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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

**ENVIRONMENTAL RESEARCH  
CENTER, INC., a California non-profit  
corporation**

**Plaintiff,**

**vs.**

**BREW DR. KOMBUCHA, LLC; THE  
TOWNSHEND GROUP LLC; and DOES 1-  
100**

**Defendants.**

**CASE NO. 24CV064644**

**[PROPOSED] STIPULATED  
CONSENT JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: February 20, 2024  
Trial Date: November 14, 2025

**1. INTRODUCTION**

**1.1** On February 20, 2024, Plaintiff Environmental Research Center, Inc. (“ERC”),

a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.* (“Proposition 65”), against Brew Dr. Kombucha, LLC and The Townshend Group LLC (collectively “Brew Dr. Kombucha”), Castanea Partners LLC and Castanea Partners, Inc.,<sup>1</sup> and Does 1-100. Subsequently, on September 13, 2024, a First Amended Complaint was filed (the operative Complaint, hereinafter referred to as “Complaint”). In this action, ERC alleges that a number of products manufactured, distributed, or sold by Brew Dr. Kombucha contain lead and/or mercury, chemicals listed under Proposition 65 as carcinogens and/or reproductive toxins and expose consumers to these chemicals at a level requiring a Proposition 65 warning. These products (referred to hereinafter individually as a “Covered Product” or collectively as “Covered Products”) are: (1) Organic Brew Dr Kombucha Island Mango Passionfruit Ginger Green Tea (lead), (2) Organic Brew Dr Kombucha Clear Mind Rosemary Mint Sage Green Tea (lead, mercury), (3) Organic Kombucha by Brew Dr. Tasty & Fizzy Probiotic Tea Love Wins Lavender Chamomile Jasmine Green Tea (lead, mercury), (4) Organic Kombucha by Brew Dr. Tasty & Fizzy Probiotic Tea Superberry Raspberry Blueberry Oolong Tea (lead), (5) Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Lemon Grove Ginger Lemon Green Tea (lead), (6) Brew Dr. SipJoy Grapefruit Lower Sugar Probiotic Refresher (lead), (7) Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Orange Oasis Blood Orange Lemon Black Tea (lead, mercury), (8) Brew Dr. SipJoy Lemonade + Tea Lower Sugar Probiotic Refresher (lead), (9) Brew Dr. SipJoy Orange Lower Sugar Probiotic Refresher (lead, mercury), and (10) Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Strawberry Fields Strawberry Hibiscus Green Tea (lead, mercury).

The following Covered Products are also referred to collectively as “Mercury Covered Products”: Organic Brew Dr Kombucha Clear Mind Rosemary Mint Sage Green Tea, Organic Kombucha by Brew Dr. Tasty & Fizzy Probiotic Tea Love Wins Lavender Chamomile

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<sup>1</sup> Castanea Partners LLC and Castanea Partners, Inc. were dismissed from this action without prejudice on August 16, 2024, prior to the filing of the First Amended Complaint. By way of this Consent Judgment, Castanea Partners LLC and Castanea Partners, Inc. are dismissed with prejudice on the Effective Date.

1 Jasmine Green Tea, Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Orange  
2 Oasis Blood Orange Lemon Black Tea, Brew Dr. SipJoy Orange Lower Sugar Probiotic  
3 Refresher, and Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Strawberry  
4 Fields Strawberry Hibiscus Green Tea.

5 **1.2** ERC and Brew Dr. Kombucha are hereinafter referred to individually as a  
6 “Party” or collectively as the “Parties.”

7 **1.3** ERC is a 501 (c)(3) California non-profit corporation 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.

11 **1.4** For purposes of this Stipulated Consent Judgment (“Consent Judgment”), the  
12 Parties agree that Brew Dr. Kombucha is a business entity that has employed ten or more persons  
13 at all times relevant to this action and qualifies as a “person in the course of doing business”  
14 within the meaning of Proposition 65. Brew Dr. Kombucha manufactures, distributes, and/or sells  
15 the Covered Products.

16 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation  
17 dated November 9, 2023, May 9, 2024, and May 17, 2024 that were served on the California  
18 Attorney General, other public enforcers, and Brew Dr. Kombucha (“Notices”). True and  
19 correct copies of the 60-Day Notices dated November 9, 2023, May 9, 2024, and May 17, 2024  
20 are attached hereto as **Exhibits A, B, and C** and each is incorporated herein by reference. More  
21 than 60 days have passed since the Notices were served on the Attorney General, public  
22 enforcers, and Brew Dr. Kombucha and no designated governmental entity has filed a  
23 Complaint against Brew Dr. Kombucha with regard to the Covered Products or the alleged  
24 violations.

25 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products by  
26 California consumers exposes them to lead and/or mercury without first receiving clear and  
27 reasonable warnings from Brew Dr. Kombucha, which is in violation of California Health and  
28 Safety Code section 25249.6. Brew Dr. Kombucha denies all material allegations contained in

the Notices and Complaint.

**1.7** The Parties have entered into this Consent Judgment in order to settle, compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute or be construed as an admission by any of the Parties or by any of their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or violation of law.

**1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any current or future legal proceeding unrelated to these proceedings.

**1.9** The Effective Date of this Consent Judgment is the date on which it is entered as a Judgment by this Court. The Compliance Date is the date that is 30 days after the Effective Date.

## **2. JURISDICTION AND VENUE**

For purposes of this Consent Judgment and any further court action that may become necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over Brew Dr. Kombucha as to the acts alleged in the Complaint, that venue is proper in Alameda County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims up through and including the Compliance Date that were or could have been asserted in this action based on the facts alleged in the Notices and Complaint.

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

**3.1** Beginning on the Compliance Date, Brew Dr. Kombucha shall be permanently enjoined from manufacturing for sale in the State of California, "Distributing into the State of California," or directly selling in the State of California, any Covered Product that exposes a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day and/or any Mercury Covered Product that exposes a person to a "Daily Mercury Exposure Level" of

1 more than 0.3 micrograms of mercury per day unless it meets the warning requirements under  
2 Section 3.2.

3 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State  
4 of California” shall mean to directly ship a Covered Product into California for sale in  
5 California or to sell a Covered Product to a distributor that Brew Dr. Kombucha knows or has  
6 reason to know will sell the Covered Product in California.

7 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure  
8 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
9 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
10 product (using the largest serving size appearing on the product label), multiplied by servings  
11 of the product per day (using the largest number of recommended daily servings appearing on  
12 the label), which equals micrograms of lead exposure per day. If the label contains no  
13 recommended daily servings, then the number of recommended daily servings shall be one.

