

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Alameda

**06/05/2026 at 02:50:03 PM**

By: Danielle Harbour,  
Deputy Clerk

1 Charles W. Poss (SBN 325366)  
2 Environmental Research Center, Inc.  
3 3111 Camino Del Rio North, Suite 400  
4 San Diego, CA 92108  
5 Telephone: (619) 500-3090  
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7 Attorney for Plaintiff Environmental Research Center, Inc.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF ALAMEDA**

10 **ENVIRONMENTAL RESEARCH CENTER,**  
11 **INC., a California non-profit corporation**

12 **Plaintiff,**

13 **vs.**

14 **BIOMIC SCIENCES LLC, individually and**  
15 **dba ION\* INTELLIGENCE OF NATURE;**  
16 **SERAPHIC GROUP, INC., individually and**  
17 **dba ION\* INTELLIGENCE OF NATURE;**  
18 **and DOES 1-100**

19 **Defendants.**

**CASE NO. 26CV192554**

**COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF AND  
CIVIL PENALTIES**

[Miscellaneous Civil Complaint (42)]  
Proposition 65, Health & Safety Code  
Section 25249.5 et seq.]

20 Plaintiff Environmental Research Center, Inc. hereby alleges:

21 **I**

22 **INTRODUCTION**

23 1. Plaintiff Environmental Research Center, Inc. (hereinafter "Plaintiff" or "ERC") brings  
24 this action as a private attorney general enforcer and in the public interest pursuant to Health &  
25 Safety Code section 25249.7, subdivision (d). The Safe Drinking Water and Toxic Enforcement  
26 Act of 1986 (Health & Safety Code section 25249.5 *et seq.*) also known as "Proposition 65,"  
27 mandates that businesses with ten or more employees must provide a "clear and reasonable  
28 warning" prior to exposing any individual to a chemical known to the state to cause cancer or

1 reproductive toxicity. Lead is a chemical known to the State of California to cause cancer, birth  
2 defects, and other reproductive harm. This Complaint seeks injunctive and declaratory relief  
3 and civil penalties to remedy the ongoing failure of Defendants Biomic Sciences LLC,  
4 individually and dba ION\* Intelligence of Nature (“Biomic Sciences”), and Seraphic Group,  
5 Inc., individually and dba ION\* Intelligence of Nature (“Seraphic”), and Does 1-100  
6 (hereinafter individually referred to as “Defendant” or collectively as “Defendants”), to warn  
7 consumers that they have been exposed to lead from a number of the Defendants’ nutritional  
8 health products as set forth in paragraph 3 at levels exceeding the applicable Maximum  
9 Allowable Dose Level (“MADL”) and requiring a warning pursuant to Health & Safety Code  
10 section 25249.6.

11 **II**  
12 **PARTIES**

13 2. Plaintiff ERC is a California non-profit corporation dedicated to, among other causes,  
14 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
15 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
16 encouraging corporate responsibility.

17 3. Defendants Biomic Sciences and Seraphic are each a business that develops,  
18 manufactures, markets, distributes, and/or sells nutritional health products that have exposed  
19 users to lead in the State of California within the relevant statute of limitations period. These  
20 “SUBJECT PRODUCTS” (as identified in the Notices of Violation dated March 12, 2026, and  
21 March 26, 2026, attached hereto as **Exhibits A and B** and incorporated herein by reference)  
22 are: (1) ION Intelligence of Nature Focused Mind Improve Cognitive Function and Boost  
23 Mental Energy Matcha and (2) ION Intelligence of Nature Restful Sleep Improve Sleep and  
24 Wake Refreshed Chamomile. Defendants Biomic Sciences LLC, individually and dba ION\*  
25 Intelligence of Nature, and Seraphic Group, Inc., individually and dba ION\* Intelligence of  
26 Nature, are companies subject to Proposition 65 as each company employs ten or more persons  
27 and has employed ten or more persons at all times relevant to this action.

