

**LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation**  
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December 14, 2022

Notice of Violations  
Safe Drinking Water and Toxic Enforcement Act

**Attorney General Copy: Contains Official Information Pursuant to Evidence Code § 1040**

By Certified Mail, Return Receipt Requested to Violators in U.S.A.  
By Registered Mail to Violators Located Outside U.S.A.  
By First Class U.S. Mail to Public Enforcement Agencies

Dear Public Enforcement Agencies / Violators:

This office and Ecological Rights Foundation (“ERF”) gives you notice that, since at least December 14, 2019 the businesses listed on Attachment A were in violation of California Health & Safety Code §25249.6. ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals.

ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified on the attached Certificate of Service.

The above referenced violations occur when California residents use 3D pens utilizing filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments. Use of 3D pens with the above identified filaments expose people to styrene, a chemical known to the State of California to cause cancer. 3D pens sold by the businesses listed on **Attachment A - 3D Pen Violators** expose consumers and workers to styrene via inhalation.

Examples of particular 3D Pens manufactured, sold, distributed and/or marketed by the violators are attached as **Attachment B - 3D Pens**. All of the 3D Pens at issue in this notice can be used with filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments. When people use these 3D pens, the above filaments are heated by the 3D pens and thus release styrene into the air. People using 3D pens utilizing filaments incorporating a styrene

monomer, and others in the same room where such 3D pens are being used, inhale styrene in the normal course of use.

In addition, exposures in the environmental context occur in the homes, businesses, schools and public locations where the people use either 3D pens utilizing filaments incorporating a styrene monomer. Exposures to styrene occur within the consumer and environmental contexts.

The businesses listed on **Attachment A - 3D Pen Violators** did not and do not provide clear and reasonable warnings to people who use 3D pens utilizing filaments incorporating a styrene monomer, that use of these products will expose them to chemicals known to cause cancer. The above violations have occurred every day since at least December 14, 2019, and continued every day until clear and reasonable warnings were given.

The businesses listed on Attachment A - 3D Pen Violators - are responsible for providing the warnings required by Section 25249.6 of the Act for consumer product exposures to people who use 3D pens capable of utilizing filaments incorporating a styrene monomer as the 3D Pen Violators are selling these 3D pens under a brand or trademark that is owned or licensed by the 3D Pen Violators or an affiliated entity; the 3D Pen Violators have actual knowledge of the potential consumer product exposure requiring the warning; there is no manufacturer, producer, packager, importer, supplier, or distributor of the 3D pens who is a “person in the course of doing business” under Section 25249.11(b) of the Act and has designated an agent for service of process in California or has a place of business in California.

Attachment B – 3D Pens is a non-exclusive list of examples of these types of products. Though specific models or product numbers are given as examples, this Notice also pertains to all models and all variations of 3D Pens utilizing filaments incorporating a styrene monomer sold in California. Attachment B is for the recipient’s benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF’s position that the alleged Violators are obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These violations and threatened violations occur everyday until these businesses either provide clear and reasonable warnings, reformulate their 3D pens so as not to use filaments incorporating a styrene monomer, or stop selling these 3D pens in California. These violations occur in all of California’s 58 counties, both on and off of these businesses’ properties.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, ERF is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation.

The following individual is the responsible individual within ERF for purposes of this Notice:  
Fredric Evenson  
Ecological Rights Foundation  
P.O. Box 1000  
Santa Cruz, California 95061  
Telephone: (831) 454-8216  
Email: [evenson@ecologylaw.com](mailto:evenson@ecologylaw.com)

ERF has retained the following counsel to represent it in this matter. **Please direct communications to counsel.**

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Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement terms would require that the unwarned exposures described in this Notice of Violation be stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to this Notice, that the products be reformulated to eliminate the exposures described in the Notice, or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,  
*/s/Brian Gaffney*  
Brian Gaffney

Enclosure to Violators "The Safe Drinking Water and Toxic Enforcement Act of 1986: A Summary." A Certificate of Merit is also attached.

**Attachment A – 3D Pen Violators**

Galaxy Wireless USA Corporation  
Kohree LLC  
Magic-Power Trade US LLC  
Wodstyle LLC

**Attachment B – 3D Pens**

<b><u>Proposition 65 Violators -3D Pens</u></b>	<b><u>Examples of Products Manufactured, Sold, Distributed and/or Marketed</u></b>
Galaxy Wireless USA Corporation	Galaxy Wireless 3D Pen (SKU 2802680492917)
Magic-Power Trade US LLC	METERK 3D Pen (UPC 791351247434) (SKU "TLUSE3974-FBA(E3974US)*150 B07DC25SHK)
Kohree LLC	SelfNew 3D Pen (UPC 600358556114)
Wodstyle LLC	WODSTYLE 3D Pen (SKU: FH030210101 PAO200721228)

**Certificate of Merit - Health & Safety Code Section 25249.7(d)**

I, Brian Gaffney, 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 plaintiff's 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) 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.

Date: December 14, 2022

By:  
/S/Brian Gaffney  
Brian Gaffney

## CERTIFICATE OF SERVICE

I, Brian Gaffney, declare:

If so called, I could and would testify as follows: I am over eighteen. My business address is 2370 Market Street, Suite 103-318, San Francisco, CA 94114.

On December 14, 2022, I caused the attached

(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (2) Certificate of Merit: Health and Safety Code Section 25249.7(d), (3) Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary, (4) Certificate of Service to be served by CERTIFIED MAIL to each private business entity listed on the attached SERVICE LIST-Noticed Parties, except for each private business located outside of the U.S.A. which are served by REGISTERED MAIL. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected.

In addition, on the same date and I caused the attached

(1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act, (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 the Attorney General), (4) Certificate of Service by FIRST CLASS U.S. MAIL on those public enforcement agencies listed on the attached SERVICE LIST-Public Enforcers. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected, and

by sending portable document format (PDF) files of the same to the electronic mail addresses to each of the public prosecutors identified by the California Attorney General as having authorized electronic service of notices. These public enforcement agencies appear on the attached Service List with their electronic mail addresses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on December 14, 2022, at San Francisco, California.

/S/Brian Gaffney  
Brian Gaffney

Service List – Noticed Violators

Galaxy Wireless USA Corporation  
Attn: Linda Dilzer  
401 West Boysen Avenue  
Anaheim, California 92805

Kohree LLC  
Attn: Dylan Leung, Manager  
525 North Tryon Street  
Floor 16, Suite 1727  
Charlotte, North Carolina 28269

Magic-Power Trade US LLC  
Attn: Mark Fang, Attorney At Law, APC  
400 Camarillo Ranch Road, Suite 203  
Camarillo, CA 93012

Wodstyle LLC  
Attn: ZhaoLan Huang  
404 N Tryon Street  
10th Floor 1132-A2  
Charlotte, NC 28202

**SERVICE LIST-Public Enforcers**

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California Attorney General  
<https://oag.ca.gov/prop65/add-60-day-notice>