

**Attorney General Copy:**  
**Contains Official Information Pursuant to Evidence Code Section 1040**

**60 DAY NOTICE OF VIOLATION OF**  
**CALIFORNIA HEALTH AND SAFETY CODE SECTION 25249.6**

NOTICING PARTY: Adam Gutride  
Mandell Law Group  
101 California Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94111

Phone: 415-788 5000  
Fax: 415-723-7 70

ALLEGED VIOLATOR: Betz & Sons, Inc. d.b.a. House of Prime Rib  
1906 Van Ness Ave.  
San Francisco, CA 94109

Phone: 415-885 4605  
Fax: 415-921-0854

This is to provide notice that this firm will commence an action against Betz & Sons Inc. d.b.a. House of Prime Rib for violations of California Health and Safety Code section 25249.5 *et seq.* ("The Safe Drinking Water and Toxic Enforcement Act of 1986"), on behalf of Timothy Howard and Kristine Howard, those who are similarly situated, and the general public, if an action for the violations alleged herein is not commenced by the Office of the Attorney General, Office of the District Attorney or the Office of the City Attorney within in sixty days following service of this notice.

California Health and Safety Code section 25249.6 provides as follows:

Required Warning Before Exposure To Chemicals Known to Cause Cancer or Reproductive Toxicity. No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual, except as provided in Section 25249.10.

The House of Prime Rib ("HOPR") is a "person in the course of doing business" pursuant to California Health and Safety Code section 25249.11(b). HOPR burns up to ten containers (measuring approximately 14" x 6" x 6") at a time of charcoal indoors at its location at 1906 Van Ness Ave., San Francisco, CA 94109. HOPR has been burning charcoal indoors for at least the last four years and continues to do so. The charcoal is ignited in the kitchen, where it burns until it is needed in the dining rooms. Due to a lack of adequate ventilation, the kitchen is often filled with smoke from the burning charcoal and causes employees of HOPR to experience burning eyes and coughing. Employees also complain of symptoms related to long-term, low level exposure to carbon monoxide from the burning charcoal, such as headaches, dizziness and fatigue. Although the

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kitchen has a door to the outside, this door has to remain shut because wind coming through the door will cause smoke to blow into the dining areas. After the charcoal is ignited and burned in the kitchen, it is carried on a large fork through the restaurant's dining rooms and placed inside carts, which are used to heat prime rib. These carts are wheeled around the dining rooms with the charcoal burning inside. The charcoal is enclosed inside the cart.

Employees of HOPR who are exposed to the burning charcoal include servers (waiters and waitresses), bussers, dishwashers, carvers, bartenders, cocktail servers, pantry chefs, kitchen staff and managers.

The exposure to burning charcoal also creates a risk to HOPR's patrons. Employees state that approximately once a month, one of HOPR's patrons experiences lightheadedness, dizziness or loss of consciousness as a result of exposure to the burning charcoal. HOPR keeps an oxygen tank in the restaurant for these occasions, though sometimes an ambulance must also be called as well.

HOPR does not provide any adequate or reasonable warning to employees or restaurant patrons of exposure to chemicals caused by burning charcoal. The burning charcoal exposes HOPR employees and patrons to the following chemicals, which are listed as known to cause cancer or reproductive toxicity by the California Environmental Protection Agency Office of Environmental Health Hazard Assessment: carbon monoxide and benzo(a)pyren. HOPR employees and patrons are exposed to the chemicals through inhalation. Exposure to these chemicals does not occur beyond the property owned by Betz & Sons, Inc.

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

I, Adam Gutride, hereby declare:

(2) I am the attorney for 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: 10/27/03

Signed:

## **PROOF OF SERVICE BY MAIL**

I declare that I am employed in the County of San Francisco, California. I am over the age of eighteen years and not a party to the within cause; my business address is 101 California Street, 22<sup>nd</sup> Floor, San Francisco, CA 94111. On January 19, 2004, I served the enclosed:

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on the parties listed below by enclosing true copies thereof in sealed envelopes following ordinary business practices, the envelopes were placed for mailing and collection (in the offices of Mandell Law Group) in the appropriate place for mail collected for deposit with the United States Postal Service. I am readily familiar with the Firm's practice for collection and processing of correspondence/documents for mailing with the United States Postal Service and that said correspondence/documents are deposited with the United States Postal Service in the ordinary course of business on the same day.

Josef Betz  
Betz & Sons, Inc. d.b.a. House of Prime Rib  
1906 Van Ness Ave.  
San Francisco, CA 94109

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

Office of the District Attorney  
Hall of Justice  
880 Bryant Street, Room 325  
San Francisco, CA 94103

Office of the City Attorney  
City Hall, Room 234  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on January 19, 2004, at San Francisco, California.