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Attorney for Plaintiff  
ENVIRONMENTAL RESEARCH CENTER, INC.

**FILED**  
**ALAMEDA COUNTY**

NOV 13 2017

CLERK OF THE SUPERIOR COURT  
By Ashu Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ALAMEDA**

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

Plaintiff,

vs.

GAMMA ENTERPRISES, LLC, individually  
and doing business as GAMMA LABS, a New  
York limited liability company,

Defendant.

Case No.

Rt 1788989

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

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

Plaintiff Environmental Research Center, Inc. ("PLAINTIFF" or "ERC") brings this  
action in the interests of the general public and, on information and belief, hereby alleges:

**INTRODUCTION**

1. This action seeks to remedy the continuing failure of Defendant GAMMA  
ENTERPRISES, LLC, individually and doing business as GAMMA LABS ("GAMMA  
LABS" or "DEFENDANT") to warn consumers in California that they are being exposed to  
lead, a substance known to the State of California to cause cancer, birth defects, and other  
reproductive harm. DEFENDANT manufactures, packages, distributes, markets, and/or sells  
in California certain products containing lead (collectively, the "PRODUCTS"):

- 1) Gamma Labs 24K Strength Formula Mixed Berry
- 2) Gamma Labs G Fuel Energy Formula Peach Mango
- 3) Gamma Labs G Fuel Energy Formula Blue Ice
- 4) Gamma Labs G Fuel Energy Formula Watermelon
- 5) Gamma Labs G Fuel Energy Formula Fazeberry
- 6) Gamma Labs G Fuel Energy Formula Blood Orange
- 7) Gamma Labs G Fuel Energy Formula Kiwi Strawberry
- 8) Gamma Labs G Fuel Energy Formula Caffeine Free Orange
- 9) Gamma Labs G Fuel Energy Formula Coconut
- 10) Gamma Labs G Fuel Energy Formula Green Apple
- 11) Gamma Labs G Fuel Energy Formula Pink Lemonade
- 12) Gamma Labs G Fuel Energy Formula Lemon Lime
- 13) Gamma Labs G Fuel Energy Formula Pineapple
- 14) Gamma Labs G Fuel Energy Formula Tropical Rain
- 15) Gamma Labs G Fuel Energy Formula Mystery Flavor
- 16) Gamma Labs G Fuel Energy Formula Fruit Punch
- 17) Gamma Labs G Fuel Energy Formula Grape
- 18) Gamma Labs G Fuel Energy Formula Lemonade

2. Lead (hereinafter, the "LISTED CHEMICAL") is a substance known to the State<sup>1</sup> of California to cause cancer, birth defects, and other reproductive harm.

3. The use and/or handling of the PRODUCTS causes exposures to the LISTED CHEMICAL at levels requiring a "clear and reasonable warning" under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code ("H&S Code") §25249.5, *et seq.* (also known as "Proposition 65"). DEFENDANT has failed to provide the

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<sup>1</sup> All statutory and regulatory references herein are to California law, unless otherwise specified.

1 health hazard warnings required by Proposition 65.

2 4. DEFENDANT's past and continued manufacturing, packaging, distributing,  
3 marketing, and/or sales of the PRODUCTS without the required health hazard warnings,  
4 causes or threatens to cause individuals to be involuntarily and unwittingly exposed to levels of  
5 the LISTED CHEMICAL that violate or threaten to violate Proposition 65.

6 5. PLAINTIFF seeks injunctive relief enjoining DEFENDANT from the continued  
7 manufacturing, packaging, distributing, marketing, and/or sales of the PRODUCTS in  
8 California without provision of clear and reasonable warnings regarding the risks of cancer,  
9 birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICAL  
10 through the use and/or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order  
11 compelling DEFENDANT to bring its business practices into compliance with Proposition 65  
12 by providing a clear and reasonable warning to each individual who has been and who in the  
13 future may be exposed to the LISTED CHEMICAL from the use of the PRODUCTS.  
14 PLAINTIFF also seeks an order compelling DEFENDANT to identify and locate each  
15 individual person who in the past has purchased the PRODUCTS, and to provide to each such  
16 purchaser a clear and reasonable warning that the use of the PRODUCTS will cause exposures  
17 to the LISTED CHEMICAL.

18 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil  
19 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by  
20 Proposition 65 to remedy DEFENDANT's failure to provide clear and reasonable warnings  
21 regarding exposures to the LISTED CHEMICAL.

