

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials

October 14, 2009

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within CEH.

#### **Description of Violation:**

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least October 14, 2006, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this Notice.
- Types of Product: The specific type of product causing this violation is footwear made with leather, vinyl or imitation leather materials. The leather, vinyl or imitation leather materials in these products contain Lead. Non-exclusive examples of this specific type of products are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer and occupational exposures to Lead. Use of the products identified in this Notice results in human exposures to Lead. Lead is found in the products as a stabilizer in the vinyl or imitation leather materials, as a chemical ingredient in some of the dyes, paints and other coloring agents used in the products and in the chemicals used in the leather tanning process. The route of exposure for the violations is ingestion via hand to mouth contact and dermal absorption directly through the skin. Consumer exposures to Lead from the products occur when consumers wear, take on or off, or otherwise touch or handle the products. Occupational exposures to Lead from the products occur throughout the State of California when workers manufacture, assemble, display, sell, store, assist consumers trying on, or otherwise touch or handle the products. Persons exposed include

workers in factories, warehouses, and distribution centers and clerks in retail stores that come into contact with the products. This Notice only applies to occupational exposures that occur in the State of California. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

- Statement Re: Occupational Exposures: As set forth above, this notice alleges violations of both consumer and occupational exposures to Lead. The following statement concerns procedures and requirements that are specific to occupational exposures. "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." 8 Cal. Code of Regs. §338(b).

#### **Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to CEH and its counsel Eric S. Somers (esomers at lexlawgroup.com) or Howard Hirsch (hhirsch at lexlawgroup.com) at Lexington Law Group, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

**EXHIBIT 1**  
**October 14, 2009 Notice of Violation**  
**Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials**  
**Non-Exclusive Examples of the Products**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p><b>Aldo U.S. Inc.</b>  2300 Emile-Belanger  St Laurent, QC  H4R 3J4  Canada</p> <p><b>Aldo Group Inc.</b>  2300 Emile-Belanger  St Laurent, QC  H4R 3J4  Canada</p>	<p>Newcombe-67  Shoes - Yellow</p>	<p>SKU No.  74190273  Item No. 31-08-01</p>
<p><b>Camuto Consulting Inc.</b>  600 W Putnam Avenue  Greenwich, CT 06830</p> <p><b>Camuto Group - VCJS LLC</b>  1073 Glendon Avenue  Los Angeles, CA 90024</p> <p><b>Hot On Time LLC</b>  600 W Putnam Avenue  First Floor  Greenwich, CT 06830</p> <p><b>Loehmann's, Inc.</b>  2500 Halsey St.  Bronx, NY 10461</p>	<p>Vince Camuto  Hi Wedge  Open Toe Sling  Shoes</p>	<p>SKU No.  475-04-1330087</p>
<p><b>Charlotte Russe, Inc.</b>  4645 Morena Boulevard  San Diego, CA 92117</p> <p><b>Charlotte Russe Holding Inc.</b>  4645 Morena Boulevard  San Diego, CA 92117</p>	<p>Patent Double W Shoes -  Mustard</p>	<p>SKU No.  300953591  Style  PERFUME-06MUST</p>

<p><b>Ellie Shoes, Inc.</b> 1050 N. Batavia Street Unit B Orange, CA 92867</p> <p><b>Halloween Express, LLC</b> 100 Prospect Way Owenton, KY 40359</p>	<p>Ellie Shoes Open Toe Platform Shoes - Red</p>	<p>SKU No. 8-98345-00069-0 Item No. HA-8RD7</p>
<p><b>Forever 21 Retail, Inc.</b> 2001 S. Alameda St. Los Angeles, CA 90058</p>	<p>Dressy High Heel Shoes - Yellow</p>	<p>SKU No. 56757688029 Style Nopa-4</p>
<p><b>French Connection Group, Inc.</b> 184-10 Jamaica Ave 3rd Floor Hollis, NY 11423</p> <p><b>French Connection Group PLC</b> Centro 1 39 Camden St. London NW1 0DX United Kingdom</p>	<p>Dotty Pointed Ballerina Shoes - Red</p>	<p>Style No. AFAZ-1 Item No. 16003</p>
<p><b>Jones Apparel Group, Inc.</b> 180 Rittenhouse Circle Bristol, PA 19007</p> <p><b>Jones Retail Corporation</b> 180 Rittenhouse Circle Bristol, PA 19007</p> <p><b>Nine West Footwear Corporation</b> 1129 Westchester Ave White Plains, NY 10604</p>	<p>Peacock1 Matte Bronze Shoes</p>	<p>SKU No. 0-29019-00969-9</p>