14 **3.1.3** For purposes of this Consent Judgment, the “Daily Mercury Exposure  
15 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
16 micrograms of mercury per gram of product, multiplied by grams of product per serving of the  
17 product (using the largest serving size appearing on the product label), multiplied by servings  
18 of the product per day (using the largest number of recommended daily servings appearing on  
19 the label), which equals micrograms of mercury exposure per day. If the label contains no  
20 recommended daily servings, then the number of recommended daily servings shall be one.

21 **3.2 Clear and Reasonable Warnings**

22 If Brew Dr. Kombucha is required to provide a warning pursuant to Section 3.1, one of the  
23 following warnings must be utilized (“Warning”):

24 **OPTION 1:**

25 **WARNING:** Consuming this product can expose you to chemicals including [lead] [and]  
26 [mercury] which is [are] known to the State of California to cause [cancer and] birth defects  
or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

27 OR  
28

**OPTION 2:**

**WARNING:** Risk of [cancer from exposure to lead and] reproductive harm from exposure to [lead] [mercury]. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

OR

**OPTION 3:**

**WARNING:** Can expose you to [lead] [mercury] [a carcinogen and] a reproductive toxicant. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food)

For all Warning options, the Warning shall begin either with the word “**WARNING,**” as indicated above, or the words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital letters and bold print. Brew Dr. Kombucha shall use the phrase “cancer and” in the Option 1 Warning or “cancer from exposure to lead and” in the Option 2 Warning or “a carcinogen and” in the Option 3 Warning (each phrase referred to individually as a “Cancer Phrase”) if Brew Dr. Kombucha has reason to believe that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the quality control methodology set forth in Section 3.4 or if Brew Dr. Kombucha has reason to believe that another Proposition 65 chemical is present which may require a cancer warning. As identified in the brackets, the warning shall appropriately reflect whether there is lead, mercury (but only for the Mercury Covered Products), or both chemicals present in each of the Covered Products, but if there is a chemical present at a level that requires a cancer warning, the chemical requiring use of the Cancer Phrase in the Warning shall always be identified.

The Warning shall be securely affixed to or printed upon the label of each Covered Product, and it must be set off from other surrounding information and enclosed in a box. In addition, for any Covered Product sold over the internet, the Warning shall appear on the primary product display page or checkout page when a California delivery address is indicated for any purchase of any Covered Product. An asterisk or other identifying method must be utilized to identify which products on the checkout page are subject to the Warning. The Warning may be provided via a hyperlink, using either the word “**WARNING,**” or the words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital and bold letters, so long as

the hyperlink goes directly to a page prominently displaying the Warning without content that detracts from the Warning. A warning is not prominently displayed if the purchaser must search for it in the general content of the website.

No statements intended to or likely to have the effect of diminishing the impact of the Warning on the average lay person shall accompany the Warning. Further no statements may accompany the Warning that state or imply that the source of the listed chemical has an impact on or results in a less harmful effect of the listed chemical.

Brew Dr. Kombucha must display the above Warning with such conspicuousness, as compared with other words, statements or designs on the label, or on its website, if applicable, to render the Warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the product. For the Option 2 and Option 3 Warnings, in no case shall the Warning appear in a type size smaller than 6-point type. Where a sign or label used to provide the Warning for a Covered Product includes consumer information about the Covered Product in a language other than English, the Warning must also be provided in that language in addition to English.

For purposes of this Consent Judgment, the term “label” means a display of written, printed or graphic material that is printed on or affixed to a Covered Product or its immediate container or wrapper.

### **3.3 Conforming Covered Products**

A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure Level” is no greater than 0.5 micrograms of lead per day and/or, with respect to the Mercury Covered Products, the “Daily Mercury Exposure Level” is no greater than 0.3 micrograms of mercury per day, all as determined by the exposure methodology set forth in Section 3.1.2 and the quality control methodology described in Section 3.4, and that is not known by Brew Dr. Kombucha to contain other chemicals that violate Proposition 65’s safe harbor thresholds.

### **3.4 Testing and Quality Control Methodology**

**3.4.1** Beginning within one year of the Effective Date, Brew Dr. Kombucha shall arrange for lead and mercury testing of the Covered Products at least once a year for a



1 minimum of three (3) consecutive years by arranging for testing of three (3) randomly selected  
2 samples of each of the Covered Products, in the form intended for sale to the end-user, which  
3 Brew Dr. Kombucha intends to sell or is manufacturing for sale in California, directly selling  
4 to a consumer in California or “Distributing into the State of California” (the Original Testing).  
5 If tests conducted pursuant to this Section demonstrate that no Warning is required for a  
6 Covered Product during each of three (3) consecutive years, then the testing requirements of  
7 this Section will no longer be required as to that Covered Product. However, if during the three  
8 (3) year testing period, Brew Dr. Kombucha changes ingredient suppliers for any of the  
9 Covered Products and/or reformulates any of the Covered Products, Brew Dr. Kombucha shall  
10 test that Covered Product annually for at least two (2) consecutive years after such change is  
11 made.

12 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level” and/or the  
13 “Daily Mercury Exposure Level,” the highest lead and/or mercury detection result of the three  
14 (3) randomly selected samples of the Covered Products will be controlling.

15 **3.4.3** If, during a required testing year, the highest result for a Covered Product  
16 pursuant to the Original Testing as described in Section 3.4.1 reflects an exposure in excess of  
17 the thresholds specified in Section 3.1, as applicable, Brew Dr. Kombucha shall have the right to  
18 retest three (3) randomly selected samples from different lots (“Retest”), and the highest lead or  
19 mercury detection result from the three samples tested during the Retest shall be used as  
20 controlling for calculating the Daily Lead Exposure Level and/or the Daily Mercury Exposure  
21 Level, as applicable, for that Covered Product for purposes of the Consent Judgment. If Brew  
22 Dr. Kombucha chooses to conduct a Retest, then it shall notify ERC in writing that it has done so  
23 and shall provide the tests from the Original Testing and the Retest to ERC as required pursuant  
24 to Section 3.4.7 or Section 6.2. Additionally, if Brew Dr. Kombucha chooses to conduct a  
25 Retest, it shall comply with Sections 3.1 and 3.2 with respect to any lot from which the Original  
26 Testing sample that exceeded the threshold specified in Section 3.1 was obtained. This means  
27 that if any sample tested in the Original Testing had a Daily Lead Exposure Level greater than  
28 0.5 micrograms of lead per day and/or a Daily Mercury Exposure Level greater than 0.3



1 micrograms of mercury per day (for Mercury Covered Products), as determined by the exposure  
2 methodologies set forth in Sections 3.1.2 and 3.1.3, then Brew Dr. Kombucha must comply with  
3 Sections 3.1 and 3.2 before selling or distributing Covered Products from that sample's lot to  
4 California consumers. Brew Dr. Kombucha shall not be permitted to conduct a Retest on a  
5 Covered Product for any year in which multiple samples from the Original Testing reflect an  
6 exposure in excess of the thresholds specified in Section 3.1. Brew Dr. Kombucha shall be  
7 permitted one Retest per Covered Product for each of lead and mercury, as outlined in this  
8 Section, during each year that it performs testing. If any sample in the Retest reflects an  
9 exposure in excess of the thresholds specified in Section 3.1, Brew Dr. Kombucha shall comply  
10 with Sections 3.1 and 3.2 as to that Covered Product. The results of any Retest shall not be  
11 considered in determining whether Brew Dr. Kombucha's testing obligations have ceased as set  
12 forth in Section 3.4.1.

