



A PROFESSIONAL CORPORATION

Baron & Budd, P.C.  
3102 Oak Lawn Ave., Suite 1100  
Dallas, Texas 75219-4281

www.baronandbudd.com  
214.521.3605  
fax 214.520.1181

August 13, 2008

**BY U.S FIRST CLASS MAIL**

Current CEO or President  
Atlantic Express of L.A., Inc.  
7 North Street  
Staten Island, NY 10302

Atlantic Express of L.A., Inc.  
c/o National Registered Agents, Inc.  
2030 Main Street Suite 1030  
Irvine, CA 92614

Current CEO or President  
Atlantic Express of California, Inc.  
7 North Street  
Staten Island, NY 10302

Domenic Gatto, CEO and President  
Atlantic Express Transportation Corp.  
7 North Street  
Staten Island, NY 10302

Mike Murray, CEO and President  
First Student, Inc.  
705 Central Avenue, Suite 300  
Cincinnati, OH 45202

First Student, Inc.  
c/o CSC Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Current CEO or President  
First Student Services, LLC  
705 Central Avenue, Suite 300  
Cincinnati, OH 45202

First Student Services, LLC  
c/o CSC Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Current CEO or President  
First Student Transportation, LLC  
705 Central Avenue, Suite 300  
Cincinnati, OH 45202

First Student Transportation, LLC  
c/o CSC Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

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c/o CSC-Lawyers Incorporating Service  
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Sacramento, CA 95833

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First Vehicle Services, Inc.  
705 Central Avenue, Suite 300  
Cincinnati, OH 45202

First Vehicle Services, Inc.  
c/o CSC-Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Current CEO or President  
Embree Buses, Inc.  
1600 Lincoln Avenue  
Pasadena, CA 91103

Current CEO or President  
Cardinal Transportation Group, Inc.  
1143 N Stanford Avenue  
Los Angeles, CA 90059

Denis Gallagher, CEO  
Student Transportation of America, Inc.  
3349 Highway 138 Building B Suite D  
Wall, NJ 07719

Student Transportation of America, Inc.  
c/o CSC Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Current CEO or President  
Student Transportation of America, LLC  
4559 Route 9 North  
Howell, NJ 07731

Student Transportation of America, LLC  
CT Corporation System  
818 West Seventh Street  
Los Angeles, CA 90017

Current CEO or President  
Santa Barbra Transportation Corporation  
3349 Highway 138 Building B Suite D  
Wall, NJ 07719

Santa Barbra Transportation Corporation  
c/o CSC-Lawyers Incorporating Service  
2730 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

Current CEO or President  
Storer Transportation School and Contract  
Service  
3519 McDonald Avenue  
Modesto, CA 95358

Storer Transportation School and Contract  
Service  
c/o Warren Storer, Agent for Service of  
Process  
3519 McDonald Avenue  
Modesto, CA 95358

Current CEO or President  
Storer Transportation Service  
3519 McDonald Avenue  
Modesto, CA 95358

Storer Transportation Service  
c/o Donald Storer, Agent for Service of  
Process  
3519 McDonald Avenue  
Modesto, CA 95358

Current CEO or President  
Merced Transportation Company  
300 Grogan Avenue  
Merced, CA 95340

Merced Transportation Company  
c/o Curtis A. Riggs, Agent for Service of  
Process  
300 Grogan Avenue  
Merced, CA 95340

Michael Brown, CEO  
Michael's Transportation Service, Inc.  
140 Yolando Drive  
Vallejo, CA 94589

Michael's Transportation Service, Inc.  
Stephen Wilson, Agent for Service of  
Process  
c/o Tobin & Tobin  
500 Sansome Street, 8th Floor  
San Francisco, CA 94111-3211

**Re: Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), Section 25249.6 of the California Health and Safety Code, for Exposing All Passengers on and All Drivers of Diesel School Buses to Diesel Engine Exhaust Without a Warning**

Dear Sir/Madam:

The Environmental Law Foundation (“ELF”) is a California non-profit organization dedicated to the preservation and enhancement of human health and the environment. Our Children’s Earth Foundation (“OCE”) is a California non-profit organization dedicated to protecting the public, especially children, from the harmful effects of air and water pollution. Communities for a Better Environment (“CBE”) is an environmental health and justice non-profit organization dedicated to promoting clean air, clean water and the development of toxin-free communities. ELF, OCE and CBE each have a long-standing interest in reducing health hazards to the public posed by toxic chemicals.

