

**DR. RICHARD F. SOWINSKI**

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1457 Ramsay Circle  
Walnut Creek, CA 94597

Sixty Day Notice of Intent to Sue Brother America, Inc. and All of Its  
Operating Affiliates Under Health & Safety Code §25249.6

Dr. Richard F. Sowinski (hereinafter the "Noticing Party") hereby hereby provides this Notice of Intent to Sue Under Health & Safety Code Section 25249.5, *et seq* (the "Notice") to Tadashi Ishiguroi, President of Brother America, Inc. and all of its operating affiliates (hereinafter referred to collectively as "BROTHER"), as well as the governmental entities on the attached proof of service. This Notice is intended to inform BROTHER that it is in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) (hereinafter "Proposition 65"), specifically Section 25249.6. The Noticing Party lives at the above address but is represented by counsel and requests that any correspondence or communications be directed to his counsel, Anthony G. Graham and Michael J. Martin, of the law firm of Graham & Martin, LLP, at 3130 South Harbor Blvd., Suite 250, Santa Ana, CA 92704, Telephone: (714) 850-9390 and Facsimile: (714) 850-9392.

Pursuant to Health & Safety Code Section 25249.6:

"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."

Proposition 65 thus states that when a party, such as BROTHER, an entity with more than ten employees, has been or is knowingly and intentionally exposing its customers and users of its products to a detectable level of any chemical designated by the State of California to cause cancer or reproductive toxicity (the "Designated Chemicals"), it has violated the statute unless, prior to such exposure, it provides clear and reasonable warning of the exposure to the potentially exposed persons (Health & Safety Code § 25249.6). BROTHER is knowingly and intentionally exposing its customers and users of certain of its products to a detectable level of a chemical designated by the State of California to cause cancer or reproductive toxicity and is failing to provide a "clear and reasonable" warning of the exposure to the potentially exposed persons.

BROTHER manufactures, distributes, sells and markets printers/copiers in California through retail outlets and through its internet website ([www.BROTHER.com](http://www.BROTHER.com)), which when operated or used emit detectable levels of a Designated Chemical. The printers/copiers relevant to this Notice are identified on Exhibit A hereto (hereinafter "the Consumer Products"). In the ordinary course of its business, BROTHER manufactures, distributes and offers for sale, both through retail outlets and through its internet website ([www.BROTHER.com](http://www.BROTHER.com)) in California those Consumer Products. It has been doing so for

at least one year prior to the date of this Notice. BROTHER however has not placed on the any of the Consumer Products, their packaging or marketing materials, nor anywhere on its internet website, a clear and reasonable warning that use of such Consumer Products will expose the user and others in the area of such use to a Designated Chemical. BROTHER is therefore violating Health & Safety Code Section 25249.6.

The Consumer Products listed on Exhibit A, when used in the ordinary manner, emit Benzene, a chemical known to the State of California to cause cancer and reproductive toxicity. This chemical poses a significant health risk and is emitted without a clear and reasonable warning as required by The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) Health & Safety Code § 25249.6. People are exposed to this Designated Chemical primarily by inhalation when near a Consumer Product while in use.

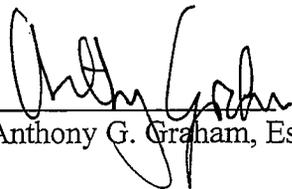
Pursuant to Health & Safety Code Section 25249.7:

“(a) Any person that violates or threatens to violate Section 25249.5 or 25249.6 may be enjoined in any court of competent jurisdiction. (b) (1) Any person who has violated Section 25249.5 or 25249.6 shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2500) per day for each violation in addition to any other penalty established by law. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. (2) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following: (A) The nature and extent of the violation. (B) The number of, and severity of, the violations. (C) The economic effect of the penalty on the violator. (D) Whether the violator took good faith measures to comply with this chapter and the time these measures were taken. (E) The willfulness of the violator's misconduct. (F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole. (G) Any other factor that justice may require.”

This Notice covers all violations of Proposition 65 that are currently known to Dr. Sowinski from information now available to him. Dr. Sowinski reserves the right to amend this Notice to inform BROTHER of other violations and/or exposures as it gathers further information. With the copy of this notice submitted to BROTHER, a copy is provided of “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.”

Dated: January 21, 2011

By:

  
Anthony G. Graham, Esq.

# BROTHER EXHIBIT A

Model Number:

**DCP-7020 LASER DIGITAL copier/PRINTER**

**DCP-8060 LASER DIGITAL copier/PRINTER**

**DCP-8065DN LASER DIGITAL copier/PRINTER**

**DCP-9040CN DIGITAL COLOR LASER copier/PRINTER**

**DCP-9045CDN DIGITAL COLOR LASER copier/PRINTER WITH DUPLEX  
CAPABILITY**

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

I, Anthony G. Graham, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) 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.

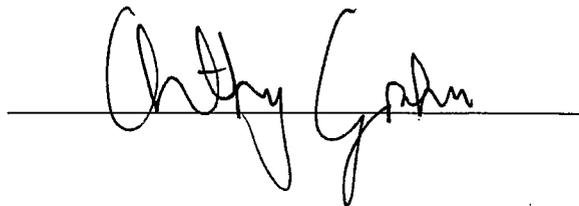
2. I am member of the State Bar of California, a partner of the law firm of Graham & Martin, LLP, and attorney for noticing party Dr. Richard Sowinski.

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 exposures to the listed chemicals that are 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Santa Ana, California on January 21, 2011.

A handwritten signature in black ink, appearing to read "Anthony G. Galt", is written over a horizontal line. The signature is cursive and somewhat stylized.

