

# SECOND SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

**DATE:** February 13, 2023

**To:** Chiachyi Horng, Chief Executive Officer – Karman Healthcare Inc.  
John T. Standley, President – Walgreen Co.  
Andy Jassy, CEO – Amazon.com, Inc.  
California Attorney General’s Office;  
District Attorney’s Office for 58 Counties; and  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

**FROM:** Paul Wozniak

## **I. INTRODUCTION**

My name is Paul Wozniak. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice supplements the Sixty-Day Notice of Violation sent on March 4, 2020, and the Supplemental Sixty-Day Notice of Violation sent on October 4, 2022, and is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* (“Proposition 65”). As noted above, notice is also being provided to the alleged violators, Karman Healthcare Inc., Walgreen Co. and Amazon.com, Inc. (the “Violators”). The violations covered by this Notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the toxic chemicals (“Listed Chemicals”) identified below, as follows:

Product Type: See Section VII. Exhibit A  
Listed Chemicals: Di(2-ethylhexyl)phthalate (“DEHP”), Lead  
Routes of Exposure: Ingestion, Dermal  
Types of Harm: Birth Defects and Other Reproductive Harm

## **II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)**

The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under “Product Category/Type” in Exhibit A in Section VII. All products within the category covered by this Notice shall be referred to hereinafter as the “Products.” Exposures to the Listed Chemicals from the use of the Products have been occurring without the compliant “clear and reasonable warning,” on product packaging and/or when offered for sale on the internet, required by Proposition 65, dating as far back as February 13, 2020. Without proper warnings regarding the toxic effects of exposures to the Listed Chemicals 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 Chemicals from the reasonably foreseeable use of the Products.

California citizens, through the act of buying, acquiring or utilizing the Products, are exposed to the Listed Chemicals. By way of example, consumers and other individuals, including women of childbearing age, ingest the Listed Chemicals when they, among other activities, touch the Products and transfer the Listed Chemicals from the Products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Products ceases with each episode. Additionally, consumers and other individuals, including children and women of childbearing age, are exposed to the Listed Chemicals through direct dermal contact when they, among other activities, handle, touch or otherwise use accessible components of the Products. The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

### **III. CONTACT INFORMATION**

Please direct all questions concerning this Notice to me through my counsel's office at the following address:

Paul Wozniak  
c/o Clifford A. Chanler  
Chanler, LLC  
72 Huckleberry Hill Road  
New Canaan, CT 06840-3801  
Telephone: (203) 594-9246  
clifford@chanlerllc.com

Paul Wozniak  
c/o Steven Y. Chen  
Steven Y. Chen, A Professional Law Corporation  
2650 River Avenue, Unit A  
Rosemead, California 91770  
Telephone: (626) 782-5017  
schen@schenlaw.com

### **IV. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" which has been prepared by OEHHA.

### **V. RESOLUTION OF NOTICED CLAIMS**

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement action (or amend one if it exists) against the alleged Violators unless such Violators enter into a binding written agreement to: (a) recall Products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such Products; (b) provide "clear and reasonable warnings" for Products sold in the future or, preferably, reformulate such Products to eliminate the DEHP exposures (or undertake best efforts to ensure upstream selling entities in the chain of commerce

such as manufacturers, exporters, importers or distributors do so); and (c) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violators are particularly interested in resolving this dispute without resorting to time-consuming and costly litigation, please feel free to contact my counsel identified in Section III. It should be noted that neither my counsel nor I can finalize any settlement until after the 60-day notice period has expired nor speak for the Attorney General or any other public enforcers. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

**VI. ADDITIONAL NOTICE INFORMATION**

Identified below are specific examples of Products recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending Products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the examples within the category or type of Products are also provided below. I allege that the sales of the offending Products have also occurred without the requisite or compliant Proposition 65 “clear and reasonable warning” including, but not limited to, transactions made through the internet. <sup>1</sup>

<i>Product*</i>	<i>Retailer(s)/Distributor(s)</i>	<i>Seller/Distributor/Manufacturer</i>
Karman Full Length Armpad with Cushion Blue, AP22U, UPC 045635100152	Walgreen Co. ( <a href="http://www.walgreen.com">http://www.walgreen.com</a> )  Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.
Karman Healthcare Desk Length Black Armpad for Wheelchair, AP24B, UPC 6 43517 94336 3	Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.
Karman Quad Cane with Small Base, Silver Frame, Model# QC2-SI, Serial # ER532444	Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.
Karman Quad Cane with Small Base, Silver Frame, Model# C3(QC2-SL), Serial # ER1612212	Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.

