

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials

January 16, 2015

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

#### **Description of Violation:**

- Violators: The names and addresses of the violators are identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least January 16, 2012, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is footwear made with leather, vinyl or imitation leather materials. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Use of the products identified in this Notice results in human exposures to Lead. Lead is found in the products as a stabilizer in the vinyl or imitation leather materials, as a chemical ingredient in some of the dyes, paints and other coloring agents used in the products and in the chemicals used in the leather tanning process. The routes of exposure for the violations are ingestion via hand to mouth contact and dermal absorption directly through the skin. Exposures to Lead from the products occur when consumers wear, take on or off, or otherwise touch or handle the products. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

**Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (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 CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to CEH's counsel Eric S. Somers or Howard Hirsch at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, esomers at lexlawgroup.com, hhirsch at lexlawgroup.com.

**EXHIBIT 1**  
**January 16, 2015 Notice of Violation**  
**Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p style="text-align: center;"><b>Demfon International Trading Network, Ltd.</b>                      55-62 56<sup>th</sup> Street                      Maspeth, NY 11378</p>	<p style="text-align: center;">Chelsea Crew                      Escada Peep Toe                      Pumps in Nude</p>	<p style="text-align: center;">SKU No. 480642                      Style No. TW156</p>
	<p style="text-align: center;">Chelsea Crew                      Marlo Pumps in Tan</p>	<p style="text-align: center;">SKU No.                      8-09275-22336-3                      Item No. 320840                      Style No. AJS466201</p>
	<p style="text-align: center;">Chelsea Crew                      Nashville Pumps                      in Mustard / Yellow</p>	<p style="text-align: center;">SKU No.                      8-09275-28437-1                      Item No. 301294                      Style No. AJW374901</p>
	<p style="text-align: center;">Chelsea Crew                      Majesty Oxford                      Pumps in Red</p>	<p style="text-align: center;">SKU No. 475771                      Style No. AJS566206</p>
<p style="text-align: center;"><b>DND Fashion, Inc.</b>                      17355 Railroad Street                      City of Industry, CA 91748</p>	<p style="text-align: center;">Bella Marie Twenty                      One Basic Pumps                      in Patent Taupe</p>	<p style="text-align: center;">SKU No. 477616                      Style No.                      TWENTYONE-1</p>
<p style="text-align: center;"><b>EastStar Solutions, Ltd.</b>                      11801 W. Fairview Avenue                      Milwaukee, WI 53226</p>	<p style="text-align: center;">Mojo Moxy                      Celebrity Pumps                      in Copper</p>	<p style="text-align: center;">SKU No. 8225290</p>
<p style="text-align: center;"><b>Hoy Shoe Company, Inc.</b>                      4970 Kemper Avenue                      St. Louis, MO 63139</p>	<p style="text-align: center;">Sun-San Sea Wee                      Salt Water Sandals                      in Shiny Yellow</p>	<p style="text-align: center;">SKU No.                      0-00523-02011-0                      Zappos SKU No.                      7532557</p>
<p style="text-align: center;"><b>Spring Footwear Corp.</b>                      1001 West McNab Road                      Pompano Beach, FL 33069</p>	<p style="text-align: center;">Dream by Fly Flot                      Flexus Sandals in Red</p>	<p style="text-align: center;">SKU No.                      8-023062-865938                      6pm.com SKU No.                      8411512                      Style No. 34463</p>

**CERTIFICATE OF MERIT**  
**Health & Safety Code §25249.7(d)**

I, Howard Hirsch, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

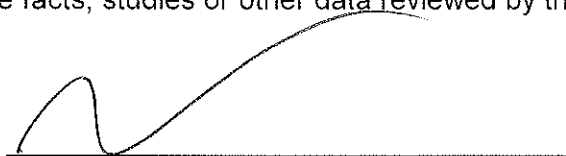
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those consultations, and on 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 the 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 & 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.

