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8 Environmental Research Center

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10 THE FOOD LAWYERS  
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15 Attorney for Defendant  
16 Yoga Wellness, LLC

17 SUPERIOR COURT OF CALIFORNIA  
18 COUNTY OF LOS ANGELES

19 ENVIRONMENTAL RESEARCH  
20 CENTER, a California non-profit  
21 corporation,

22 Plaintiff,

23 vs.

24 YOGA WELLNESS, LLC and DOES 1-  
25 50, Inclusive,

26 Defendants.

27 Case No.: BC543397

28 **[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER**

**[Health & Safety Code § 25249.5, et seq.]**

1. INTRODUCTION

1.1 This Action arises out of the alleged violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5

1 *et seq.* (also known as and herein after referred to as “Proposition 65”) regarding the following  
2 products (hereinafter collectively the “Covered Products” or “Covered Product” to refer to a  
3 single product):

4 1) Yoga Wellness LLC Bikram Yoga Bikram Balance Berry

5 2) Yoga Wellness LLC Bikram Yoga Bikram Balance Original

6 **1.2** Plaintiff Environmental Research Center, Inc. (“ERC”) is a California non-profit  
7 corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other  
8 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
9 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
10 and encouraging corporate responsibility. ERC brings this Action in the public interest pursuant  
11 to California Health and Safety Code Section 25249.7.

12 **1.3** Defendant YOGA WELLNESS, LLC (“YOGA WELLNESS” or  
13 “DEFENDANT”) is a Florida L.L.C. The injunctive relief, reformulation, testing and warning  
14 requirements of this Consent Judgment will only apply to any time in which YOGA  
15 WELLNESS qualifies as a “person in the course of doing business,” as that term is defined in  
16 Health and Safety Code 25249.11(b) because they employ ten (10) or more employees. YOGA  
17 WELLNESS represents that at the time it stipulated to entry of this Consent Judgment it was not  
18 a “person in the course of doing business” because it had fewer than 10 employees. YOGA  
19 WELLNESS represents that it understands that even if YOGA WELLNESS is not a “person in  
20 the course of doing business” under Proposition 65, other companies in its chain of distribution  
21 (such as manufacturers, retailers, or distributors) that have 10 or more employees are not exempt  
22 from Proposition 65 and could violate Proposition 65 by knowingly and intentionally exposing  
23 individuals to chemicals contained in YOGA WELLNESS products without first giving a clear  
24 and reasonable warning. YOGA WELLNESS manufactures, distributes and sells the Covered  
25 Products.

26 **1.4** If at any time YOGA WELLNESS employs 10 or more employees, it will notify  
27 ERC of this fact within 30 days. If ERC sends a written request to YOGA WELLNESS for proof  
28 of the number of employees for YOGA WELLNESS, within 45 days YOGA WELLNESS will

1 provide all appropriate documentation to ERC showing the number of employees it has  
2 employed in the previous 24 months.

3 **1.5** ERC and YOGA WELLNESS are hereinafter sometimes referred to individually  
4 as a “Party” or collectively as the “Parties.”

5 **1.6** On December 13, 2013, pursuant to California Health and Safety Code Section  
6 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 (“Notice of Violations”) on  
7 the California Attorney General, other public enforcers, and YOGA WELLNESS. A true and  
8 correct copy of the Notice of Violations is attached hereto as Exhibit A.

9 **1.7** After more than sixty (60) days passed since service of the Notice of Violations,  
10 and no designated governmental agency filed a complaint against YOGA WELLNESS with  
11 regard to the Covered Products or the alleged violations, ERC filed the Complaint in this Action  
12 (the “Complaint”) for injunctive relief and civil penalties. The Complaint is based on the  
13 allegations in the Notice of Violations.