#### 22 **JURISDICTION AND VENUE**

23 7. This Court has jurisdiction over this action pursuant to California Constitution  
24 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes  
25 except those given by statute to other trial courts." The statute under which this action is  
26 brought does not specify any other basis for jurisdiction.

1           8.     This Court has jurisdiction over DEFENDANT because, based on information  
2 and belief, DEFENDANT is a business having sufficient minimum contacts with California, or  
3 otherwise intentionally availing itself of the California market through the manufacture,  
4 distribution and sale of the PRODUCTS in the State of California, to render the exercise of  
5 jurisdiction over it by the California courts consistent with traditional notions of fair play and  
6 substantial justice.

7           9.     Venue in this action is proper in the Alameda Superior Court because the  
8 DEFENDANT has violated or threatens to violate California law in the County of Alameda.

9           10.    On August 25, 2017, PLAINTIFF sent a 60-Day Notice of Proposition 65  
10 Violation to the requisite public enforcement agencies and to GAMMA LABS. The Notice  
11 was issued pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d)  
12 and the statute's implementing regulations regarding the notice of the violations to be given to  
13 certain public enforcement agencies and to the violators. The Notice included, *inter alia*, the  
14 following information: the name, address, and telephone number of the noticing individuals;  
15 the name of the alleged violator; the statute violated; the approximate time period during which  
16 violations occurred; and descriptions of the violations, including the chemical involved, the  
17 routes of toxic exposure, and the specific product or type of product causing the violations, and  
18 was issued as follows:

- 19           a.     DEFENDANT was provided a copy of the Notice by Certified Mail.
- 20           b.     DEFENDANT was provided a copy of a document entitled "The Safe  
21                  Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A  
22                  Summary," which is also known as Appendix A to Title 27 of CCR §25903.
- 23           c.     The California Attorney General was provided a copy of the Notice via  
24                  online submission.
- 25           d.     The California Attorney General was provided with a Certificate of Merit by  
26                  the attorney for the noticing parties, stating that there is a reasonable and

meritorious case for this action, and attaching factual information sufficient to establish a basis for the certificate, including the identity of the persons consulted with and relied on by the certifier, and the facts, studies, or other data reviewed by those persons, pursuant to H&S Code §25249.7(h) (2).

e. The district attorneys, city attorneys or prosecutors of each jurisdiction within which the PRODUCTS are offered for sale within California were provided with a copy of the Notice pursuant to H&S Code §. 25249.7(d)(1).

11. At least 60-days have elapsed since PLAINTIFF sent the Notice to DEFENDANT. The appropriate public enforcement agencies have failed to commence and diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against DEFENDANT based on the allegations herein.

#### **PARTIES**

12. PLAINTIFF is a non-profit corporation organized under California's Corporation Law. ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and toxic substances, consumer protection, worker safety, and corporate responsibility.

13. ERC is a person within the meaning of H&S Code §25118 and brings this enforcement action in the public interest pursuant to H&S Code §25249.7(d).

14. DEFENDANT GAMMA ENTERPRISES, LLC, individually and doing business as GAMMA LABS is a limited liability company organized under the State of New York's Corporation Law and is a person doing business within the meaning of H&S Code §25249.11.

15. DEFENDANT has manufactured, packaged, distributed, marketed, and /or sold the PRODUCTS for sale or use in California and the County of Alameda. ERC is informed and believes, and thereupon alleges, that DEFENDANT continues to manufacture, package, distribute, market and/or sell the PRODUCTS for sale or use in California and in Alameda

County. DEFENDANT knows and intends that the PRODUCTS are distributed, marketed and sold to consumers in California.

### **STATUTORY BACKGROUND**

16. The People of the State of California have declared in Proposition 65 their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

17. To effect this goal, Proposition 65 requires that individuals be provided with a "clear and reasonable warning" before being exposed to substances listed by the State of California as causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent part:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual....

18. "'Knowingly' refers only to knowledge of the fact that a discharge of, release of, or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No knowledge that the discharge, release or exposure is unlawful is required." (27 California Code of Regulations ("CCR") § 25102(n).)