13 **3.4.4** All testing pursuant to this Consent Judgment shall be performed using a  
14 laboratory method that complies with the performance and quality control factors appropriate for  
15 the method used, including limit of detection and limit of quantification, sensitivity, accuracy  
16 and precision that meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry  
17 ("ICP-MS") achieving a limit of quantification of less than or equal to 0.005 mg/kg.

18 **3.4.5** All testing pursuant to this Consent Judgment shall be performed by an  
19 independent third party laboratory certified by the California Environmental Laboratory  
20 Accreditation Program or an independent third-party laboratory that is registered with the  
21 United States Food & Drug Administration.

22 **3.4.6** Nothing in this Consent Judgment shall limit Brew Dr. Kombucha's  
23 ability to conduct, or require that others conduct, additional testing of the Covered Products,  
24 including the raw materials used in their manufacture.

25 **3.4.7** Within thirty (30) days of ERC's written request, Brew Dr. Kombucha  
26 shall deliver lab reports obtained pursuant to this Section 3.4 to ERC. Brew Dr. Kombucha  
27 shall retain all test results and documentation for a period of two (2) years from the date of  
28 each test.

1           **3.5**     Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC  
2 from obtaining and relying upon its own testing for purposes of enforcement, so long as such  
3 testing meets the requirements of Sections 3.4.4 and 3.4.5. Nothing in Section 3.4 of this  
4 Consent Judgment is intended by either Party to set a precedent for the level of lead, mercury or  
5 other chemicals that is permissible in consumer products under Proposition 65.

6           **4.     SETTLEMENT PAYMENT**

7           **4.1**     In full satisfaction of all potential civil penalties, additional settlement  
8 payments, attorney's fees, and costs, Brew Dr. Kombucha shall make a total payment of One-  
9 Hundred Ten-Thousand Dollars and Zero Cents (\$110,000.00) ("Total Settlement Amount") to  
10 ERC within 15 days of the Effective Date, but in no case earlier than April 30, 2025 ("Due  
11 Date"). Brew Dr. Kombucha shall make this payment by wire transfer to ERC's account, for  
12 which ERC will give Brew Dr. Kombucha the necessary account information. The Total  
13 Settlement Amount shall be apportioned as follows:

14           **4.2**     \$10,000.00 shall be considered a civil penalty pursuant to California Health and  
15 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$7,500.00) of the civil penalty to the  
16 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
17 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
18 Code section 25249.12(c). ERC will retain the remaining 25% (\$2,500.00) of the civil penalty.

19           **4.3**     \$5,594.72 shall be distributed to ERC as reimbursement to ERC for reasonable  
20 costs incurred in bringing this action.

21           **4.4**     \$37,562.71 shall be distributed to Aqua Terra Aeris Law Group as  
22 reimbursement of ERC's attorney fees, while \$56,842.57 shall be distributed to ERC for its in-  
23 house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and  
24 costs.

25           **4.5**     In the event that Brew Dr. Kombucha fails to remit the Total Settlement  
26 Amount owed under Section 4 of this Consent Judgment on or before the Due Date, Brew Dr.  
27 Kombucha shall be deemed to be in material breach of its obligations under this Consent  
28 Judgment. ERC shall provide written notice of the delinquency to Brew Dr. Kombucha via

1 electronic mail. If Brew Dr. Kombucha fails to deliver the Total Settlement Amount within  
2 five (5) days from the written notice, the Total Settlement Amount shall accrue interest at the  
3 statutory judgment interest rate provided in the California Code of Civil Procedure section  
4 685.010. Additionally, Brew Dr. Kombucha agrees to pay ERC's reasonable attorney's fees  
5 and costs for any efforts to collect the payment due under this Consent Judgment.

## 6 **5. MODIFICATION OF CONSENT JUDGMENT**

7 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by  
8 written stipulation of the Parties and upon entry by the Court of a modified consent judgment  
9 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a  
10 modified consent judgment.

11 **5.2** If Brew Dr. Kombucha seeks to modify this Consent Judgment under Section  
12 5.1, then Brew Dr. Kombucha must provide written notice to ERC of its intent ("Notice of  
13 Intent"). If ERC seeks to meet and confer regarding the proposed modification in the Notice of  
14 Intent, then ERC must provide written notice to Brew Dr. Kombucha within thirty (30) days of  
15 receiving the Notice of Intent. If ERC notifies Brew Dr. Kombucha in a timely manner of  
16 ERC's intent to meet and confer, then the Parties shall meet and confer in good faith as  
17 required in this Section. The Parties shall meet in person, via remote meeting, or by telephone  
18 within thirty (30) days of ERC's notification of its intent to meet and confer. Within thirty (30)  
19 days of such meeting, if ERC disputes the proposed modification, ERC shall provide to Brew  
20 Dr. Kombucha a written basis for its position. The Parties shall continue to meet and confer for  
21 an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become  
22 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer  
23 period.

24 **5.3** In the event that Brew Dr. Kombucha initiates or otherwise requests a  
25 modification under Section 5.1, and the meet and confer process leads to a joint motion or joint  
26 application for a modification of the Consent Judgment, Brew Dr. Kombucha shall reimburse  
27 ERC its costs and reasonable attorney's fees for the time spent in the meet-and-confer process  
28 and filing and arguing the motion or application.

1     **6.     RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
2     **JUDGMENT**

3             **6.1**     This Court shall retain jurisdiction of this matter to enforce, modify, or  
4 terminate this Consent Judgment.

5             **6.2**     If ERC alleges that any Covered Product fails to qualify as a Conforming  
6 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall  
7 inform Brew Dr. Kombucha in a reasonably prompt manner of its test results, including  
8 information sufficient to permit Brew Dr. Kombucha to identify the Covered Products at issue.  
9 Brew Dr. Kombucha shall, within thirty (30) days following such notice, provide ERC with  
10 testing information, from an independent third-party laboratory meeting the requirements of  
11 Sections 3.4.4 and 3.4.5, demonstrating Brew Dr. Kombucha's compliance with the Consent  
12 Judgment. The Parties shall first attempt to resolve the matter prior to ERC taking any further  
13 legal action.