14 **1.8** The Complaint and the Notice of Violations each allege that YOGA WELLNESS  
15 manufactured, distributed, and/or sold in California the Covered Products, which contain lead, a  
16 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose  
17 consumers at a level requiring a Proposition 65 warning. They further allege that use of the  
18 Covered Products exposes persons in California to lead without first providing clear and  
19 reasonable warnings, in violation of California Health and Safety Code Section 25249.6. YOGA  
20 WELLNESS denies all material allegations of the Notice of Violation and the Complaint, assert  
21 numerous affirmative defenses, and specifically denies that the Covered Products require a  
22 Proposition 65 warning or otherwise cause harm to any person.

23 **1.9** The Parties enter into this Consent Judgment in order to settle, compromise and  
24 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent  
25 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any  
26 of the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
27 parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,  
28 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,

1 wrongdoing, or liability, including without limitation, any admission concerning any alleged  
2 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent  
3 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties  
4 may have in any other or future legal proceeding unrelated to these proceedings. However,  
5 nothing in this Section shall affect the enforceability of this Consent Judgment.

6 **1.10** The “Effective Date” of this Consent Judgment shall be the date this Consent  
7 Judgment is entered by the Court.

8 **1.11** The terms of this Consent Judgment were negotiated concurrently with  
9 WELLNESS WATCHERS, LLC, which is a defendant in the matter ERC v. WELLNESS  
10 WATCHERS, LLC, Los Angeles County Superior Court Case Number BC529471. YOGA  
11 WELLNESS and WELLNESS WATCHERS, LLC are related in ownership and control.  
12 Therefore, the payments required pursuant to this Consent Judgment, in Section 4, are jointly and  
13 severally owed by YOGA WELLNESS and WELLNESS WATCHERS, LLC.

## 14 **2. JURISDICTION AND VENUE**

15 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
16 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
17 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
18 pursuant to the terms set forth herein.

## 19 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

20 **3.1** YOGA WELLNESS is not subject to the provisions of this Section until such  
21 time as YOGA WELLNESS qualifies as a “person in the course of doing business” by  
22 employing ten (10) or more employees. Beginning on the Effective Date, YOGA WELLNESS  
23 shall be permanently enjoined from manufacturing for sale in California, directly selling to a  
24 consumer in California or “Distributing into California” any of the Covered Products for which  
25 the maximum daily dose recommended on the label contains more than 0.5 micrograms of lead,  
26 unless such Covered Product complies with the warning requirements in Section 3.3 or qualifies  
27 a “Reformulated Covered Product” pursuant to Section 3.4. “Distributing into California” and  
28 “Distribute into California” mean to directly ship any of the Covered Products into California for

1 sale or to sell any of the Covered Products to a distributor that YOGA WELLNESS knows will  
2 sell the Covered Product in California.

### 3 **3.2 Calculation of Lead Levels**

4 As used in this Consent Judgment, lead levels are calculated pursuant to the testing  
5 protocol described in Section 3.5. For purposes of measuring the lead, the highest lead detection  
6 result of the 5 randomly selected samples of the Covered Products will be controlling.

### 7 **3.3 Clear and Reasonable Warnings.**

8 For those Covered Products that are subject to the warning requirement of Section 3.1,  
9 YOGA WELLNESS shall provide the following warning:

10 **WARNING: This product contains [lead,] a chemical known to the State of**  
11 **California to cause [cancer and] birth defects or other reproductive harm.**

12 The text in brackets in the warning above is optional, except that the term “cancer” must  
13 be included only if the maximum daily dose recommended on the label contains more than 15  
14 micrograms of lead.

15 The warning shall be prominently affixed to or printed upon the product’s label of the  
16 Covered Product so as to be clearly conspicuous, as compared with other statements or designs  
17 on the label as to render it likely to be read and understood by an ordinary purchaser or user of  
18 the product. If the warning is displayed on the product’s label, it shall be at least the same size as  
19 the largest of any other health or safety warnings on the product and the word “**WARNING**”  
20 shall be in all capital letters and in bold print.

21 For any products sold via a website, the warning shall appear on the checkout page on the  
22 website for California consumers relating to any of the Covered Products being sold.

