



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING  
WATER AND TOXIC ENFORCEMENT ACT OF 1986  
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

February 14, 2020

Re: Violations of Proposition 65 concerning food products containing Acrylamide.

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the Chief Operating Office of Key Sciences, LLC (“Key Sciences”). Key Sciences is a limited liability corporation whose mission is to ensure accuracy of labeling for the benefit and protection of consumers of packaged goods through rigorous scientific testing.

Key Sciences has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Key Sciences intends to file a private enforcement action in the public interest 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.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

**FLOWERS FOODS, INC.**

**Consumer Products and Listed Chemical.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

1. **Dave’s Killer Bread – Thin-sliced 21 Whole Grains and Seeds (20.5 oz)**
2. **Dave’s Killer Bread – White Bread Done Right (24 oz)**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.



It should be noted that Key Sciences may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

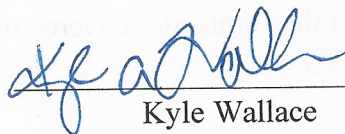
**Route of Exposure.** The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least 20 August, 2019, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Key Sciences is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

Please direct all questions concerning this notice to Key Sciences at the above listed address and telephone number.

Sincerely,



Kyle Wallace  
Chief Operating Officer  
Key Sciences

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Flowers Foods, Inc., and their Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)





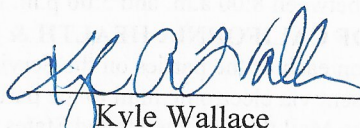
## CERTIFICATE OF MERIT

**Re: Key Sciences, LLC's Notice of Proposition 65 Violations by Flowers Foods, INC.**

I, Kyle Wallace, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the Chief Operating Officer for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on 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 that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & 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: February 14, 2020

  
\_\_\_\_\_  
Kyle Wallace



**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 7000 Broadway, Suite 305, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On February 14, 2020, between 8:00 a.m. and 5:00 p.m. Mountain Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Flowers Foods, INC.  
1919 Flowers Circle  
Thomasville, GA 31757

Corporation Service Company  
Flowers Food, INC.  
40 Technology Parkway South, Suite 300  
Norcross, GA 30092

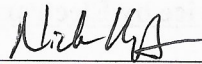
On February 14, 2020, between 8:00 a.m. and 5:00 p.m. Mountain Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On February 14, 2020, between 8:00 a.m. and 5:00 p.m. Mountain Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT;** on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title 27, §25903(c)(I) or via First Class 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 an envelope to a United States Postal Service Representative.



Executed on February 14, 2020, in Denver, CO



Nick Katz





**List for Service by Electronic Mail**

Alameda County District Attorney <a href="mailto:CEPDProp64@acgov.org">CEPDProp64@acgov.org</a>	Calaveras County District Attorney <a href="mailto:Prop65Env@co.calaveras.ca.us">Prop65Env@co.calaveras.ca.us</a>
Contra Costa County District Attorney <a href="mailto:sgrassini@contracostada.org">sgrassini@contracostada.org</a>	Inyo County District Attorney <a href="mailto:inyoda@inyocounty.us">inyoda@inyocounty.us</a>
Lassen County District Attorney <a href="mailto:mlatimer@co.lassen.ca.us">mlatimer@co.lassen.ca.us</a>	Monterey County District Attorney <a href="mailto:Prop65DA@co.monterey.ca.us">Prop65DA@co.monterey.ca.us</a>
Napa County District Attorney <a href="mailto:CEPD@countyofnapa.org">CEPD@countyofnapa.org</a>	Riverside County District Attorney <a href="mailto:Prop65@rivcoda.org">Prop65@rivcoda.org</a>
Sacramento County District Attorney <a href="mailto:Prop65@sacda.org">Prop65@sacda.org</a>	San Diego City Attorney <a href="mailto:CityAttyProp65@sandiego.gov">CityAttyProp65@sandiego.gov</a>
San Diego County District Attorney <a href="mailto:CityAttyCrimProp65@sandiego.gov">CityAttyCrimProp65@sandiego.gov</a>	San Francisco County District Attorney <a href="mailto:Gregory.alker@sfgov.org">Gregory.alker@sfgov.org</a>
San Francisco City Attorney <a href="mailto:Valerie.Lopez@sfcityatty.org">Valerie.Lopez@sfcityatty.org</a>	San Joaquin County District Attorney DA <a href="mailto:DAConsumer.Environmental@sjcda.org">DAConsumer.Environmental@sjcda.org</a>
San Luis Obispo County District Attorney <a href="mailto:edobroth@co.slo.ca.us">edobroth@co.slo.ca.us</a>	Santa Barbara County District Attorney <a href="mailto:DAProp65@co.santa-barbara.ca.us">DAProp65@co.santa-barbara.ca.us</a>
Santa Clara County District Attorney <a href="mailto:EPU@da.sccgov.org">EPU@da.sccgov.org</a>	Santa Cruz County District Attorney <a href="mailto:Prop65DA@santacruzcounty.us">Prop65DA@santacruzcounty.us</a>
Sonoma County District Attorney <a href="mailto:jbarnes@sonoma-county.org">jbarnes@sonoma-county.org</a>	Tulare County District Attorney <a href="mailto:Prop65@co.tulare.ca.us">Prop65@co.tulare.ca.us</a>
Ventura County District Attorney <a href="mailto:daspecialops@ventura.org">daspecialops@ventura.org</a>	Yolo County District Attorney <a href="mailto:cfepd@yolocounty.org">cfepd@yolocounty.org</a>



