

**60-Day Notice of Violations:  
Failure to Warn Public About Chemicals Listed Under Health & Safety Code  
§ 25249.6**

August 25, 2015

**VIA CERTIFIED MAIL, RRR**

Jordan E. Ritter  
for Essex Columbus, L.P.  
925 East Meadow Drive  
Palo Alto, CA 94303

Granden Meier  
for Meier Plumbing, Inc.  
17432 E. Santa Clara Ave.  
Santa Ana, CA 92705

C T Corporation System  
for P.W. Stephens Environmental, Inc.  
818 West Seventh Street Suite 930  
Los Angeles, CA 90017

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

**VIA ONLINE SUBMISSION**

Office of the California Attorney General

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

Dear Addressees,

This firm represents 19 current and former tenants of an apartment complex located at 1136 North Columbus Drive, Glendale, California 91202 (the "Premises"), including Elizabeth Schaible, Rayland Fuentes, Melissa Solis, Luis Solis, You Jung Shin, Michael Tanahan, Hila Gharakhanian, Kaaren Perry, Amin Abedi, Azadeh Mokhlessi, Lenna Minion, Michelle Wright, Anthony Miller, Rima Avanesians, Linet Der-Yaghoobian, Ani Yaralian, Jennifer White, William Hesser, and Johanna Trinidad (collectively, the "Claimants"), in connection with this notice of violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.5 *et seq.* This letter constitutes notification that P.W. Stephens Environmental, Inc., Essex Columbus, LP, and Meier Plumbing, Inc. have violated Proposition 65 by failing to provide clear and reasonable warnings required by State law before exposing persons to the chemical asbestos.

Pursuant to § 25249.7(d) of the statute, the current and former tenants listed above intend to bring an enforcement action against the above-referenced entities 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 Office of Environmental Hazard Assessment, the lead agency designated under the state is enclosed with the copy of this

notice served upon the violators (APPENDIX A). The specific details of the violations that are the subject of this notice are provided below.

### Violators Covered Under This Notice

P.W. Stephens Environmental, Inc., Essex Columbus, LP, Meier Plumbing, Inc. and each of their respective affiliates (collectively, the “Noticees”) are the violators covered under this notice. The Noticees are currently or have been involved in demolition, construction, and renovation work that have taken place within the Claimants’ individual units located at the Premises.

Beginning in April 2014, Essex Columbus, LP undertook extensive demolition, construction, and renovation work within an apartment complex it owned and managed located at 1136 North Columbus Drive, Glendale, California 91202. Essex Columbus, LP contracted with Meier Plumbing, Inc., and P.W. Stephens Environmental, Inc., to complete the demolition, construction, and renovation work. Their activities have included the replacement of all pipes for hot and cold water supply, replacement of waste lines, replacement of all heating, ventilating, corridor updates, and air conditioning (HVAC) systems. As a result of the demolition, construction, and renovation activities at the Premises, friable chrysotile asbestos was released within Claimants’ homes. Claimants have not received required clear and reasonable warning regarding their risk of exposure to asbestos.

On February 27, 1987, the State of California officially listed asbestos as a chemical known to the state to cause cancer. These ongoing environmental violations of Proposition 65 arise out of failure to warn of asbestos releases within Claimants’ units at the Premises on and after April 2014.

### Environmental Warnings at Issue

The Claimants, current and former tenants of the Premises, were entitled to warnings that they were exposed to friable asbestos fibers within their individual homes. The tenants were not warned of the threat of exposure to asbestos fibers released within their homes from April 2014 to the present.

The activities of the Noticees did not meet the requirements for asbestos remediation and abatement under California law and South Coast Air Quality Management District (“SCAQMD”) regulations. Their activities have in fact exacerbated the problem at the Premises and exposed Claimants and others to more asbestos fibers.

Noticees had knowledge of the California asbestos laws and knew they had an obligation to notify tenants of the asbestos risks and to regularly monitor, inspect, manage the asbestos known to exist at the Premises. As a result of the failure to abide by the California asbestos laws, the Noticees permitted the Claimants to be exposed to friable asbestos fibers within their individual homes since April 2014 without proper warning.