23 YOGA WELLNESS shall not provide any additional information, statements, or  
24 comments regarding Proposition 65 in addition to the Warning.

### 25 **3.4 Reformulated Covered Products.**

26 A Reformulated Covered Product is one for which the maximum recommended daily  
27 serving on the label contains no more than 0.5 micrograms of lead per day.

### 28 **3.5 Testing and Quality Control Methodology**

1 (a) Beginning within one year of the Effective Date, YOGA WELLNESS shall test  
2 five (5) randomly selected samples of each of the Covered Products (in the form intended for  
3 sale to the end-user) for lead content. The testing requirement does not apply to any of the  
4 Covered Products for which YOGA WELLNESS has provided the warning specified in Section  
5 3.3.

6 (b) Testing for lead shall be performed using Inductively Coupled Plasma-Mass  
7 Spectrometry (“ICP-MS”) or any other testing method subsequently agreed to in writing by the  
8 Parties.

9 (c) All testing pursuant to this Consent Judgment shall be performed by an  
10 independent third party laboratory certified by the California Environmental Laboratory  
11 Accreditation Program or a laboratory that is registered with the United States Food & Drug  
12 Administration for the analysis of heavy metals.

13 (d) YOGA WELLNESS shall retain all test results and documentation for a period of  
14 four (4) years from the date of the test. YOGA WELLNESS shall provide copies of the test  
15 results to ERC within ten (10) days of YOGA WELLNESS receipt of the test results.

16 (e) YOGA WELLNESS shall test each of the Covered Products at least once a year  
17 for a minimum of four (4) consecutive years by testing five randomly selected samples of each  
18 Covered Product which YOGA WELLNESS intends to sell or are manufacturing for sale in  
19 California, directly selling to a consumer in California, or “Distributing into California. If tests  
20 conducted pursuant to this Section demonstrate that no warning is required for a Covered  
21 Product during each of four (4) consecutive years, then the testing requirements of this Section  
22 will no longer be required as to that Covered Product. However, if during or after the four (4)  
23 year period, YOGA WELLNESS changes ingredient suppliers for any of the Covered Products  
24 and/or reformulates any of the Covered Products, YOGA WELLNESS shall test that Covered  
25 Product annually for at least four (4) consecutive years after such change is made.

26 (f) For purposes of this Consent Judgment, daily lead exposure levels shall be  
27 measured in micrograms, and shall be calculated using the following formula: Micrograms of  
28 lead per gram of product, multiplied by grams per serving of the product (using the largest

1 serving size appearing on the product label), multiplied by servings of the product per day (using  
2 the largest number of servings in the recommended dosage appearing on the product label),  
3 which equals micrograms of lead exposure per day.

#### 4 **4. SETTLEMENT PAYMENT**

5 **4.1** YOGA WELLNESS shall make a total payment of \$68,500.00 which shall be in  
6 full and final satisfaction of all potential civil penalties, payment in lieu of civil penalties, and  
7 attorney's fees and costs. The Payments shall be made in twelve equal installments. The first  
8 installment of the payment, in the amount of \$5,708.33 is due on the First of the month following  
9 the Effective Date. The remaining eleven payments are due on the First of each month thereafter.  
10 The payments will be sent to counsel for ERC, William F. Wraith, Wraith Law, 16485 Laguna  
11 Canyon Road, Suite 250, Irvine, California, 92618. The payments shall be issued as separate  
12 checks apportioned as follows:

13 **4.2** \$13,456.00 shall be payable as civil penalties pursuant to California Health and  
14 Safety Code Section 25249.7(b)(1). Of this amount, \$10,092.00 shall be payable to the Office of  
15 Environmental Health Hazard Assessment ("OEHHA") and \$3,364.00 shall be payable to  
16 Environmental Research Center. California Health and Safety Code Section 25249.12(c)(1) &  
17 (d). YOGA WELLNESS shall send both civil penalty payments to ERC's counsel who will be  
18 responsible for forwarding the civil penalty.

