VOORHEES & BAILEY, LLP
535 Ramona Street; Suite 5
Palo Alto, CA 94301
650-815-6022

60-Day Notice of Violation - California Health & Safety Code § 25249.7(d)

March 27, 2023

Notice Recipients:	Enchante Accessories, Inc.; Kohl's, Inc.
Noticing Party:	Audrey Kallander
Covered Products:	Ceramic Mugs With Exterior Designs
Listed Chemical:	Lead
Routes of Exposure:	Ingestion; Dermal
Potential Harm:	Birth Defects and Other Reproductive Harm

I. INTRODUCTION

This Sixty-Day Notice of Violation ("Notice") is provided by Audrey Kallander. Ms. Kallander is a private enforcer acting in the public interest pursuant to California Health & Safety Code section 25249.7(d). Ms. Kallander seeks to promote awareness of exposures to toxic chemicals in products sold and used in California and, if possible, to eliminate such exposures.

This Notice is provided to the alleged violators, Enchante Accessories, Inc. and Kohl's, Inc. (the "Notice Recipients"), as well as the California Attorney General's Office, the District Attorney's Office for 58 Counties, and the City Attorneys for San Francisco, San Diego, San Jose and Los Angeles.

The Notice Recipients are hereby given notice that they have violated and continue to violate provisions of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code section 25249.5 et seq. ("Proposition 65"). Specifically, the Notice Recipients have violated and continue to violate the warning requirement of section 25249.6 of the California Health & Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...." The alleged violations that are the subject of this Notice are provided below.

II. ALLEGED VIOLATIONS

Product Types/Categories: The specific types or categories of products that are causing consumer exposures in violation of Proposition 65, and that are covered by this Notice, are Ceramic Mugs With Exterior Designs ("Covered Products").

Identified below are specific example of Covered Products recently purchased and witnessed as being available for purchase or use in California (the "Exemplar Products"). Based on publicly available information, the retailers, distributors, and/or manufacturers of the Exemplar Products is also provided.

The Exemplar Products are identified for the Notice Recipients' benefit to assist in their investigation of the allegations set forth in this Notice. The Exemplar Products are not meant to be an exhaustive or comprehensive identification of each specific offending product falling within the specific types or categories of Covered Products at issue in this Notice. It is the private enforcer's position that the Notice Recipients are obligated to conduct a good-faith investigation into other specific products falling within the type or category of Covered Products that have been manufactured, imported, distributed, sold, shipped, stored, or are otherwise within the Notice Recipients' custody or control, so as to ensure the requisite toxic warnings were and are provided to California citizens prior to purchase.

Covered Products	*Exemplar Product Information*
Ceramic Mugs With Exterior Designs	*Enchante Plaid Ceramic Mug* UPC: 8 40104 93664 1 Retailer: Kohl's, Inc. (Riverbank, CA) Manufacturer/Distributor: Enchante Accessories, Inc. *Enchante "Grandmas Are Hugs Waiting To Happen" Ceramic Mug* UPC: 8 40104 93656 6 Retailer: Kohl's, Inc. (Redwood City, CA) Manufacturer/Distributor: Enchante Accessories, Inc.

Listed Chemical: The alleged violations involve exposures to the Proposition 65-listed chemical lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Lead is hereinafter referred to as the "Listed Chemical".

Statement of Violations: The Notice Recipients knowingly and intentionally exposed, and continue to knowingly and intentionally expose, consumers within the State of California to lead, a chemical known to the State of California to cause birth defects and other reproductive harm, without first giving clear and reasonable warning of this exposure to such individuals. In particular, the Notice Recipients failed to provide a clear and reasonable warning to consumers that the Ceramic Mugs With Exterior Designs With Exterior Designs expose consumers to lead.

Route of Exposure: California citizens, through the act of buying, acquiring or utilizing the Covered Products, are exposed to the Listed Chemical. Consumers ingest the Listed Chemical when their lips and mouth come into contact with the Covered Products. Consumers also ingest the Listed Chemical when they touch and handle the Covered Products, transfer the Listed Chemical from the Covered Products onto their fingers and hands, and transfer the Listed Chemical from their fingers and hands to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Covered Products. Consumers are exposed to the Listed Chemical through direct dermal contact when they, among other activities, handle or touch the Covered Products.

Number and Duration of Violations: Each and every sale of a Covered Product to a consumer in California without a clear and reasonable warning is a violation, including transactions made over-the-counter, through the internet, and/or via catalogue by the Notice Recipients and any other sellers of the Covered Products. These violations have been occurring since at least March 27, 2022, as well as every day since the Covered Products were first introduced and sold in the State of California, as far back as March 27, 2020. The violations are ongoing.

III. CERTIFICATE OF MERIT

Pursuant to Health & Safety Code § 25249.7(d) and Title 11, California Code of Regulations, section 3100, a Certificate of Merit is attached hereto. A second copy of the entire notice and Certificate of Merit is served on the Attorney General with all supporting documentation required by Section 3102 attached thereto.

IV. PROPOSITION 65 INFORMATION – A SUMMARY

A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under Proposition 65, is enclosed with the copy of the Notice served on the Notice Recipients.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, Ms. Kallander intends to file a citizen enforcement lawsuit against the Notice Recipients upon the expiration of the sixty-day notice period, provided no public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Notice.

If the Notice Recipients are interested in resolving this dispute without resorting to time-consuming and expensive litigation, they should contact counsel at the address provided below. It should be noted that no settlement may be finalized before the sixty-day notice period has expired and only if no public prosecutor has commenced and is diligently prosecuting the alleged violation.