<p><b>Juicy Couture, Inc.</b> One Claiborne Avenue North Bergen, NJ 07047</p> <p><b>Liz Claiborne, Inc.</b> 1441 Broadway New York, NY 10018</p> <p><b>Nordstrom, Inc.</b> 1700 Seventh Avenue Seattle, WA 98101</p>	<p>Juicy Couture Kipper Sunflower Soft Vacchetta Shoes - Yellow</p>	<p>SKU No. 640819176345 Item No. J1050604</p>
<p><b>Kenneth Cole Productions, Inc.</b> 603 West 50th Street New York, NY 10019</p>	<p>Kenneth Cole New York First Class Date Shoes - Yellow</p>	<p>SKU No. 8-01646-70887-5 Item No. KL56076PA</p>
<p><b>Leon Max, Inc.</b> 3100 New York Drive Pasadena, CA 91107</p>	<p>MaxStudio.com Halley Sandal - Yellow</p>	<p>SKU No. 8-07299-41257-2 Item No. 8S03302-MXL</p>
<p><b>rue21, Inc.</b> 800 Commonwealth Dr. Suite 100 Warrendale, PA 15086</p>	<p>Patent Toe Point Pump Elaine7 Shoes - Yellow</p>	<p>SKU No. 4-00106-18411-4 Style No. 7000</p>
<p><b>Shiekh, LLC</b> 2247 Commerce Place Hayward, CA 94545</p>	<p>Shiekh Shoes ELC System 99X Patent Yellow Shoes</p>	<p>SKU No. 0717820701</p>
<p><b>The Wet Seal, Inc.</b> 26972 Burbank Foothill Ranch, CA 92610</p> <p><b>The Wet Seal Retail, Inc.</b> 26972 Burbank Foothill Ranch, CA 92610</p>	<p>Urban Vibe Sexy Peep Toe Pump Shoes - Yellow</p>	<p>SKU No. 406029800001</p>

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

I, Eric S. Somers, hereby declare:

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

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on 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 plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the 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 § 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.

October 14, 2009

  
Eric S. Somers  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 1627 Irving Street, San Francisco, California 94122. I am over the age of 18 years and not a party to the within cause.

On October 14, 2009, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT; and**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisks).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

***Please see attached service list.***

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 14, 2009, at San Francisco, California.

Signed: \_\_\_\_\_

  
Ellen Reed

## SERVICE LIST

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

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

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

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

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

District Attorney of Colusa County  
547 Market Street, Ste. 102  
Colusa, CA 95932

District Attorney of Contra Costa  
County  
900 Ward Street  
Martinez, CA 94553

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

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

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

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

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

District Attorney of Imperial County  
939 Main Street, Ste. 102  
El Centro, CA 92243

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

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

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

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

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

District Attorney of Los Angeles  
County  
210 W. Temple Street, Ste. 1800  
Los Angeles, CA 90012-3210

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

District Attorney of Marin County  
3501 Civic Center Drive, Rm. 130  
San Rafael, CA 94903

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

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

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

District Attorney of Modoc County  
204 S Court Street, Rm. 202  
Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Monterey  
County  
230 Church Street, Bldg. 2  
Salinas, CA 93901

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

District Attorney of Nevada  
County  
201 Church Street, Ste. 8  
Nevada City, CA 95959

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

District Attorney of Placer County  
10810 Justice Ctr Drive, Ste. 240  
Roseville, CA 95678

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

District Attorney of Riverside  
County  
4075 Main Street  
Riverside, CA 92501

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

District Attorney of San Benito  
County  
419 Fourth Street, 2<sup>nd</sup> Fl.  
Hollister, CA 95023

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

District Attorney of San Diego  
County  
330 West Broadway, Ste. 1300  
San Diego, CA 92101