19 **4.3** \$28,883.00 payable to ERC as reimbursement to ERC for reasonable costs  
20 associated with the enforcement of Proposition 65 and other costs incurred as a result of work in  
21 bringing this Action; and (B) \$13,456.00 shall be payable to ERC in lieu of further civil  
22 penalties, for the day-to-day business activities such as (1) continued enforcement of Proposition  
23 65, which includes work, analyzing, researching and testing consumer products that may contain  
24 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are the  
25 subject matter of the current action and (2) the continued monitoring of past consent judgments  
26 and settlements to ensure companies are in compliance with Proposition 65.

27 **4.4** \$12,705.00 payable to William F. Wraith as reimbursement of ERC's attorney's  
28 fees and attorney's costs.

1           **4.5** Pursuant to Section 1.11, YOGA WELLNESS and WELLNESS WATCHERS,  
2 LLC are jointly and severally responsible for the full amount of the payments required in this  
3 Section. Therefore, each owes the full amount, though only a total of \$68,500.00 is owed  
4 between YOGA WELLNESS and WELLNESS WATCHERS, LLC.

5           **4.6** In the event that YOGA WELLNESS and WELLNESS WATCHERS, LLC fail to  
6 remit each monthly payment owed under Section 4 of this Consent Judgment on or before the  
7 due date, YOGA WELLNESS and WELLNESS WATCHERS, LLC will be deemed to be in  
8 material breach of its obligations under this Agreement and the remaining balance will become  
9 automatically due in full.

10 **5. MODIFICATION OF CONSENT JUDGMENT**

11           This Consent Judgment may be modified only by: (i) Written agreement and stipulation  
12 of the Parties and (ii) upon entry of a modified Consent Judgment by the Court. ERC is entitled  
13 to reimbursement all reasonable attorneys' fees and costs regarding any modification requested  
14 or initiated by YOGA WELLNESS.

15 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

16           **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
17 this Consent Judgment.

18           **6.2** Any Party may, by motion or application for an order to show cause filed with  
19 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing  
20 party in any such motion or application may request that the Court award its reasonable  
21 attorneys' fees and costs associated with such motion or application.

22 **7. APPLICATION OF CONSENT JUDGMENT**

23           This Consent Judgment shall apply to, be binding upon, and benefit the Parties and their  
24 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
25 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,  
26 wholesalers, retailers, predecessors, successors, and assigns.

27 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

28           **8.1** This Consent Judgment is a full, final and binding resolution between ERC, on



1 behalf of itself and in the public interest, and YOGA WELLNESS, of any alleged violation of  
2 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings for  
3 exposure to lead from the handling, use, or consumption of the Covered Products and fully  
4 resolves all claims that have been or could have been asserted in this action up to and including  
5 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products. ERC,  
6 on behalf of itself and in the public interest, hereby releases and discharges YOGA WELLNESS  
7 and their respective officers, directors, shareholders, employees, agents, parent companies,  
8 subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers, (not including  
9 private labelers) distributors, wholesalers, retailers, and all other upstream and downstream  
10 entities in the distribution chain of any Covered Product, and the predecessors, successors, and  
11 assigns of any of them (collectively, "Released Parties"), from any and all claims, actions, causes  
12 of action, suits, demand, liabilities, damages, penalties, fees, costs, and expenses asserted, or that  
13 could have been asserted, as to any alleged violation of Proposition 65 arising from the failure to  
14 provide Proposition 65 warnings on the Covered Products regarding lead.

15 **8.2** ERC, on behalf of itself only, hereby releases and discharges the Released Parties  
16 from all known and unknown claims, causes of action, suits, damages, penalties, liabilities,  
17 injunctive relief, declaratory relief, attorney's fees, costs, and expenses arising from or related to  
18 the claims asserted or that could have been asserted, under state or federal law, regarding the  
19 presence of lead in the Covered Products or the facts alleged in the Notice of Violation or the  
20 Complaint, including without limitation any and all claims concerning exposure to any person to  
21 lead in the Covered Products up to, and including, the Effective Date.

