

60-DAY NOTICE OF VIOLATION

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

DATE: November 28, 2014

TO: Margaret Hardin, Chief Executive Officer- The Ergo Baby Carrier, Inc.
Joe Hei, Chief Executive Officer- Orbit Baby, Inc.
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: Tiila Abbitt

I. Introduction

My name is Tiila Abbitt. I am a concerned parent who owns an Orbit Baby G2 toddler car seat. The purchase of the Orbit Baby G2 toddler car seat was based on research including advertisements and claims made by Orbit Baby that the G2 toddler car seat did not contain well known carcinogenic flame retardants, such as Tris(1,3-dichloro-2-propyl) phosphate ("TDCPP") (<https://web.archive.org/web/20140704075516/http://www.orbitbaby.com/en/articles/flame-retardants/>). I was upset and disappointed when the foam in the Orbit Baby G2 toddler car seat tested positive for TDCPP. The testing was done by an independent laboratory in Illinois.

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 chemicals 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 alleged violators, The Ergo Baby Carrier, Inc. and Orbit Baby, Inc. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposure, and type 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: Tris(1,3-dichloro-2-propyl) phosphate ("TDCPP")

Routes of Exposure: Ingestion, Dermal, Inhalation

Type of Harm: Cancer

II. Nature of the 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 category covered by this Notice shall be referred to hereinafter as the "products."

Each of these ongoing violations has occurred on every day since at least October 20, 2013 when the Orbit Baby G2 toddler car seat was purchased; as well as every day since the product was introduced

in the California marketplace; and will continue every day until clear and reasonable warnings are provided to users or until this known toxic chemical is removed from the product.

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 listed chemical from the reasonably foreseeable use of the products.

California citizens, including infants and children, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. California citizens, including infants and children, ingest the listed chemical when they, among other activities, touch the products, and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. California citizens, including infants and children, are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products. California citizens, including infants and children, inhale the listed chemical when, among other activities, they breathe air with airborne particles that are released from the products containing the listed chemical.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me at the following address:

Tiila Abbitt
c/o David K. Buckingham, Esq.
104 Clipper Street
San Francisco CA 94114
Telephone: 415.841.2794

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 who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the TDCPP 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 resorting 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

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 warning" 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>
Orbit Baby Toddler Car Seat G2, mocha Item model number: ORB837000M, UPC# 810449020015	Purchased from BabyEarth.com on October 20, 2013.	Orbit Baby, Inc.; The Ergo Baby Carrier, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such as</i>	<i>Manufacturer(s)/Distributor(s)</i>
Upholstered foam padding used in the Orbit Baby Toddler Car Seat G2 containing Tris(1,3-dichloro-2-propyl) phosphate	Orbit Baby Toddler Car Seat G2, mocha Item model number: ORB837000M, UPC# 810449020015	Tris(1,3-dichloro-2-propyl) phosphate

Sincerely,



Tiila Abbitt



David Buckingham, Esq.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, David K. Buckingham, 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 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 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.

Dated: November 28, 2014

David K. Buckingham

David K. Buckingham

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years, and not a party to the within action; my address is 104 Clipper Street, San Francisco, CA 94114.

On November 28, 2014, I served the following documents:

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

PROPOSITION 65: A SUMMARY (SERVED ONLY ON THE VIOLATORS);

CERTIFICATE OF MERIT; AND

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

on the entities 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 the entities listed below and providing each envelope to a United States Postal Service Representative:

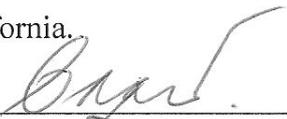
Margaret Hardin, Chief Executive Officer The Ergo Baby Carrier, Inc. 888 South Figueroa Street, Suite 2050 Los Angeles, CA 90017	Joe Hei, Chief Executive Officer Orbit Baby, Inc. 8445 Central Avenue Newark, CA 94560
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as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

Electronically Uploaded to the Attorney General's website; and by mailing via providing the envelope to a United States Postal Service Representative:	The Attorney General of the State of California
By placing each envelope in a United States Postal Service mailbox, postage prepaid	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 November 28, 2014, at San Francisco, California.