January 16, 2015



Howard Hirsch  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is [cfisher@lexlawgroup.com](mailto:cfisher@lexlawgroup.com).

On January 16, 2015, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT;** and

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

***Please see attached service list.***

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 1:53P.m. on January 16, 2015:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Yeng Dang  
Supervising Deputy District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[ydang@da.sccgov.org](mailto:ydang@da.sccgov.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Drive, Rm. 212J  
Santa Rosa, CA 95403  
[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

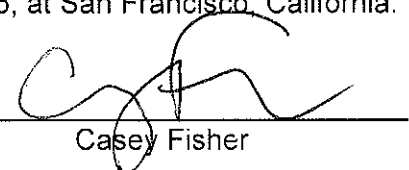
Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on January 16, 2015, at San Francisco, California.

Signed: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'Casey Fisher', is written over a horizontal line. The signature is stylized with a large initial 'C' and 'F'.

Casey Fisher

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Rm. 900  
Oakland, CA 94612

District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney of Amador County  
708 Court Street, Ste. 202  
Jackson, CA 95642

District Attorney of Butte County  
Administration Building  
25 County Center Drive  
Oroville, CA 95965

District Attorney of Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney of Colusa County  
547 Market Street, Ste. 102  
Colusa, CA 95932

District Attorney of Del Norte County  
450 H Street, Ste. 171  
Crescent City, CA 95531

District Attorney of El Dorado  
County  
515 Main Street  
Placerville, CA 95667

District Attorney of Fresno County  
2220 Tulare Street, Ste. 1000  
Fresno, CA 93721

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Willows, CA 95988

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El Centro, CA 92243

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Bakersfield, CA 93301

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Mariposa, CA 95338

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County  
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Ukiah, CA 95482

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2222 "M" Street  
Merced, CA 95340

District Attorney of Modoc County  
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Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Nevada County  
201 Commercial Street  
Nevada City, CA 95959

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401 Civic Center Drive West  
Santa Ana, CA 92701

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10810 Justice Center Drive, Ste.  
240  
Roseville, CA 95678

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County  
520 Main Street, Rm. 404  
Quincy, CA 95971

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901 "G" Street  
Sacramento, CA 95814

District Attorney of San Benito  
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419 Fourth Street, 2<sup>nd</sup> Fl.  
Hollister, CA 95023

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San Bernardino, CA 92415

District Attorney of San Diego  
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330 West Broadway, Ste. 1300  
San Diego, CA 92101

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P.O. Box 990  
Stockton, CA 95202

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San Luis Obispo, CA 93408

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400 County Center, 3<sup>rd</sup> Fl.  
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Santa Cruz, CA 95060

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

District Attorney of Santa Barbara  
County  
Attn: Jerry Lule-Jian  
312-D E. Cook Street  
Santa Maria, CA 93454

San Diego City Attorney's Office  
1200 Third Avenue, Ste. 1620  
San Diego, CA 92101

District Attorney of Shasta County  
1355 West Street  
Redding, CA 96001

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

District Attorney of Sierra County  
Courthouse  
100 Courthouse Sq., 2<sup>nd</sup> Fl.  
Downieville, CA 95936

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

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

California Attorney General's Office  
Attention: Proposition 65  
Coordinator and Robert Thomas  
1515 Clay Street, Ste. 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

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

Farshad Noorani, President \*  
Demfon International Trading  
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55-62 56<sup>th</sup> Street  
Maspeth, NY 11378

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Modesto, CA 95354

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

President \*  
DND Fashion, Inc.  
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City of Industry, CA 91748

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Red Bluff, CA 96080

President \*  
EastStar Solutions, Ltd.  
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Milwaukee, WI 53226

District Attorney of Trinity County  
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Weaverville, CA 96093

Scott C. Downs, President \*  
Hoy Shoe Company, Inc.  
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St. Louis, MO 63139

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

David Ben-Zikry, CEO \*  
Spring Footwear Corp.  
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Pompano Beach, FL 33069

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District Attorney of Yuba County  
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