22 **8.3** Compliance with the terms of this Consent Judgment shall be deemed to  
23 constitute compliance with respect to exposures to lead from the covered Products as set forth in  
24 the Notice of Violations and Complaint.

25 **8.4 Unknown Claims**

26 It is possible that other claims not now known to the Parties arising out of the facts  
27 alleged in the Notice of Violations or the Complaint and relating to lead in the Covered Products  
28 that were manufactured before the Effective Date will develop or be discovered. ERC, on behalf

1 of itself only, waives California Civil Code Section 1542 as to any such unknown claims.

2 California Civil Code Section 1542 reads as follows:

3           **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
4           **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
5           **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**  
6           **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**  
7           **SETTLEMENT WITH THE DEBTOR.”**

8           8.5     ERC, on one hand, and YOGA WELLNESS, on the other hand, each release and  
9 waive all claims they may have against each other and their respective officers, directors,  
10 employees, agents, representatives, and attorneys for any statements or actions made or  
11 undertaken by them or their respective officers, directors, employees, agents, representatives, and  
12 attorneys in connection with the Notice of Violations or this Action.

### 13 **9. CONSTRUCTION AND SEVERABILITY**

14           9.1     The terms and conditions of this Consent Judgment have been reviewed by the  
15 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to  
16 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or  
17 construction of this Consent Judgment, the terms and conditions shall not be construed against  
18 any Party.

19           9.2     In the event that any of the provisions of this Consent Judgment is held by a court  
20 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
21 affected.

22           9.3     The terms and conditions of this Consent Judgment shall be governed by and  
23 construed in accordance with the laws of the State of California.

### 24 **10. PROVISION OF NOTICE**

25           All notices required to be given to either Party to this Consent Judgment by the other  
26 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)  
27 certified mail, (b) overnight courier, or (c) personal delivery to the following  
28

1  
2 **For Environmental Research Center**  
3 Chris Heptinstall, Executive Director  
4 Environmental Research Center  
5 3111 Camino del Rio North, Suite 400  
6 San Diego, CA 92108

7  
8 William F. Wraith, Esq.  
9 Wraith Law  
10 16485 Laguna Canyon Road, Suite 250  
11 Irvine, CA 92618

12  
13 **For YOGA WELLNESS, LLC**  
14 George C. Salmas, Esq.  
15 The Food Lawyers  
16 1880 Century Park East, Suite 611  
17 Los Angeles, CA 90067  
18 Telephone: (310) 556-0721  
19 Facsimile: (310) 788-8923

20  
21 With a copy to:  
22 YOGA WELLNESS, LLC  
23 Mr. Stuart Benson  
24 1289 Clint Moore Road  
25 Boca Raton, FL. 33487

26 **11. COURT APPROVAL**

27 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
28 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
Consent Judgment.

**11.2** If the California Attorney General objects to any term in this Consent Judgment,  
the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
prior to the hearing on the motion.

**11.3** If this Stipulated Consent Judgment is not approved by the Court despite the  
Parties' best efforts, it shall be null and void and have no force or effect.

29 **12. EXECUTION AND COUNTERPARTS**

This Stipulated Consent Judgment may be executed in counterparts, which taken together  
shall be deemed one document. A facsimile or .pdf signature shall be construed as valid and as

1 the original signature.

2 **13. ENTIRE AGREEMENT, AUTHORIZATION**

3 **13.1** This Consent Judgment contains the sole and entire agreement and understanding  
4 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
5 negotiations, commitments and understandings related hereto. No representations, oral or  
6 otherwise, express or implied, other than those contained herein have been made by any Party.  
7 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to  
8 exist or to bind any Party.

9 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
10 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
11 provided herein, each Party shall bear its own fees and costs.