Zuzana Baquero

APPENDIX A

Kamala D. Harris,
Attorney General for the State of California
PO Box 944255
Sacramento, CA 94244

The Honorable Bob Lee, District Attorney,
SANTA CRUZ COUNTY
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Candice Hooper-Mancino,
District Attorney,
SAN BENITO COUNTY
419 4th Street
Hollister, CA 95023-3801

The Honorable Clifford Newell, District
Attorney,
NEVADA COUNTY
201 Commercial Street
Nevada City, CA 95959

The Honorable Dennis J. Herrera, Office of the
City Attorney,
SAN FRANCISCO COUNTY
City Hall, Room 234 1 Dr. Carlton B. Goodlett
Place
San Francisco, CA 94102

The Honorable Edward Berberian, District
Attorney,
MARIN COUNTY
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Michael R. Keitz, District
Attorney,
MADERA COUNTY
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Tim Kendall, District Attorney,
MONO COUNTY
PO BOX 2053
Mammoth Lakes, CA 93546

The Honorable Gilbert Otero, District Attorney,
IMPERIAL COUNTY
940 West Main Street, Ste. 102
El Centro, CA 92243

The Honorable Stephen M. Wagstaffe, District
Attorney,
SAN MATEO COUNTY
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Jan Goldsmith, Office of the City
Attorney,
SAN DIEGO
1200 Third Ave., Suite 1620
San Diego, CA 92101

The Honorable Jeff Reisig, District Attorney,
YOLO COUNTY
301 Second Street

The Honorable Tom Hardy, District Attorney,
INYO COUNTY
PO Box D
Independence, CA 93526

The Honorable Bonnie Dumanis, District
Attorney,
SAN DIEGO COUNTY
330 W. Broadway, Suite 1300
San Diego, CA 92101

The Honorable Carl Adams, District Attorney,
SUTTER COUNTY
446 2nd Street
Yuba City, CA 95991

The Honorable Donald A. du Bain, District
Attorney,
SOLANO COUNTY
675 Texas Street, Ste. 4500
Fairfield, CA 94533

The Honorable Jeffrey F. Rosen, District
Attorney,
SANTA CLARA COUNTY
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Lisa Green, District Attorney,
KERN COUNTY
1215 Truxtun Avenue, Fourth Floor
Bakersfield, CA 93301

The Honorable Gary Lieberstein, District
Attorney,
NAPA COUNTY
PO BOX 720
Napa, CA 94559

The Honorable Stephen Carlton, District
Attorney,
SHASTA COUNTY
1355 West Street
Redding, CA 96001

The Honorable Gregg Cohen, District Attorney,
TEHAMA COUNTY
444 Oak Street, Room L
Red Bluff, CA 96080

The Honorable James Kirk Andrus, District
Attorney,
SISKIYOU COUNTY
PO BOX 986
Yreka, CA 96097

The Honorable Jan Scully, District Attorney,
SACRAMENTO COUNTY
901 G Street
Sacramento, CA 95814

The Honorable Barbara Yook, District Attorney,
CALAVERAS COUNTY
891 Mountain Ranch Road

The Honorable Birgit Fladager, District
Attorney,
STANISLAUS COUNTY
832 12th Street, Suite 300
Modesto, CA 95354

The Honorable Ronald Scott Owens,
District Attorney,
PLACER COUNTY
10810 Justice Center Drive Suite #240
Roseville, CA 95678

The Honorable Joyce E. Dudley, District
Attorney,
SANTA BARBARA COUNTY
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Dean Flippo, District
Attorney,
MONTEREY COUNTY
PO BOX 1131
Salinas, CA 93902

The Honorable Michael Knowles, Acting
District Attorney,
TUOLUMNE COUNTY
423 No. Washington Street
Sonora, CA 95370

The Honorable Elizabeth Egan, District
Attorney,
FRESNO COUNTY
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

The Honorable Jordan Funk, Interim
District Attorney,
MODOC COUNTY
204 S. Court Street, Room 202
Alturas, CA 96101

The Honorable Gerald Shea, District
Attorney,
SAN LUIS OBISPO COUNTY
1035 Palm Street
San Luis Obispo, CA 93408