28 4. Defendants Does 1-100, are named herein under fictitious names, as their true names

1 and capacities are unknown to ERC. ERC is informed and believes, and thereon alleges, that  
2 each of said Does is responsible, in some actionable manner, for the events and happenings  
3 hereinafter referred to, either through said Does' conduct, or through the conduct of its agents,  
4 servants or employees, or in some other manner, causing the harms alleged by ERC in this  
5 Complaint. When said true names and capacities of Does are ascertained, ERC will seek leave  
6 to amend this Complaint to set forth the same.

### 7 III

#### 8 JURISDICTION AND VENUE

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

13 6. This Court has jurisdiction over Biomic Sciences and Seraphic because both Biomic  
14 Sciences and Seraphic have sufficient minimum contacts with California, and otherwise  
15 intentionally avails themselves of the California market through the marketing, distribution,  
16 and/or sale of the SUBJECT PRODUCTS in or into the State of California so as to render the  
17 exercise of jurisdiction over them by the California courts consistent with traditional notions of  
18 fair play and substantial justice.

19 7. The Complaint is based on allegations contained in the Notices of Violation dated  
20 March 12, 2026, and March 26, 2026, served on the California Attorney General, other public  
21 enforcers, Biomic Sciences and Seraphic. The Notices of Violation constitute adequate notice  
22 to Biomic Sciences and Seraphic because they provided adequate information to allow Biomic  
23 Sciences and Seraphic to assess the nature of the alleged violations, consistent with Proposition  
24 65 and its implementing regulations. A certificate of merit and a certificate of service  
25 accompanied each copy of the Notices of Violation, and both certificates comply with  
26 Proposition 65 and its implementing regulations. The Notices of Violation served on Biomic  
27 Sciences and Seraphic also included a copy of "The Safe Drinking Water and Toxic  
28 Enforcement Act of 1986 (Proposition 65): A Summary." Service of the Notices of Violation

1 and accompanying documents complied with Proposition 65 and its implementing regulations.  
2 Attached hereto as **Exhibits A and B** are true and correct copies of the Notices of Violation and  
3 associated documents. More than 60 days have passed since ERC mailed the Notices of  
4 Violation and no public enforcement entity has filed a Complaint in this case.

5 8. This Court is the proper venue for the action because the causes of action have arisen in  
6 the County of Alameda where some of the violations of law have occurred, and will continue to  
7 occur, due to the ongoing sale of the Defendants' products. Furthermore, venue is proper in this  
8 Court under Code of Civil Procedure section 395.5 and Health & Safety Code section 25249.7.

#### 9 IV

#### 10 STATUTORY BACKGROUND

11 9. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
12 passed as "Proposition 65" by an overwhelming majority vote of the people in November of  
13 1986.

14 10. The warning requirement of Proposition 65 is contained in Health & Safety Code  
15 section 25249.6, which provides:

16 No person in the course of doing business shall knowingly and  
17 intentionally expose any individual to a chemical known to the state to  
18 cause cancer or reproductive toxicity without first giving clear and  
19 reasonable warning to such individual, except as provided in Section  
20 25249.10.

21 11. The Office of Environmental Health Hazard Assessment ("OEHHA"), a division of the  
22 California Environmental Protection Agency, is the lead agency in charge of the  
23 implementation of Proposition 65. OEHHA administers the Proposition 65 program and  
24 administers regulations that govern Proposition 65 in general, including warnings to comply  
25 with the statute. The warning regulations are found at Title 27 of the California Code of  
26 Regulations, Article 6. The regulations define expose as "to cause to ingest, inhale, contact via  
27 body surfaces or otherwise come into contact with a listed chemical. An individual may come  
28 into contact with a listed chemical through water, air, food, consumer products and any other  
environmental exposure as well as occupational exposures." (Cal. Code Regs., tit. 27, § 25102,

1 subd. (i).)

2 12. In this case, the exposures are caused by a consumer product. A consumer product is  
3 defined as “any article, or component part thereof, including food, that is produced, distributed,  
4 or sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit.  
5 27, § 25600.1, subd. (d).) Food “includes ‘dietary supplements’ as defined in California Code  
6 of Regulations, title 17, section 10200.” (*Id.* at subd. (g).) A consumer product exposure is “an  
7 exposure that results from a person’s acquisition, purchase, storage, consumption, or any  
8 reasonably foreseeable use of a consumer product, including consumption of a food.” (*Id.* at  
9 subd. (e).)

