JOSH VOORHEES, ESQ.
TROY C. BAILEY, ESQ.
990 Amarillo Ave
Palo Alto, CA 94303
650-815-6022

60-Day Notice of Violation - California Health & Safety Code § 25249.7(d)

August 20, 2018

Notice Recipient:	IQ Accessories, Inc.
Noticing Party:	Dennis Johnson
Covered Products:	Vinyl Ponchos
Listed Chemical:	Di(2-ethylhexyl) phthalate (DEHP)
Routes of Exposure:	Ingestion; Dermal
Potential Harm:	Birth Defects and Other Reproductive Harm

I. INTRODUCTION

This Sixty-Day Notice of Violation ("Notice") is provided by Dennis Johnson. Mr. Johnson is a private enforcer acting in the public interest pursuant to California Health & Safety Code section 25249.7(d). Mr. Johnson seeks to promote awareness of exposures to toxic chemicals in products sold and used in California and, if possible, to eliminate such exposures.

This Notice is provided to the alleged violator, IQ Accessories, Inc. (the "Notice Recipient"), as well as the California Attorney General's Office, the District Attorney's Office for 58 Counties, and the City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles.

The Notice Recipient is hereby given notice that it has violated and continues to violate provisions of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code section 25249.5 et seq. ("Proposition 65"). Specifically, the Notice Recipient has violated and continues to violate the warning requirement of section 25249.6 of the California Health & Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...." The alleged violations that are the subject of this Notice are provided below.

II. ALLEGED VIOLATIONS

Product Type/Category: The specific type or category of products that are causing consumer exposures in violation of Proposition 65, and that are covered by this Notice, are Vinyl Ponchos ("Covered Products").

Identified below is a specific example of a Covered Product recently purchased and witnessed as being available for purchase or use in California (the "Exemplar Product"). Based on publicly available information, the retailers, distributors, and/or manufacturers of the Exemplar Product are also provided.

The Exemplar Product is identified for the Notice Recipient's benefit to assist in its investigation of the allegations set forth in this Notice. The Exemplar Product is not meant to be an exhaustive or comprehensive identification of each specific offending product falling within the specific type or category of Covered Products at issue in this Notice. It is the private enforcer's position that the Notice Recipient is obligated to conduct a good-faith investigation into other specific products falling within the type or category of Covered Products that have been manufactured, imported, distributed, sold, shipped, stored, or are otherwise within the Notice Recipient's custody or control, so as to ensure the requisite toxic warnings were and are provided to California citizens prior to purchase.

Covered Products	*Exemplar Product Information*
Vinyl Ponchos	*Poncho-Green; UPC 8 72197 66467 5*; Retailer: Target Corporation (Mountain View, CA) Manufacturer/Distributor: IQ Accessories, Inc.

Listed Chemical: The alleged violation involves exposures to the Proposition 65-listed chemical di(2-ethylhexyl) phthalate (DEHP), hereinafter the "Listed Chemical". On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth defects and other reproductive harm.

Statement of Violations: The Notice Recipient knowingly and intentionally exposed, and continues to knowingly and intentionally expose, consumers within the State of California to DEHP, a chemical known to the State of California to cause birth defects and other reproductive harm, without first giving clear and reasonable warning of this exposure to such individuals. In particular, the Notice Recipient failed to provide a clear and reasonable warning to consumers that the Covered Products expose consumers to DEHP.

Route of Exposure: California citizens, through the act of buying, acquiring or utilizing the Covered Products, are exposed to the Listed Chemical. Children, men and women of childbearing age ingest the Listed Chemical when the Covered Product comes into direct contact with their mouth or they hold the Covered Product using their teeth, lips or mouth. Children, men and women of childbearing age ingest the Listed Chemical when they touch and

handle the Covered Products, transfer the Listed Chemical from the Covered Products onto their fingers and hands, and transfer the Listed Chemical from their fingers and hands to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Covered Product. Children, men and women of childbearing age are exposed to the Listed Chemical through direct dermal contact when they, among other activities, handle or touch the Covered Products.

Number and Duration of Violations: Each and every sale of a Covered Product to a consumer in California without a clear and reasonable warning is a violation, including transactions made over-the-counter, through the internet, and/or via catalogue by the Notice Recipient and any other sellers of the Covered Products. These violations have been occurring since at least August 20, 2017, as well as every day since the Covered Products were first introduced and sold in the State of California, as far back as August 20, 2015. The violations are ongoing.

III. CERTIFICATE OF MERIT

Pursuant to Health & Safety Code § 25249.7(d) and Title 11, California Code of Regulations, section 3100, a Certificate of Merit is attached hereto. A second copy of the entire notice and Certificate of Merit is served on the Attorney General, clearly marked "Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040" with all supporting documentation required by Section 3102 attached thereto.

IV. PROPOSITION 65 INFORMATION – A SUMMARY

A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under Proposition 65, is enclosed with the copy of the Notice served on the Notice Recipient.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, Mr. Johnson intends to file a citizen enforcement lawsuit against the Notice Recipient upon the expiration of the sixty-day notice period, provided no public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Notice.

If the Notice Recipient is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact counsel at the address provided below. It should be noted that no settlement may be finalized before the sixty-day notice period has expired and then only if no public prosecutor has commenced and is diligently prosecuting the alleged violation.