District Attorney of San Francisco County 850 Bryant Street, Room 325 San Francisco, CA 94103	District Attorney of Sonoma County 600 Administration Drive, Rm. 212J Santa Rosa, CA 95403	San Francisco City Attorney's Office City Hall, Room 234 San Francisco, CA 94102
District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95202	District Attorney of Stanislaus County 832 12 <sup>th</sup> Street, Ste. 300 Modesto, CA 95354	San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113
District Attorney of San Luis Obispo County 1050 Monterey Street, Room 450 San Luis Obispo, CA 93408	District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	California Attorney General's Office Attention: Proposition 65 Coordinator and Robert Thomas 1515 Clay Street, Suite 2000 P.o. Box 70550 Oakland, ca 94612-0550
District Attorney of San Mateo County 400 County Ctr, 3 <sup>rd</sup> Fl. Redwood City, CA 94063	District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	Aldo Bensadoun, President * Aldo U.S. Inc. 2300 Emile-Belanger St Laurent, QC H42 3J4 Canada
District Attorney of Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	Aldo Bensadoun, CEO * Aldo Group, Inc. 2300 Emile-Belanger St Laurent, QC H42 3J4 Canada
District Attorney of Santa Clara County 70 West Hedding Street, West Wing San Jose, CA 95110	District Attorney of Tulare County 221 S. Mooney Avenue, Room 224 Visalia, CA 93291	Vincent Camuto, President * Camuto Consulting Inc. 600 W Putnam Avenue Greenwich, CT 06830
District Attorney of Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	District Attorney of Tuolumne County 423 North Washington Street Sonora, CA 95370	President * Camuto Group - VCJS LLC 1073 Glendon Avenue Los Angeles, CA 90024
District Attorney of Shasta County 1525 Court Street, 3 <sup>rd</sup> Fl. Redding, CA 96001-1632	District Attorney of Ventura County 800 South Victoria Avenue Ventura, CA 93009	President * Charlotte Russe, Inc. 4645 Morena Boulevard San Diego, CA 92117
District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 <sup>nd</sup> Fl. Downieville, CA 95936	District Attorney of Yolo County 301 Second Street Woodland, CA 95695	Emilia Fabricant, President * Charlotte Russe Holding Inc. 4645 Morena Boulevard San Diego, CA 92117
District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097	District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901	
District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Room 800 Los Angeles, CA 90012	
	San Diego City Attorney's Office 1200 3rd Avenue, Ste. 1620 San Diego, CA 92101	

President \*  
Ellie Shoes, Inc.  
1050 N. Batavia Street  
Unit B  
Orange, CA 92867

Do Won Chang, CEO \*  
Forever 21 Retail, Inc.  
2001 S. Alameda St.  
Los Angeles, CA 90058

Andrea Hyde, President \*  
French Connection Group, Inc.  
184-10 Jamaica Ave  
3rd Floor  
Hollis, NY 11423

Stephen Marks, CEO \*  
French Connection Group PLC  
Centro 1  
39 Camden Street  
London NW1 0DX  
United Kingdom

President \*  
Halloween Express, LLC  
100 Prospect Way  
Owenton, KY 40359

Vincent Camuto, President \*  
Hot On Time LLC  
600 W Putnam Avenue  
First Floor  
Greenwich, CT 06830

Wesley R. Card, CEO \*  
Jones Apparel Group, Inc.  
1411 Broadway  
New York, NY 10018-3496

Wesley R. Card, CEO \*  
Jones Apparel Group, Inc.  
180 Rittenhouse Circle  
Bristol, PA 19007

Heather Pech, President \*  
Jones Retail Corporation  
180 Rittenhouse Circle  
Bristol, PA 19007

President \*  
Juicy Couture, Inc.  
One Claiborne Avenue  
North Bergen, NJ 07047

President \*  
Juicy Couture, Inc.  
12723 Wentworth St  
Pacoima, CA 91331

Jill Granoff, CEO \*  
Kenneth Cole Productions, Inc.  
603 West 50th Street  
New York, NY 10019

Leon Max, President \*  
Leon Max, Inc.  
3100 New York Drive  
Pasadena, CA 91107

William L. McComb, CEO\*  
Liz Claiborne, Inc.  
1441 Broadway  
New York, NY 10018

Jerald Politzer, CEO \*  
Loehmann's, Inc.  
2500 Halsey St.  
Bronx, NY 10461

Andrew Cohen, CEO \*  
Nine West Footwear Corporation  
1129 Westchester Ave  
White Plains, NY 10604

Blake W. Nordstrom, President \*  
Nordstrom, Inc.  
1700 Seventh Avenue  
Seattle, WA 98101

Blake W. Nordstrom, President \*  
Nordstrom, Inc.  
1617 Sixth Avenue  
Sixth Floor  
Seattle, WA 98101

Robert Fisch, President \*  
rue21, Inc.  
800 Commonwealth Dr.  
Suite 100  
Warrendale, PA 15086

Shiekh Elijah, CEO \*  
Shiekh, LLC  
4083 E. Airport Drive  
Ontario, CA 91761

Shiekh Elijah, CEO \*  
Shiekh, LLC  
2247 Commerce Place  
Hayward, CA 94545

Edmond Thomas, CEO \*  
The Wet Seal, Inc.  
26972 Burbank  
Foothill Ranch, CA 92610

President \*  
The Wet Seal Retail, Inc.  
26972 Burbank  
Foothill Ranch, CA 92610