10 13. On August 30, 2016, the Office of Administrative Law approved the adoption of  
11 OEHHA’s amendments to Article 6, Clear and Reasonable Warnings of the California Code of  
12 Regulations. This action repealed virtually all of the regulatory provisions of Title 27 of the  
13 California Code of Regulations, Article 6 (sections 25601 *et seq.*) and replaced the repealed  
14 sections with new regulations set forth in two new Subarticles to Article 6 that became  
15 operative on August 30, 2018 (the “New Warning Regulations”). The New Warning  
16 Regulations provide, among other things, methods of transmission and content of warnings  
17 deemed to comply with Proposition 65. Biomic Sciences and Seraphic are subject to the  
18 warning requirements set forth in the New Warning Regulations that became operative on  
19 August 30, 2018.

20 14. Health & Safety Code section 25249.6 provides that “No person in the course of doing  
21 business shall knowingly and intentionally expose any individual to a chemical known to the  
22 state to cause cancer or reproductive toxicity without first giving clear and reasonable warning  
23 to such individual . . . .” The New Warning Regulations apply when clear and reasonable  
24 warnings are required under Section 25249.6. Pursuant to the New Warning Regulations,  
25 consumer product warnings “must be prominently displayed on a label, labeling, or sign, and  
26 must be displayed with such conspicuousness as compared with other words, statements,  
27 designs or devices on the label, labeling, or sign, as to render the warning likely to be seen,  
28 read, and understood by an ordinary individual under customary conditions of purchase or use.”

1 (*Id.* at § 25601, subd. (c).)

2 15. Proposition 65 establishes a procedure by which the State is to develop a list of  
3 chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code,  
4 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12 months after  
5 the chemical is published on the State list. (Health & Safety Code, § 25249.10, subd. (b).)

6 16. Lead was listed as a chemical known to the State of California to cause developmental  
7 toxicity in the fetus and male and female reproductive toxicity on February 27, 1987. Lead was  
8 listed as a chemical known to the State of California to cause cancer on October 1, 1992. (State  
9 of California EPA OEHHA Safe Drinking Water and Toxic Enforcement Act of 1986  
10 Chemicals Known to the State to Cause Cancer and Reproductive Toxicity.) The MADL for  
11 lead as a chemical known to cause reproductive toxicity is 0.5 micrograms per day. (Cal. Code  
12 Regs., tit. 27, §25805, subd. (b).) The No Significant Risk Level for lead as a carcinogen is 15  
13 micrograms per day. (Cal. Code Regs., tit. 27, §25705, subd. (b).)

14 17. Proposition 65 provides that any person “violating or threatening to violate” Proposition  
15 65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, §25249.7,  
16 subd. (a).) To “threaten to violate” means “to create a condition in which there is a substantial  
17 probability that a violation will occur.” (Health & Safety Code, § 25249.11, subd. (e).)  
18 Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation.  
19 (Health & Safety Code, § 25249.7, subd. (b)(1).)

20 18. Proposition 65 may be enforced by any person in the public interest who provides notice  
21 sixty days before filing suit to both the violator and designated law enforcement officials. The  
22 failure of law enforcement officials to file a timely Complaint enables a citizen suit to be filed  
23 pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

24 **V**

25 **STATEMENT OF FACTS**

26 19. Biomic Sciences and Seraphic have developed, manufactured, marketed, distributed,  
27 and/or sold the SUBJECT PRODUCTS containing lead in or into the State of California,  
28 including in or into Alameda County. Consumption of the SUBJECT PRODUCTS according to

1 the directions and/or recommendations provided for said products causes consumers to be  
2 exposed to lead, requiring a warning. Consumers have been ingesting these products for many  
3 years, without any knowledge of their exposure to this very dangerous chemical.

