

CLIFFWOOD LAW FIRM, PC

12100 WILSHIRE BLVD, SUITE 800
LOS ANGELES, CALIFORNIA 90025

VIA CERTIFIED FIRST CLASS MAIL

Current President or CEO
Camanchaca, Inc.
c/o NRAI Services, Inc., Agent
1200 South Pine Island Road
Plantation, FL 33324

Current President or CEO
Pier 33 Gourmet Seafood by Camanchaca
7200 N.W. 19 Street, Suite 410
Miami, FL, 33126-1225

Current President or CEO
Winco Foods, LLC
c/o CSC-Lawyers Incorporating Service
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

Current President or CEO
Target Corporation
CT Corporation System
818 W. 7th St. STE
930 Los Angeles, CA 90017

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

VIA ELECTRONIC FILING

State of California Department of Justice
Office of Attorney General of California
Filing link: oag.ca.gov/prop65

VIA FIRST CLASS MAIL

District Attorneys of California Counties
and City Attorneys, as in the Certificate of
Service

VIA E-MAIL

District Attorneys of California Counties
and City Attorneys, as in the Certificate of
Service

CLIFFWOOD LAW FIRM, PC

12100 WILSHIRE BLVD, SUITE 800
LOS ANGELES, CALIFORNIA 90025

RE: Lead and Cadmium Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co.

June 21, 2022

60-DAY NOTICE OF INTENT TO SUE

for violations of the Safe Drinking Water and Toxic Enforcement Act of 1986

Dear Alleged Violators and Public Enforcement Agencies,

Cliffwood Law Firm, PC represents Clean Product Advocates, LLC (“CPA”), a California company supporting public health and advocating for the reduction of chemical toxins in consumer products. By sending this notice of violation of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.5 *et seq.*, CPA is acting as an “in the public interest” pursuant to Proposition 65.

As described below, CPA has identified violations of the warning prong of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65” or “Act”), codified at Cal. Health & Safety Code § 25249.6 *et seq.* by Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co. (collectively, the “Violators”).

Pursuant to § 25249.7(d) of the statute, CPA intends to bring an enforcement action against the Violators sixty (60) days after the effective service of this notice unless public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

This Notice covers the violations of Proposition 65 that are currently known to CPA from information now available as specifically related to the violating products listed below and manufactured, distributed or/and sold by and through the Violators. Cliffwood Law Firm is continuing its investigation that may reveal further violations.

The Specified Product(s) subject to this Notice, the chemical(s) in the Specified Product(s) identified as exceeding allowable levels, and the Violators responsible for sales of the Specified Products, are as follows:

| Specified Products | Violative chemical | Noticed Party |
|---|--------------------|---|
| Fully Cooked Mussels UPC: 824710335012 | Lead and Cadmium | Camanchaca, Inc. Pier 33 Gourmet Seafood by Camanchaca Winco Foods, LLC Target Corporation The Kroger Co. |

The primary route of exposure has been through ingestion.

Noticed Parties have manufactured, marketed, distributed and/or sold the Specified Products which, according to the test results, have exposed and continue to expose consumers within the State of California to lead and cadmium.

Lead ("lead") is listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity, reproductive toxicity, and cancer. Cal. Health & Safety Code § 25249.6 requires that a "clear and reasonable" warning be provided prior to exposure to chemicals listed under Proposition 65. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to lead. While in the course of doing business, the Noticed Parties are knowingly and intentionally exposing consumers to lead without first providing a "clear and reasonable" warning.

Cadmium ("cadmium") is listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity, reproductive toxicity, and cancer. Cal. Health & Safety Code § 25249.6 requires that a "clear and reasonable" warning be provided prior to exposure to chemicals listed under Proposition 65. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to cadmium. While in the course of doing business, the Noticed Parties are knowingly and intentionally exposing consumers to cadmium without first providing a "clear and reasonable" warning.

The method of warning should be a warning that appears on the product's label. See Cal. Code Regs. tit. 27, § 25602, subd. (a)(3), and subd. (b) for internet purchases also at the point of sale, as applicable. The Noticed Parties have not provided any Proposition 65 warnings as required by law or any other appropriate warnings that person's handling, ingesting and/or otherwise using the Specified Products are being exposed to lead and cadmium.

With respect to each Specified Product listed above, the violation commenced on the latter of the date that the Specified Product was first offered for sale in California or the date upon which California law codified the allowable level of the relevant chemical; has continued every day since the relevant date the violation commenced; and will continue every day henceforth until lead and cadmium are removed from each Specified Product, reduced to allowable levels, or until a "clear and reasonable" warning is provided to consumers by the Noticed Parties, as applicable, in accordance with the law.

