

THE LAW OFFICE OF SARA B. POSTER

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Sixty-Day Notice of Violation - California Health & Safety Code Section 25249.7(d)

April 23, 2019

Notice Recipient: J.J. Buckley, LLC
Noticing Party: Patricia Forrester
Covered Products: Alcoholic Beverages

To Whom It May Concern:

I represent California consumer Patricia Forrester and write on her behalf, pursuant to California Health & Safety Code Sections 25249.7(a) & (d)(1), to notify you as to J.J. Buckley, LLC's violation, or threatened violation, of Section 25249.6, i.e., Proposition 65. The violations alleged by this Notice consist of types of harm that may potentially result from exposures to the toxic chemicals: ethyl alcohol in alcoholic beverages; alcoholic beverages, when associated with alcohol abuse; and alcoholic beverages, which were listed as known hazardous substances in 1987, 1988 and 2011, respectively.

NATURE OF ALLEGED VIOLATION

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.

Duration of the Violations

The violations have been occurring since at least January 1, 2019, and are ongoing.

Listed Chemical(s)

The listed chemicals involved in these violations are: ethyl alcohol in alcoholic beverages; alcoholic beverages, when associated with alcohol abuse; and alcoholic beverages (collectively, "Listed Chemicals"), known to the State of California to cause cancer, birth defects and other reproductive harm.

Type of Product and Route of Exposure

The types of product causing these violations are alcoholic beverages (“Covered Products”). Examples of Covered Products may include beer, wine or liquor. The consumer is exposed to the Listed Chemicals through ingestion as a result of drinking the product.

Description of Violation

J.J. Buckley is a retailer selling alcoholic beverages to residents of California through its website (www.jjbuckley.com). No clear and reasonable Proposition 65 warning is provided for these products, neither on the product pages nor before or at the point of sale, regarding the presence of the Listed Chemicals in the Covered Products.

RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, Ms. Forrester intends to file a citizen enforcement lawsuit against J.J. Buckley 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 J.J. Buckley is interested in resolving this dispute without resorting to time consuming and expensive litigation, please feel free to contact the undersigned directly on behalf of Ms. Forrester. Please note that no settlement may be finalized before the sixty-day notice period has expired provided that no public prosecutor has commenced and is diligently prosecuting the alleged violations.

PRESERVATION OF EVIDENCE

This Notice also serves as a demand that J.J. Buckley 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 Chemicals in the Covered Products; purchase and sales information for Covered Products; information concerning online purchases and sales of Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemicals in Covered Products; and representative exemplars of each specific product 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 January 1, 2019, through the date of any trial of the claims alleged in this Notice.

Sincerely,


Sara B. Poster

cc: California Attorney General's Office; District Attorney's Office for 58 Counties; and City Attorneys for San Francisco, San Diego, San Jose and Los Angeles

Attachments: Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (J.J. Buckley, LLC 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, Sara B. Poster, 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 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 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 Section 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: 4/23/19



Sara B. Poster

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 Los Angeles, California. My business address is 433 N. Camden Dr., Suite 400., Beverly Hills, CA 90210. On April 23, 2019, 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

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.

J.J. Buckley, LLC
7305 Edgewater Drive, Suite D
Oakland, California 94621

On April 23, 2019, 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 April 23, 2019, 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 April 23, 2019, at Los Angeles, California.

A handwritten signature in blue ink, appearing to read "S.B.P.", written over a horizontal line.

Sara B. Poster

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@rivcodaa.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
Gary Lieberstein District Attorney 931 Parkway Mall 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 Ankorn, 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
Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road. San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us	Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us	Valerie Lopez, Deputy City Attorney City of San Francisco 1390 Market Street, 7th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityattory.org

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>

U.S. Mail Service List

Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120	Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	San Mateo County District Attorney 400 County Center Redwood City, CA 94063
Amador County District Attorney 708 Court Street Jackson, CA 95642	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	Shasta County District Attorney 1355 West Street Redding, CA 96001
Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965	Marin County District Attorney 3501 Civic Center Drive, Suite 145 San Rafael, CA 94903	Sierra County District Attorney P.O. Box 886 Downieville, CA 95936
Colusa County District Attorney 346 Fifth Street, Suite 101 Colusa, CA 95932	Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	Siskiyou County District Attorney 311 4th Street Yreka, CA 96097
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
El Dorado County District Attorney 515 Main Street Placerville, CA 95667	Merced County District Attorney 550 W. Main Street Merced, CA 95340	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991
Glenn County District Attorney P.O. Box 430 Willows, CA 95988	Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501	Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301	Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	Office of the City Attorney, Los Angeles James K. Hahn City Hall East 200 North Main Street, 8th Floor Los Angeles, CA 90012
Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	San Benito County District Attorney 419 4th Street Hollister, CA 95023	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		Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113