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November 2, 2021

PROPOSITION 65 VIOLATION NOTICE AND INTENT TO SUE LETTER

Response Due by January 3, 2022

VIA US MAIL

Veronica Rangel
General Liability Claims Field Specialist
General Liability Claims
Mercury Casualty Company
PO Box 10730 Santa Ana, Ca 92711
Phone: (888) 263-7287 ext. 22614
Fax: (866) 268-8494

California Attorney General's Office
300 S Spring St #1700,
Los Angeles, CA 90013

San Bernardino County
District Attorney's Office
303 W. 3rd Street
San Bernardino, CA 92415
(909) 382-3800

RE: Melissa Solis, et al. v. Connie Milan, et al.

**NOTICE OF INTENT TO SUE YOUR INSUREDS CONNIE MILAN AND HYMAN
GIBSON – 60 Day Notice Letter Requirement of Intent to Sue After 60 Day Period**

Dear Ms. Rangel,

GENERAL INFORMATION

For general information, please see “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary” prepared by the California EPA and attached to this notice as Appendix A. (Appendix not included in notice served on public enforcement agencies.)

PURPOSE OF NOTICE

Proposition 65 requires that notice of the alleged violation(s) and of the intent to sue be given to the violator(s) at least 60 days before a lawsuit is filed. This letter is sent pursuant to the provisions of Health & Safety Code § 25249.7, and satisfies the statutory notice prerequisite for filing an action in the Superior Court against any of the violators. If the governmental authorities, on which this notice is served, do not take action with respect to the alleged violation within 60 calendar days of the sending

of this notice, and an additional five days if the place of mailing and the place of receipt are both in California, Melissa Solis, Joshua Vargas, and Isaac Gonzalez may file suit.

DESCRIPTION OF VIOLATION

This notice is given by the Melissa Solis, Josh Vargas, and Isaac Gonzalez (collectively “Plaintiffs” or “Tenants”) to Connie Milan and Hyman Gibson, pursuant to the provisions of Health & Safety Code § 25249.6 et seq. The violations covered by this notice consist of the following:

CHEMICAL: Asbestos.

DATE OF LISTING: On February 27, 1987, the chemical asbestos was added to the list of chemicals known to cause cancer, which is more than 34 years before the Plaintiffs served this notice.

ROUTE OF EXPOSURE: Inhalation.

DATES AND NATURE OF ALLEGED VIOLATION: Plaintiffs are tenants of the property located at 8690 Holly Street, Alta Loma, California (the “Property”), which is owned by landlords Connie Milan and Hyman Gibson (the “Landlords”). Plaintiffs’ persons and property have been exposed to unreasonably dangerous concentrations of asbestos fibers and asbestos-containing materials (“ACM”) in the Property, as a result of Landlord’s and FR Roofing Services’ failure to disclose that the ACM was present, their improper renovation of the building, improper and unlicensed removal of the ACM, and improper remediation of the resulting asbestos contamination. As a result of the above, ACM and asbestos contaminated Plaintiffs’ apartments, their personal effects, and the food and water they ingested. Landlords never disclosed the presence of asbestos or ACM on the Property to Plaintiffs. Landlords never provided Plaintiffs with any prior notice or warning under the Environmental Protection Agencies Safe Drinking Water and Toxic Enforcement Act of 1986 – Chemicals Known to the State to Cause Cancer or Reproductive Toxicity as of March 2021.

Specifically, in September 2021, the Landlords hired FR Roofing Services as their contractor to perform a roofing project on the Property and install new roofing. During the course of the roofing work, on two separate occasions on September 13-14, 2021, the feet of roofers who were employees of FR Roofing Services came through the ceiling, causing the ceiling to collapse with large holes in the ceiling, and causing insulation and debris to be disbursed, scattered, and exposed throughout the Property and air. These roofing incidents caused asbestos fibers and ACM within the walls and insulation to be disbursed and scattered throughout the Property and into the air. Unbeknownst to Plaintiffs, the insulation and debris that was exposed and to which they were exposed during the roofing incidents contained unreasonably dangerous concentrations of asbestos fibers and ACM. The concentrations of asbestos in the acoustic panels in the master bedroom were above 4% and created substantial danger to Plaintiffs’ health. As a result, ACM and asbestos fibers were emitted and disbursed into the Plaintiffs’ living space throughout the Property without proper protection, warnings, or safeguards. This asbestos exposure, which had never before been disclosed to Plaintiffs (at the time of signing or otherwise), created a substantial danger to the health and safety of Plaintiffs.