Route of Exposure

The manner in which the Noticees permitted Claimants and others to be exposed to asbestos fibers is through inhalation of airborne and settled friable asbestos particles that were present in high concentrations within the Claimants dwellings on or after April 2014.

Duration of Violations

Theses violations began in April 2014 and continued every day until the present date. Some of the tenants have since moved out of the Premises, but several continue to occupy their asbestos-exposed units to the present date.

Counsel

The Claimants are represented in connection with this matter by:

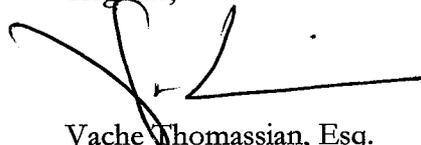
Vache Thomassian, Esq.  
KJT Law Group, LLP  
230 North Maryland Ave. Suite 306  
Glendale, CA 91206  
Telephone: (818) 507-8525  
Email: Vache@KJTLawGroup.com

In keeping with the public interest goals of the statute and the objective of protecting the tenants and the community at-large from further toxic exposures, we are interested in seeking a constructive resolution of this matter to avoid continuing unwarned exposure to asbestos without protracted litigation.

Claimants have commenced a civil action against P.W. Stephens Environmental, Inc., Essex Columbus, LP, and Meier Plumbing, Inc. in the Superior Court of California, County of Los Angeles, Case No.: EC 063373. Upon expiration of sixty (60) days following service of this notice, Claimants will file a new complaint with claims under Proposition 65 against the defendants if state or local officials do not undertake enforcement action by that time.

Direct all communications regarding this notice to Vache Thomassian, Esq. at the above listed firm address and telephone number.

Regards,



Vache Thomassian, Esq.  
KJT Law Group, LLP

**CERTIFICATE OF MERIT**

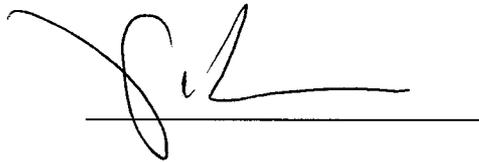
Health & Safety Code Section 25249.7(d)

(for Elizabeth Schaible, Rayland Fuentes, Melissa Solis, Luis Solis, You Jung Shin, Michael Tanahan, Hila Gharakhanian, Kaaren Perry, Amin Abedi, Azadeh Mokhlessi, Lenna Minion, Michelle Wright, Anthony Miller, Rima Avanesians, Linet Der-Yaghoobian, Ani Yaralian, Jennifer White, William Hesser, Johanna Trinidad)

I, Vache Thomassian, hereby declare:

- 1) This Certificate of Merit accompanies the attached sixty (60) day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
- 2) I am the attorney for the noticing parties.
- 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 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.

Dated: AUGUST 25, 2015



Vache Thomassian, Esq.  
KJT Law Group, LLP

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

#### THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### **WHAT DOES PROPOSITION 65 REQUIRE?**

**The "Governor's List."** Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at:

[http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

***Clear and reasonable warnings.*** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies; for example, when exposures are sufficiently low (see below). The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***Governmental agencies and public water utilities.*** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in a Food.** Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4)

## ***HOW IS PROPOSITION 65 ENFORCED?***

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

## ***FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...***

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 230 North Maryland Avenue, Suite 306, Glendale, CA 91206.

On **August 25, 2015** I served the foregoing document described as:

- **60-DAY NOTICE OF VIOLATIONS**
- **CERTIFICATE OF MERIT (ATTORNEY GENERAL COPY)**
- **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**“SEE ATTACHED MAILING LIST”**

**XX VIA ONLINE SUBMISSION**

**XX STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **August 25, 2015** at Glendale, California.

  
\_\_\_\_\_  
**Aleena Sivazlian**

**SERVICE LIST**

Office of the California Attorney General