This letter constitutes notice that the entities listed below have violated and continue to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code sections 25249.5 *et seq.* Specifically, these entities have violated and continue to violate the warning requirement at section 25249.6 of the California Health and Safety Code, which provides, “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...”

Alleged Violators:

- Atlantic Express of L.A., Inc.
- Atlantic Express Transportation Corp.
- Atlantic Express of California, Inc.
- First Student, Inc.
- First Student Services, LLC
- First Student Transportation, LLC
- First Transit, Inc.
- First Vehicle Services, Inc.
- Embree Buses, Inc.
- Cardinal Transportation Group, Inc.
- Student Transportation of America, Inc.
- Student Transportation of America, LLC
- Santa Barbra Transportation Corporation
- Storer Transportation School and Contract Service
- Storer Transportation Service
- Merced Transportation Company
- Michael’s Transportation Service, Inc.

School buses owned and operated by these entities for public and private schools and school districts in the State of California emit diesel engine exhaust, a chemical known to the State to cause cancer. When bus drivers operate these diesel school buses, the drivers and passengers on the buses are exposed to high levels of diesel engine exhaust, a toxic chemical emitted by the entities' diesel school buses. On each and every day from August 13, 2005 through the present, these entities have exposed and continue to expose all passengers on the diesel buses they operate for public and private schools and school districts, within the State of California, and all of their respective employees who drive such diesel buses, to diesel engine exhaust. Exposure to the passengers and drivers has occurred through inhalation of the diesel engine exhaust from the buses.

Because diesel engine exhaust is a chemical listed in Proposition 65 as a cancer causing chemical, pursuant to Health and Safety Code § 25249.6 these entities were, and are, required to provide clear and reasonable warnings to all passengers on their diesel buses and to all diesel bus drivers employed by these entities before exposing the passengers and drivers to diesel engine exhaust emitted by their diesel buses. The warnings must state that the diesel buses emit a chemical known by the State of California to cause cancer. Pursuant to Health and Safety Code section 25249.7(d), ELF, OCE and CBE intend to bring suit in the public interest against the above named entities sixty days hereafter to correct the violation occasioned by the failure to warn all employees who drive diesel buses and all passengers on the buses of the exposure to diesel engine exhaust.

Pursuant to 27 California Code of Regulations § 25903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby include the attached Certificate of Merit, to wit, that the undersigned have consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believe there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It

also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

While violations are occurring throughout the State of California, the noticing parties are unable to know for certain if violations are occurring in all of the 58 counties in California. Therefore, pursuant to 27 California Code of Regulations § 25903(c)(3), the noticing parties are providing this notice to the district attorney for each of the 58 counties in California. Further, the noticing parties provide this notice to the California Attorney General and the city attorneys for the cities of Los Angeles, San Diego, San Francisco and San Jose.

ELF is located at: 1736 Franklin, 9th Floor, Oakland, California 94612, telephone (510) 208-4555. OCE is located at: 100 First Street, Suite 100-367, San Francisco, California, 94105, telephone (415) 896-5289. CBE is located at: 1440 Broadway, Suite 701, Oakland, CA 94612, telephone (510) 302-0430. ELF, OCE and CBE are represented in this matter by the law firms of Baron & Budd, P.C., Lozeau Drury LLP, and the Law Offices of April Strauss. All communications concerning this matter should be directed to:

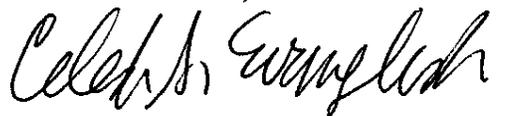
James Wheaton  
Environmental Law Foundation  
1736 Franklin, 9th Floor  
Oakland, California 94612  
Telephone: (510) 208-4555  
Facsimile: (510) 208-4562

Michael Costa  
Our Children's Earth Foundation  
100 First Street, Suite 100-367  
San Francisco, California, 94105  
Telephone: (415) 896-5289  
Facsimile: (815) 642-9181

Shana Lazerow  
Communities for a Better Environment  
1440 Broadway, Suite 701  
Oakland, CA 94612  
Telephone: (510) 302-0430, ext. 18  
Facsimile: (510) 302-0437

Sincerely,

BARON & BUDD, P.C.



