

LAW OFFICES OF  
**ANDREW L. PACKARD**

100 PETALUMA BLVD N, STE 301, PETALUMA, CA 94952  
PHONE (707) 763-7227 FAX (707) 763-9227  
INFO@PACKARDLAWOFFICES.COM

May 9, 2011

**VIA CERTIFIED MAIL**

Current President or CEO  
The Kroger Company  
1014 Vine Street  
Cincinnati, OH 45202

CSC-Lawyers Incorporating  
(The Kroger Company's Registered Agent  
for Service of Process)  
2730 Gateway Oaks Drive Suite 100  
Sacramento, CA 95833

Re: Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Dear Sirs,

This firm represents the Environmental Research Center (hereafter, "ERC"), a non-profit corporation organized under California's Non-Profit Public Benefit Corporation Law in connection with this notice of violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as "Proposition 65").

ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and toxic substances, consumer protection, worker safety and corporate responsibility. ERC has documented the violations of Proposition 65 described herein, and this letter serves to provide notification of these violations to you and to the public enforcement agencies. Pursuant to §25249.7(d) of the statute, ERC intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations. A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator(s).

The names of the violator(s) covered by this notice are: The Kroger Company (hereafter, the "Violator(s)"). The Violator(s) manufacture, market, distribute and/or sell in California the following products causing exposures to lead and lead compounds:

**Renew In Joint Care + Energy**  
**Miralus Healthcare Renewin Joint Care Women's Formula + Energy**

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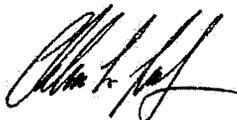
On February 27, 1987, the State of California officially listed lead as a substance known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as a substance known to cause cancer.

**Route of exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, consumer exposures have occurred and continue to occur primarily through the ingestion route, but also may occur through the inhalation and/or and dermal contact routes of exposure.

**Duration of violations.** Each of these ongoing violations has occurred on every day since at least May 9, 2008, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against the Violator(s) unless the Violator(s) agree in an enforceable written instrument to: (1) recall products already sold; (2) take effective measures to prevent unwarned lead exposures from being caused by products sold in the future; and (3) pay an appropriate civil penalty. In keeping with the public interest goals of the statute and my client's objectives in issuing this notice, ERC is interested in seeking a constructive resolution of this matter. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation. ERC's Executive Director is Chris Heptinstall and the organization's mailing address is: 5694 Mission Center Road, #199, San Diego, CA 92108. Tel. (619) 309-4194. However, ERC has retained this firm in connection with this matter; therefore, all communications regarding this Notice of Violation may be directed to my attention at the above-listed firm address and telephone number.

Very Truly Yours,



Andrew L. Packard

**Attachments:**

OEHHA Summary (to The Kroger Company and its Registered Agent for Service of Process only)

Certificate of Merit (Additional Supporting Information to AG only)

Certificate of Service

List of Service

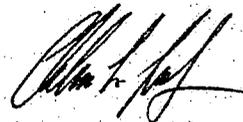
CERTIFICATE OF MERIT

**Re: the Environmental Research Center's Notice of Proposition 65 Violations Issued to The Kroger Company**

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.
2. I am an 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 exposure 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 plaintiff's case can be established and that 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 §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: May 9, 2011



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Andrew L. Packard

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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On May 9, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: A SUMMARY"**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO  
The Kroger Company  
1014 Vine Street  
Cincinnati, OH 45202

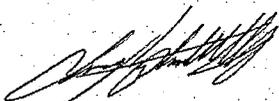
CSC-Lawyers Incorporating  
(The Kroger Company's Registered Agent  
for Service of Process)  
2730 Gateway Oaks Drive Suite 100  
Sacramento, CA 95833

On May 9, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

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

On May 9, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on May 9, 2011, in Fort Oglethorpe, Georgia.



Chris Heptinstall

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Service List

District Attorney, Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453
District Attorney, Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130
District Attorney, Butte County 25 County Center Drive Oroville, CA 95965	District Attorney, Los Angeles County 210 West Temple Street, Rm 345 Los Angeles, CA 90012
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637
District Attorney, Colusa County 547 Market Street Colusa, CA 95932	District Attorney, Marin County 3501 Civic Center, Room 130 San Rafael, CA 94903
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338
District Attorney, Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Merced County 2222 M Street Merced, CA 95340
District Attorney, Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517
District Attorney, Humboldt County 825 5th Street Eureka, CA 95501	District Attorney, Monterey County 230 Church Street, Bldg 2 Salinas, CA 93901
District Attorney, Imperial County 939 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Orange County 401 Civic Center Drive West Santa Ana, CA 92701

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District Attorney, Placer County  
10810 Justice Center Drive, Ste 240  
Roseville, CA 95678

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

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

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 9581

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

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

District Attorney, San Diego County  
330 West Broadway, Room 1300  
San Diego, CA 92101

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

District Attorney, San Joaquin County  
Post Office Box 990  
Stockton, CA 95201

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

District Attorney, San Mateo County  
400 County Ctr., 3<sup>rd</sup> Floor  
Redwood City, CA 94063

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

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

District Attorney, Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

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

District Attorney, Sierra County  
PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

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

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95353

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

District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

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

District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

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

Los Angeles City Attorney's Office  
City Hall East  
200 N. Main Street, Rm 800  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
1 Drive Carlton B Goodlett Place  
San Francisco, CA 94102

San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113