

60-DAY NOTICE OF VIOLATION

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

DATE: April 30, 2018

TO: **Oxarc, 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: Alicia Chin

I. INTRODUCTION

My name is Alicia Chin. 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: **Oxarc, 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 chemicals ("listed chemicals") identified below, as follows:

Product Exposure: See Section VII. Exhibit A

Listed Chemicals: **Di(2-ethylhexyl)phthalate (DEHP)**

Routes of Exposure: Dermal

Types of Harm: Cancer

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer exposures in violation of Proposition 65, and that are covered by this Notice, are listed under "Product Type" in Exhibit A in Section VII below. All products within the categories covered by this Notice shall be referred to hereinafter as the "products." Exposures to the listed chemicals from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as **March 9, 2018**, and for the entire period that the products have been made available in California since the date of listing of the chemical. Without proper warnings regarding the toxic effects of exposures to the listed chemicals 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 chemicals from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE (DEHP)

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example, consumers and other individuals, may be exposed to the chemical via the dermal route.

The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

III. CONTACT INFORMATION Please direct all questions concerning this notice to me through my counsel's office at the following address:

Alicia Chin
c/o O'Neil Dennis, Esq.
385 Grand Ave., Ste. 300
Oakland, CA 94610
Telephone: (510) 272-9737

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 Violator's 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 Violator unless such Violator enters 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 exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violator is 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 categories or types of offending products covered by this Notice. 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 Violator.

Product: <u>Vinyl Sleeves (product number MEL MB18-SW)</u>
Retailer(s): <u>OXARC, INC.</u>
Manufacturer(s)/Distributor(s): <u>OXARC, INC.</u>

VII. EXHIBIT A

Product Type: **Vinyl Sleeves**

Such As: **Vinyl Sleeves (product number MEL MB18-SW)**

Toxins: **Di(2-ethylhexyl)phthalate (DEHP)**

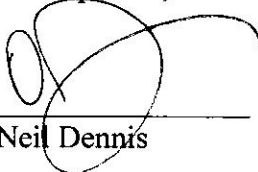
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, O'Neil Dennis, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated Health and Safety Code § 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 chemicals that are the subject of this 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 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 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: April 30, 2018



O'Neil Dennis

PROOF 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 business address is 385 Grand Ave., Suite 300, Oakland, CA 94610.

On April 30, 2018, I served the following documents:

60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d); PROPOSITION 65: IN PLAIN LANGUAGE (SERVED ONLY ON VIOLATOR/S); CERTIFICATE OF MERIT; AND CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the entity 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 entity listed below and providing such envelope to a United States Postal Service Representative:

Oxarc, Inc. c/o Jana Nelson 4003 E Broadway Ave. Spokane, WA 99202-4528	Oxarc, Inc. c/o Jana Nelson P.O. Box 3031 Spokane, WA 99220
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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:

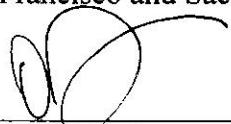
By placing each envelope in a United States Postal Service mailbox, postage prepaid:

The Attorney General of the State of California; 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 April 30, 2018, at Oakland, California.



O'Neil Dennis

SERVICE LIST

Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120	Amador County District Attorney 708 Court Street, Jackson, CA 95642
Butte County District Attorney 25 County Center Drive Oroville, CA 95965	Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	Colusa County District Attorney 346 Fifth Street Colusa, CA 95932
Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	El Dorado County District Attorney 515 Main Street Placerville, CA 95667
Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721	Glenn County District Attorney P.O. Box 430 Willows, CA 95988	Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	Inyo County District Attorney 168 North Edwards Street Independence, CA 93526	Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	Lassen County District Attorney 220 South Lassen Street, Ste. 8 Susanville, CA 96130
Los Angeles County District Attorney 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637
Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	Mendocino County District Attorney 100 North State Street, P.O. Box 1000 Ukiah, CA 95482
Merced County District Attorney 550 W. Main Street Merced, CA 95340	Modoc County District Attorney 204 S. Court Street, Ste. 202, Alturas, CA 96101	Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517
Monterey County District Attorney	Napa County District Attorney	Nevada County District Attorney

P.O. Box 1131 Salinas, CA 93902	1127 First St., Ste. C Napa, CA 94559	201 Commercial Street Nevada City, CA 95959
Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971
Riverside County District Attorney 3960 Orange Street Riverside, CA 92501	Sacramento County District Attorney 901 G Street Sacramento, CA 95814	San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203
San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415- 0502	San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	San Francisco County District Attorney 850 Bryant Street, 3 rd Fl. San Francisco, CA 94103
San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201	San Luis Obispo County District Attorney 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408	San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063
Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060
Shasta County District Attorney 1355 West Street Redding, CA 96001	Sierra County District Attorney 100 Courthouse Square Downieville, CA 95936	Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097
Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991	Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080	Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
Tulare County District Attorney 221 South Mooney Boulevard, Rm 224 Visalia, CA 93291-4593	Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370	Ventura County District Attorney 800 South Victoria Avenue Ventura, CA 93009

<p>Yolo County District Attorney 301 Second Street Woodland, CA 95695</p>	<p>Yuba County District Attorney 215 Fifth Street Marysville, CA 95901</p>	<p>Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113</p>
<p>Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814</p>	<p>Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101</p>	<p>Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102</p>