Celeste A. Evangelisti  
Attorney for ELF, CBE & OCE

Enclosures

August 13, 2008  
Page 6 of 15

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cc: Attorney General of California  
(with attached confidential factual information supporting Certificate of Merit)  
Los Angeles City Attorney  
San Diego City Attorney  
City Attorney of San Francisco  
San Jose City Attorney  
District Attorneys for California's 58 Counties  
(see attached certificate of service)

**BARCLAYS OFFICIAL CALIFORNIA CODE  
OF REGULATIONS  
TITLE 27. ENVIRONMENTAL PROTECTION  
DIVISION 4. OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT  
CHAPTER 1. SAFE DRINKING WATER AND  
TOXIC ENFORCEMENT ACT OF 1986  
ARTICLE 9. MISCELLANEOUS**

This database is current through 7/25/08, Register  
2008, No. 30

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 Office of Environmental Health Hazard Assessment, 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 its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. 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 22 of the California Code of Regulations, Sections 12000 through 14000.

**WHAT DOES PROPOSITION 65 REQUIRE?**

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemical listings have been included as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those 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. 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. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

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. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

**DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?**

Yes. The law exempts: 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. Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ( "carcinogens"), a warning is not required if the business 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 for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ( "reproductive toxicants"), a warning is not required if the business 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 (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into 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 enter any drinking water source, 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" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

#### 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 (those in cities with a population exceeding 750,000). 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. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an 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 of law to stop committing the violation.

#### FOR FURTHER INFORMATION. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

27 CCR Appendix A, 27 CA ADC Appendix A

ICAC

27 CA ADC Appendix A  
END OF DOCUMENT

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

I, Thomas Sims, hereby declare:

1. This Certificate of Merit accompanies the attached notice of violation in which it is alleged that the parties identified in the notice have violated Health & Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney representing Communities for a Better Environment, Our Children's Earth Foundation and the Environmental Law Foundation.

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 & Safety Code section 25249.7(h)(2), i.e., (1) the identify of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 12, 2008

A handwritten signature in black ink, appearing to read 'Thomas Sims', is written over a horizontal line.

Thomas Sims  
Attorney for Communities for a Better Environment, Our Children's Earth  
Foundation and Environmental Law Foundation

## CERTIFICATE OF SERVICE

I am employed in the City of Dallas in the County of Dallas, Texas. I am over the age of eighteen years and not a party to the within action. My business address is 3102 Oak Lawn Ave., Suite 1100, Dallas, Texas 75219.

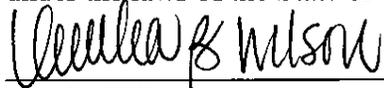
On August 13, 2008 I served the following document(s):

**NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65), SECTION 25249.6 OF THE CALIFORNIA HEALTH AND SAFETY CODE, FOR EXPOSING ALL PASSENGERS ON AND ALL DRIVERS OF DIESEL SCHOOL BUSES TO DIESEL ENGINE EXHAUST WITHOUT A WARNING**

by UNITED STATE FIRST CLASS MAIL by placing a true and correct copy thereof in an envelope addressed to each of the persons named below at the address shown, and by sealing and depositing said envelope in the United States mail at Dallas, Texas, with postage fully prepaid to:

**See Attached List.**

Executed on this 13<sup>th</sup> day of August, 2008 at Dallas, Texas. I declare under penalty of perjury under the laws of the State of California and Texas that the foregoing is true and correct.