<sup>1</sup> If an applicable manufacturer, supplier, seller, exporter and/or importer of one or more of the Products does not have a known agent for process of service in California or employs less than ten people as defined by the operative regulation, then the online, brick and mortar or other retail seller is alleged to have heightened regulatory responsibilities beyond 27 CCR §25600.2(d) especially if the Violator is also an importer or fulfills additional upstream roles in the commercial marketplace.

<i>Product*</i>	<i>Retailer(s)/Distributor(s)</i>	<i>Seller/Distributor/Manufacturer</i>
Karman Low Seat Rollator, Blue, R-4100-BL, UPC 0661799290227	Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.
Karman Lightweight Transport Chair, LT-2019-BK, UPC 0661799290272	Amazon.com, Inc. ( <a href="http://www.amazon.com">http://www.amazon.com</a> )	Karman Healthcare Inc.

**VII. EXHIBIT A**

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxicant(s)</i>
Padded armrests and other vinyl upholstered components used on wheelchairs	Karman Full Length Armpad with Cushion Blue, AP22U, UPC 045635100152  Karman Healthcare Desk Length Black Armpad for Wheelchair, AP24B, UPC 6 43517 94336 3	Di(2-ethylhexyl)phthalate
Walking canes with vinyl components	Karman Quad Cane with Small Base, Silver Frame, Model# QC2-SI, Serial # ER532444  Karman Quad Cane with Small Base, Silver Frame, Model# C3(QC2-SL), Serial # ER1612212  Karman Quad Cane with Small Base, Black Frame, Model# QC2-BK  Karman Quad Cane with Small Base, Bronze Frame, Model# QC2-BR  Karman Quad Cane with Large Base, Silver Frame, Model# QC4-SI  Karman Quad Cane with Large Base, Black Frame, Model# QC4-BK  Karman Quad Cane with Large Base, Bronze Frame, Model# QC4-BR	Di(2-ethylhexyl)phthalate; Lead

<p>Wheelchairs with padded armrests and/or other accessible vinyl components</p>	<p>Karman Lightweight Transport Chair, LT-2019-BK, UPC 0661799290272</p> <p>Karman Lightweight Transport Chair, LT-2019-BD</p> <p>Karman Lightweight Transport Chair, LT-2019-BL</p> <p>Karman Lightweight Transport Chair, LT-2017 series</p> <p>Karman Lightweight Transport Chair, LT-1000 series</p>	<p>Di(2-ethylhexyl)phthalate</p>
<p>Rollators with accessible vinyl components</p>	<p>Karman Low Seat Rollator, Blue, R-4100-BL, UPC 0661799290227</p> <p>Karman Low Seat Rollator, R-4100-BD</p> <p>Karman Low Seat Rollator, R-4100N-BL</p> <p>Karman Low Seat Rollator, R-4100N-BD</p> <p>Karman Rollator, R-4800 series</p> <p>Karman Rollator, R-4600 series</p> <p>Karman Rollator, R-4800 series</p> <p>Karman Rollator, R-4700 series</p> <p>Karman Rollator, R-4800 series</p> <p>Karman Rollator, R-4602 series</p> <p>Karman Rollator, R-4608 series</p> <p>Karman Rollator, R-3600 series</p>	<p>Di(2-ethylhexyl)phthalate</p>

\*The specifically identified examples of the Products that are subject to this Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the Listed Chemicals from other items within the product category/type listed in Exhibit A. It is important to note that these examples are **not** meant to be an exhaustive or comprehensive identification of each specific offending Product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violators are obligated to continue to conduct in good faith an expeditious investigation into other specific Products within the types or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase unless they have been reformulated.

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years and not a party to the within action. I am a resident or employed in the county where the mailing occurred. My business address is 72 Huckleberry Hill Road, New Canaan, CT 06840.

On February 13, 2023, I caused to be served the following documents:

**SECOND SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**CERTIFICATE OF MERIT; AND**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

XXXX **By First Class Certified Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative.

