MANNING LAW APC

20062 SW Birch St, Suite 200
Newport Beach, CA 92660
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

November 16, 2020

**NOTICE OF VIOLATION OF**
**CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.***
**(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent CalSafe Research Center, Inc. ("CRC"), 4533 MacArthur Blvd., Ste. 230, Newport Beach, CA 92660; Tel. (949) 630-0413. CRC's Executive Director is Eric Fairon. CRC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

CRC 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 Health and Safety Code Section 25249.7(d), CRC intends to pursue 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 enclosed with this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Gilster-Mary Lee Corp
111 Industrial Drive
Chester, Illinois 62233

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99 Cents Only Store
4000 Union Pacific Avenue
City of Commerce, CA 90023

**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:

Gilster-Mary Lee Corp., Hospitality Bunch O' Cinnamon Squares
Gilster-Mary Lee Corp Hospitality Frosted Shredded Wheat Bite Sized Cereal
Gilster-Mary Lee Corp Hospitality Corn Flakes Cereal

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

On February 25, 2011, the State of California officially listed acrylamide as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

It should be noted that CRC 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 August 8, 2020, 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.

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Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, CRC 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.

CRC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at P65@ManningLawOffice.com.**

Sincerely,

Joseph R. Manning, Jr.
P65@ManningLawOffice.com

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Alleged Violators only)
Factual Information in Support of Certificate of Merit (to AG only)

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## CERTIFICATE OF MERIT

**Re: CalSafe Research Center, Inc.'s Notice of Proposition 65 Violations by Gilster-Mary Lee Corp and 99 Cents Only Store.**

I, Joseph R. Manning, Jr., declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that 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 an attorney 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 consultations, 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: November 16, 2020

Joseph R. Manning, Jr.
P65@ManningLawOffice.com

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**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 20062 S.W. Birch, Newport Beach, CA 92660. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Newport Beach, California.

On April 16, 2020 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Thomas Welge/CEO
Gilster-Mary Lee Corp
PO Box 227
1037 State Street
Chester, Illinois 62233

Barry J. Feld/CEO
99 Cents Only Store
4000 Union Pacific Avenue
City Of Commerce, CA 90023

On November 17, 2020 between 8:00 a.m. and 5:00 p.m. Pacific Standard 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:

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

On November 17, 2020 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

| | |
|---|---|
| Nancy O'Malley, District Attorney<br>Alameda County<br>7677 Oakport Street, Suite 650<br>Oakland, CA 94621<br>CEPDProp65@acgov.org | Barbara Yook, District Attorney<br>Calaveras County<br>891 Mountain Ranch Road<br>San Andreas, CA 95249<br>Prop65Env@co.calaveras.ca.us |
| Stacey Grassini, Deputy District Attorney<br>Contra Costa County<br>900 Ward Street<br>Martinez, CA 94553<br>sgrassini@contracostada.org | Thomas L. Hardy, District Attorney<br>Inyo County<br>168 North Edwards Street<br>Independence, CA 93526<br>inyoda@inyocounty.us |
| Michelle Latimer, Program Coordinator<br>Lassen County<br>220 S. Lassen Street<br>Susanville, CA 96130<br>mlatimer@co.lassen.ca.us | Dije Ndreu, Deputy District Attorney<br>Monterey County<br>1200 Aguajito Road<br>Monterey, CA 93940<br>Prop65DA@co.monterey.ca.us |
| Allison Haley, District Attorney<br>Napa County<br>1127 First Street, Suite C<br>Napa, CA 94559<br>CEPD@countyofnapa.org | Michael Hestrin, District Attorney<br>Riverside County<br>3072 Orange Street<br>Riverside, CA 92501<br>Prop65@rivcoda.org |
| Anne Marie Schubert, District Attorney<br>Sacramento County<br>901 G Street<br>Sacramento, CA 95814<br>Prop65@sacda.org | Mark Ankcorn, Deputy City Attorney<br>San Diego City Attorney<br>1200 Third Avenue<br>San Diego, CA 92101<br>CityAttyProp65@sandiego.gov |

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| Gregory Alker, Assistant District Attorney<br>San Francisco County<br>732 Brannan Street<br>San Francisco, CA 94103<br>gregory.alker@sfgov.org | Valerie Lopez, Deputy City Attorney<br>San Francisco City Attorney<br>1390 Market Street, 7th Floor<br>San Francisco, CA 94102<br>Valerie.Lopez@sfcityatty.org |
| Tori Verber Salazar, District Attorney<br>San Joaquin County<br>222 E. Weber Avenue, Room 202<br>Stockton, CA 95202<br>DAConsumer.Environmental@sjcda.org | Eric J. Dobroth, Deputy District Attorney<br>San Luis Obispo County<br>County Government Center Annex, 4th Floor<br>San Luis Obispo, CA 93408<br>edobroth@co.slo.ca.us |
| Christopher Dalbey, Deputy District Attorney<br>Santa Barbara County<br>1112 Santa Barbara Street<br>Santa Barbara, CA 93101<br>DAProp65@co.santa-barbara.ca.us | Bud Porter, Supervising Deputy District Attorney<br>Santa Clara County<br>70 W Hedding St<br>San Jose, CA 95110<br>EPU@da.sccgov.org |
| Stephan R. Passalacqua, District Attorney<br>Sonoma County<br>600 Administration Dr<br>Sonoma, CA 95403<br>jbarnes@sonoma-county.org | Phillip J. Cline, District Attorney<br>Tulare County<br>221 S Mooney Blvd<br>Visalia, CA 95370<br>Prop65@co.tulare.ca.us |
| Gregory D. Totten, District Attorney<br>Ventura County<br>800 S Victoria Ave<br>Ventura, CA 93009<br>daspecialops@ventura.org | Jeff W. Reisig, District Attorney<br>Yolo County<br>301 Second Street<br>Woodland, CA 95695<br>cfepd@yolocounty.org |

