

*Please reply to:  
Gillian L. Wade  
gwade@mjfwlaw.com*

February 22, 2022

**VIA CERTIFIED U.S. MAIL**

Scent Theory Products LLC  
148 W 37th St., 14th Floor  
New York, NY 10018

Corporate Creations Network Inc.  
Registered Agent for Scent Theory Products, LLC  
801 US Highway 1  
North Palm Beach, FL 33408

Rob Bonta, Attorney General  
Office of the Attorney General  
Attn: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, California 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>

*[Additional District & City Attorneys Copied]*

**Re: 60-Day Notice Pursuant to Cal. Health & Safety Code § 25249.5, et seq.  
Violation of Proposition 65 Warning by Scent Theory Products LLC**

To Scent Theory Products LLC, Mr. Bonta, and Whomever Else it May Concern:

I represent California consumer La Nita M. Dominique-Tate in this matter and write on her behalf, pursuant to California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health and Safety Code section 25249.5, *et seq.*, to notify you of Scent Theory Products LLC's (the "Violator") violations of Proposition 65 in its sale of the Born Basic Anti-bac Hand Sanitizer (the "Product"). The violations alleged by this notice consist of types of harm that may potentially result from exposures to the toxic chemical benzene, which was listed as a known hazardous substance in February of 1987. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to section 25249.7(d) of the statute, Ms. Dominique-Tate intends to file 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 attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 is: Scent Theory Products LLC.

**Consumer Product and Listed Chemical.** The product that is the subject of this notice is Born Basic Anti-bac Hand Sanitizer, a hand sanitizer product sold by Scent Theory Products LLC. The chemical in that product identified as exceeding allowable levels is benzene (CAS No. 71-43-2).

On February 27, 1987, the State of California officially listed benzene as a chemical known to cause cancer.

**Provision of Proposition 65.** This notice covers the “warning provision” of Proposition 65, which is found at California Health & Safety Code § 25249.6.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, and recommended use of the Product. Consequently, the primary route of exposure to these chemicals has been and continues to be through dermal absorption through direct skin contact with the hand sanitizer. There is also a risk of exposure through ingestion.

**Violations.** The Violator has exposed and continues to expose consumers within the State of California to benzene at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the Violator does not warn that the Product contains a chemical known to the State of California to cause cancer.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since March 2021 or earlier, as well as every day since the Product was introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers or until these known toxic chemicals are either removed from or reduced to allowable levels in the Product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears where the product is sold. The Violator violated Proposition 65 because it failed to provide persons using these products with appropriate warnings that they are being exposed to benzene.

**Resolution of Noticed Claims.** Based on the allegations set forth in this notice, Ms. Dominique-Tate intends to file a citizen enforcement lawsuit against Scent Theory Products LLC unless it agrees to provide clear and reasonable warnings for products sold or otherwise provided to consumers in the future to eliminate unknowing exposures to benzene, and pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b).

Ms. Dominique-Tate has retained me as legal counsel in connection with this matter. Please direct all communications regarding this notice to my attention at the law office address and telephone number indicated on the letterhead.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Wade".

Gillian L. Wade

Attachments:

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Violators only)
- Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Notice of Proposition 65 Violations**

Gillian L. Wade declares:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am Gillian L. Wade, attorney for the noticing party, La Nita M. Dominique-Tate.

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 exposures to the listed chemicals and the subject of the action.

4. Based on the information obtained through those consultants, 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 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. 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: February 22, 2022

By:



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Gillian L. Wade  
Attorney for La Nita M. Dominique-Tate

*[Attachment for Attorney General Only]*

## CERTIFICATE OF SERVICE

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, over the age of 18 years of age, and am not a party to the within action.

On February 22, 2022, I served the following documents: 60-DAY NOTICE PURSUANT TO CAL. HEALTH & SAFETY CODE § 25249.5, *et seq.*; CERTIFICATE OF MERIT; "THE SAFE 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 the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid and delivery by Certified Mail:

Scent Theory Products LLC  
148 W 37th St., 14th Floor  
New York, NY 10018

Corporate Creations Network Inc.  
Registered Agent for Scent Theory Products, LLC  
801 US Highway 1  
North Palm Beach, FL 33408

On February 22, 2022, I served the following documents: 60-DAY NOTICE PURSUANT TO CAL. 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) on the following parties by (1) placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid and delivery by Certified Mail and (2) uploading the foregoing documents at the webpage listed below:

Rob Bonta, Attorney General  
Office of the Attorney General  
Attn: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, California 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>

On February 22, 2022, I served the following documents: 60-DAY NOTICE PURSUANT TO CAL. HEALTH & SAFETY CODE § 25249.5, *et seq.*; CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto. As to those parties listed by mailing address only, I effected service 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 with the U.S. Postal Service with postage fully prepaid for delivery by Priority Mail. As to those parties having an e-mail address listed, I effected service by transmitting the document via electronic transmission to the email address listed.

Executed under penalty of perjury pursuant to the laws of the State of California on  
February 22, 2022.

A handwritten signature in black ink, appearing to read "David Marin", written above a horizontal line.

