

60-DAY NOTICE OF VIOLATION

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

DATE: March 4, 2020

TO: Marc Faham, President – Sarina Accessories, LLC
Steven Becker, Chief Executive Officer – Tuesday Morning Corporation
Steven Becker, Chief Executive Officer – Tuesday Morning, 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: Paul Wozniak

I. INTRODUCTION

My name is Paul Wozniak. 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, Sarina Accessories, LLC, Tuesday Morning Corporation and Tuesday Morning, Inc. (the “Violators”). The violations covered by this Notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the toxic chemical (“Listed Chemical”) identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Diisononyl phthalate (“DINP”)
Routes of Exposure: Ingestion, Dermal
Types of Harm: Cancer

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under “Product Category/Type” in Exhibit A in Section VII. All products within the category covered by this Notice shall be referred to hereinafter as the “Products.” Exposures to the Listed Chemical 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 4, 2017. Without proper warnings regarding the toxic effects of exposures to the Listed Chemical 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 Chemical from the reasonably foreseeable use of the Products.

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 ingest the Listed Chemical when they, among other activities, touch the Products and transfer the Listed Chemical from the Products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Products stops. Additionally, consumers and other individuals are exposed to the Listed Chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the Products. 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:

Paul Wozniak
c/o Clifford A. Chanler
The Chanler Group
91 East Blithedale Avenue
Mill Valley, CA 94941
Telephone: (510) 647-8009

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 Violators' reference, I have attached a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (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 Violators unless such Violators enter 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 DINP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and costly

litigation, please feel free to contact my counsel identified in Section III. 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 category or type of offending Product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of Product are also provided below. I believe and allege that the sale of the offending Products has also 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 Violators and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Sarina Ring Stand & Phone Wallet Set For Smartphones, #2139947	Tuesday Morning Corporation; Tuesday Morning, Inc. San Joaquin County, California	Sarina Accessories, LLC

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxicant(s)</i>
Phone Wallets/Pockets	Sarina Ring Stand & Phone Wallet Set For Smartphones, #2139947	Diisononyl phthalate

*The specifically identified example of the Products that is subject to this Notice is for the recipients’ benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending Product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific Products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

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 a resident or employed in the county where the mailing occurred. My business address is 91 East Blithedale Avenue, Mill Valley, CA 94941.

On March 4, 2020, 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.

Marc Faham, President
Sarina Accessories, LLC
15 West 36th Street, 5th Floor
New York, NY 10018

Steven Becker, Chief Executive Officer
Tuesday Morning Corporation
6250 Lyndon B. Johnson Freeway
Dallas, TX 75240

Steven Becker, Chief Executive Officer
Tuesday Morning, Inc.
6250 Lyndon B. Johnson Freeway
Dallas, TX 75240

On March 4, 2020, 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 "Mail Service List" and providing such envelope to a United States Postal Service Representative or placing such envelope in a United States Postal Service mailbox, 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 "Email Service List".

On March 4, 2020, 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 March 4, 2020, in Sacramento, California.



Caroline Liang

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have 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 Violators 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 under Health and Safety Code § 25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier, and (ii) certain facts, studies, or other data reviewed by those persons.

Dated: March 4, 2020



Clifford A. Chanler

MAIL SERVICE LIST

The Honorable Michael Atwell
Alpine County District Attorney
P.O. Box 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive, Suite 245
Oroville, CA 95965

The Honorable Matthew R. Beauchamp
Colusa County District Attorney
346 Fifth Street, Suite 101
Colusa, CA 95932

Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Vern Pierson
El Dorado County District Attorney
778 Pacific Street
Placerville, CA 95667

The Honorable Lisa Smittcamp
Fresno County District Attorney
2220 Tulare Street, Suite 1000
Fresno, CA 93721

The Honorable Dwayne Stewart
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

The Honorable Maggie Fleming
Humboldt County District Attorney
825 5th Street, Fourth Floor
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Thomas Hardy
Inyo County District Attorney
P.O. Box Drawer D
Independence, CA 93526

The Honorable Cynthia Zimmer
Kern County District Attorney
1215 Truxtun Avenue, 4th Floor
Bakersfield, CA 93301