VI. PRESERVATION OF EVIDENCE

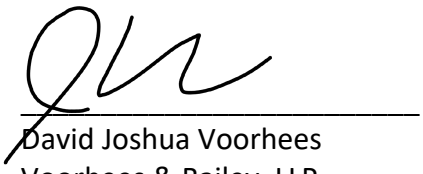
This Notice also serves as a demand that the Notice Recipients preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of the Listed Chemical in the Covered Products; purchase and sales information for Covered Products; efforts to comply with Proposition 65 with respect to the Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered Products; and representative exemplars of each specific model falling within the Covered Products. This demand applies to all relevant evidence for Covered Products sold in the State of California, as far back as March 27, 2020, through the date of any trial of the claims alleged in this Notice.

VII. CONTACT INFORMATION

Ms. Kallander has retained me as legal counsel in this matter. Please direct all communications related to this Notice of Violation to the following:

Troy Bailey, Esq.
Voorhees & Bailey, LLP
535 Ramona Street; Suite 5
Palo Alto, CA 94301
troy@voorheesbailey.com

Sincerely,



David Joshua Voorhees
Voorhees & Bailey, LLP
Attorneys for Audrey Kallander

cc: California Attorney General's Office; District Attorney's Office for 58 Counties; and City Attorneys for San Francisco, San Diego, San Jose and Los Angeles

Attachments: Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (*Enchante Accessories, Inc. and Kohl's, Inc. only*); and Confidential Information in Support of Certificate of Merit (*Attorney General Only)*

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, David Joshua Voorhees, 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.

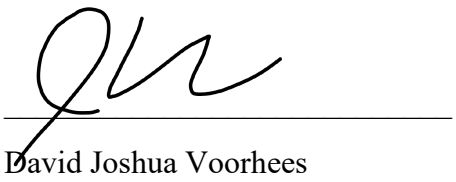
2. I am the attorney for the noticing party.

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 chemical that is the subject of this 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 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, including information identified in Health and Safety Code § 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) certain facts, studies, or other data reviewed by those persons.

Dated: March 27, 2023



David Joshua Voorhees

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 employed in Santa Clara County, California. My business address is 535 Ramona Street; Suite 5, Palo Alto, CA 94301.

On March 27, 2023, I caused to be served the following documents:

> **60-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.

Enchante Accessories, Inc.
c/o CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive; Suite 150N
Sacramento, CA 95833

Kohl's, Inc.
c/o Corporate Creations Network Inc.
5901 W. Century Blvd.; Suite 750
Los Angeles, CA 90045

On March 27, 2023, I caused to be served the following documents:

> **60-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 "U.S. Mail Service List" and providing such envelope to a United States Postal Service Representative, 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 "Electronic Mail Service List".

On March 27, 2023, I caused to be served the following documents:

60-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 March 27, 2023, at Palo Alto, California.

David Joshua Voorhees

U.S. Mail Service List

Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120	Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	San Mateo County District Attorney 400 County Center Redwood City, CA 94063
Amador County District Attorney 708 Court Street Jackson, CA 95642	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	Shasta County District Attorney 1355 West Street Redding, CA 96001
Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965	Marin County District Attorney 3501 Civic Center Drive, Suite 145 San Rafael, CA 94903	Sierra County District Attorney P.O. Box 457 Downieville, CA 95936
Colusa County District Attorney 346 Fifth Street, Suite 101 Colusa, CA 95932	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	Siskiyou County District Attorney 311 4th Street Yreka, CA 96097
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	San Benito County District Attorney 419 4th Street Hollister, CA 95023	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
El Dorado County District Attorney 778 Pacific Street Placerville, CA 95667	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991
Glenn County District Attorney P.O. Box 430 Willows, CA 95988	Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501	Office of the City Attorney, Los Angeles James K. Hahn City Hall East 200 North Main Street, 8th Floor Los Angeles, CA 90012	Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301		Yuba County District Attorney 215 Fifth Street Marysville, CA 95901

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

Electronic Mail Service List

Nancy O'Malley, District Attorney Alameda County District Attorney 7776 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org	Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.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
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Bud Porter Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org	Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org	Mark Ankcorn, Deputy City Attorney City of San Diego 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
Gregory D. Totten, District Attorney Ventura County 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org	Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us	Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org	Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us
Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road. San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us	Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us	Valerie Lopez, Deputy City Attorney City of San Francisco 1390 Market Street, 7th Floor San Francisco, CA 94102 Starla.Sousa@sfcityatty.org
Kimberly Lewis, District Attorney Merced County 550 W. Main Street Merced, CA 95340 Prop65@countyofmerced.com	Walter W. Wall, District Attorney Mariposa County P.O. Box 730 Mariposa, CA 95338 mcda@mariposacounty.org	Clifford H. Newell, District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959 DA.Prop65@co.nevada.ca.us
Morgan Briggs Gire, District Attorney Placer County 10810 Justice Center Drive, Suite 240 Roseville, CA 95678 prop65@placer.ca.gov	David Hollister, District Attorney Plumas County 520 Main Street Quincy, CA 95971 davidhollister@countyofplumas.com	Summer Stephan, District Attorney San Diego County 330 W. Broadway Street San Diego, CA 92101 SanDiegoDAProp65@sdcda.org
Orange County District Attorney 300 North Flower Street Santa Ana, CA 92703 Prop65Notice@da.ocgov.com	Nora V. Frimann, City Attorney 200 E. Santa Clara Street, 16th Floor San Jose, CA 96113 Proposition65notices@sanjoseca.gov	Lisa A. Smittcamp, District Attorney 2100 Tulare Street Fresno, CA 93721 consumerprotection@fresnocountyca.gov