Chiachyz Horng, CEO  
Karman Healthcare Inc.  
19255 San Jose Ave  
City of Industry, CA 91748-1418

Andy Jassy, CEO  
Amazon.com, Inc.  
410 Terry Avenue N  
Seattle, WA 98109

John T. Standley, President  
Walgreen Co.  
200 Wilmot Road  
Deerfield, IL 60015

On February 13, 2023, I caused to be served the following documents:

**SECOND SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d); AND**

**CERTIFICATE OF MERIT**

XXXX **By First Class Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each entity on the attached "Mail Service List" and providing such envelope to a United States Postal Service Representative or placing such envelope in a United States Postal Service mailbox, postage prepaid.

XXXX **By Electronic Mail** by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached "Email Service List".

On February 13, 2023, I caused to be served the following documents:

**SECOND SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS**

XXXX **By Electronic Upload** by causing true and correct copies of the above documents to be uploaded to the California Attorney General's website at the web address on the attached "Electronic Upload Service List".

Executed on February 13, 2023, in New Canaan, Connecticut.



Lorent Guimaraes

# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code §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 Chemicals that are the subject of this action and/or the Listed Chemicals in substantially similar products and exposes individuals through the same potential routes;
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 Violators 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 under Health and Safety Code §25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier, and (ii) certain facts, studies, or other data reviewed by those persons.

Dated: February 13, 2023



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Clifford A. Chanler

# EMAIL SERVICE LIST

The Honorable Michael Atwell  
Alpine County District Attorney  
P.O. Box 248  
Markleeville, CA 96120  
daoffice@alpinecountyca.gov

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court Street  
Jackson, CA 95642  
amadorda@amadorgov.org

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive, Suite 245  
Oroville, CA 95965  
DA@ButteCounty.net

Michelle Latimer  
Lassen County Program Coordinator  
220 S. Lassen Street  
Susanville, CA 96130  
mlatimer@co.lassen.ca.us

The Honorable David Hollister  
Plumas County District Attorney  
520 Main Street, Room 404  
Quincy, CA 95971  
davidhollister@countyofplumas.com

The Honorable Lisa Smittcamp  
Fresno County District Attorney  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721  
damail@fresnocountyca.gov

The Honorable Maggie Fleming  
Humboldt County District Attorney  
825 5th Street, Fourth Floor  
Eureka, CA 95501  
districtattorney@co.humboldt.ca.us

Nancy O'Malley, District Attorney  
Alameda County  
7776 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Allison Haley, District Attorney  
Napa County  
1127 First Street, Suite C  
Napa, CA 94559  
CEPD@countyofnapa.org

The Honorable Phillip J. Cline  
Tulare County District Attorney  
221 South Mooney Boulevard  
Visalia, CA 93291-4593  
Prop65@co.tulare.ca.us

The Honorable Tori Verber Salazar  
San Joaquin County District Attorney  
P.O. Box 990  
222 E. Weber Avenue, Room 202  
Stockton, CA 95201  
DAConsumer.Environmental@sjcda.org

The Honorable Clifford Newell  
Nevada County District Attorney  
201 Commercial Street  
Nevada City, CA 95959  
DA.Prop65@co.nevada.ca.us

The Honorable Donna Daly  
Trinity County District Attorney  
P.O. Box 310  
11 Court Street  
Weaverville, CA 96093  
trinityjournal@dcacable.net

The Honorable Sally O. Moreno  
Madera County District Attorney  
209 West Yosemite Avenue  
Madera, CA 93637  
Sally.Moreno@co.madera.ca.gov

The Honorable Thomas Hardy  
Inyo County District Attorney  
P.O. Box Drawer D  
Independence, CA 93526  
inyoda@inyocounty.us

Valerie Lopez, Deputy City Attorney  
Office of the City Attorney, San Francisco  
1390 Market Street, 7th Floor  
San Francisco, CA 94102  
Valerie.Lopez@sfcityatt.org

The Honorable C. David Eyster  
Mendocino County District Attorney  
100 North State Street, Room G-10  
P.O. Box 1000  
Ukiah, CA 95482  
enviroh@mendocinocounty.org

The Honorable Kimberly Lewis  
Merced County District Attorney  
550 West Main Street  
Merced, CA 95340  
Prop65@countyofmerced.com

The Honorable Samuel D. Kylo  
Modoc County District Attorney  
204 South Court Street, Suite 202  
Alturas, CA 96101  
da@co.modoc.ca.us