4 20. For many years, Biomic Sciences Seraphic have knowingly and intentionally exposed  
5 numerous persons to lead without providing any type of Proposition 65 warning. Prior to  
6 ERC's Notices of Violation and this Complaint, Biomic Sciences and Seraphic failed to provide  
7 a warning on the labels of the SUBJECT PRODUCTS or provide any other legally acceptable  
8 warning. Biomic Sciences and Seraphic have, at all times relevant hereto, been aware that the  
9 SUBJECT PRODUCTS contained lead and that persons using these products have been  
10 exposed to this chemical. Biomic Sciences and Seraphic have been aware of the presence of  
11 lead in the SUBJECT PRODUCTS and have failed to disclose the presence of this chemical to  
12 the public, who undoubtedly believe they have been ingesting totally healthy and pure products  
13 pursuant to the companies' statements.

14 21. Both prior and subsequent to ERC's Notices of Violation, Biomic Sciences and Seraphic  
15 failed to provide consumers of the SUBJECT PRODUCTS with a clear and reasonable warning  
16 that they have been exposed to a chemical known to the State of California to cause cancer  
17 and/or birth defects and other reproductive harm. This failure to warn is ongoing.

18 **FIRST CAUSE OF ACTION**  
19 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear and**  
20 **Reasonable Warning under Proposition 65)**

21 22. ERC refers to paragraphs 1-21, inclusive, and incorporates them herein by this  
22 reference.

23 23. By committing the acts alleged above, Biomic Sciences and Seraphic have, in the course  
24 of doing business, knowingly and intentionally exposed users of the SUBJECT PRODUCTS to  
25 lead, a chemical known to the State of California to cause birth defects, and other reproductive  
26 harm, without first giving clear and reasonable warning to such individuals within the meaning  
27 of Health & Safety Code section 25249.6. In doing so, Biomic Sciences and Seraphic have  
28 violated Health & Safety Code section 25249.6 and continue to violate the statute with each

1 successive sale of the SUBJECT PRODUCTS.

2 24. Said violations render Biomic Sciences and Seraphic liable for civil penalties, up to  
3 \$2,500 per day for each violation, and subject Biomic Sciences and Seraphic to injunction.

4 **SECOND CAUSE OF ACTION**  
5 **(Declaratory Relief)**

6 25. ERC refers to paragraphs 1-24, inclusive, and incorporates them herein by this  
7 reference.

8 26. There exists an actual controversy relating to the legal rights and duties of the Parties,  
9 within the meaning of Code of Civil Procedure section 1060, between ERC and Biomic  
10 Sciences and Seraphic, concerning whether Biomic Sciences and Seraphic have exposed  
11 individuals to a chemical known to the State of California to cause birth defects and other  
12 reproductive harm without providing clear and reasonable warning.

13 **VI**

14 **PRAYER**

15 WHEREFORE ERC prays for relief as follows:

16 1. On the First Cause of Action, for civil penalties for each and every violation according  
17 to proof;

18 2. On the First Cause of Action, and pursuant to Health & Safety Code section 25249.7,  
19 subdivision (a), for such temporary restraining orders, preliminary and permanent injunctive  
20 orders, or other orders as are necessary to prevent Biomic Sciences and Seraphic from exposing  
21 persons to lead without providing clear and reasonable warning;

22 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil  
23 Procedure section 1060 declaring that Biomic Sciences and Seraphic have exposed individuals  
24 to lead without providing clear and reasonable warning; and

25 4. On all Causes of Action, for reasonable attorneys' fees pursuant to Code of Civil  
26 Procedure section 1021.5 or the substantial benefit theory;

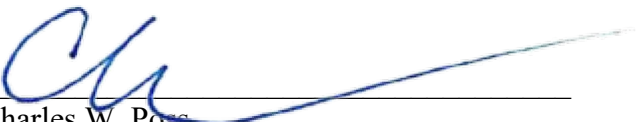
27 5. For costs of suit herein; and

28 6. For such other relief as the Court may deem just and proper.

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DATED: June 5, 2026

ENVIRONMENTAL RESEARCH CENTER, INC.



