

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

DATE: December 15, 2009

To: Douglas Gernert, President – Totes Isotoner Corporation
Fredric Grethel, President – California Optical Corp.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Anthony E. Held, Ph.D., P.E.

I. INTRODUCTION

My name is Anthony E. Held. I hold a Doctor of Philosophy degree in Environmental Engineering and I am a registered professional engineer in the State of California. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemical in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violators, Totes Isotoner Corporation and California Optical Corp. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate ("DEHP")
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as December 15, 2008 are subject to this notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when infants and children place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product thereby allowing the listed chemical to leach out of the substrate. These activities cause infants and children to be exposed directly through migration of the listed chemical from the products. In addition, exposures occur through direct dermal contact with the products, and may continue to occur for a significant period after dermal contact with the products stops. People likely to be dermally exposed are women of childbearing age, infants and children.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Anthony E. Held, Ph.D., P.E.
c/o David Lavine
Chanler Law Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880
Email: david@chanler.com

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those whom have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violators are interested in resolving this dispute without resort to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (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 this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER TITLE 27 CAL. CODE REGS. §25903(b)(2)(A).

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
California Accessories Material Girl Carrying Bag, #025165/ I33303WHT (#0 79402 47990 5)	Totes Isotoner Corporation Sacramento County, Northern California	Totes Isotoner Corporation; California Optical Corp.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Cosmetic Cases containing Di(2-ethylhexyl)phthalate	California Accessories Material Girl Carrying Bag, #025165/ I33303WHT (#0 79402 47990 5)	Di(2-ethylhexyl)phthalate

*The specifically identified example of the type of product which is subject to this Notice is for the recipients’ benefit to assist in their investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710.

On December 15, 2009, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH
HEALTH & SAFETY CODE §25249.7(d);**

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE
ATTORNEY GENERAL)**

on the Violators listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to each Violator and providing each envelope to a United States Postal Service Representative:

Douglas Gernert, President
Totes Isotoner Corporation
9655 International Boulevard
Cincinnati, OH 45246

Fredric Grethel, President
California Optical Corp.
2992 Alvarado Street
San Leandro, CA 94577

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

A list of addresses for each of these recipients is attached.

Executed on December 15, 2009, at Berkeley, California.



Caroline Liang

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code §25249.6 by failing to provide clear and reasonable warnings.
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 this 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 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 this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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.)

Dated: 12/15/09



Clifford A. Chanler

SERVICE LIST

The Honorable Tom Orloff Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	The Honorable Robert Burns Lassen County District Attorney 220 S. Lassen Street, Ste. 8 Susanville, CA 96130	The Honorable Candice Hooper San Benito County District Attorney 419 4 th Street, Second Floor Hollister, CA 95203	The Honorable Gregg Cohen Tehama County District Attorney PO BOX 519 Red Bluff, CA 96080
The Honorable William Richmond Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120	The Honorable Steve Cooley Los Angeles County District Attorney 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	The Honorable Michael Ramos San Bernardino County District Attorney 316 N. Mountain View Avenue San Bernardino, CA 92415	The Honorable Michael B. Harper Trinity County District Attorney PO Box 310 Weaverville, CA 96093
The Honorable Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642	The Honorable Ernest LiCalsi Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	The Honorable Bonnie Dumanis San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	The Honorable Phillip Cline Tulare County District Attorney 221 South Mooney Boulevard, Suite 224 Visalia, CA 93291
The Honorable Michael Ramsey Butte County District Attorney 25 County Center Drive Oroville, CA 95965	The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	The Honorable Kamala Harris San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103	The Honorable Donald Segerstrom, Jr Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
The Honorable Jeffrey Tuttle Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	The Honorable Robert Brown Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	The Honorable James Willett San Joaquin County District Attorney P.O. Box 990 Stockton, CA 95201	The Honorable Gregory Totten Ventura County District Attorney 800 South Victoria Avenue Ventura, CA 93009
The Honorable John R. Poyner Colusa County District Attorney 547 Market Street, Suite 102 Colusa, CA 95932	The Honorable Meredith J. Lintott Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	The Honorable Gerald Shea San Luis Obispo County District Attorney 1050 Monterey Street, Room 450 San Luis Obispo, CA 93408	The Honorable Jeff Reisig Yolo County District Attorney 301 Second Street Woodland, CA 95695
The Honorable Robert J. Kochly Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	The Honorable Larry Morse II Merced County District Attorney 2222 M Street Merced, CA 95340	The Honorable James Fox San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Michael Riese Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Gary Woolverton Modoc County District Attorney 204 S. Court Street, Room 202 Alturas, CA 96101	The Honorable Christie Stanley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	The Honorable Rockard Delgadillo Office of the City Attorney, Los Angeles 200 North Main Street Los Angeles, CA 90012
The Honorable Vernon Pierson El Dorado County District Attorney 515 Main Street Placerville, CA 95667	The Honorable George Booth Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	The Honorable Dolores Carr Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101
The Honorable Elizabeth Egan Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721	The Honorable Dean Flippo Monterey County District Attorney P.O. Box 1131 Salinas, CA 93902	The Honorable Bob Lee Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060	The Honorable Eileen M. Teichert Office of the City Attorney, Sacramento P.O. Box 1948 Sacramento, CA 95812
The Honorable Robert Holzapfel Glenn County District Attorney P.O. Box 430 Willows, CA 95988	The Honorable Gary Lieberstein Napa County District Attorney 931 Parkway Mall Napa, CA 94559	The Honorable Gerald Benito Shasta County District Attorney 1525 Court Street, Third Floor Redding, CA 96001	The Honorable Dennis J. Herrera Office of the City Attorney, San Francisco City Hall, Room 234 San Francisco, CA 94102
The Honorable Paul Gallegos Humboldt County District Attorney 825 5 th Street Eureka, CA 95501	The Honorable Clifford Newell Nevada County District Attorney 110 Union Street Nevada City, CA 95959	The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square, Second Floor Downieville, CA 95936	The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street San Jose, CA 95113
The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable Tony Rackauckas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable James Andrus Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097	Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
The Honorable Arthur Maillet Inyo County District Attorney P.O. Drawer D Independence, CA 93526	The Honorable Bradford Fenocchio Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable David Paulson Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	
The Honorable Edward R. Jagels Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	The Honorable Jeff Cunan Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Stephan Passalacqua Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
The Honorable Ronald Calhoun Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Rodric Pacheco Riverside County District Attorney 4075 Main Street Riverside, CA 92501	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12 th Street, Suite 300 Modesto, CA 95354	
The Honorable Jon E. Hopkins Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	The Honorable Jan Scully Sacramento County District Attorney 901 G Street Sacramento, CA 95814	The Honorable Carl Adams Sutter County District Attorney 446 Second Street Yuba City, CA 95991	