VI. PRESERVATION OF EVIDENCE

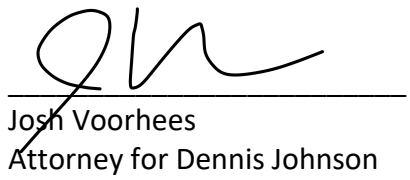
This Notice also serves as a demand that the Notice Recipient preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of the Listed Chemical in the Covered Products; purchase and sales information for Covered Products; efforts to comply with Proposition 65 with respect to the Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered products; and representative exemplars of each specific model falling within the Covered Products. This demand applies to all relevant evidence for Covered Products sold in the State of California, as far back as August 20, 2015, through the date of any trial of the claims alleged in this Notice.

VII. CONTACT INFORMATION

Mr. Johnson has retained me as legal counsel in this matter. Please direct all communications related to this Notice of Violation to my attention at the following address:

Josh Voorhees, Esq.
990 Amarillo Ave
Palo Alto, CA 94303
josh@voorheesbailey.com

Sincerely,



Josh Voorhees
Attorney for Dennis Johnson

cc: 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

Attachments: Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (IQ Accessories, Inc., *only*); and Confidential Information in Support of Certificate of Merit (*Attorney General Only)*

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Josh Voorhees, 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 chemical that is 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) certain facts, studies, or other data reviewed by those persons.

Dated: August 20, 2018

Josh Voorhees

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. I am employed in Santa Clara County, California. My business address is 990 Amarillo Ave., Palo Alto, CA 94303.

On August 20, 2018, I caused to be served the following documents:

> **60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);**
>
> **CERTIFICATE OF MERIT;**
>
> **AND THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

XXXX **By First Class Certified Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative.

Jerry Martin, CEO
IQ Accessories, Inc.
10799 Bren Road East
Minnetonka, MN 55343

On August 20, 2018, I caused to be served the following documents:

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

XXXX **By First Class Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each entity on the attached "U.S. Mail Service List" and providing such envelope to a United States Postal Service Representative, postage prepaid.

XXXX **By Electronic Mail** by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached "Electronic Mail Service List".

On August 20, 2018, I caused to be served the following documents:

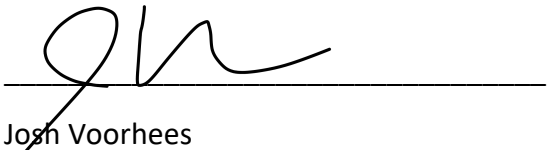
60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS

XXXX **By Electronic Upload** by causing true and correct copies of the above documents to be uploaded to the California Attorney General's website at the web address on the attached "Electronic Upload Service List".

Executed on August 20, 2018, at Palo Alto, California.



Josh Voorhees

U.S. Mail Service List

The Honorable Michael Atwell Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120	The Honorable Jackie Lacey Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	The Honorable Stephen Wagstaffe San Mateo County District Attorney 400 County Center Redwood City, CA 94063
The Honorable Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642	The Honorable David Linn Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	The Honorable Stephanie Bridgett Shasta County District Attorney 1355 West Street Redding, CA 96001
The Honorable Michael Ramsey Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965	The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Suite 145 San Rafael, CA 94903	The Honorable Lawrence Allen Sierra County District Attorney P.O. Box 886 Downieville, CA 95936
The Honorable Barbara Yook Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	The Honorable Thomas Cooke Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	The Honorable James Kirk Andrus Siskiyou County District Attorney 311 4th Street Yreka, CA 96097
The Honorable Matthew R. Beauchamp Colusa County District Attorney 346 Fifth Street, Suite 101 Colusa, CA 95932	The Honorable C. David Eyster Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	The Honorable Krishna Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
The Honorable Vern Pierson El Dorado County District Attorney 515 Main Street Placerville, CA 95667	The Honorable Jordan Funk Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	The Honorable Amanda Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991
The Honorable Lisa Smittcamp Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721	The Honorable Tim Kendall Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95988	The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	The Honorable Eric Heryford Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
The Honorable Maggie Fleming Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501	The Honorable Tony Rackauckas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable Laura Krieg Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Thomas Hardy Inyo County District Attorney P.O. Box Drawer D Independence, CA 93526	The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Mike Feuer Office of the City Attorney, Los Angeles James K. Hahn City Hall East 200 North Main Street, 8th Floor Los Angeles, CA 90012

The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301	The Honorable Candice Hooper San Benito County District Attorney 419 4th Street Hollister, CA 95023	The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
The Honorable Keith Fagundes Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	The Honorable Dennis Herrera Office of the City Attorney, San Francisco City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
The Honorable Donald Anderson Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	The Honorable Summer Stephan San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street,16th Floor San Jose, CA 95113

Electronic Mail Service List

Nancy O'Malley, District Attorney Alameda County District Attorney 7776 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org	Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org	Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Govt Center Annex, 4th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us
Allison Haley, District Attorney Napa County 1127 First Street, Ste C Napa, CA 94559 CEPD@countyofnapa.org	Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org	Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org
Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org	Jeffrey S. Rosell , District Attorney Santa Cruz County 701 Ocean Street Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us	Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us
Yen Dang Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org	Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org	Mark Ankcorn, Deputy City Attorney City of San Diego 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
Gregory D. Totten, District Attorney Ventura County 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org	Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us	Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org	Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us

Electronic Upload Service List

Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator P.O. Box 70550 Oakland, CA 94612-0550 https://oag.ca.gov/prop65/add-60-day-notice