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Charles W. Poss  
In-House Counsel

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# EXHIBIT A



## Environmental Research Center

3111 Camino Del Rio North, Suite 400

San Diego, CA 92108

619-500-3090

March 12, 2026

### NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the In-House Counsel for Environmental Research Center, Inc. (“ERC”). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

**Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature  
Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature**

**Consumer Product and Listed Chemical.** The specific type of product causing the violation that is the subject of this notice is a dietary and/or nutritional supplement product that is a powder and contains lead. This product and the specific chemical in this product identified as exceeding allowable levels include but are not limited to:

- **ION Intelligence of Nature Focused Mind Improve Cognitive Function and Boost Mental Energy Matcha – Lead**

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

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

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

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least March 12, 2023, as well as every day since the product was introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting this product with appropriate warnings that they are being exposed to this chemical.

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

March 12, 2026

Page 3

Please direct all questions concerning this notice to my attention, or Chris Heptinstall, Executive Director of ERC, at the above listed address and telephone number.

Sincerely,



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Charles Poss  
In-House Counsel  
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature and Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature and their Registered Agents for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Health and Safety Code Section 25249.7 (d)**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature and Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature**

I, Charles Poss, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: March 12, 2026

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Charles Poss

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On March 12, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
PO Box 4574  
Charlottesville, VA 22905

Harvard Business Services, Inc.  
(Registered Agent for Biomic Sciences LLC,  
individually and dba ION\* Intelligence of Nature and  
Seraphic Group, Inc., individually and dba ION\*  
Intelligence of Nature)  
16192 Coastal Hwy  
Lewes, DE 19958

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
4351 Seminole Trail  
Charlottesville, VA 22911

Kirk T. Shroder  
(Registered Agent for Biomic Sciences LLC,  
individually and dba ION\* Intelligence of Nature and  
Seraphic Group, Inc., individually and dba ION\*  
Intelligence of Nature)  
4351 Seminole Trail  
Charlottesville, VA 22911

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
1825 Avon Street Ext.  
Charlottesville, VA 22902

On March 12, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 12, 2026

Page 6

On March 12, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Ursula Jones Dickson, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Robert K. Priscaro, District Attorney  
Alpine County  
P.O.Box 248  
Markleville, CA 96120  
prop65enf@alpinecountyca.gov

Barbara Yook, District Attorney  
Calaveras County  
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San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District Attorney  
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sgrassini@contracostada.org

James Clinchard, Assistant District Attorney  
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Placerville, CA 95667  
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Lisa A. Smittcamp, District Attorney  
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Fresno, CA 93721  
consumerprotection@fresnocountyca.gov

Thomas L. Hardy, District Attorney  
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Devin Chandler, Program Coordinator  
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Lori E. Frugoli, District Attorney  
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consumer@marincounty.org

Walter W. Wall, District Attorney  
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Mariposa, CA 95338  
mcda@mariposacounty.org

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Prop65@countyofmerced.com

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Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

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Napa, CA 94559  
CEPD@countyofnapa.org

Clifford H. Newell, District Attorney  
Nevada County  
201 Commercial St  
Nevada City, CA 95959  
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@ocdapa.org

Morgan Briggs Gire, District Attorney  
Placer County  
10810 Justice Center Drive  
Roseville, CA 95678  
Prop65@placer.ca.gov

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 12, 2026

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David Hollister, District Attorney  
Plumas County  
520 Main St  
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cfepd@yolocounty.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 12, 2026

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On March 12, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on March 12, 2026, in Fort Oglethorpe, Georgia.

