

## SIXTY DAY NOTICE OF VIOLATION

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

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**DATE:** August 10, 2018  
**To:** Wal-Mart Stores, Inc.; Best Brands Consumer Products, Inc.;  
California Attorney General's Office;  
District Attorney's Office for 58 Counties; and  
City Attorney's Office for Los Angeles, San Diego, San Jose, and San Francisco.

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**From:** SHEFA LMV, INC.

### **I. INTRODUCTION**

We are a nonprofit public benefit corporation of the State of California acting in the interest of the general public. We seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve public health and safety by reducing the hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

<b>Product Exposure:</b>	<b>See Section VII</b>
<b>Listed Chemical:</b>	<b>DINP (Diisononyl Phthalate)</b>
<b>Routes of Exposure:</b>	<b>Touch, Oral, Dermal absorption</b>
<b>Types of Harm:</b>	<b>Carcinogen</b>

### **II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)**

The specific type of product that is causing consumer exposures in violation of Proposition 65, and which is the subject of this Notice, is listed under "Product Category/Type" in Section VII below. All products *within the type* covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating at least as far back as May 23, 2018 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without the clear and responsible warnings required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizenry lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

Through the act of buying, acquiring and using the products, citizens of California are exposed to the listed chemical in homes and elsewhere throughout California where these products are used. Exposure to consumers includes, but is not limited to, when handling the product the listed chemical comes into contact with the hands and is then absorbed through the skin, hand to mouth contact, hand to food to

mouth contact, or through hand to cigarette to mouth. Exposure may continue to occur for a significant period after the initial contact. These violations and threatened violations pertain to a chemical listed as a carcinogen.

### **III. CONTACT INFORMATION**

Please direct all questions concerning this Notice to our counsel's offices at the following address:

Daniel N. Greenbaum, Esq.  
Law Office of Daniel N. Greenbaum  
The Hathaway Building  
7120 Hayvenhurst Avenue, Suite 320  
Van Nuys, CA 91406  
Main: (818) 809-2196  
Fax: (424) 243-7689  
Email: [dgreenbaum@greenbaumlawfirm.com](mailto:dgreenbaum@greenbaumlawfirm.com)

### **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 ("OEHHA") in the Proposition 65 Implementation Office at (916) 445-6900, or to visit their website at <http://oehha.ca.gov/proposition-65>.

**For the alleged Violator(s), please see the attached 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, we intend to file a citizen enforcement lawsuit against the alleged Violator(s), 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 whom have received such products; (2) reformulate such products to eliminate exposures to the listed chemicals; or, at a minimum, (3) provide clear and reasonable warnings for products sold in the future.

If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact the counsel identified above. It should be noted that we cannot: (A) finalize any settlement until after the 60-day Notice period elapses; or (B) speak for the Attorney General or any public agency who received this Notice. Therefore, although we may ultimately reach an agreement that will resolve our claims, such an agreement may not satisfy the public prosecutors.

## VI. PRODUCT INFORMATION

<u>Product</u>	<u>Retailer(s)</u>	<u>Manufacturer(s)/Distributor(s)</u>
Water Resistant Pouch	Wal-Mart Stores	Best Brands Consumer Products, Inc.

Identified are specific examples of products recently purchased and witnessed as being available for purchase or use in California that is within the **category or type of product** covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of this exemplar product within the **category or type of product** are also provided below. We allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” 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 catalog by the alleged Violator(s), as well as other distributors and retailers of the product(s).

## VII. EXEMPLAR PRODUCT

<u>Product Category</u>	<u>Specific Product</u>	<u>Manufacturer</u>
Plastic cable sheath	DryPro™ Water Resistant Pouch for iPhones, Smartphones and MP3 Players; UPC: 042887412040	Best Brands Consumer Products, Inc.

The specific exemplar product identified above is within **the category or type of product** which is the subject of this Notice. We identify it herein for all recipients’ benefit in order to assist the investigation of the magnitude of potential exposure to the listed chemical from other items **within the product category or type** listed in Section VII. It is important to note that this exemplar product does *not* represent an exhaustive or comprehensive identification of any or all specific products of the type listed under “Product Category/Type” in Section VII.

Furthermore, it is our position that the alleged Violator(s) are the best situated to identify **any and all** products within the product category or type listed in Section VII. Therefore, as such, the Violator(s) are obligated to conduct (in good faith) an investigation into **any and all** other products **within the product type or category** described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violator(s)’ custody or control) during the relevant period in order to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

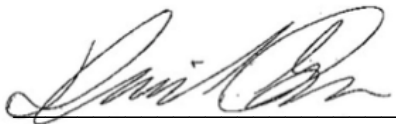
**CERTIFICATE OF MERIT**

I, Daniel N. Greenbaum, 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.

