

## SIXTY DAY NOTICE OF VIOLATION

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

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**DATE:** April 6, 2020  
**To:** Esho; Walmart, 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>DEHP (Di[2-Ethylhexyl] Phthalate)</b>
<b>Routes of Exposure:</b>	<b>Touch, Oral, Dermal absorption</b>
<b>Types of Harm:</b>	<b>Carcinogen, Birth Defects, and Reproductive Toxicity</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 February 9, 2020 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 activities cause women, pregnant women, and women of child bearing age to be exposed directly through migration of the listed chemical from the products. These violations and threatened violations pertain to a chemical listed as both a carcinogen and a toxicant.

### **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>
Plastic tote	Walmart.com	Esho

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 tote	Clear tote purse	Esho

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.

April 6, 2020

*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 **60 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 April 6, 2020, 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	Walmart, Inc.	702 SW 8 <sup>th</sup> Street	Bentonville	AR	72716
Attn: CEO or President	Esho	2855 S. Reservoir St.	Pomona	CA	91766

II. California Attorney General (via website Portal): On April 6, 2020, 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 April 6, 2020, 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 ATTACHED FOR FULL SERVICE LIST

IV. District and City Attorneys (via email): On April 6, 2020, 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;  
valerie.lopez@sfcityatty.org; Prop65env@co.calaveras.ca.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.



April 6, 2020

Nate Ford

*Date*

*Name*

*Signature*

District Attorney  
ALPINE COUNTY  
PO Box 248  
Markleeville, CA 96120

District Attorney  
AMADOR COUNTY  
708 Court Street, #202  
Jackson, CA 95642

District Attorney  
BUTTE COUNTY  
25 County Center Drive —  
Administration Building  
Oroville, CA 95965

District Attorney  
COLUSA COUNTY  
346 5th Street, Suite. 101  
Colusa, CA 95932

District Attorney  
DEL NORTE COUNTY  
450 H Street, Room 171  
Crescent City, CA 95531

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EL DORADO COUNTY  
778 Pacific St.  
Placerville, CA 95667

District Attorney  
FRESNO COUNTY  
2220 Tulare Street, Suite. 1000  
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PO Box 430  
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825 5th Street  
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940 West Main Street, Suite. 102  
El Centro, CA 92243

District Attorney  
INYO COUNTY  
168 North Edwards  
Independence, CA 93526

District Attorney  
KERN COUNTY  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney  
KINGS COUNTY  
1400 West Lacey Blvd.  
Hanford, CA 93230

District Attorney  
LAKE COUNTY  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney  
LOS ANGELES COUNTY  
210 W. Temple Street  
Los Angeles, CA 90012

District Attorney  
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209 West Yosemite Avenue  
Madera, CA 93637

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3501 Civic Center Drive, Room 130  
San Rafael, CA 94903

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Mariposa, CA 95338

District Attorney  
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PO BOX 1000  
Ukiah, CA 95482

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Merced, CA 95340

District Attorney  
MODOC COUNTY  
204 S. Court Street, Room 202  
Alturas, CA 96101

District Attorney  
MONO COUNTY  
PO BOX 2053  
Mammoth Lakes, CA 93546

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201 Commercial Street  
Nevada City, CA 95959

District Attorney  
ORANGE COUNTY  
401 Civic Center Drive West  
Santa Ana, CA 92701

District Attorney  
PLACER COUNTY  
10810 Justice Center Drive  
Roseville, CA 95678

District Attorney  
PLUMAS COUNTY  
520 Main Street, Room 404  
Quincy, CA 95971

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419 4th Street  
Hollister, CA 95023

District Attorney  
SAN BERNARDINO COUNTY  
303 W. Third Street  
San Bernardino, CA 92415

District Attorney  
SAN MATEO COUNTY  
400 County Center, Third Floor  
Redwood City, CA 94063

District Attorney  
SHASTA COUNTY  
1355 West Street  
Redding, CA 96001

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SIERRA COUNTY  
100 Courthouse Square  
Downieville, CA 95936

District Attorney  
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PO BOX 986  
Yreka, CA 96097

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675 Texas Street, Suite 4500  
Fairfield, CA 94533

District Attorney  
STANISLAUS COUNTY  
832 12th Street, Suite 300  
Modesto, CA 95353

District Attorney  
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446 Second Street, Suite 102  
Yuba City, CA 95991

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PO BOX 519  
Red Bluff, CA 96080

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TRINITY COUNTY  
PO BOX 310  
Weaverville, CA 96093

District Attorney  
TUOLUMNE COUNTY  
423 No. Washington Street  
Sonora, CA 95370

District Attorney  
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215 Fifth Street, Suite. 152  
Marysville, CA 95901

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CITY OF LOS ANGELES  
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San Jose, CA 95113