen California, LLC c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833	Member/Manager DolgenCorp, LLC c/o Corporation Service Company 421 West Main Street Frankfort, KY 40601
Member/Manager DolgenCorp., LLC dba Old East Main Co. c/o Corporation Service Company 421 West Main Street Frankfort, KY 40601	

**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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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.

<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.

**I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Dollar General Corporation; Dolgen California, I.L.C; DolgenCorp, LLC; DolgenCorp., LLC dba Old East Main Co.
3. **Time Period of Exposure:** Violations have been occurring since at least July 21, 2023 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
Bypass Lopper	True Living Outdoors Bypass Lopper Plastic 430001670795

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 Espinoza 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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

---

<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 Espinoza'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.

**Espinoza 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).**

Sincerely,

A handwritten signature in black ink, appearing to read "Evan J. Smith", written over a horizontal line.

Evan J. Smith

**Attachments**

Certificate of Merit

Certificate of Service

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

# 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

July 31, 2023

President/CEO Dollar General Corporation c/o Corporation Service Company 2908 Poston Ave. Nashville, TN 37203-1312	President/CEO Dollar General Corporation 100 Mission Ridge Goodlettsville, TN 37072-2171
Member/Manager Dolgen California, LLC c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks drive, Suite 150N Sacramento, CA 95833	Member/Manager DolgenCorp, LLC c/o Corporation Service Company 421 West Main Street Frankfort, KY 40601
Member/Manager DolgenCorp., LLC dba Old East Main Co. c/o Corporation Service Company 421 West Main Street Frankfort, KY 40601	President/CEO Unicord Public Co., Ltd. No. 39/3 Moo 8 Sethakij 1 Road Sub District Thasai District Muang Samutsakorn Samut Sakhon THAILAND

**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 Gabriel Espinoza ("Espinoza"), 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, Espinoza 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

<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.

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:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 310.863.2852.
2. **Alleged Violator(s):** Dollar General Corporation; Dolgen California, LLC; DolgenCorp, LLC; DolgenCorp., LLC dba Old East Main Co.; Unicord Public Co., Ltd.
3. **Time Period of Exposure:** Violations have been occurring since at least July 31, 2023 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

<b>Product<sup>2</sup></b>	<b>Non- Exclusive Examples of the Product</b>
Mexican Rice Tuna Bowl	Clover Valley Mexican Rice Tuna Bowl UPC# 8852084503012

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. 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 Espinoza 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

---

<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 Espinoza'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.

these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza 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.**

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