



October 25, 2021

The Kroger Co.
c/o CSC-Lawyers Incorporating Service
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

Food 4 Less of Southern California, Inc.
c/o CSC-Lawyers Incorporating Service
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

Re: NOTICE OF VIOLATION AGAINST THE KROGER CO. AND FOOD 4 LESS OF SOUTHERN CALIFORNIA, INC. OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.6

To Whom It May Concern and to Public Prosecutors:

Ecological Alliance, LLC, a California limited liability company ("Alliance") is a California company acting in the interest of the general public seeking to further, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, the improvement of workers and consumer rights, environmental education and corporate accountability. As described below, Alliance has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "Act"), codified at Cal. Health & Safety Code §25249.5 *et seq.* by The Kroger Co., an Ohio corporation and Food 4 Less of Southern California, Inc., a Delaware corporation (collectively the "Violators"). This letter serves to provide Alliance's notification of these violations to the Violators and elected prosecutors. Pursuant to §25249.7(d) of the statute, Alliance intends to bring an enforcement action sixty (60) days or more after effective service of this notice unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

The products which are causing an exposure without a warning in violation of Proposition 65, are Simple Truth Organic breakfast cookies, including but not limited to UPC #011110082619; Kroger Crumdillyicious graham crackers, including but not limited to UPC #011110012807; and Simple Truth Organic raisin bran, including but not limited to UPC #011110092687 ("Products") manufactured/distributed by The Kroger Co. and offered for sale by retailers, including Food 4 Less of

Southern California, Inc., to California consumers.

A copy of the Proposition 65 summary prepared by the Office of Environmental Health Hazard Assessment is attached, to the copy of this letter served to the Violators.

Because of this lack of a warning, consumers were exposed to the following chemicals without the proper required Proposition 65 warnings: 1) Lead. The routes of exposure for this chemical are ingestion and dermal. Such exposure can cause cancer, birth defects and other reproductive harm. Exposures to the listed chemical from the use of the Products have been occurring without the clear and reasonable warnings required by Proposition 65, dating as far back as October 25, 2020, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the Products. 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 reasonable foreseeable use of the Products.

Alliance intends to file a private enforcement action as provided for in the Act for the alleged violations by the Violators, unless Violators agree in an enforceable written instrument to: (1) recall the listed products so as to eliminate further exposures to the identified chemicals; or (2) affix clear and reasonable Proposition 65 warning labels for products sold in the future or reformulate such products to eliminate the exposures; and (3) pay an appropriate civil penalty.

Consistent with the public interest goals of Proposition 65, Alliance is interested in seeking a constructive resolution to this matter, and invites Violators, should they seek early resolution of this matter, to communicate directly with Alliance's attorneys. Such resolution will avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all questions concerning this notice to Alliance's attorney, Vineet Dubey (dubey@cd-lawyers.com), Custodio & Dubey LLP, 445 S. Figueroa St., Suite 2520, Los Angeles, CA 90071, 213-593-9095.

Sincerely,



Vineet Dubey
Custodio & Dubey LLP

cc: see attached distribution list

Attachments:
Proposition 65 summary
Certificate of Merit
Certificate of Service


CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

Re: Ecological Alliance, LLC's Notice of Proposition 65 Violations by The Kroger Co. and Food 4 Less of Southern California, Inc.

I, Vineet Dubey, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-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 an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical that is the subject of the notice.
4. Based on the information obtained 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 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 California Health & Safety Code §25249.7(h)(2).

Dated: October 25, 2021



Vineet Dubey, Attorney at Law

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 445 S. Figueroa St., Ste 2520, Los Angeles, CA 90071.

On the date shown below, I served the following:

- 1) 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6
- 2) Certificate of Merit; Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy); Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); A Summary

on the alleged violator listed below 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 envelope to a United States Postal Service Representative:

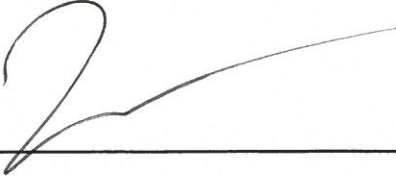
The Kroger Co.
c/o CSC-Lawyers Incorporating Service
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c/o CSC-Lawyers Incorporating Service
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as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to the parties listed on the attached Distribution List.