August 10, 2018  
Date

Daniel N. Greenbaum  
Name

  
Signature

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this case or action. My business address is:  
**7120 Hayvenhurst Ave., Suite 320, Van Nuys CA 91406**

A True and Correct copy of the documents entitled: **SIXTY DAY NOTICE OF VIOLATION; CERTIFICATE OF MERIT; THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** will be served or was served in the manner stated below:

I. Interested Parties (Served via US Mail): On August 10, 2018, I caused to be served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the US Mail, postage prepaid, and addressed as follows:

Attn: CEO or President	Wal-Mart Stores, Inc.	702 SW 8 <sup>th</sup> Street	Bentonville	AR	72716
The Corp Company	c/o Wal-Mart Stores, Inc.	111 Eight Ave, 13 <sup>th</sup> Floor	New York	NY	10011
The Corp Company	c/o Wal-Mart Stores, Inc.	818 Seventh Street, Ste 930	Los Angeles	CA	90017
Attn: CEO or President	Best Brands Consumer Products, Inc.	20 West 33rd Street Floor 5	New York	NY	10001
Attn: CEO or President	Best Brands Consumer Products, Inc.	25 Merrick Avenue	Merrick	NY	11566

II. California Attorney General (via website Portal): On August 10, 2018, I uploaded a true and correct copy thereof as a PDF file via the California Attorney General’s website.

III. District and City Attorneys (via U.S. Mail): On August 10, 2018, I caused to be served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and addressed as follows: SEE ATTACHMENT A.

IV. District and City Attorneys (via email): On August 10, 2018 I served the following persons and/or entities at the last known electronic addresses via email. The transmission was reported as sent without error.

cfepd@yolocounty.org; sgrassini@contracosta.org; Prop65DA@co.monterey.ca.us; epu@da.sccgov.org; CEPD@countyofnapa.org; jbarnes@sonoma-county.org; Prop65@co.tulare.ca.us; cdalbey@co.santa-barbara.ca.us; CityAttyCrimProp65@sandiego.gov; CEPDProp65@acgov.org; mlatimer@co.lassen.ca.us; Prop65@rivcoda.org; Prop65@sacda.org; EPU@da.sccgov.org; CityAttyCrimProp65@sandiego.gov; gregory.alker@sfgov.org; edobroth@co.slo.ca.us; DAConsumer.Environmental@sjcda.org; daspecialops@ventura.org; Prop65DA@santacruzcounty.us

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.



August 10, 2018      Nate Ford  
\_\_\_\_\_  
Date                              Name

\_\_\_\_\_  
Signature

	168 North Edwards Independence, CA 93526	201 Commercial Street Nevada City, CA 95959
District Attorney ALPINE COUNTY PO Box 248 Markleeville, CA 96120	District Attorney KERN COUNTY 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney ORANGE COUNTY 401 Civic Center Drive West Santa Ana, CA 92701
District Attorney AMADOR COUNTY 708 Court Street, #202 Jackson, CA 95642	District Attorney KINGS COUNTY 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney PLACER COUNTY 10810 Justice Center Drive Roseville, CA 95678
District Attorney BUTTE COUNTY 25 County Center Drive — Administration Building Oroville, CA 95965	District Attorney LAKE COUNTY 255 N. Forbes Street Lakeport, CA 95453	District Attorney PLUMAS COUNTY 520 Main Street, Room 404 Quincy, CA 95971
District Attorney CALAVERAS COUNTY 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney LOS ANGELES COUNTY 210 W. Temple Street Los Angeles, CA 90012	District Attorney SAN BENITO COUNTY 419 4th Street Hollister, CA 95023
District Attorney COLUSA COUNTY 346 5th Street, Suite. 101 Colusa, CA 95932	District Attorney MADERA COUNTY 209 West Yosemite Avenue Madera, CA 93637	District Attorney SAN BERNARDINO COUNTY 303 W. Third Street San Bernardino, CA 92415
District Attorney DEL NORTE COUNTY 450 H Street, Room 171 Crescent City, CA 95531	District Attorney MARIN COUNTY 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney SAN MATEO COUNTY 400 County Center, Third Floor Redwood City, CA 94063
District Attorney EL DORADO COUNTY 515 Main Street Placerville, CA 95667	District Attorney MARIPOSA COUNTY PO BOX 730 Mariposa, CA 95338	District Attorney SHASTA COUNTY 1355 West Street Redding, CA 96001
District Attorney FRESNO COUNTY 2220 Tulare Street, Suite. 1000 Fresno, CA 93721	District Attorney MENDOCINO COUNTY PO BOX 1000 Ukiah, CA 95482	District Attorney SIERRA COUNTY 100 Courthouse Square Downieville, CA 95936
District Attorney GLENN COUNTY PO Box 430 Willows, CA 95988	District Attorney MERCED COUNTY 550 West Main Street Merced, CA 95340	District Attorney SISKIYOU COUNTY PO BOX 986 Yreka, CA 96097
District Attorney HUMBOLDT COUNTY 825 5th Street Eureka, CA 95501	District Attorney MODOC COUNTY 204 S. Court Street, Room 202 Alturas, CA 96101	District Attorney SOLANO COUNTY 675 Texas Street, Suite 4500 Fairfield, CA 94533
District Attorney IMPERIAL COUNTY 940 West Main Street, Suite. 102 El Centro, CA 92243	District Attorney MONO COUNTY PO BOX 2053 Mammoth Lakes, CA 93546	District Attorney STANISLAUS COUNTY 832 12th Street, Suite 300 Modesto, CA 95353
District Attorney INYO COUNTY	District Attorney NEVADA COUNTY	District Attorney SUTTER COUNTY 446 Second Street, Suite 102

Yuba City, CA 95991

District Attorney  
TEHAMA COUNTY  
PO BOX 519  
Red Bluff, CA 96080

District Attorney  
TRINITY COUNTY  
PO BOX 310  
Weaverville, CA 96093

District Attorney  
TUOLUMNE COUNTY  
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Sonora, CA 95370

District Attorney  
YUBA COUNTY  
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1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102