

SCOTT D. PINSKY

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January 9, 2004

**Samira Abdelmalak**

c/o D. Damon Willens, Esq.  
Anderson, McPharlin & Connors LLP  
444 S. Flower Street, 3<sup>rd</sup> Floor  
Los Angeles, CA 90071-2901

**Unlimited Environmental, Inc.**

W. Scott Lange  
Agent for Service of Process  
1434 E. 33<sup>rd</sup> St.  
Signal Hill CA 90807

Bill Lockyer, Esq.  
Attorney General of California  
Edward G. Weil, Esq.  
Deputy Attorney General  
1515 Clay St., 20<sup>th</sup> Floor  
P.O. Box 70550  
Oakland, CA 94612-0550

State of California - Prop. 65 Enforcement Reporting  
Attention: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, California 94612-0550

Steve Cooley, Esq.  
Los Angeles County District Attorney  
County of Los Angeles  
210 West Temple Street, Suite 18000  
Los Angeles, CA 90012-3210

Rockard J. Delgadillo, Esq.  
Los Angeles City Attorney  
800 City Hall East  
200 North Main Street  
Los Angeles, CA 90012

Re: **60-DAY NOTICE OF ENVIRONMENTAL VIOLATIONS UNDER  
PROPOSITION 65 RE SAMIRA ABDELMALAK AND UNLIMITED  
ENVIRONMENTAL, INC.**

Dear Ladies and Gentlemen:

**NOTICE IS HEREBY GIVEN** pursuant to Cal. Health & Safety Code section 25249.7(d) (the California Safe Drinking Water and Toxic Enforcement Act of 1986, also known as "Proposition 65" [Cal. Health & Safety Code § 25249.5, et seq., hereinafter "the Act"]) by

the undersigned that we believe that the noticed parties and alleged violators, Samira Abdelmalak and Unlimited Environmental, Inc. (hereinafter "Noticed Parties"), are in violation of section 25249.6 of the Act. The Noticed Parties failed to provide the clear and reasonable warnings required by State law before exposing persons to the chemical asbestos.

**Description of Violation:**

1. The noticing individual is the undersigned, attorney for claimants Michael & Karen and Michael Hudspeth (hereinafter "Claimants"). Claimants at all relevant times have resided at the premises which is the subject of this notice: 2414 S. Barrington Drive, Los Angeles CA 90064. The subject premises are residential housing units an apartment building owned by Samira Abdelmalak and leased by her to Claimants and others.
2. The alleged violators are the Noticed Parties: Samira Abdelmalak ("Abdelmalak") and Unlimited Environmental, Inc. ("UEI").
3. The time period in question is from approximately 2000 to the present in the case of Noticed Party Samira Abdelmalak and from approximately September 2003 to the present in the case of Noticed Party Unlimited Environmental, Inc.
4. The chemical at issue is asbestos.
5. The persons exposed include Claimants as well as workers employed by the Noticed Parties and other tenants who reside at the premises owned and operated by Abdelmalak. Claimants allege that their unit and other units owned and leased by Abdelmalak contain asbestos. Claimants allege Abdelmalak employed UEI to perform remediation at these sites. The activities of the Noticed Parties did not meet the requirements of for asbestos remediation and abatement under California law and South Coast Air Quality Management District ("SCAQMD") regulations. These activities have in fact exacerbated the problem at the subject premises and exposed Claimants and others to more asbestos and other contaminants than would have been the case had they done nothing.

**Route of Exposure:**

The manner in which the Noticed Parties permitted Claimants and others to be exposed to asbestos was through inhalation of airborne friable asbestos particles that were present in high concentrations within the Claimants' dwelling due to the deterioration and decomposition of "popcorn"-type ceiling material.

**Background and Allegations:**

Noticed Party Abdelmalak owns and operates a residential apartment building in Los Angeles at the address stated above. From the date of her ownership and operation of the premises, she has leased unit no. 312 to Claimants. During most or all of the past four years, the ceiling "popcorn" material in Claimants' unit has been deteriorating and decomposing, apparently due to the presence of moisture from rain damage from a leaking roof. The ceiling material has steadily flaked off of the ceiling to the floor, furniture, clothing, and pets of Claimants and onto their persons. The flaking material has been tested and shown to contain high levels of friable asbestos fibers. The prevalence and persistence of this material in their living area has exposed Claimants to this contaminant through inhalation. Claimants are informed and believe and thereon allege that similar conditions exist in other units of the building in question.

Asbestos has been identified by the State of California as a chemical known to cause cancer. The exposure level threshold under Proposition 65 for asbestos is inhalation of at least 100 fibers per day, where such fibers are at least 5 micrometers in length and 0.3 micrometers in width, with a length-to-width ratio of at least 3:1 as measured by phase contrast microscopy.

In September 2003, in violation of numerous state and local laws and regulations, Abdelmalak hired an unlicensed and inexperienced workman to scrape the "popcorn" material off of the ceiling in Claimants' apartment. No testing was done and no warnings were posted prior to this work. Asbestos-containing ceiling material was dispersed throughout Claimants' dwelling and possessions as a result of this work. Thereafter, agents of the SCAQMD were notified of Abdelmalak's activities and issued a notice requiring asbestos testing and remediation pursuant to a Rule 1403 Procedure 5 Asbestos Clean-Up Plan. Exceedingly high levels of asbestos were found throughout Claimants' unit.

Abdelmalak then hired Noticed Party UEI to perform work mandated by SCAQMD. In or about September 2003, UEI undertook to perform tasks required under the SCAQMD Asbestos Clean-Up Plan but failed to complete the work in a competent manner, thereby exposing Claimants to further inhalation of friable asbestos fibers from approximately September 2003 to the present. In so doing, UEI failed to provide clear and reasonable warnings to Claimants that they were being exposed to asbestos contamination by virtue of the very actions by UEI that were supposed to remove, remediate and abate the asbestos danger.

Abdelmalak and UEI are thus co-violators of Proposition 65 as a consequence of the above-described acts and omissions.

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**Other Information:**

Accompanying this 60-day notice is a Certificate of Merit as required by Cal. Health & Safety Code section 25249.7(d).

Accompanying Noticed Parties' copy of this Notice is a Summary of the Act describing Proposition 65 in general.

Accompanying the copy of the Certificate of Merit delivered to the enforcement officials identified above is the information identified in Cal. Health & Safety Code section 25249.7(h)(2).

Claimants have commenced a civil action against Abdelmalak and UEI in the Superior Court of California, County of Los Angeles, entitled Hudspeth v. Abdelmalak, et al., Case No BC 306534. Upon expiration of sixty days following service of this notice, Claimants will seek leave of court to amend their complaint to add claims under Proposition 65 against the defendants if enforcement action is not undertaken by that time by state or local officials.

Recipients of this notice are invited to contact the undersigned for further information concerning the alleged violations described herein.

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List of Attachments, by recipient:

All recipients	Certificate of Merit
Bill Lockyer, Esq. Attorney General of California Edward G. Weil, Esq. Deputy Attorney General State of California Prop. 65 Enforcement Reporting Steve Cooley, Esq. Los Angeles County District Attorney Rockard J. Delgadillo, Esq. Los Angeles City Attorney	Confidential information required under Cal. Health & Safety Code § 25249.7(h)(2)
Noticed Parties	Summary of the Act (Proposition 65)

cc: Michael and Karen Hudspeth (w/all attachments)

CERTIFICATE OF MERIT  
Health and Safety Code Section 25249.7(d)

I, SCOTT D. PINSKY hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice 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 noticing party.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
- (4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the 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: January 9, 2004