Law Office of Shannon C. Wilhite

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August 28, 2024

60-DAY NOTICE OF INTENT TO SUE
for violations of the Safe Water and Toxic Enforcement Act of 1986

VIA CERTIFIED FIRST CLASS MAIL

Impact Products, LLC
600 South #560
Heber City, Utah 84032
(800) 402-0891

Scott Decker
Chief Operating Officer
Impact Products LLC
600 South #560
Heber City, Utah 84032
(800) 402-0891

VIA ELECTRONIC FILING

State of California Department of 104 East
Office of Attorney General of California
Filing link: oag.ca.gov/prop65

VIA FIRST CLASS MAIL

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

VIA E-MAIL

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

Re: NOTICE OF VIOLATION AGAINST NATURAL LIFE OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.6

To Alleged Violator,

This Notice of Violation is provided to you pursuant to the California Health & Safety Code § 25249.7(d).

This office represents Ruby Gustafson ("Claimant"), a citizen of the State of California acting in the interest of the general public to further the protection of the environment, promote awareness of exposure to toxic chemicals from use of consumer products sold in California, improve human health, environmental education, worker and consumer rights and increase corporate responsibility.

Violation

As to the product(s) described below, Claimant has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), codified in the California Health & Safety Code sections 25249.5, et. seq. This violation continues to occur because Violator has failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. California Health & Safety Code § 25249.6 provides that "[n]o 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 providing a clear and reasonable warning to such individual…" Only with a proper warning can a California citizen make an informed decision regarding whether to eliminate or how to reduce the risk of toxic exposure to their person.

Under Cal. Health & Safety Code § 25249.7(d), Claimant seeks to prosecute the alleged continuing noncompliance and to warn consumers about their exposure to the violative chemical(s), or reduce and/or eliminate consumer exposures from product(s) (collectively, the "Products") listed in the table below, which are manufactured, distributed and/or sold by Violators.

Product Information

The product which is causing exposure without a warning in violation of Proposition 65, is the Organic Cassava Flour, including but not limited to UPC # 850034017464 manufactured/distributed by Impact Products LLC and offered for sale by retailors to California consumers. Impact Products LLC has manufactured, produced, marketed, distributed and /or sold the Product(s) which, according to laboratory test results, have exposed and continue to expose consumers within the State of California to lead. The primary route of the exposure has been through ingestion.

Product	UPC Code	Violative Chemical
Organic Cassava Flour	850034017464	Lead

With respect to each Product(s) listed above, the violation commenced on the latter of the date that the Product(s) was first offered for sale in California, or at least as of the date of this Notice, and have continued every day since the relevant date the violation commenced; and will continue every day henceforth until lead is removed from the Products, 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), copy of "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary" is attached hereto for reference by Defendants. For more information concerning the provisions of Proposition 65, contact OEHHA at 916-445-6900. Pursuant to Title 11, C.C.R. § 3100, the "Certificate of Merit" is attached hereto.

Request for Information

Any alleged violator who is a retail seller is herein requested to provide the name and contact information for the manufacturer, producer, packages, importer, supplier, and distributer of the product sold. California Code of Regulations, Title 27, section 25600.2.

Notice of Duty to Preserve Evidence

"The duty to preserve evidence is triggered when litigation is pending or reasonably foreseeable, at which time a party is required to preserve all relevant evidence and put into place a litigation hold to preserve relevant documents." *Net-Com Servs. v. Eupen Cable USA, Inc.*, 2013 U.S. Dist. LEXIS 109810, at *6-7 (C.D. Cal. Aug. 5, 2013) (citations omitted). We accordingly notify Premier of its duty to preserve evidence relevant to the potential litigation our client may initiate if Premier does not undertake the steps demanded herein. This includes, but is not limited to, documents, tangible things, and electronically stored information (ESI) that are potentially relevant to the anticipated lawsuit and that are in Premier's custody or control.

Claims Resolution

Consistent with the public interest goals of Proposition 65 to have these ongoing violations of California law quickly rectified, Ms. Gustafson is interested in seeking a prompt resolution of this matter that includes an enforceable written agreement by the Violator to (1) reformulate the Products to eliminate exposures to the identified chemicals, or provide Proposition 65 compliant exposure warnings for Products sold in the future; (2) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code§ 25249.7(b); and (3) provide clear and reasonable warnings complaint with Proposition 65 to all persons located in California who purchased the above products in the last three years.

Prompt action of the Noticed Parties will prevent further consumer exposure 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. Ms. Gustafson does intend to file a lawsuit after 60 days if these violations are not resolved.

Please direct all communications regarding this Notice of Violation to this office using the address or contact information indicated on the letterhead.

Sincerely,

Shannon C Wilhite
Shannon C. Wilhite
LAW OFFICE OF SHANNON C WILHITE

Attachments

1. Certificate of Merit (Cal. Health & Safety Code § 25249.7(d)(1));
2. Certificate of Service
3. Appendix "A" – "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" (to the Noticed Parties only);
4. Certificate of Merit (Attorney General)
5. Factual information sufficient to establish basis of the certificate of merit (Attorney General)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

Re: Ruby Gustafson's Notice of Proposition 65 Violations by Natural Life.

I, Shannon C. Wilhite, attorney at law, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice 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 have reviewed facts, studies, and/or other data regarding the alleged exposures to the listed chemical that is the cause of 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 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.

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.

Dated: August 28, 2024

By Shannon C. Wilhite

Shannon C. Wilhite

Law Office of Shannon C. Wilhite
P.O. Box 82, Bayside CA, 95524 | scmwilhite.attorneyatlaw@gmail.com

PROOF OF SERVICE

I, Shannon C. Wilhite, am over the age of 18 and am not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 2212 Jacoby Creek Rd., Bayside, CA 95524.

On August 28,2024, I served the following documents:

1. 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6
2. Certificate of Merit; Health and Safety Code Section 25249.7 (d)
3. Certificate of Merit (Attorney General Copy); Factual information sufficient to establish basis of the certificate of merit (only sent to Attorney General)
4. The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary on the alleged violator (s) listed below via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Impact Products, LLC, 600 South #560 Heber City, Utah 84032	Scott Decker Chief Operating Officer Impact Products LLC 600 South #560, Heber City, Utah 84032

The required electronic filing of a true and correct copy thereof has been made 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
Filing link: oag.ca.gov/prop65

Copies of the notice were provided to the public enforcers by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices the parties listed on the attached Distribution List. The District Attorney and City Attorney offices that have requested electronic service only were served electronically via the email addresses listed on the Distribution List.
I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

Signature

Shannon C. Wilhite

Shannon C. Wilhite

DISTRIBUTION LIST

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 W. 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
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 St., 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
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@sdcda.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@sjcd a.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.go v	District Attorney Fresno consumerprotection@fresnocountyca.gov	District Attorney of Roseville pwp65@place.ca.gov

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 statue 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 Assessments Proposition 65 Implementation Office at (916)445-6900