14     **7.     APPLICATION OF CONSENT JUDGMENT**

15             This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
16 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
17 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,  
18 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application  
19 to any Covered Product that is distributed or sold exclusively outside the State of California and  
20 that is not used by California consumers.

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

22             **8.1**     This Consent Judgment is a full, final, and binding resolution between ERC, on  
23 behalf of itself and in the public interest, and Brew Dr. Kombucha and its respective officers,  
24 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,  
25 franchisees, licensees, customers (not including private label customers of Brew Dr.  
26 Kombucha), distributors, wholesalers, retailers, and all other upstream and downstream entities  
27 in the distribution chain of any Covered Product, and the predecessors, successors, and assigns  
28 of any of them (collectively, "Released Parties").

1           **8.2**     ERC, acting in the public interest, releases the Released Parties from any and all  
2 claims for violations of Proposition 65 up through the Compliance Date based on exposure to  
3 lead from the Covered Products and/or mercury from the Mercury Covered Products as set  
4 forth in the Notices of Violation. ERC, on behalf of itself only, hereby fully releases and  
5 discharges the Released Parties from any and all claims, actions, causes of action, suits,  
6 demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that could have  
7 been asserted from the handling, use, or consumption of the Covered Products, as to any  
8 alleged violation of Proposition 65 or its implementing regulations arising from the failure to  
9 provide Proposition 65 warnings on the Covered Products regarding lead and/or mercury (for  
10 the Mercury Covered Products only) up to and including the Compliance Date.

11           **8.3**     ERC on its own behalf only, and Brew Dr. Kombucha on its own behalf only,  
12 further waive and release any and all claims they may have against each other for all actions or  
13 statements made or undertaken in the course of seeking or opposing enforcement of  
14 Proposition 65 in connection with the Notices and Complaint up through and including the  
15 Compliance Date, provided, however, that nothing in Section 8 shall affect or limit any Party's  
16 right to seek to enforce the terms of this Consent Judgment.

17           **8.4**     It is possible that other claims not known to the Parties, arising out of the facts  
18 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be  
19 discovered. ERC on behalf of itself only, and Brew Dr. Kombucha on behalf of itself only,  
20 acknowledge that this Consent Judgment is expressly intended to cover and include all such  
21 claims up through and including the Compliance Date, including all rights of action therefore.  
22 ERC and Brew Dr. Kombucha acknowledge that the claims released in Sections 8.2 and 8.3  
23 above may include unknown claims, and nevertheless waive California Civil Code section  
24 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

25           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
26 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
27 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE  
28 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
PARTY.

ERC on behalf of itself only, and Brew Dr. Kombucha on behalf of itself only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code Section 1542.

**8.5** Compliance with the terms of this Consent Judgment shall be deemed to constitute compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to lead in the Covered Products and/or mercury in the Mercury Covered Products as set forth in the Notices and Complaint.

**8.6** Nothing in this Consent Judgment is intended to apply to any occupational or environmental exposures arising under Proposition 65, nor shall it apply to any of Brew Dr. Kombucha's products other than the Covered Products.

## **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

## **10. GOVERNING LAW**

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

## **11. PROVISION OF NOTICE**

All notices required to be given to either Party to this Consent Judgment by the other shall be in writing and sent to the following agents listed below via first-class mail or via electronic mail where required. Courtesy copies via email may also be sent.

### **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

Chris Heptinstall, Executive Director, Environmental Research Center  
3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108  
Telephone: (619) 500-3090  
Email: [chris.heptinstall@erc501c3.org](mailto:chris.heptinstall@erc501c3.org)

///

///

1 With a copy to:  
2 Matthew C. Maclear  
3 Anthony M. Barnes  
4 Aqua Terra Aeris Law Group  
5 4030 Martin Luther King Jr. Way  
6 Oakland, CA 94609  
7 Telephone: (415) 568-5200  
8 Email: mcm@atalawgroup.com  
9 amb@atalawgroup.com

10 **FOR BREW DR. KOMBUCHA, LLC; THE TOWNSHEND GROUP LLC:**

11 Matt Thomas  
12 19675 SW 129th Avenue  
13 Tualatin, OR 97062  
14 Email: matt@brewdrtea.com

15 With a copy to:  
16 Caitlin C. Blanche  
17 Venable LLP  
18 2049 Century Park East, Suite 2300,  
19 Los Angeles, CA 90067  
20 Telephone: 310-229-0340  
21 Email: CBlanche@Venable.com

22 **12. COURT APPROVAL**

23 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
24 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
25 Consent Judgment.

26 **12.2** If the California Attorney General objects to any term in this Consent Judgment,  
27 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
28 prior to the hearing on the motion.

**12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be  
void and have no force or effect.

**13. EXECUTION AND COUNTERPARTS**

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



**14. DRAFTING**

The terms of this Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated equally in the preparation and drafting of this Consent Judgment.

**15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

If a dispute arises with respect to either Party's compliance with the terms of this Consent Judgment entered by the Court, the Parties shall meet and confer in person, via remote meeting, by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.

**16. ENFORCEMENT**

ERC may, by motion or order to show cause before the Superior Court of Alameda County, enforce the terms and conditions contained in this Consent Judgment. In any action brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with the Consent Judgment. To the extent the failure to comply with the Consent Judgment constitutes a violation of Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with Proposition 65 or other laws.

**17. ENTIRE AGREEMENT, AUTHORIZATION**

**17.1** This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter herein, including any and all prior discussions, negotiations, commitments, and understandings related thereto. No

representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

17.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment.

**18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF CONSENT JUDGMENT**

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

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

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

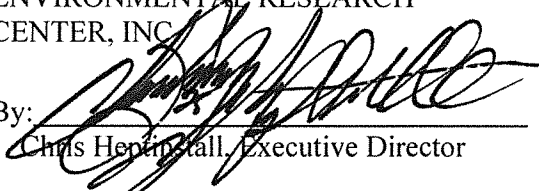
(3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

**IT IS SO STIPULATED:**

Dated: 3/14/, 2025

ENVIRONMENTAL RESEARCH  
CENTER, INC.

By:

  
Chris Hentinstall, Executive Director

BREW DR. KOMBUCHA, LLC

Dated: March 7, 2025

Signed by:

  
Sarah Golding

By: 8E91C85CD62E4EC...  
Sarah Golding

Its: Chief Financial officer

THE TOWNSHEND GROUP LLC

Dated: March 7, 2025

Signed by:

*Matt Thomas*

1486EC45D7B14CB...

By: Matt Thomas

Its: Managing Member

**APPROVED AS TO FORM:**

Dated: March 3, 2025

AQUA TERRA AERIS LAW GROUP

By: 

Matthew C. Maclear

Anthony M. Barnes

Attorneys for Plaintiff Environmental  
Research Center, Inc.