Pursuant to Title 27, C.C.R. § 25903(b), copies of the following documents are attached hereto for reference by the Notices Parties:

(i) "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary."

Pursuant to Title 11, C.C.R. § 3100, the "Certificate of Merit" is attached hereto.

CPA intends to file a lawsuit after 60 days based on the facts set forth in this Notice. Meanwhile we encourage a prompt resolution of this matter within the said period of 60 days where the Noticed Parties agree in a written agreement to (1) eliminate or reduce lead and cadmium to an allowable level in the Specified Products or, as an alternative, (2) provide a Proposition 65- compliant warning on the label of the Specified Products and at the point of sale; and (3) pay applicable civil penalties and costs of bringing this action.

Prompt action of the Noticed Parties on this Notice will prevent further consumer exposures to a dangerous chemical without warning, therefore rectifying these alleged ongoing violations of the California law and afford the Noticed Parties the opportunity to avoid increasing costs associated with noncompliance and costly litigation.

Please direct all communications regarding this Notice to this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellie", with a long, sweeping horizontal flourish extending to the right.

Elham (Ellie) Shabatian

CLIFFWOOD LAW FIRM, PC
12100 WILSHIRE BLVD
SUITE 800
LOS ANGELES, CA 90025
310-200-3227
ellie@cliffwoodlaw.com

ATTACHMENTS

1. Certificate of Merit;
2. Confidential Factual Information supporting Certificate of Merit (to Attorney General only);
3. Certificate of Service;
4. Appendix "A" - "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" (to the Noticed Parties only);

To: California Attorney General
Notice of Violation: June 21, 2022
Noticing Party: Clean Product Advocates, LLC
Noticed Parties: Camanchaca, Inc.
Pier 33 Gourmet Seafood by Camanchaca
Winco Foods, LLC
Target Corporation
The Kroger Co.

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)
To the Notice of Violation

I, Elham (Ellie) Shabatian, attorney at law, hereby declare:

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.

I am the attorney for the Noticing Party.

I have reviewed the facts of this case and have consulted with one or more persons with relevant and appropriate experience and expertise who have reviewed facts, studies, and/or other data regarding the alleged exposures to the listed chemical that is the subject of the attached Notice of Violation dated June 21, 2022 (the "Notice").

I have reviewed the laboratory testing results for the chemical subject to the Notice and rely on these results. The testing was conducted by a reputable accredited testing laboratory and by experienced scientists with doctoral and other degrees in relevant sciences. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violators have exposed persons to the listed chemical that is the subject of the Notice and is known to the State of California to cause reproductive and/or developmental harm, and/or cancer.

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.

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: June 21, 2022

By 
Elham (Ellie) Shabatian

PROOF OF SERVICE

I, Katherine Hendrickson, am over the age of eighteen years and am not a party to the action, process or case related to or arising out of the Notice of Violation being served under this Certificate of Service. My address is 1105 Bonilla Drive, Topanga, CA 90290.

On June 21, 2022, between 11:00 a.m. and 5:00 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co.;
2. Certificate of Merit;
3. Appendix "A" - "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 the parties below, and causing it to be deposited at a United States Postal Service Office in Los Angeles County, California, for delivery by Certified Mail:

| | |
|--|--|
| Current President or CEO Camanchaca, Inc. c/o NRAI Services, Inc., Agent 1200 South Pine Island Road Plantation, FL 33324 | Current President or CEO Pier 33 Gourmet Seafood by Camanchaca 7200 N.W. 19 Street, Suite 410 Miami, FL, 33126-1225 |
| Current President or CEO Winco Foods, LLC c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Dr., Ste 150N Sacramento, CA 95833 | Current President or CEO Target Corporation CT Corporation System 818 W. 7th St. STE 930 Los Angeles, CA 90017 |
| Current President or CEO The Kroger Co. c/o CSC-Lawyers Incorporating Service 2710 Gateway Oaks Dr., Ste 150N Sacramento, CA 95833 | |

On June 21, 2022, between 11:00 a.m. and 11:30 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co.;
2. Certificate of Merit;

3. Confidential Factual Information and Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following parties by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at oag.ca.gov/prop65:

State of California Department of Justice;
Office of the Attorney General of California.