On November 17, 2020 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT** on each parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

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Executed on November 17, 2020, in Newport Beach, California.

Diana Lopez

**Service List**

| | | |
|---|---|---|
| District Attorney, Alpine County<br>P.O. Box 248<br>Markleeville, CA 96120 | District Attorney, Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637 | District Attorney, San Diego County<br>330 West Broadway, Suite 1300<br>San Diego, CA 92101 |
| District Attorney, Amador County<br>708 Court Street, Suite 202<br>Jackson, CA 95642 | District Attorney, Marin County<br>3501 Civic Center Drive, Room 130<br>San Rafael, CA 94903 | District Attorney, San Mateo County<br>400 County Ctr., 3rd Floor<br>Redwood City, CA 94063 |
| District Attorney, Butte County<br>25 County Center Drive, Suite 245<br>Oroville, CA 95965 | District Attorney, Mariposa County<br>Post Office Box 730<br>Mariposa, CA 95338 | District Attorney, Shasta County<br>1355 West Street<br>Redding, CA 96001 |
| District Attorney, Colusa County<br>346 Fifth Street Suite 101<br>Colusa, CA 95932 | District Attorney, Mendocino County<br>Post Office Box 1000<br>Ukiah, CA 95482 | District Attorney, Sierra County<br>100 Courthouse Square, 2nd Floor<br>Downieville, CA 95936 |
| District Attorney, Del Norte County<br>450 H Street, Room 171<br>Crescent City, CA 95531 | District Attorney, Merced County<br>550 W. Main Street<br>Merced, CA 95340 | District Attorney, Siskiyou County<br>Post Office Box 986<br>Yreka, CA 96097 |
| District Attorney, El Dorado County<br>778 Pacific St<br>Placerville, CA 95667 | District Attorney, Modoc County<br>204 S Court Street, Room 202<br>Alturas, CA 96101-4020 | District Attorney, Solano County<br>675 Texas Street, Ste 4500<br>Fairfield, CA 94533 |
| District Attorney, Fresno County<br>2220 Tulare Street, Suite 1000<br>Fresno, CA 93721 | District Attorney, Mono County<br>Post Office Box 617<br>Bridgeport, CA 93517 | District Attorney, Stanislaus County<br>832 12th Street, Ste 300<br>Modesto, CA 95354 |
| District Attorney, Glenn County<br>Post Office Box 430<br>Willows, CA 95988 | District Attorney, Nevada County<br>201 Commercial Street<br>Nevada City, CA 95959 | District Attorney, Sutter County<br>463 2nd Street<br>Yuba City, CA 95991 |
| District Attorney, Humboldt County<br>825 5th Street 4th Floor<br>Eureka, CA 95501 | District Attorney, Orange County<br>401 West Civic Center Drive<br>Santa Ana, CA 92701 | District Attorney, Tehama County<br>Post Office Box 519<br>Red Bluff, CA 96080 |
| District Attorney, Imperial County<br>940 West Main Street, Ste 102<br>El Centro, CA 92243 | District Attorney, Placer County<br>10810 Justice Center Drive, Ste 240<br>Roseville, CA 95678 | District Attorney, Trinity County<br>Post Office Box 310<br>Weaverville, CA 96093 |

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| District Attorney, Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301 | District Attorney, Plumas County<br>520 Main Street, Room 404<br>Quincy, CA 95971 | District Attorney, Tuolumne County<br>423 N. Washington Street<br>Sonora, CA 95370 |
| District Attorney, Kings County<br>1400 West Lacey Boulevard<br>Hanford, CA 93230 | District Attorney, San Benito County<br>419 Fourth Street, 2nd Floor<br>Hollister, CA 95023 | District Attorney, Yuba County<br>215 Fifth Street, Suite 152<br>Marysville, CA 95901 |
| District Attorney, Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453 | Los Angeles City Attorney's Office<br>City Hall East<br>200 N. Main Street, Suite 800<br>Los Angeles, CA 90012 | San Jose City Attorney's Office<br>200 East Santa Clara Street, 16th Floor<br>San Jose, CA 95113 |
| District Attorney, Los Angeles County<br>Hall of Justice<br>211 West Temple St., Ste 1200<br>Los Angeles, CA 90012 | | |