Shortly after the first roofing incident, an employee of FR Roofing Services who was managing and overseeing the roofing project informed Plaintiffs that they would have someone clean up the insulation and debris that had contaminated the Property—notwithstanding the fact that FR Roofing has never been licensed to perform asbestos abatement services, nor to perform cleaning and disposal of hazardous

substances. An employee of FR Roofing Services then came into the Property and utilized Plaintiffs' own cleaning equipment, specifically Plaintiffs' personal vacuum cleaner, to vacuum the floor in the master bedroom. The individual from FR Roofing Services then manually picked up debris, and walked it outside of the master bedroom, dragging it across the floor and carpeting throughout, and delivered it to an unknown outside location to dispose of it. FR Roofing Services then put a piece of drywall upon the ceiling hole and purported to "seal it off."

After the second roofing incident which occurred on September 14, 2021, Landlord Hyman Gibson instructed the construction manager employee of FR Roofing Services to clean up the debris that had been disbursed in the in the Property's bathroom—notwithstanding the fact that FR Roofing Services is not licensed to conduct asbestos abatement. The employee of FR Roofing Services then had his wife come to perform the "cleanup," who came into the bathroom in gym clothes and performed the "cleanup" without proper asbestos abatement equipment, never built or maintained a containment unit, and literally followed not one protocol to protect Plaintiffs or herself.

Landlords refused and continue to refuse to hire professional licensed cleaning services to dispose of ACM, and instead undertook cleanup and disposal themselves with the assistance of roof worker employees, neither of whom are licensed to do a Procedure 5 cleanup. South Coast Air Quality Management District ("AQMD") inspected the premises and issued a Notice to Comply, Asbestos to Landlords and FR Roofing Services based on violations of Rule 1403. Landlords have not complied with the Notices to Comply, and thereafter AQMD has issued violations to Landlords and FR Roofing Services. To date, Landlords still have refused to provide a Procedure 5 cleanup, and the premises remain unsafe.

PLEASE DIRECT ANY INQUIRIES TO:

Whitney D. Ackerman, Esq.
17326 Tiara St
Encino, CA 91316
Telephone: (818) 426 - 9591

All rights reserved.

Sincerely,
/s/ Whitney D. Ackerman
Whitney D. Ackerman

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

I, Whitney D. Ackerman, 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. Attached hereto as **Exhibit A** are the South Coast Air Quality Management District’s Notices to Comply, Asbestos, that were issued to the alleged violators in or around September 22, 2021.

6. 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.

Dated: 11/02/2021

/s/ Whitney D. Ackerman
Whitney D. Ackerman, Esq.

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 eighteen and am not a party to the action. My business mailing address is 468 N. Camden Dr.
4 #278B, Beverly Hills, CA 90210.

5 On November 2, 2021, I served the following document(s) described as

- 6 • **PROPOSITION 65 VIOLATION NOTICE AND INTENT TO SUE LETTER &**
- 7 **APPENDIX A (Appendix not included in notice served on public enforcement**
- 8 **agencies.)**
- 9 • **CERTIFICATE OF MERIT**

10 as follows:

11 Veronica Rangel 12 General Liability Claims Field Specialist 13 General Liability Claims 14 Mercury Casualty Company 15 PO Box 10730 Santa Ana, Ca 92711 16 Phone: (888) 263-7287 ext. 22614 17 Email: vrangel@mercuryinsurance.com 18 <i>On behalf of insureds Hyman Gibson 19 and Connie Milan</i>	20 California Attorney General's Office 21 300 S Spring St #1700, 22 Los Angeles, CA 90013
23 San Bernardino County 24 District Attorney's Office 25 303 W. 3rd Street 26 San Bernardino, CA 92415 27 (909) 382-3800	

28 **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth above to Veronica Rangel from Mercury Casualty Company and to the San Bernardino County District Attorney's Office.

By electronic transmission and submission. I caused the documents above to be filed electronically with the California Attorney General's Office via the link <https://oag.ca.gov/prop65/add-60-day-notice>. I also caused the document to be sent from e-mail address shuki@bergergreer.com to the Veronica Rangel at the e-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

29 **I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed in Los Angeles, California.**

30 Executed on September 23, 2021 at Los Angeles, California.

31 /s/ Joshua C. Greer

32 Joshua C. Greer, Esq.

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