12 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

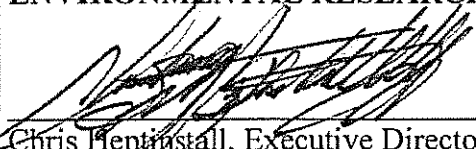
13 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.  
14 The Parties request the Court to fully review this Consent Judgment and, being fully informed  
15 regarding the matters which are the subject of this action, to:

16 (a) Find that the terms and provisions of this Consent Judgment represent a good  
17 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
18 diligently prosecuted, and that the public interest is served by such settlement; and

19 (b) Make the findings pursuant to California Health and Safety Code section  
20 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

21  
22 **IT IS SO STIPULATED:**

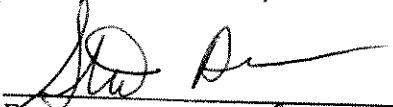
23 **ENVIRONMENTAL RESEARCH CENTER**

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25   
26 \_\_\_\_\_  
27 Chris Hentinstall, Executive Director

28  
Dated: 9/14/2014

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**YOGA WELLNESS, LLC**




By: STUART BENJAMIN  
Its: AGENT

Dated: 6/16/14

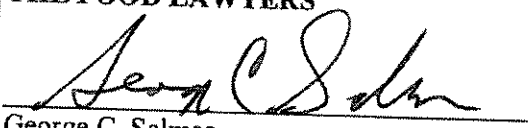
**APPROVED AS TO FORM:**

**WRAITH LAW**

  
William F. Wraith  
Counsel for Environmental Research Center

Dated: \_\_\_\_\_

**THE FOOD LAWYERS**



George C. Salmas  
Attorney for Defendant  
Yoga Wellness, LLC

Dated: 6/13/2014

1  
2 **YOGA WELLNESS, LLC**

3  
4 \_\_\_\_\_ Dated: \_\_\_\_\_

5 By:  
6 Its:

7  
8 **APPROVED AS TO FORM:**

9  
10 **WRAITH LAW**

11   
12 \_\_\_\_\_  
13 William F. Wraith  
14 Counsel for Environmental Research Center

11 Dated: 06/11/2014  
12 \_\_\_\_\_

14  
15 **THE FOOD LAWYERS**

16  
17 \_\_\_\_\_ Dated: \_\_\_\_\_  
18 George C. Salmas  
19 Attorney for Defendant  
20 Yoga Wellness, LLC  
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**ORDER AND JUDGMENT**

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Superior Court of the State of California

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# **EXHIBIT “A”**



# **WRAITH LAW**

16485 LAGUNA CANYON ROAD  
SUITE 250  
IRVINE, CALIFORNIA 92618  
Tel (949) 251-9977  
Fax (949) 251-9978

December 13, 2013

## **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ. (PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 3111 Camino Del Rio North, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**Yoga Wellness, LLC**

**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

**Yoga Wellness LLC Bikram Yoga Bikram Balance Berry - Lead  
Yoga Wellness LLC Bikram Yoga Bikram Balance Original - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least December 13, 2010, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



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William F. Wraith

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Yoga Wellness, LLC and its Registered Agent for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Yoga Wellness, LLC**

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

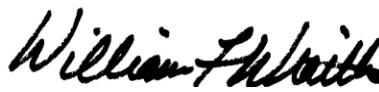
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on 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 that 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & 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.

Dated: December 13, 2013



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William F. Wraith

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On December 13, 2013, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

President or CEO  
Yoga Wellness, LLC  
1289 Clint Moore Rd.  
Boca Raton, FL 33487

Corporate Creations Network, Inc.  
(Registered Agent for  
Yoga Wellness, LLC)  
11380 Prosperity Farms Road #221 E  
Palm Beach Gardens, FL 33410

On December 13, 2013, I electronically served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following party by uploading a true and correct copy thereof on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

On December 13, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on December 13, 2013, in Fort Oglethorpe, Georgia.



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Tiffany Capehart

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

December 13, 2013

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**Service List**

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 <sup>nd</sup> Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 <sup>rd</sup> Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 <sup>th</sup> Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 <sup>th</sup> Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	