I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

October 25, 2021



Vineet Dubey

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|---|---|--|
| Alameda County District Attorney 1225 Fallon St, Room 900 Oakland, CA 94612 | Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012 | Mono County District Attorney PO Box 617 Bridgeport, CA 93517 |
| Alpine County District Attorney PO Box 248 Markleeville, CA 96120 | Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637 | San Joaquin County District Attorney PO Box 990 Stockton, CA 95201 -0990 |
| Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642 | Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338 | San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco, CA 94103 |
| Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385 | Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903 | San Diego County District Attorney 220 W Broadway, Ste 1200 San Diego, CA 92101-3803 |
| Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249 | Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482 | San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004 |
| Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550 | Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012 | San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102 |
| Colusa County District Attorney Courthouse, 547 Market St Colusa, CA 95932 | Inyo County District Attorney P.O. Drawer D Independence, CA 93526 | Placer County District Attorney 10810 Justice Center Drive Suite 240 Roseville, CA 95678-6231 |
| Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553 | Orange County District Attorney PO Box 808 Santa Ana, CA 92702 | Merced County District Attorney 550 W. Main St. Merced, CA 95340 |
| Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531 | Nevada County District Attorney 10075 Levon Ave. Truckee, CA 96161 | Napa County District Attorney PO Box 720 Napa, CA 94559-0720 |
| El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697 | Plumas County District Attorney 520 Main Street, Rm 404 Ouinaville, CA 95971 | Riverside County District Attorney 3960 Orange Street, Suite 6 Riverside, CA 92501 |
| Fresno County District Attorney 2220 Tulare St, Ste. 1000 Fresno, CA 93721 | Sacramento County District Attorney 901 G Street Sacramento, CA 95814 | San Benito County District Attorney 419 4th St Hollister, CA 95023 |
| Glenn County District Attorney PO Box 430 Willows, CA 95988 | San Luis Obispo County District Attorney County Government Center, Rm 450 San Luis Obispo, CA 93408 | Siskiyou County District Attorney PO Box 986 Yreka, CA 96097 |
| Humboldt County District Attorney 825 5th St., 4th Floor Eureka, CA 95501 | San Mateo County District Attorney 400 County Center Redwood City, CA 94063 | Solano County District Attorney 600 Union Ave Fairfield, CA 94533 |
| Imperial County District Attorney 939 W. Main St., 2nd Floor El Centro, CA 92243-2860 | Santa Barbara County District Attorney 1112 Santa Barbara St. Santa Barbara, CA 93101 | Sonoma County District Attorney 600 Administration Dr. Rm 212-J Santa Rosa, CA 95403 |
| Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301 | Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110 | Shasta County District Attorney 1355 West St. Redding, CA 96001-1632 |
| Kings County District Attorney Gov't Ctr, 1400 W Lacey Blvd Hanford, CA 93230 | Santa Cruz County District Attorney 701 Ocean St., Room 200 Santa Cruz, CA 95060 | Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457 |
| Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790 | Stanislaus County District Attorney PO Box 442 Modesto, CA 95353 | Trinity County District Attorney PO Box 310 Weaverville, CA 96093 |
| Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020 | Sutter County District Attorney 446 Second Street Yuba City, CA 95991 | Yuba County District Attorney 215 5th St Marysville, CA 95901 |
| San Diego City Attorney City Center Plaza 1200 3rd Ave # 1100 San Diego, CA 92101 | Lassen County District Attorney 200 S Lassen St, Suite 8 Susanville, CA 96130 | Monterey County District Attorney PO Box 1131 Salinas, CA 93902 |
| Tuolumne County District Attorney 2 S Green St Sonora, CA 95370 | Tulare County District Attorney County Civic Center, Rm 224 Visalia, CA 93291 | Yolo County District Attorney 310 Second St Woodland, CA 95695 |
| Ventura County District Attorney 800 S Victoria Ave Ventura, CA 93009 | Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080 | San Jose City Attorney 200 E. Santa Clara St 16th Floor San Jose, CA 95110 |