  
Debra Wright

**Service List**

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

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

District Attorney, Colusa  
County  
310 6<sup>th</sup> St  
Colusa, CA 95932

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

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

District Attorney, Humboldt  
County  
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Eureka, CA 95501

District Attorney, Imperial  
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El Centro, CA 92243

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1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney, Kings  
County  
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Hanford, CA 93230

District Attorney, Lake County  
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Lakeport, CA 95453

District Attorney, Los Angeles  
County  
Hall of Justice  
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Los Angeles, CA 90012

District Attorney, Madera  
County  
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Madera, CA 93637

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

District Attorney, Mono  
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County  
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Hollister, CA 95023

District Attorney, San  
Bernardino County  
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San Bernadino, CA 92415

District Attorney, San Mateo  
County  
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District Attorney, Shasta  
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District Attorney, Sierra  
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District Attorney, Stanislaus  
County  
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District Attorney, Sutter  
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County  
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District Attorney, Yuba  
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215 Fifth Street, Suite 152  
Marysville, CA 95901

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

Office of the City Attorney,  
Sacramento  
915 I Street, 4th Floor  
Sacramento, CA 95814

## APPENDIX A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## *HOW IS PROPOSITION 65 ENFORCED?*

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

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

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

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

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

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

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

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

Revised: May 2017

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

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# EXHIBIT B



## **Environmental Research Center**

3111 Camino Del Rio North, Suite 400

San Diego, CA 92108

619-500-3090

March 26, 2026

### **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the In-House Counsel for Environmental Research Center, Inc. (“ERC”). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

**Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature  
Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature**

**Consumer Product and Listed Chemical.** The specific type of product causing the violation that is the subject of this notice is a dietary and/or nutritional supplement product that is a powder and contains lead. This product and the specific chemical in this product identified as exceeding allowable levels include but are not limited to:

- **ION Intelligence of Nature Restful Sleep Improve Sleep and Wake Refreshed Chamomile– Lead**

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

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

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

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least March 26, 2023, as well as every day since the product was introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting this product with appropriate warnings that they are being exposed to this chemical.

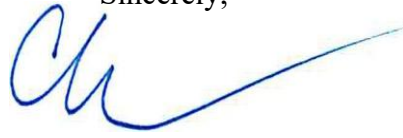
Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the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

March 26, 2026

Page 3

Please direct all questions concerning this notice to my attention, or Chris Heptinstall, Executive Director of ERC, at the above listed address and telephone number.

Sincerely,



---

Charles Poss  
In-House Counsel  
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature and Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature and their Registered Agents for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Health and Safety Code Section 25249.7 (d)**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Biomic Sciences LLC, individually and dba ION\* Intelligence of Nature and Seraphic Group, Inc., individually and dba ION\* Intelligence of Nature**

I, Charles Poss, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: March 26, 2026

---

Charles Poss

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On March 26, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
PO Box 4574  
Charlottesville, VA 22905

Harvard Business Services, Inc.  
(Registered Agent for Biomic Sciences LLC,  
individually and dba ION\* Intelligence of Nature and  
Seraphic Group, Inc., individually and dba ION\*  
Intelligence of Nature)  
16192 Coastal Hwy  
Lewes, DE 19958

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
4351 Seminole Trail  
Charlottesville, VA 22911

Kirk T. Shroder  
(Registered Agent for Biomic Sciences LLC,  
individually and dba ION\* Intelligence of Nature and  
Seraphic Group, Inc., individually and dba ION\*  
Intelligence of Nature)  
4351 Seminole Trail  
Charlottesville, VA 22911

Thomas Darden III, Chief Executive Officer  
or Current President or CEO  
Biomic Sciences LLC, individually and dba ION\*  
Intelligence of Nature and Seraphic Group, Inc.,  
individually and dba ION\* Intelligence of Nature  
1825 Avon Street Ext.  
Charlottesville, VA 22902

On March 26, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 26, 2026

Page 6

On March 26, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 26, 2026

Page 7

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Summer Stephan, District Attorney  
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SanDiegoDAProp65@sdca.org

Mark Ankorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

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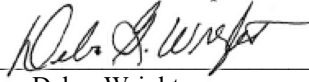
Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 26, 2026

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On March 26, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on March 26, 2026, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink, appearing to read "Debra A. Wright", written over a horizontal line.

Debra Wright

**Service List**

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## APPENDIX A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## *HOW IS PROPOSITION 65 ENFORCED?*

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

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

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

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

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

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

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

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

Revised: May 2017

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