

LAW OFFICE OF  
**MICHAEL FREUND**

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February 24, 2012

**VIA CERTIFIED MAIL**

Mike Duke, President & CEO  
Wal-Mart Stores, Inc.  
702 SW 8<sup>th</sup> Street  
Bentonville, Arkansas 72716-8611

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

**Re: Notice of Violation Against Wal-Mart Stores, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.**

Dear Addressees:

I represent David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, Mr. Steinman seeks to reduce consumer exposures to lead in the named product set forth herein.

This letter constitutes notification that Wal-Mart Stores, Inc. ("Wal-Mart") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The product that is the subject of this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

**Great Value Smoked Oysters— lead**

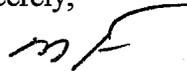
The Wal-Mart has manufactured, marketed, distributed and/or sold the listed product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Wal-Mart is in violation of Proposition 65 because it failed to provide a warning to consumers that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for this product.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, David Steinman gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to Mr. Steinman from information now available to us. Mr. Steinman is continuing his investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: David Steinman

Attachments:

Certificate of Merit  
Certificate of Service  
OEHHA Summary to Wal-Mart Stores, Inc.  
Additional Supporting Information for Certificate of Merit (to Attorney General only)

## CERTIFICATE OF MERIT

### Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party David Steinman. Mr. Steinman is a committed environmentalist, journalist, consumer health advocate, publisher and author. The Notice of Violation alleges that the party identified has exposed persons in California to lead from the specified consumer product. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
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. In particular, I have consulted with the chemists who conducted the laboratory testing for lead regarding this product and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed product from the noticed party. Furthermore, 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 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 California 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 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: February 23, 2012



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Michael Freund  
Attorney for David Steinman

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On February 27, 2012 I served the within:

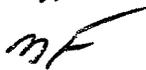
Notice of Violation and Certificate of Merit Against Wal-Mart Stores, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. (Supporting Documentation sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on February 27, 2012 at Berkeley, California.

  
\_\_\_\_\_  
Michael Freund

## SERVICE LIST

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  
627 Ferry Street  
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  
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P.O. Box 430  
Willows, CA 95988

District Attorney of Kings County  
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District Attorney of Humboldt  
County  
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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  
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Independence, CA 93526

District Attorney of Los Angeles  
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Los Angeles, CA 90012

District Attorney of Madera County  
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Madera, CA 93637

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

District Attorney of Marin County  
3501 Civic Center Dr., Room 130  
San Rafael, CA 94903

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

District Attorney of Mariposa  
County  
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Mariposa, CA 95338

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

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

District Attorney of Napa County  
931 Parkway Mail  
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

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 92101

District Attorney of Riverside  
County  
4075 Main Street  
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, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney of San Mateo County  
400 County Ctr, 3<sup>rd</sup> 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  
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Yreka, CA 96097

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

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

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

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 11<sup>th</sup> Street, Room 200  
PO BOX 442  
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 310  
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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  
423 No. Washington Street  
Sonora, CA 95370

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

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

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

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

California Attorney General's Office  
Attention: Proposition 65  
Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612

Mike Duke, CEO  
Wal-Mart Stores, Inc.  
702 SW 8th Street  
Bentonville, Arkansas 72716-8611