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Section 1040

FITZGERALD MONROE FLYNN

2341 Jefferson Street, Suite 200
San Diego, California 92110

December 11, 2025

60-DAY NOTICE OF INTENT TO SUE

VIA CERTIFIED FIRST-CLASS MAIL

CytoSport, Inc.
Attn: Legal Department
P.O. Box 049003
Chicago, IL 60604

VIA ELECTRONIC FILING

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

CT Corporation System
Agent for: CytoSport, Inc.
330 N. Brand Blvd., Suite # 700
Glendale, CA 91203

VIA FIRST CLASS MAIL

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

VIA ELECTRONIC MAIL

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

RE: Notice of Violation of California Health & Safety Code § 25249.6

To Whom It May Concern:

We represent Chrissy Lester, a citizen of the State of California and prospective Plaintiff, acting in the interest of the general public to promote awareness of exposures to toxic chemicals from the use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified in the Cal. Health & Safety Code §§ 25249.5 *et seq.* (“Proposition 65”), requires that a 60-day notice of intent to sue be provided to a violator of Cal. Health & Safety Code § 25249.6.

With this notice of violation (“Notice”), Chrissy Lester hereby gives written notice of the alleged violation, bringing this action in the public interest as defined under the Cal. Health & Safety Code § 25249.7(d), seeking 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 the Muscle Milk products listed in the table below (collectively, the “Products”), which are manufactured, distributed, and/or sold by CytoSport, Inc. (“Defendant” or “CytoSport”).

Trevor Flynn | tflynn@fmfpc.com | (619) 215-1744

This Notice covers the violations of Proposition 65 that are currently known to Plaintiff from information now available as specifically related to the violating products listed below and manufactured, distributed, and/or sold by Defendant. Plaintiff is continuing their investigation that may reveal further violations. The Products currently subject to this Notice and the chemical(s) in the Products identified as exceeding allowable levels are as follows:

<u>Product</u>	<u>Flavor</u>	<u>Violative Chemical</u>
Muscle Milk Pro Series Gainer	“Chocolate”; “Vanilla Crème”	Lead
Muscle Milk Pro Advanced Nutrition Protein Shake	“Chocolate Peanut Butter”; “Intense Vanilla”; “Knockout Chocolate”; “Slammin’ Strawberry”;	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.

Defendant manufactured, produced, marketed, distributed and/or sold the Products 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.

Preliminary testing confirms lead levels above the Maximum Allowable Dosage Level in representative flavors, and on information and belief, all listed flavors share common manufacturing processes and raw protein ingredients likely to contain the same contaminant.

Cal. Health & Safety Code § 25249.6 requires that a “clear and reasonable” warning be provided prior to exposure to chemicals listed under Proposition 65. Plaintiff alleges that while in the course of doing business, Defendant was exposing consumers to lead without first providing a “clear and reasonable” warning. The method of warning should be a warning that appears on the product’s label. *See* Title 27, C.C.R. § 25602 (a)(3) and (b) for internet purchases also at the point of sale, as applicable. But Defendant has not provided any Proposition 65 warnings as required by law or any other appropriate warnings that persons handling, ingesting and/or otherwise using the Products are being exposed to lead.

With respect to the Products listed above, the violation commenced on the latter of the date that the Products were 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 Defendant, as applicable, in accordance with the law.

Pursuant to Title 27, C.C.R. § 25903(b), a copy of “The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary” is attached hereto as Appendix “A” for reference. 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.

Plaintiff 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 Defendant agrees to (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to lead; and (3) pay an appropriate civil penalty based on the factors enumerated in Cal. Health & Safety Code § 25249.7(b).

Sincerely,



Trevor Flynn
Counsel for Chrissy Lester


CERTIFICATE OF MERIT
Cal. Health & Safety Code Section 25249.7(d)

RE: Notice of Proposition 65 Violations by CytoSport, Inc.

I, Trevor Flynn, declare:

1. I am an attorney representing the noticing consumer, Chrissy Lester, in this matter.
2. I have reviewed the facts of this case and have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure from the subject products' lead.
3. 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.
4. 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 Cal. 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) the facts, studies, or other data reviewed by those persons.
5. This Certificate of Merit accompanies the attached sixty-day notice in which California Consumer Chrissy Lester alleges that CytoSport, Inc. has violated Cal. Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings that its Muscle Milk Products expose consumers to a level of lead known to be unsafe.

Dated: December 11, 2025

By: 

Trevor Flynn
Counsel for Chrissy Lester

(Attachments to Certificate of Merit – *for Attorney General Only*)

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am employed in the county where the mailing occurred. My business address is 2341 Jefferson St., Ste. 200, San Diego, CA 92110.