  
\_\_\_\_\_  
Amelia Wilson

**SERVICE LIST:**

Current CEO or President  
Atlantic Express of L.A., Inc.  
7 North Street  
Staten Island, NY 10302

Atlantic Express of L.A., Inc.  
c/o National Registered Agents, Inc.  
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Michael's Transportation Service, Inc.  
Stephen Wilson, Agent for Service of  
Process  
c/o Tobin & Tobin  
500 Sansome Street, 8th Floor  
San Francisco, CA 94111-3211

District Attorney of Alameda County  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney of Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney of Contra Costa County  
725 Court Street, Room 402  
Martinez, CA 94553

District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

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

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

District Attorney of Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney of El Dorado County  
515 Main Street  
Placerville, CA 95667

District Attorney of Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney of Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Kings County  
1400 West Lacey  
Hanford, CA 93230

District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney of Humboldt County  
825 5th Street  
Eureka, CA 95501

District Attorney of Imperial County  
939 Main Street  
El Centro, CA 92243

District Attorney of Lassen County  
220 S. Lassen St., Ste 8  
Susanville, CA 96130

District Attorney of Inyo County  
P.O. Drawer D  
Independence, CA 93526

District Attorney of Los Angeles County  
210 W. Temple Street, Room 345  
Los Angeles, CA 90012

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney of Marin County  
3501 Civic Center Dr., Room 183  
San Rafael, CA 94903

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93517

District Attorney of Mariposa County  
P.O. Box 730  
Mariposa, CA 95338

District Attorney of Monterey County  
PO Box 1131  
Salinas, CA 93901

District Attorney of Mendocino County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Napa County  
931 Parkway Mall  
Napa, CA 94559

District Attorney of Merced County  
2222 "M" Street  
Merced, CA 95340

District Attorney of Nevada County  
201 Church St., Suite 8  
Nevada City, CA 95959

District Attorney of Orange County  
401 Civic Ctr Drive West  
Santa Ana, CA 92701

District Attorney of Modoc County  
204 S Court Street  
Alturas, CA 96101-4020

District Attorney of Placer County  
11562 "B" Avenue  
Auburn, CA 95603

District Attorney of San Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney of Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney of San Diego County  
330 West Broadway, Suite 1320  
San Diego, CA 92112

District Attorney of Riverside County  
4075 Main Street, 1st Floor  
Riverside, CA 92501

District Attorney of San Francisco County  
850 Bryant Street, Rm 325  
San Francisco, CA 94103

District Attorney of Sacramento County  
901 "G" Street  
Sacramento, CA 95814

District Attorney of San Joaquin County  
P.O. Box 990  
Stockton, CA 95201

District Attorney of San Luis Obispo County  
1050 Monterey St, Room 450  
San Luis Obispo, CA 93408

District Attorney of San Benito County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

District Attorney of San Mateo County  
400 County Ctr, 3rd Fl  
Redwood City, CA 94063

District Attorney of Sierra County  
Courthouse, P.O. Box 457  
Downieville, CA 95936

District Attorney of Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

District Attorney of Solano County  
600 Union Avenue  
Fairfield, CA 94533

District Attorney of Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney of Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95061

District Attorney of Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney of Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001 - 1632

District Attorney of Stanislaus County  
800 11th Street, Room 200  
Modesto, CA 95353

District Attorney of Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney of Ventura County  
800 South Victoria Ave  
Ventura, CA 93009

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney of Yolo County  
301 Second Street  
Woodland, CA 95695

District Attorney of Trinity County  
P.O. Box 1310  
Weaverville, CA 96093

District Attorney of Yuba County  
215 Fifth Street  
Marysville, CA 95901

District Attorney of Tulare County  
221 S. Mooney Ave, Room 224  
Visalia, CA 93291

District Attorney of Tuolumne County  
2 South Green  
Sonora, CA 95370

San Jose City Attorney's Office  
151 West Mission Street  
San Jose, CA 95110

Los Angeles City Attorney's Office  
Room 1800, City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue, 12th Floor  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
San Francisco, CA 94102

Ed Weil, Deputy Attorney General  
California Attorney General's Office  
1515 Clay Street  
Oakland, CA 94612