The Honorable Keith Fagundes
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Susan J. Kronen
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Susan Melyssah Rios
Lassen County District Attorney
2950 Riverside Drive, Suite 102
Susanville, CA 96130

The Honorable Jackie Lacey
Los Angeles County District Attorney
211 West Temple Street, Suite 1200
Los Angeles, CA 90012

The Honorable Sally O. Moreno
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Lori Frugoli
Marin County District Attorney
3501 Civic Center Drive, Suite 145
San Rafael, CA 94903

The Honorable Walter Wall
Mariposa County District Attorney
5101 Jones Street
P.O. Box 730
Mariposa, CA 95338

The Honorable C. David Eyster
Mendocino County District Attorney
100 North State Street, Room G-10
P.O. Box 1000
Ukiah, CA 95482

The Honorable Kimberly Lewis
Merced County District Attorney
550 West Main Street
Merced, CA 95340

The Honorable Samuel D. Kylo
Modoc County District Attorney
204 South Court Street, Suite 202
Alturas, CA 96101

The Honorable Tim Kendall
Mono County District Attorney
278 Main Street
P.O. Box 617
Bridgeport, CA 93517

The Honorable Clifford Newell
Nevada County District Attorney
201 Commercial Street
Nevada City, CA 95959

The Honorable Todd Spitzer
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

The Honorable R. Scott Owens
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

The Honorable David Hollister
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Anne Marie Schubert
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814

The Honorable Candice Hooper
San Benito County District Attorney
419 4th Street
Hollister, CA 95023

The Honorable Jason Anderson
San Bernardino County District Attorney
303 West 3rd Street, 6th Floor
San Bernardino, CA 92415-0502

The Honorable Summer Stephan
San Diego County District Attorney
330 West Broadway Street
San Diego, CA 92101

The Honorable Tori Verber Salazar
San Joaquin County District Attorney
P.O. Box 990
Stockton, CA 95201

The Honorable Stephen M. Wagstaffe
San Mateo County District Attorney
400 County Center, 3rd Floor
Redwood City, CA 94063

The Honorable Jeffrey Rosen
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Jeffrey S. Rosell
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Stephanie A. Bridgett
Shasta County District Attorney
1355 West Street
Redding, CA 96001

The Honorable Sandra Groven
Sierra County District Attorney
100 Courthouse Square, Room B1
P.O. Box 457
Downieville, CA 95936

The Honorable James Kirk Andrus
Siskiyou County District Attorney
311 4th Street
Yreka, CA 96097

The Honorable Krishna A. Abrams
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533

The Honorable Jill Ravitch
Sonoma County District Attorney
600 Administration Drive, Room 212 J
Santa Rosa, CA 95403

The Honorable Birgit Fladager
Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354

The Honorable Amanda L. Hopper
Sutter County District Attorney
463 Second Street, Suite 102
Yuba City, CA 95991

The Honorable Matthew Rogers
Tehama County District Attorney
444 Oak Street, Room L
Red Bluff, CA 96080

The Honorable Donna Daly
Trinity County District Attorney
P.O. Box 310
11 Court Street
Weaverville, CA 96093

The Honorable Tim Ward
Tulare County District Attorney
221 South Mooney Boulevard, Rm 224
Visalia, CA 93291-4593

The Honorable Laura L. Krieg
Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370

The Honorable Gregory D. Totten
Ventura County District Attorney
800 South Victoria Avenue, Suite 314
Ventura, CA 93009

The Honorable Jeff W. Reisig
Yolo County District Attorney
301 Second Street
Woodland, CA 95695

The Honorable Clint Curry
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901

The Honorable Mike Feuer
Office of the City Attorney, Los Angeles
James K. Hahn City Hall East
200 North Main Street, Suite 800
Los Angeles, CA 90012

The Honorable Susan Acala Wood
Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

The Honorable Mara W. Elliott
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
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

The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

EMAIL SERVICE LIST

Nancy O'Malley, District Attorney
Alameda County
7776 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Rd.
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District
Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
Napa County
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Gregory Alker, Assistant District
Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Valerie Lopez, Deputy City Attorney
Office of the City Attorney, San Francisco
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.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

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara St.
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepepd@yolocounty.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>