David Marin

**Service List**

<p>Lon Wixson, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 lwixson@contracostada.org</p>	<p>Karyn Sinunu-Towery, Assistant District Attorney Santa Clara County 70 West Hedding Street, West Wing San Jose, CA 95110 epu@da.sccgov.org</p>	<p>Birgit Fladager District Attorney, Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354 Prop65@standa.org</p>
<p>Gary Lieberstein District Attorney Napa County 931 Parkway Mall Napa, CA 94559 CEPD@countyofnapa.org</p>	<p>Dije Ndreu, Deputy District Attorney, Monterey County 230 Church Street, Bldg. 2 Salinas, CA 93901 Prop65DA@co.monterey.ca.us</p>	<p>Stephan R. Passalacqua District Attorney, Sonoma County 600 Administration Drive, Rm. 212J Santa Rosa, CA 95403 jbarnes@sonoma-county.org</p>
<p>Phillip J. Cline District Attorney, Tulare County 221 S. Mooney Avenue, Rm. 224 Visalia, CA 93291 Prop65@co.tulare.ca.us</p>	<p>Gregory D. Totten District Attorney, Ventura County 800 South Victoria Avenue Ventura, CA 93009 daspecialops@ventura.org</p>	<p>Paul E. Zellerbach District Attorney, Riverside County 4075 Main Street Riverside, CA 92501 Prop65@rivcoda.org</p>
<p>District Attorney of Alameda County 1225 Fallon Street, Rm. 900 Oakland, CA 94612</p>	<p>District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120</p>	<p>District Attorney of Amador County 708 Court Street, Ste. 202 Jackson, CA 95642</p>
<p>District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965</p>	<p>District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249</p>	<p>District Attorney of Colusa County 346 5<sup>th</sup> St., #101 Colusa, CA 95932</p>
<p>District Attorney of Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531</p>	<p>District Attorney of El Dorado County 778 Pacific St. Placerville, CA 95667</p>	<p>District Attorney of Fresno County 2220 Tulare Street, Ste. 1000 Fresno, CA 93721</p>
<p>District Attorney of Glenn County P.O. Box 430 Willows, CA 95988</p>	<p>District Attorney of Humboldt County 825 5th Street, 4<sup>th</sup> Floor Eureka, CA 95501</p>	<p>District Attorney of Imperial County 940 W. Main St., Suite 102 El Centro, CA 92243</p>
<p>District Attorney of Inyo County P.O. Box D Independence, CA 93526</p>	<p>District Attorney of Kern County 1215 Truxtun Avenue, 4<sup>th</sup> Floor Bakersfield, CA 93301</p>	<p>District Attorney of Kings County 1400 West Lacey Blvd. Hanford, CA 93230</p>
<p>District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453</p>	<p>District Attorney of Lassen County 220 S. Lassen Street, Ste. 8 Susanville, CA 96130</p>	<p>District Attorney of Los Angeles County 211 W. Temple Street, Ste. 1200 Los Angeles, CA 90012</p>

District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of Marin County 3501 Civic Center Drive, Rm. 145 San Rafael, CA 94903	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338
District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of Merced County 550 W. Main Street Merced, CA 95340	District Attorney of Modoc County 204 S. Court Street, Rm. 202 Alturas, CA 96101-4020
District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93546	District Attorney of Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney of Orange County 401 Civic Center Drive West Santa Ana, CA 92701
District Attorney of Placer County 10810 Justice Ctr. Drive, Ste. 240. Roseville, CA 95678	District Attorney of Plumas County 520 Main Street, Rm. 404 Quincy, CA 95971	District Attorney of Sacramento Cty. 901 G Street Sacramento, CA 95814
District Attorney of San Benito County 419 Fourth Street, 2nd Fl. Hollister, CA 95023	District Attorney of San Bernardino County 303 W. 3 <sup>rd</sup> St., 6 <sup>th</sup> Floor San Bernardino, CA 92415	District Attorney of San Diego County 330 West Broadway, Ste. 1300 San Diego, CA 92101
District Attorney of San Francisco County 850 Bryant Street, Rm. 322 San Francisco, CA 94103	District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95201	District Attorney of San Luis Obispo County 1035 Palm St., 4 <sup>th</sup> Floor San Luis Obispo, CA 93408
District Attorney of San Mateo County 400 County Center, 3rd Fl. Redwood City, CA 94063	District Attorney of Santa Cruz County 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060	District Attorney of Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101
District Attorney of Shasta County 1355 West Street Redding, CA 96001	District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2nd Fl. Downieville, CA 95936	District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097
District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	District Attorney of Sutter County 463 2 <sup>nd</sup> St. Suite 102 Yuba City, CA 95991	District Attorney of Tehama County 444 Oak St., Room L Red Bluff, CA 96080
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	District Attorney of Yolo County 301 Second Street Woodland, CA 95695
District Attorney of Yuba County 215 Fifth Street	Los Angeles City Attorney's Office City Hall East	San Diego City Attorney's Office 1200 Third Avenue, Ste. 1620



Marysville, CA 95901	200 N. Main Street, Rm. 800 Los Angeles, CA 90012	San Diego, CA 92101
San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113	California Attorney General's Office Attention: Proposition 65 Coordinator and Robert Thomas 1515 Clay Street, Ste. 2000 P.O. Box 70550 Oakland, CA 94612-0550