Dated: March 12, 2025

VENABLE LLP

Signed by:

*Caitlin Blanche*

By: 

AED1C17388A74BB...

Caitlin C. Blanche

Attorney for Defendants Brew Dr.  
Kombucha, LLC, The Townshend Group  
LLC

## ORDER AND JUDGMENT

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_, 2025

Judge of the Superior Court

# **EXHIBIT A**



Matthew Maclear  
[mcm@atalawgroup.com](mailto:mcm@atalawgroup.com)  
415-568-5200

Anthony Barnes  
[amb@atalawgroup.com](mailto:amb@atalawgroup.com)  
917-371-8293

November 9, 2023

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, 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 Violators 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 Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Brew Dr. Kombucha, LLC  
The Townshend Group LLC  
Castanea Partners LLC  
Castanea Partners, Inc.**



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*  
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**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

1. **Organic Brew Dr Kombucha Island Mango Passionfruit Ginger Green Tea - Lead**
2. **Organic Brew Dr Kombucha Clear Mind Rosemary Mint Sage Green Tea – Lead, Mercury**
3. **Organic Kombucha by Brew Dr. Tasty & Fizzy Probiotic Tea Love Wins Lavender Chamomile Jasmine Green Tea – Lead, Mercury**
4. **Organic Kombucha by Brew Dr. Tasty & Fizzy Probiotic Tea Superberry Raspberry Blueberry Oolong Tea - 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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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 recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least November 9, 2020, 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 Violators violated Proposition 65 because they failed to provide persons ingesting 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 Violators 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; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable





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warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. 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 ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear", is written over a horizontal line.

Matthew Maclear  
**AQUA TERRA AERIS LAW GROUP**

Attachments

Certificate of Merit  
Certificate of Service  
OEHHA Summary (to Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, Castanea Partners, Inc., and their Registered Agents for Service of Process only)  
Additional Supporting Information for Certificate of Merit (to AG only)



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### **CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, and Castanea Partners, Inc.**

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties 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 Violators 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.

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is written in a cursive, flowing style.

Dated: November 9, 2023

Matthew Maclear



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**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 and over the age of 18 years of age. 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 November 9, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Brew Dr. Kombucha, LLC  
2222 NE Oregon St, Ste 109  
Portland, OR 97232

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
330 N Brand Blvd  
Glendale, CA 91203

Current President or CEO  
Brew Dr. Kombucha, LLC and  
The Townshend Group LLC  
12241 SW Myslony St  
Tualatin, OR 97062

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
7700 East Arapahoe Rd, Ste 220  
Centennial, CO 80112

Krista Nollenberger  
(Registered Agent for Brew Dr. Kombucha, LLC  
and The Townshend Group LLC)  
2222 NE Oregon St, Ste 109  
Portland, OR 97232

The Corporation Trust Company  
(Registered Agent for Castanea Partners LLC  
and Castanea Partners, Inc.)  
1209 N. Orange Street  
Wilmington, DE 19801

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
711 Capitol Way S, Ste 204  
Olympia, WA 98501

Current President or CEO  
Castanea Partners LLC and  
Castanea Partners, Inc.  
3 Newton Executive Park, Ste 304  
Newton, MA 02462

CT Corporation System  
(Registered Agent for Castanea Partners LLC and  
Castanea Partners, Inc.)  
155 Federal St, Ste 700  
Boston, MA 02110



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On November 9, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party when a true and correct copy thereof was uploaded 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 November 9, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Pamela Y. Price, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
[CEPDProp65@acgov.org](mailto:CEPDProp65@acgov.org)

Thomas L. Hardy, District Attorney  
Inyo County  
168 North Edwards Street  
Independence, CA 93526  
[inyoda@inyocounty.us](mailto:inyoda@inyocounty.us)

Barbara Yook, District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249  
[Prop65Env@co.calaveras.ca.us](mailto:Prop65Env@co.calaveras.ca.us)

Devin Chandler, Program Coordinator  
Lassen County  
2950 Riverside Dr  
Susanville, CA 96130  
[dchandler@co.lassen.ca.us](mailto:dchandler@co.lassen.ca.us)

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Lori E. Frugoli, District Attorney  
Marin County  
3501 Civic Center Drive, Suite 145  
San Rafael, CA 94903  
[consumer@marincounty.org](mailto:consumer@marincounty.org)

James Clinchard, Assistant District Attorney  
El Dorado County  
778 Pacific Street  
Placerville, CA 95667  
[EDCDAPROP65@edcda.us](mailto:EDCDAPROP65@edcda.us)

Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
[mcd@mariposacounty.org](mailto:mcd@mariposacounty.org)

Lisa A. Smittcamp, District Attorney  
Fresno County  
2100 Tulare Street  
Fresno, CA 93721  
[consumerprotection@fresnocountyca.gov](mailto:consumerprotection@fresnocountyca.gov)

Kimberly Lewis, District Attorney  
Merced County  
550 West Main St  
Merced, CA 95340  
[Prop65@countyofmerced.com](mailto:Prop65@countyofmerced.com)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*  
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Jeannine M. Pacioni, District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

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

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

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@da.ocgov.com

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

David Hollister, District Attorney  
Plumas County  
520 Main St  
Quincy, CA 95971  
davidhollister@countyofplumas.com

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

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

Summer Stephan, District Attorney  
San Diego County  
330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdca.org

Mark Ankorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

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

Henry Lifton, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7th Floor  
San Francisco, CA 94102  
Prop65@sfcityatty.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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

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

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*  
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Nora V. Frimann, City Attorney  
Santa Clara City Attorney  
200 E. Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

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

Jill Ravitch, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
Jeannie.Barnes@sonoma-county.org

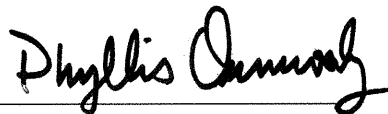
Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

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

On November 9, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on November 9, 2023, in Fort Oglethorpe, Georgia.