The Honorable Gregory Totten, District
Attorney,
VENTURA COUNTY
800 South Victoria Avenue, Suite 314
Ventura, CA 93009

The Honorable James Willett, District
Attorney,
SAN JOAQUIN COUNTY
PO BOX 990
Stockton, CA 95202

The Honorable David Hollister, District
Attorney,
PLUMAS COUNTY
520 Main Street, Room 404
Quincy, CA 95971

The Honorable John Poyner, District
Attorney,
COLUSA COUNTY

The Honorable Donald Anderson, District Attorney,
LAKE COUNTY
255 N. Forbes Street
Lakeport, CA 95453

The Honorable Lawrence Allen, District Attorney,
SIERRA COUNTY
100 Courthouse Square, Second Floor, Post Office Box 457
Downieville, CA 95936

The Honorable Michael Ramos, District Attorney,
SAN BERNARDINO COUNTY
303 W. Third Street, 6th Floor
San Bernardino, CA 92415

The Honorable Patrick McGrath, District Attorney,
YUBA COUNTY
215 Fifth Street, Ste. 152
Marysville, CA 95901

The Honorable Richard Doyle, Office of the City Attorney,
City of San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113- 1905

The Honorable Robert J. Maloney, District Attorney,
GLENN COUNTY
PO Box 430
Willows, CA 95988

The Honorable Paul Zellerbach, District Attorney,
RIVERSIDE COUNTY
3960 Orange Street
Riverside, CA 92501

The Honorable Jackie Lacey, District Attorney's Office,
LOS ANGELES COUNTY
210 West Temple Street, Suite 18000
Los Angeles, CA 90012-3210

The Honorable Tony Rackauckas, District Attorney,
ORANGE COUNTY
401 Civic Center Drive West
Santa Ana, CA 92701

The Honorable George Gascón, District Attorney,
SAN FRANCISCO COUNTY
850 Bryant Street, Room 325
San Francisco, CA 94103

The Honorable C. David Eyster, District Attorney,
MENDOCINO COUNTY
PO BOX 1000
Ukiah,, CA 95482

The Honorable Michael Ramsey, District Attorney,
BUTTE COUNTY
25 County Center Drive - Administration Building
Oroville, CA 95965

The Honorable Paul Gallegos, District Attorney,
HUMBOLDT COUNTY
825 5th Street, 4th Floor
Eureka, CA 95501

The Honorable Thomas K Cooke, District Attorney,
MARIPOSA COUNTY
5101 Jones St., P.O. Box 730
Mariposa, CA 95338

The Honorable Mark A. Peterson, District Attorney,
CONTRA COSTA COUNTY
900 Ward Street
Martinez, CA 94553

The Honorable Greg Strickland, District Attorney,
KINGS COUNTY
1400 West Lacey Blvd.
Hanford, CA 93230

The Honorable Nancy O'Malley, District Attorney,
ALAMEDA COUNTY
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable Vernon Pierson, District Attorney,
EL DORADO COUNTY
515 Main Street
Placerville, CA 95667

The Honorable Larry Morse II, District Attorney,
MERCED COUNTY
550 W. Main Street
Merced, CA 95340

The Honorable Michael Harper, District Attorney,
TRINITY COUNTY
PO Box 310
Weaverville, CA 96093

The Honorable Jon Alexander, District Attorney,
DEL NORTE COUNTY
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Tim Ward, District Attorney,
TULARE COUNTY
221 South Mooney Blvd., Suite 224
Visalia, CA 93291

The Honorable Robert Burns, District Attorney,
LASSEN COUNTY
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Mike Feuer, City Attorney,
City of Los Angeles
800 City Hall East, 200 North Main Street
Los Angeles, CA 90012

The Honorable Jill Ravitch, District Attorney,
SONOMA COUNTY
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

The Honorable Todd Riebe, District Attorney,
AMADOR COUNTY
708 Court Street #202
Jackson, CA 95642

The Honorable Terese Drabec, District Attorney,
ALPINE COUNTY
270 Laramie Street, P.O. Box 248
Markleeville, CA 96120

The Honorable James C. Sanchez
Office of the City Attorney, Sacramento
915 I. Street, 4th Floor
Sacramento CA 95814