## List for Service by Mail

- District Attorney, Alpine County  
P.O. Box 248  
Markleeville, CA 96120
- District Attorney, Amador County  
708 Court Street, Suite 202  
Jackson, CA 95642
- District Attorney, Butte County  
25 County Center Drive, Suite  
245  
Oroville, CA 95965
- District Attorney, Colusa County  
346 Fifth Street Suite 101  
Colusa, CA 95932
- District Attorney, Del Norte County  
450 H Street, Room 171  
Crescent City, CA 95531
- District Attorney, El Dorado  
County  
778 Pacific St.  
Placerville, CA 95667
- District Attorney, Fresno County  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721
- District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988
- District Attorney, Humboldt County  
825 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501
- District Attorney, Imperial County  
940 West Main Street, Ste 102  
El Centro, CA 92243
- District Attorney, Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301
- District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230
- District Attorney, Lake County  
255 N. Forbes Street  
Lakeport, CA 95453
- District Attorney, Los Angeles County  
Hall of Justice 211 West Temple St., Ste  
1200  
Los Angeles, CA 90012
- District Attorney, Madera County  
209 West Yosemite Avenue  
Madera, CA 93637
- District Attorney, Marin County  
3501 Civic Center Drive, Room 130  
San Rafael, CA 94903
- District Attorney, Mariposa County  
Post Office Box 730  
Mariposa, CA 95338
- District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482
- District Attorney, Merced County  
550 W. Main Street  
Merced, CA 95340
- District Attorney, Modoc County  
204 S Court Street, Room 202  
Alturas, CA 96101-4020
- District Attorney, Mono County  
Post Office Box 617  
Bridgeport, CA 93517
- District Attorney, Nevada County  
201 Commercial Street  
Nevada City, CA 95959
- District Attorney, Orange County  
401 West Civic Center Drive  
Santa Ana, CA 92701
- District Attorney, Placer County  
10810 Justice Center Drive, Ste 240  
Roseville, CA 95678
- District Attorney, Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971
- District Attorney, San Benito County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023
- District Attorney, San Bernardino County  
303 West Third Street  
San Bernardino, CA 92415
- District Attorney, San Diego County  
330 West Broadway, Suite 1300  
San Diego, CA 92101
- District Attorney, San Mateo County  
400 County Ctr., 3rd Floor  
Redwood City, CA 94063
- District Attorney, Shasta County  
1355 West Street  
Redding, CA 96001
- District Attorney, Sierra County  
100 Courthouse Square, 2<sup>nd</sup> Floor  
Downieville, CA 95936
- District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097
- District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533
- District Attorney, Stanislaus County  
832 12th Street, Ste 300  
Modesto, CA 95354
- District Attorney, Sutter County  
463 2<sup>nd</sup> Street  
Yuba City, CA 95991
- District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080
- District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093
- District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370
- District Attorney, Yuba County  
215 Fifth Street, Suite 152  
Marysville, CA 95901
- Los Angeles City Attorney's Office  
City Hall East 200 N. Main Street, Suite  
800  
Los Angeles, CA 90012
- San Jose City Attorney's Office  
200 East Santa Clara Street, 16th Floor  
San Jose, CA 95113



List of Services by State

<p>Chronic Illness Management 4000 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 700 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1000 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 1100 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1200 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1300 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 1400 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1500 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1600 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 1700 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1800 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 1900 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 2000 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2100 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2200 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 2300 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2400 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2500 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 2600 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2700 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 2800 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 2900 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3000 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3100 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 3200 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3300 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3400 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 3500 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3600 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3700 W. 10th St. Tulsa, OK 74107</p>
<p>Chronic Illness Management 3800 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 3900 W. 10th St. Tulsa, OK 74107</p>	<p>Chronic Illness Management 4000 W. 10th St. Tulsa, OK 74107</p>