On December 11, 2025, I served the following documents:

1. 60-Day Notice of Intent to Sue for Violations of the Safe Water and Toxic Enforcement Act of 1986;
2. Certificate of Merit; and
3. Appendix “A” – “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.”

on CytoSport, Inc. and to its registered agent for service of process via First Class Certified Mail through the United States Postal Service by placing a true and correct copy of the aforementioned documents in a sealed envelope, and paying all postage and certified mail fees, to the following addresses:

**CytoSport, Inc.
Attn: Legal Department
P.O. Box 049003
Chicago, IL 60604**

**CT Corporation System
Agent for: CytoSport, Inc.
330 N. Brand Blvd., Suite 700
Glendale, CA 91203**

On December 11, 2025, I served the following documents:

1. 60-Day Notice of Intent to Sue for Violations of the Safe Water and Toxic Enforcement Act of 1986;
2. Certificate of Merit; and
3. Certificate of Merit with attached factual information sufficient to establish the basis of the Certificate of Merit (*only to the Attorney General of California*);

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 December 11, 2025, I served the following documents:

1. 60-Day Notice of Intent to Sue for Violations of the Safe Water and Toxic Enforcement Act of 1986;
2. Certificate of Merit;

on the following public prosecutors to whom documents were sent via Electronic Mail or U.S. Mail:

see attached distribution list.

Dated: December 11, 2025

A handwritten signature in black ink, appearing to read "Daniel Quintana", written over a light gray rectangular background.

By:

Daniel Quintana

DISTRIBUTION LIST

Sent via Electronic Mail to the District Attorney for each County as follows:

Alameda County District Attorney CEPDProp65@acgov.org	Napa County District Attorney CEPD@countyofnapa.org	San Luis Obispo County District Attorney edobroth@co.slo.ca.us
Calaveras County District Attorney Prop65Env@co.calaveras.ca.us	Nevada County District Attorney DA.prop65@co.nevada.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Placer County District Attorney prop65@placer.ca.gov	Santa Clara County District Attorney EPU@da.sccgov.org
Fresno County District Attorney consumerprotection@fresnocountyca.gov	Plumas County District Attorney davidhollister@countyofplumas.com	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Inyo County District Attorney inyoda@inyocounty.us	Riverside County District Attorney Prop65@rivcoda.org	Sonoma County District Attorney ECLD@sonoma-county.org
Lassen County District Attorney dhandler@co.lassen.ca.us	Sacramento County District Attorney Prop65@sacda.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Mariposa County District Attorney mcda@mariposacounty.org	San Diego County District Attorney SanDiegoDAProp65@sdcda.org	Ventura County District Attorney daspecialops@ventura.org
Merced County District Attorney Prop65@countyofmerced.com	San Francisco County District Attorney Prop65@sfgov.org	Yolo County District Attorney cfepd@yolocounty.org
Monterey County District Attorney Prop65DA@co.monterey.ca.us	San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org	Alpine County District Attorney prop65enf@alpinecountyca.gov
El Dorado County District Attorney EDCDAPROP65@edcda.us	Marin County District Attorney consumer@marincounty.gov	Orange County District Attorney Prop65Notice@ocdapa.org

Sent via United States Mail to the District Attorney for each County as follows:

Modoc County District Attorney 204 S. Court St., Suite 202 Alturas, CA 96101	Tuolumne County District Attorney 2 S. Green St. Sonora, CA 95370	Amador County District Attorney 708 Court St. Jackson, CA 95642
San Benito County District Attorney 419 4th St. Hollister, CA 95023	Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385	San Bernardino County District Attorney 303 W. 3rd St. San Bernardino, CA 92415
Colusa County District Attorney 310 6th St. Colusa, CA 95932	Mono County District Attorney PO Box 617 Bridgeport, CA 93517	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482
San Mateo County District Attorney 400 County Center Redwood City, CA 94063	Del Norte County District Attorney 450 H St., Room 171 Crescent City, CA 95531	Shasta County District Attorney 1355 West St. Redding, CA 96001
Glenn County District Attorney PO Box 430 Willows, CA 95988	Sierra County District Attorney PO Box 457 Downieville, CA 95936	Humboldt County District Attorney 825 5th St., 4th Floor Eureka, CA 95501
Siskiyou County District Attorney PO Box 986 Yreka, CA 96097	Imperial County District Attorney 940 W. Main St., Suite 102 El Centro, CA 92243	Solano County District Attorney 675 Texas St., Suite 4500 Fairfield, CA 94533
Kern County District Attorney 1215 Truxtun Ave., 4th Fl. Bakersfield, CA 93301	Stanislaus County District Attorney PO Box 442 Modesto, CA 95353	Kings County District Attorney 1400 W Lacey Blvd., Bldg. #4 Hanford, CA 93230
Sutter County District Attorney 463 2nd St., Suite 102 Yuba City, CA 95991	Lake County District Attorney 255 N Forbes St. Lakeport, CA 95453-4790	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080

Madera County District Attorney 300 South G St., Suite 300 Madera, CA 93637	Trinity County District Attorney PO Box 310 Weaverville, CA 96093	Yuba County District Attorney 215 5th St., Suite 152 Marysville, CA 95901
Los Angeles County District Attorney 211 West Temple St., Suite 1200 Los Angeles, CA 90012		

Sent via United States Mail or Electronic Mail to City Attorneys as follows:

San Francisco City Attorney 1390 Market St., 7th Fl. San Francisco, CA 94102 Prop65@sfcityatty.org	San Diego City Attorney Civic Center Plaza 1200 Third Ave., #1620 San Diego, CA 92101 CityAttyProp65@sandiego.gov	Los Angeles City Attorney 200 N Main St., Suite 800 Los Angeles, CA 90012
San Jose City Attorney 200 E. Santa Clara St., 16th Floor San Jose, CA 95113		