  
Phyllis Dunwoody



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

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**Service List**

|   |  |   |
|---|--|---|
| District Attorney, Alpine County<br>P.O. Box 248<br>Markleeville, CA 96120  | District Attorney, Modoc County<br>204 S Court Street, Room 202<br>Alturas, CA 96101-4020  | District Attorney, Yuba County<br>215 Fifth Street, Suite 152<br>Marysville, CA 95901                             |
| District Attorney, Amador County<br>708 Court Street, Suite 202<br>Jackson, CA 95642                                  | District Attorney, Mono County<br>Post Office Box 617<br>Bridgeport, CA 93517  | Los Angeles City Attorney's<br>Office<br>City Hall East<br>200 N. Main Street, Suite 800<br>Los Angeles, CA 90012 |
| District Attorney, Butte County<br>25 County Center Drive, Suite<br>245<br>Oroville, CA 95965                         | District Attorney, San Benito<br>County<br>419 Fourth Street, 2nd Floor<br>Hollister, CA 95023                                   |   |
| District Attorney, Colusa County<br>310 6 <sup>th</sup> St<br>Colusa, CA 95932  | District Attorney, San Bernardino<br>County<br>303 West Third Street<br>San Bernardino, CA 92415                                 |   |
| District Attorney, Del Norte<br>County<br>450 H Street, Room 171<br>Crescent City, CA 95531                           | District Attorney, San Mateo<br>County<br>400 County Ctr., 3rd Floor<br>Redwood City, CA 94063                                   |   |
| District Attorney, Glenn County<br>Post Office Box 430<br>Willows, CA 95988   | District Attorney, Shasta County<br>1355 West Street<br>Redding, CA 96001  |   |
| District Attorney, Humboldt<br>County<br>825 5th Street 4 <sup>th</sup> Floor<br>Eureka, CA 95501                     | District Attorney, Sierra County<br>Post Office Box 457<br>100 Courthouse Square, 2 <sup>nd</sup> Floor<br>Downieville, CA 95936 |   |
| District Attorney, Imperial<br>County<br>940 West Main Street, Ste 102<br>El Centro, CA 92243                         | District Attorney, Siskiyou<br>County<br>Post Office Box 986<br>Yreka, CA 96097  |   |
| District Attorney, Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301  | District Attorney, Solano County<br>675 Texas Street, Ste 4500<br>Fairfield, CA 94533  |   |
| District Attorney, Kings County<br>1400 West Lacey Boulevard<br>Hanford, CA 93230                                     | District Attorney, Stanislaus<br>County<br>832 12th Street, Ste 300<br>Modesto, CA 95354   |   |
| District Attorney, Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453  | District Attorney, Sutter County<br>463 2 <sup>nd</sup> Street<br>Yuba City, CA 95991  |   |
| District Attorney, Los Angeles<br>County<br>Hall of Justice<br>211 West Temple St., Ste 1200<br>Los Angeles, CA 90012 | District Attorney, Tehama County<br>Post Office Box 519<br>Red Bluff, CA 96080   |   |
| District Attorney, Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637                                      | District Attorney, Trinity County<br>Post Office Box 310<br>Weaverville, CA 96093  |   |
| District Attorney, Mendocino<br>County<br>Post Office Box 1000<br>Ukiah, CA 95482                                     | District Attorney, Tuolumne<br>County<br>423 N. Washington Street<br>Sonora, CA 95370  |   |



## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 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 authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

***The “Proposition 65 List.”*** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***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. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***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.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

***Exposures that pose no significant risk of cancer.*** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures that will produce no observable reproductive effect at 1,000 times the level in question.*** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures to Naturally Occurring Chemicals in Food.*** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

***Discharges that do not result in a “significant amount” of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4).

## *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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:  
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at  
[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

# **EXHIBIT B**



Matthew Maclear  
[mcm@atalawgroup.com](mailto:mcm@atalawgroup.com)  
415-568-5200

Anthony Barnes  
[amb@atalawgroup.com](mailto:amb@atalawgroup.com)  
917-371-8293

May 9, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, 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 Violators 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 Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Brew Dr. Kombucha, LLC  
The Townshend Group LLC  
Castanea Partners LLC  
Castanea Partners, Inc.**





Notice of Violation of California Health & Safety Code §25249.5 *et seq.*  
May 9, 2024  
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**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

1. **Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Lemon Grove Ginger Lemon Green Tea - Lead**
2. **Brew Dr. SipJoy Grapefruit Lower Sugar Probiotic Refresher – Lead**
3. **Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Orange Oasis Blood Orange Lemon Black Tea – Lead, Mercury**

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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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 recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least May 9, 2021, 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 Violators violated Proposition 65 because it failed to provide persons ingesting 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 Violators 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; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products



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in the last three years. 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 ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is fluid and cursive, with a large initial "M" and a stylized "A".

---

Matthew Maclear  
**AQUA TERRA AERIS LAW GROUP**

Attachments

Certificate of Merit  
Certificate of Service  
OEHHA Summary (to Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, Castanea Partners, Inc., and their Registered Agents for Service of Process only)  
Additional Supporting Information for Certificate of Merit (to AG only)



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**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, and Castanea Partners, Inc.**

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties 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 Violators 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: May 9, 2024

\_\_\_\_\_  
Matthew Maclear



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**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 and over the age of 18 years of age. 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 May 9, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 each of the parties listed below and/or through their attorney pursuant to agreement and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Brew Dr. Kombucha, LLC  
c/o Jasmine Wetherell  
Perkins Coie LLP  
1888 Century Park East, Suite 1700  
Los Angeles, CA 90067-1721

Current President or CEO  
Castanea Partners LLC and  
Castanea Partners, Inc.  
11 Burning Tree Road  
Natick, MA 01760

Current President or CEO  
The Townshend Group LLC  
12241 SW Myslony St  
Tualatin, OR 97062

Current President or CEO  
The Townshend Group LLC  
19675 SW 129<sup>th</sup> Ave  
Tualatin, OR 97062

Krista Nollenberger  
(Registered Agent for The Townshend Group LLC)  
19675 SW 129<sup>th</sup> Ave  
Tualatin, OR 97062

The Corporation Trust Company  
(Registered Agent for Castanea Partners LLC  
and Castanea Partners, Inc.)  
1209 N. Orange Street  
Wilmington, DE 19801

Current President or CEO  
Castanea Partners LLC and  
Castanea Partners, Inc.  
3 Newton Executive Park, Ste 304  
Newton, MA 02462

CT Corporation System  
(Registered Agent for Castanea Partners LLC and  
Castanea Partners, Inc.)  
155 Federal St, Ste 700  
Boston, MA 02110



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On May 9, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party when a true and correct copy thereof was uploaded 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 May 9, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Pamela Y. Price, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Thomas L. Hardy, District Attorney  
Inyo County  
168 North Edwards Street  
Independence, CA 93526  
inyda@inyocounty.us

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

Devin Chandler, Program Coordinator  
Lassen County  
2950 Riverside Dr  
Susanville, CA 96130  
dchandler@co.lassen.ca.us

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

Lori E. Frugoli, District Attorney  
Marin County  
3501 Civic Center Drive, Suite 145  
San Rafael, CA 94903  
consumer@marincounty.org

James Clinchard, Assistant District Attorney  
El Dorado County  
778 Pacific Street  
Placerville, CA 95667  
EDCDAPROP65@edcda.us

Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

Lisa A. Smittcamp, District Attorney  
Fresno County  
2100 Tulare Street  
Fresno, CA 93721  
conumerprotection@fresnocountyca.gov