**CERTIFICATE OF SERVICE**

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3130 South Harbor Blvd., Suite 250, Santa Ana, California 92704.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6;
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (only sent to violators);
- 3.) Certificate of Merit (supporting papers sent to Attorney General only)

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Date of Mailing: January 21, 2011  
Place of Mailing: Santa Ana, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

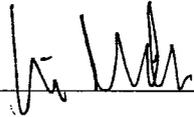
<b>President: Tadashi Ishiguro</b> <b>BROTHER AMERICA INC.</b> <b>100 SOMERSET CORPORATE BLVD.</b> <b>BRIDGEWATER, NJ 08807</b>
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California Attorney General (Proposition 65 Enforcement Division) 1515 Clay Street, 20th Floor Oakland, CA
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And all entities on the attachment hereto

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 21, 2011

  
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## ATTACHMENT TO PROOF OF SERVICE

San Diego City Attorney  
1200 3rd Ave. Ste. 1620  
San Diego, CA 92101

San Diego County District Attorney  
330 Broadway  
San Diego, CA 92101

Los Angeles City Attorney  
200 N. Main St. N.E.  
Los Angeles, CA 90012

Los Angeles County DA  
210 W. Temple Street, 18th Floor  
Los Angeles, CA 90012

San Francisco City Attorney  
1390 Market Street  
San Francisco, CA 94102

San Francisco County DA  
880 Bryant Street  
San Francisco, CA 94103

Riverside County DA  
4075 Main St., 1<sup>st</sup> Fl.  
Riverside, CA 92501

San Bernardino County DA  
316 N. Mountain View Av.  
San Bernardino, CA 92415

Sacramento County DA  
P.O. Box 749  
Sacramento, CA 95812

Orange County District Attorney  
700 Civic Center Dr. W., 2<sup>nd</sup> Fl.  
Santa Ana, CA 92701

San Jose City Attorney  
151 W. Mission St.  
San Jose, CA 95110

Santa Clara County DA  
2645 Zanker Road  
San Jose, CA 95134

Humboldt County DA  
825 5th Street  
Eureka, CA 95501

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

San Mateo District Attorney  
1050 Mission Road  
South San Francisco, CA 94080

Marin County DA  
3501 Civic Center Dr. #130  
San Rafael, CA 94903

Sonoma County DA  
600 Administrative Dr.  
Santa Rosa, CA 95403

Contra Costa County DA  
727 Court Street  
Martinez, CA 94553

Yolo County D A  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

District Attorney  
1430 Freedom Blvd.  
Watsonville, CA 95076

El Dorado County DA  
1360 Johnson Blvd. #105  
South Lake Tahoe, CA 96150

Ventura County DA  
800 South Victoria Avenue  
Ventura, CA 95695

Napa County DA  
931 Parkway Mall  
Napa, CA 94559

Inyo County DA  
386 W. Line Street  
Bishop, CA 93514

Lake County DA  
255 N. Forbes St.  
Lakeport, CA 95453

Stanislaus County DA  
300 Starr Avenue  
Turlock, CA 95380

District Attorney  
14227 Road 28  
Madera, CA 93638

Sutter County DA  
446 Second Street  
Yuba City, CA 95991

Mariposa County DA  
P.O. Box 748  
Mariposa, CA 95338

Nevada County DA  
201 Church Street, Suite 8  
Nevada City, CA 95959

San Luis Obispo County DA  
1050 Monterey Street, Rm. 450  
San Luis Obispo, CA 93408

Merced County DA  
445 I Street  
Los Banos CA 93635

Mendocino County DA  
204 S Court Street  
Alturas CA 96101

Kern County DA  
2100 College Avenue  
Bakersfield, CA 93305

San Joaquin DA  
225 W. Elm Street #C  
Lodi, CA 95240

Mendocino County DA  
700 S. Franklin St.  
Fort Bragg, CA 94537

Butte County DA  
25 County Center Drive  
Oroville, CA 95695

Orange County District Attorney  
700 Civic Center Dr. W., 2<sup>nd</sup> Fl.  
Santa Ana, CA 92701

Solano County DA  
321 Tuolomne Street  
Valejo, CA 94590

Santa Cruz County DA  
701 Ocean Street  
Santa Cruz, CA 95061

Alameda County DA  
1225 Fallon Street  
Oakland, CA 94612

Del Norte County DA  
450 H Street  
Crescent City, CA 95531

Santa Clara DA  
2645 Zanker Rd  
San Jose CA 95134

Solano County DA  
321 Tuolumne St  
Vallejo CA 94590

Glenn County DA  
540 W Sycamore St  
Willows CA 95988

Kings County DA  
1400 W Lacey Blvd  
Hanford CA 93230

Riverside DA  
82675 US Hwy 111 FL4  
Indio CA 92201

Santa Rosa D.A.  
111 N Pythian Rd  
Santa Rosa CA 95409

Monterey County DA  
240 Church St.  
Salinas, CA 93902

Placer County DA  
11562 B Avenue  
Auburn, CA 95603

Fresno County DA  
2220 Tulare Street, #1000  
Fresno, CA 93721

Siskyou County DA  
P.O. Box 986  
Yreka, CA 96097

Tulare County DA  
425 E. Kern  
Tulare, CA 93274

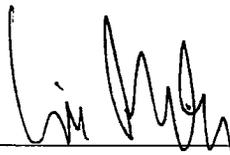
Inyo County DA  
PO Drawer D  
Independence, CA 93526

Mono County DA  
P.O. Box 617  
Bridgeport, CA 93517

Santa Barbara County DA  
1105 Santa Barbara St.  
Santa Barbara, CA 93101

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 21, 2011



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