The Honorable Tim Kendall  
Mono County District Attorney  
278 Main Street  
P.O. Box 617  
Bridgeport, CA 93517  
districtattorney@mono.ca.gov

The Honorable Jeannine M. Pacioni  
Monterey County District Attorney  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

The Honorable Jill R. Ravitch  
Sonoma County District Attorney  
600 Administration Drive  
Sonoma, CA 95403  
jbarnes@sonoma-county.org

Mark Ankcorn, Deputy City Attorney  
Office of the City Attorney, San Diego  
1200 Third Avenue, Suite 1620  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

Jeff W. Reisig, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

The Honorable Jason Anderson  
San Bernardino County District Attorney  
303 West 3rd Street, 6th Floor  
San Bernardino, CA 92415-0502  
da@sbcda.org

Alexandra Grayner, Assistant DA  
San Francisco District Attorney's Office  
350 Rhode Island Street N. Bldg., 400N  
San Francisco, CA 94103  
alexandra.grayner@sfgov.org

The Honorable Laura L. Krieg  
Tuolumne County District Attorney  
423 North Washington Street  
Sonora, CA 95370  
da@tuolumnecounty.ca.gov

Stacey Grassini, Deputy District  
Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

The Honorable Susan J. Krones  
Lake County District Attorney  
255 North Forbes Street  
Lakeport, CA 95453  
Susan.Krones@lakecountyca.gov

The Honorable Jeffrey S. Rosell  
Santa Cruz County District Attorney  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060  
Prop65DA@santacruzcounty.us

The Honorable Summer Stephan  
San Diego County District Attorney  
330 West Broadway Street  
San Diego, CA 92101  
SanDiegoDAProp65@sdccda.org

The Honorable Sandra Groven  
Sierra County District Attorney  
100 Courthouse Square, Room B1  
P.O. Box 457  
Downieville, CA 95936  
sgroven@sierracounty.ca.gov

The Honorable Walter Wall  
Mariposa County District Attorney  
5085 Bullion Street  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

Christopher Dalbey, Deputy District  
Attorney  
Santa Barbara County  
1112 Santa Barbara St.  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

The Honorable Barbara Yook  
Calaveras County District Attorney  
891 Mountain Ranch Rd.  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Paul E. Zellerbach, District Attorney  
Riverside County  
3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

The Honorable Cynthia Zimmer  
Kern County District Attorney  
1215 Truxtun Avenue, 4th Floor  
Bakersfield, CA 93301  
CZimmer@kernda.org

The Honorable Gregory D. Totten  
Ventura County District Attorney  
800 South Victoria Avenue, Suite 314  
Ventura, CA 93009  
daspecialops@ventura.org

The Honorable Anne Marie Schubert  
Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814  
Prop65@sacda.org

The Honorable Morgan Briggs Gire  
Placer County District Attorney  
10810 Justice Center Drive, Suite 240  
Roseville, CA 95678  
Prop65@placer.ca.gov

The Honorable Richard Doyle  
Office of the City Attorney, San Jose  
200 East Santa Clara Street, 16th Floor  
San Jose, CA 95113  
cao.main@sanjoseca.gov

The Honorable James Kirk Andrus  
Siskiyou County District Attorney  
311 4th Street  
Yreka, CA 96097  
da@siskiyouda.org

The Honorable Krishna A. Abrams  
Solano County District Attorney  
675 Texas Street, Suite 4500  
Fairfield, CA 94533  
SolanoDA@solanocounty.com

Bud Porter, Supervising Deputy District  
Attorney  
Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110  
EPU@da.sccgov.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Govt Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

The Honorable Susan Alcala Wood  
Office of the City Attorney, Sacramento  
915 I Street, 4th Floor  
Sacramento, CA 95814  
clerk@cityofsacramento.org



## **MAIL SERVICE LIST**

The Honorable Mike Feuer  
Los Angeles City Attorney  
City Hall East, Suite 800  
Los Angeles, CA 90012

Manuel Garcia, Jr.  
Head Deputy District Attorney  
County of Los Angeles  
211 W. Temple Street, Suite 1000  
Los Angeles, CA 90012

## **ELECTRONIC UPLOAD SERVICE LIST**

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
ATTN: Prop 65 Coordinator  
P.O. Box 70550  
Oakland, CA 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>