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



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

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

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

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

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@ocdapa.org

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

David Hollister, District Attorney  
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520 Main St  
Quincy, CA 95971  
davidhollister@countyofplumas.com

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

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

Summer Stephan, District Attorney  
San Diego County  
330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdca.org

Mark Ankorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

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

Henry Lifton, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7th Floor  
San Francisco, CA 94102  
Prop65@sfcityatty.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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

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

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



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Nora V. Frimann, City Attorney  
Santa Clara City Attorney  
200 E. Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

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

Jill Ravitch, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
Jeannie.Barnes@sonoma-county.org

Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

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

On May 9, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on May 9, 2024, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody



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

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**Service List**

|   |  |   |
|---|--|---|
| District Attorney, Alpine County<br>P.O. Box 248<br>17300 Hwy 89<br>Markleeville, CA 96120                            | District Attorney, Modoc County<br>204 S Court Street, Room 202<br>Alturas, CA 96101-4020  | District Attorney, Yuba County<br>215 Fifth Street, Suite 152<br>Marysville, CA 95901                             |
| District Attorney, Amador County<br>708 Court Street, Suite 202<br>Jackson, CA 95642                                  | District Attorney, Mono County<br>Post Office Box 617<br>Bridgeport, CA 93517  | Los Angeles City Attorney's<br>Office<br>City Hall East<br>200 N. Main Street, Suite 800<br>Los Angeles, CA 90012 |
| District Attorney, Butte County<br>25 County Center Drive, Suite<br>245<br>Oroville, CA 95965                         | District Attorney, San Benito<br>County<br>419 Fourth Street, 2nd Floor<br>Hollister, CA 95023                                   |   |
| District Attorney, Colusa County<br>310 6 <sup>th</sup> St<br>Colusa, CA 95932  | District Attorney, San Bernardino<br>County<br>303 West Third Street<br>San Bernardino, CA 92415                                 |   |
| District Attorney, Del Norte<br>County<br>450 H Street, Room 171<br>Crescent City, CA 95531                           | District Attorney, San Mateo<br>County<br>400 County Ctr., 3rd Floor<br>Redwood City, CA 94063                                   |   |
| District Attorney, Glenn County<br>Post Office Box 430<br>Willows, CA 95988   | District Attorney, Shasta County<br>1355 West Street<br>Redding, CA 96001  |   |
| District Attorney, Humboldt<br>County<br>825 5th Street 4 <sup>th</sup> Floor<br>Eureka, CA 95501                     | District Attorney, Sierra County<br>Post Office Box 457<br>100 Courthouse Square, 2 <sup>nd</sup> Floor<br>Downieville, CA 95936 |   |
| District Attorney, Imperial<br>County<br>940 West Main Street, Ste 102<br>El Centro, CA 92243                         | District Attorney, Siskiyou<br>County<br>Post Office Box 986<br>Yreka, CA 96097  |   |
| District Attorney, Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301  | District Attorney, Solano County<br>675 Texas Street, Ste 4500<br>Fairfield, CA 94533  |   |
| District Attorney, Kings County<br>1400 West Lacey Boulevard<br>Hanford, CA 93230                                     | District Attorney, Stanislaus<br>County<br>832 12th Street, Ste 300<br>Modesto, CA 95354   |   |
| District Attorney, Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453  | District Attorney, Sutter County<br>463 2 <sup>nd</sup> Street<br>Yuba City, CA 95991  |   |
| District Attorney, Los Angeles<br>County<br>Hall of Justice<br>211 West Temple St., Ste 1200<br>Los Angeles, CA 90012 | District Attorney, Tehama County<br>Post Office Box 519<br>Red Bluff, CA 96080   |   |
| District Attorney, Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637                                      | District Attorney, Trinity County<br>Post Office Box 310<br>Weaverville, CA 96093  |   |
| District Attorney, Mendocino<br>County<br>Post Office Box 1000<br>Ukiah, CA 95482                                     | District Attorney, Tuolumne<br>County<br>423 N. Washington Street<br>Sonora, CA 95370  |   |



## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 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 authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

***The “Proposition 65 List.”*** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***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. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***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.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

***Exposures that pose no significant risk of cancer.*** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures that will produce no observable reproductive effect at 1,000 times the level in question.*** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures to Naturally Occurring Chemicals in Food.*** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

***Discharges that do not result in a “significant amount” of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4).

## *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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:  
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at  
[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

# **EXHIBIT C**



Matthew Maclear  
[mcm@atalawgroup.com](mailto:mcm@atalawgroup.com)  
415-568-5200

Anthony Barnes  
[amb@atalawgroup.com](mailto:amb@atalawgroup.com)  
917-371-8293

May 17, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, 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 Violators 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 Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

**Alleged Violators.** The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Brew Dr. Kombucha, LLC  
The Townshend Group LLC  
Castanea Partners LLC  
Castanea Partners, Inc.**



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

1. **Brew Dr. SipJoy Lemonade + Tea Lower Sugar Probiotic Refresher - Lead**
2. **Brew Dr. SipJoy Orange Lower Sugar Probiotic Refresher – Lead, Mercury**
3. **Organic Kombucha By Brew Dr. Tasty & Fizzy Probiotic Tea Strawberry Fields Strawberry Hibiscus Green Tea - Lead, Mercury**

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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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 recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least May 17, 2021, 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 Violators violated Proposition 65 because it failed to provide persons ingesting 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 Violators 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; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.





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ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

---

Matthew Maclear  
**AQUA TERRA AERIS LAW GROUP**

Attachments

Certificate of Merit  
Certificate of Service  
OEHHA Summary (to Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, Castanea Partners, Inc., and their Registered Agents for Service of Process only)  
Additional Supporting Information for Certificate of Merit (to AG only)



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**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Brew Dr. Kombucha, LLC, The Townshend Group LLC, Castanea Partners LLC, and Castanea Partners, Inc.**

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties 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 Violators 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: May 17, 2024

\_\_\_\_\_  
Matthew Maclear



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**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 and over the age of 18 years of age. 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 May 17, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Brew Dr. Kombucha, LLC  
2222 NE Oregon St, Ste 109  
Portland, OR 97232

Krista Nollenberger  
(Registered Agent for The Townshend Group LLC)  
19675 SW 129<sup>th</sup> Ave  
Tualatin, OR 97062

Current President or CEO  
Brew Dr. Kombucha, LLC and  
The Townshend Group LLC  
12241 SW Myslony St  
Tualatin, OR 97062

Current President or CEO  
Castanea Partners LLC and  
Castanea Partners, Inc.  
11 Burning Tree Road  
Natick, MA 01760

Krista Nollenberger  
(Registered Agent for Brew Dr. Kombucha, LLC)  
12241 SW Myslony St  
Tualatin, OR 97062