On June 21, 2022 between 11:00 a.m. and 5:00 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co.;
2. Certificate of Merit

on the following parties below by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices listed below, and causing each envelope to be deposited at a United States Postal Service mail box for delivery by First Class Mail:

| | | |
|---|---|---|
| District Attorney Alpine County PO Box 248 Markleeville, CA 96120 | District Attorney Lake County 255 North Forbes Street Lakeport, CA 95453 | District Attorney Sierra County PO Box 457 Downieville, CA 95936 |
| District Attorney Amador County 708 Court Street, Suite 202 Jackson, CA 95642 | District Attorney Los Angeles County Hall of Justice 211 West Temple St. Ste 1200 Los Angeles, CA 90012 | District Attorney's Office Siskiyou County Courthouse 311 Fourth Street, Room 204 Yreka, CA 96097 |
| District Attorney Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965 | District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637 | District Attorney Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 |
| District Attorney Colusa County 310 6th Street Colusa, CA 95932 | District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903 | District Attorney Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 |
| District Attorney Del Norte County 450 H Street, Suite 171 Crescent City, CA 95531 | District Attorney Mendocino County PO Box 1000 Ukiah, CA 95482 | District Attorney Sutter County 446 Second Street Yuba City, CA 95991 |
| District Attorney EL Dorado County 778 Pacific Street Placerville, CA 95667 | District Attorney Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney Tehama County PO Box 519 Red Bluff, CA 96080 |
| District Attorney Mono County Post Office Box 617 Bridgeport, CA 93517 | District Attorney Orange County 300 N Flower St. Santa Ana, CA 92703 | District Attorney Trinity County Post Office Box 310 Weaverville, CA 96093 |
| District Attorney Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney San Benito County 419 4th Street Hollister, CA 95023 | District Attorney Tuolumne County 423 North Washington St. Sonora, CA 95370 |

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|--|--|--|
| District Attorney Humboldt County 825 5th Street 4th Floor Eureka, CA 95501 | District Attorney San Bernardino County 316 No. Mountain View Avenue San Bernardino, CA 92415 | District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243 | District Attorney San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 |
| District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney Shasta County 1355 West Street Redding, CA 96001 | District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230 |

On June 21, 2022 between 11:00 a.m. and 11:30 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Camanchaca, Inc., Pier 33 Gourmet Seafood by Camanchaca, Winco Foods, LLC, Target Corporation, The Kroger Co.;
2. Certificate of Merit

on each of the parties below, all of which have requested electronic service only via the following email addresses:

| | |
|---|---|
| Alameda County District Attorney CEPDProp65@acgov.org | Calaveras County District Attorney Prop65Env@co.calaveras.ca.us |
| Contra Costa County District Attorney sgrassini@contracostada.org | Inyo County District Attorney inyoda@inyocounty.us |
| Lassen County District Attorney mlatimer@co.lassen.ca.us | Mariposa County District Attorney mcda@mariposacounty.org |
| Merced County District Attorney Prop65@countyofmerced.com | Monterey County District Attorney Pro65DA@co.monterey.ca.us |
| Napa County District Attorney CEPD@countyofnapa.org | Nevada County District Attorney DA.Prop65@co.nevada.ca.us |
| Placer County District Attorney Prop65@placer.ca.gov | Plumas County District Attorney davidhollister@countyofplumas.com |
| Riverside County District Attorney Prop65@rivcoda.org | Sacramento County District Attorney Prop65@sacda.org |
| San Diego City Attorney CityAttyProp65@sandiego.gov | San Diego County District Attorney SanDiegoDAProp65@sdcca.org |
| San Francisco County District Attorney alexandra.grayner@sfgov.org | San Francisco City Attorney Valerie.Lopez@sfcityatty.org |
| San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org | San Luis Obispo County District Attorney edobroth@co.slo.ca.us |
| Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us | Santa Clara County District Attorney EPU@da.sccgov.org |
| Santa Cruz County District Attorney Prop65DA@santacruzcounty.us | Sonoma County District Attorney jbarnes@sonoma-county.org |
| Tulare County District Attorney Prop65@co.tulare.ca.us | Ventura County District Attorney daspecialops@veutura.org |
| Yolo County District Attorney cfepd@yolocounty.org | San Jose City Attorney's Office proposition65notices@sanjoseca.gov |

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|--|--|
| District Attorney Fresno consumerprotection@fresnocountyca.gov | District Attorney of Roseville pwp65@plac.ca.gov |
|--|--|

I, Katherine Hendrickson, declare under penalty of perjury that the foregoing is true and correct.

Signature



Katherine Hendrickson

June 21, 2022

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA PROTECTION
AGENCY THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statute and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed.

Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemicals.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000- fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that does not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount; expect an amount that would meet the " no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION....

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916)445-6900