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
330 N Brand Blvd  
Glendale, CA 91203

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
711 Capitol Way S, Ste 204  
Olympia, WA 98501

CT Corporation System  
(Registered Agent for Brew Dr. Kombucha, LLC)  
7700 East Arapahoe Rd, Ste 220  
Centennial, CO 80112

Current President or CEO  
Brew Dr. Kombucha, LLC  
and The Townshend Group LLC  
19675 SW 129<sup>th</sup> Ave  
Tualatin, OR 97062

The Corporation Trust Company  
(Registered Agent for Castanea Partners LLC  
and Castanea Partners, Inc.)  
1209 N. Orange Street  
Wilmington, DE 19801



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Current President or CEO  
Castanea Partners LLC and  
Castanea Partners, Inc.  
3 Newton Executive Park, Ste 304  
Newton, MA 02462

On May 17, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party when a true and correct copy thereof was uploaded 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 May 17, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Pamela Y. Price, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
[CEPDProp65@acgov.org](mailto:CEPDProp65@acgov.org)

Lisa A. Smittcamp, District Attorney  
Fresno County  
2100 Tulare Street  
Fresno, CA 93721  
[consumerprotection@fresnocountyca.gov](mailto:consumerprotection@fresnocountyca.gov)

Barbara Yook, District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249  
[Prop65Env@co.calaveras.ca.us](mailto:Prop65Env@co.calaveras.ca.us)

Thomas L. Hardy, District Attorney  
Inyo County  
168 North Edwards Street  
Independence, CA 93526  
[inyda@inyocounty.us](mailto:inyda@inyocounty.us)

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Devin Chandler, Program Coordinator  
Lassen County  
2950 Riverside Dr  
Susanville, CA 96130  
[dchandler@co.lassen.ca.us](mailto:dchandler@co.lassen.ca.us)

James Clinchard, Assistant District Attorney  
El Dorado County  
778 Pacific Street  
Placerville, CA 95667  
[EDCDAPROP65@edcda.us](mailto:EDCDAPROP65@edcda.us)

Lori E. Frugoli, District Attorney  
Marin County  
3501 Civic Center Drive, Suite 145  
San Rafael, CA 94903  
[consumer@marincounty.org](mailto:consumer@marincounty.org)



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

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Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

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

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

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

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

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@ocdapa.org

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

David Hollister, District Attorney  
Plumas County  
520 Main St  
Quincy, CA 95971  
davidhollister@countyofplumas.com

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

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

Summer Stephan, District Attorney  
San Diego County  
330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdca.org

Mark Ankcorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

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

Henry Lifton, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7th Floor  
San Francisco, CA 94102  
Prop65@sfcityatty.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*  
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Christopher Dalbey, Deputy District Attorney  
Santa Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

Jill Ravitch, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
Jeannie.Barnes@sonoma-county.org

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

Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Nora V. Frimann, City Attorney  
Santa Clara City Attorney  
200 E. Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

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

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

On May 17, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on May 17, 2024, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody



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

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**Service List**

|   |  |   |
|---|--|---|
| District Attorney, Alpine County<br>P.O. Box 248<br>17300 Hwy 89<br>Markleeville, CA 96120                            | District Attorney, Modoc County<br>204 S Court Street, Room 202<br>Alturas, CA 96101-4020  | District Attorney, Yuba County<br>215 Fifth Street, Suite 152<br>Marysville, CA 95901                             |
| District Attorney, Amador County<br>708 Court Street, Suite 202<br>Jackson, CA 95642                                  | District Attorney, Mono County<br>Post Office Box 617<br>Bridgeport, CA 93517  | Los Angeles City Attorney's<br>Office<br>City Hall East<br>200 N. Main Street, Suite 800<br>Los Angeles, CA 90012 |
| District Attorney, Butte County<br>25 County Center Drive, Suite<br>245<br>Oroville, CA 95965                         | District Attorney, San Benito<br>County<br>419 Fourth Street, 2nd Floor<br>Hollister, CA 95023                                   |   |
| District Attorney, Colusa County<br>310 6 <sup>th</sup> St<br>Colusa, CA 95932  | District Attorney, San Bernardino<br>County<br>303 West Third Street<br>San Bernardino, CA 92415                                 |   |
| District Attorney, Del Norte<br>County<br>450 H Street, Room 171<br>Crescent City, CA 95531                           | District Attorney, San Mateo<br>County<br>400 County Ctr., 3rd Floor<br>Redwood City, CA 94063                                   |   |
| District Attorney, Glenn County<br>Post Office Box 430<br>Willows, CA 95988   | District Attorney, Shasta County<br>1355 West Street<br>Redding, CA 96001  |   |
| District Attorney, Humboldt<br>County<br>825 5th Street 4 <sup>th</sup> Floor<br>Eureka, CA 95501                     | District Attorney, Sierra County<br>Post Office Box 457<br>100 Courthouse Square, 2 <sup>nd</sup> Floor<br>Downieville, CA 95936 |   |
| District Attorney, Imperial<br>County<br>940 West Main Street, Ste 102<br>El Centro, CA 92243                         | District Attorney, Siskiyou<br>County<br>Post Office Box 986<br>Yreka, CA 96097  |   |
| District Attorney, Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301  | District Attorney, Solano County<br>675 Texas Street, Ste 4500<br>Fairfield, CA 94533  |   |
| District Attorney, Kings County<br>1400 West Lacey Boulevard<br>Hanford, CA 93230                                     | District Attorney, Stanislaus<br>County<br>832 12th Street, Ste 300<br>Modesto, CA 95354   |   |
| District Attorney, Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453  | District Attorney, Sutter County<br>463 2 <sup>nd</sup> Street<br>Yuba City, CA 95991  |   |
| District Attorney, Los Angeles<br>County<br>Hall of Justice<br>211 West Temple St., Ste 1200<br>Los Angeles, CA 90012 | District Attorney, Tehama County<br>Post Office Box 519<br>Red Bluff, CA 96080   |   |
| District Attorney, Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637                                      | District Attorney, Trinity County<br>Post Office Box 310<br>Weaverville, CA 96093  |   |
| District Attorney, Mendocino<br>County<br>Post Office Box 1000<br>Ukiah, CA 95482                                     | District Attorney, Tuolumne<br>County<br>423 N. Washington Street<br>Sonora, CA 95370  |   |

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 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 authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

***The “Proposition 65 List.”*** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.



female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***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. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***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.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

***Exposures that pose no significant risk of cancer.*** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures that will produce no observable reproductive effect at 1,000 times the level in question.*** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

***Exposures to Naturally Occurring Chemicals in Food.*** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

***Discharges that do not result in a “significant amount” of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4).

## *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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:  
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at  
[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.