19. Proposition 65 provides that any "person who violates or threatens to violate" the statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase "threaten to violate" is defined to mean creating "a condition in which there is a substantial probability that a violation will occur" (H&S Code §25249.11(e)). Violators are liable for civil penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

### **FACTUAL BACKGROUND**

20. On February 27, 1987, the State of California officially listed the chemical lead as a chemical known to cause reproductive toxicity. Lead became subject to the warning requirement one year later and was therefore subject to the "clear and reasonable" warning

1 requirements of Proposition 65 beginning on February 27, 1988. (27 CCR § 25000, *et seq.*;  
2 H&S Code §25249.5, *et seq.*). Due to the high toxicity of lead, the maximum allowable dose  
3 level for lead is 0.5 µg/day (micrograms per day) for reproductive toxicity. (27 CCR  
4 § 25805(b).)

5 21. On October 1, 1992, the State of California officially listed the chemicals lead  
6 and lead compounds as chemicals known to cause cancer. Lead and lead compounds became  
7 subject to the warning requirement one year later and were therefore subject to the “clear and  
8 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR §  
9 25000; *et seq.*; H&S Code §25249.6 *et seq.*). Due to the carcinogenicity of lead, the no  
10 significant risk level for lead is 15 µg/day (micrograms per day). (27 CCR § 25705(b)(1).)

11 22. To test DEFENDANT’s PRODUCTS for lead, PLAINTIFF hired a well-  
12 respected and accredited testing laboratory. The results of testing undertaken by PLAINTIFF  
13 of DEFENDANT’s PRODUCTS show that the PRODUCTS tested were in violation of the 0.5  
14 µg/day for lead “safe harbor” daily dose limits set forth in Proposition 65’s regulations. It is  
15 significant that people are being exposed to lead through ingestion as opposed to other less  
16 harmful methods of exposure such as dermal exposure. Ingestion of lead produces much  
17 higher exposure levels and health risks than dermal exposure to this chemical.

18 23. At all times relevant to this action, DEFENDANT, therefore, has knowingly and  
19 intentionally exposed the users and/or handlers of the PRODUCTS to the LISTED  
20 CHEMICAL without first giving a clear and reasonable warning to such individuals.

21 24. The PRODUCTS have allegedly been sold by DEFENDANT for use in  
22 California since at least August 25, 2014. The PRODUCTS continue to be distributed  
23 and sold in California without the requisite warning information.

24 25. On August 25, 2017, ERC served DEFENDANT and each of the appropriate  
25 public enforcement agencies with a Proposition 65 Notice, a document entitled “Notice of  
26 Violations of California Health & Safety Code Section 25249.5” that provided DEFENDANT

1 and the public enforcement agencies with notice that DEFENDANT was in violation of  
2 Proposition 65 for failing to warn purchasers and individuals using the PRODUCTS that the  
3 use of the PRODUCTS exposes them to lead, a chemical known to the State of California to  
4 cause cancer and/or reproductive toxicity (a true and copy of the 60-Day Notice is attached  
5 hereto as **Exhibit A** and incorporated by reference).

6 26. As a proximate result of acts by DEFENDANT, as a person in the course of  
7 doing business within the meaning of Health & Safety Code §25249.11, individuals throughout  
8 the State of California, including in the County of Alameda, have been exposed to the LISTED  
9 CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal  
10 exposures include normal and foreseeable users of the PRODUCTS, as well as all other  
11 persons exposed to the PRODUCTS.

12  
13 **FIRST CAUSE OF ACTION**

14 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**  
15 **the PRODUCTS described in the August 25, 2017, Prop. 65 Notice)**  
16 **Against DEFENDANT**

17 27. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 26,  
18 inclusive, as if specifically set forth herein.

19 28. By committing the acts alleged in this Complaint, DEFENDANT, at all times  
20 relevant to this action, and continuing through the present, has violated or threatens to violate  
21 H&S Code §25249.6 by, in the course of doing business, knowingly and intentionally exposing  
22 individuals who use or handle the PRODUCTS set forth in the Notice to the LISTED  
23 CHEMICAL, without first providing a clear and reasonable warning to such individuals  
24 pursuant to H&S Code §§ 25249.6 and 25249.11(f).

25 29. By the above-described acts, DEFENDANT has violated or threatens to violate  
26 H&S Code § 25249.6 and is therefore subject to an injunction ordering DEFENDANT to stop  
violating Proposition 65, to provide warnings to all present and future customers, and to



1 provide warnings to DEFENDANT's past customers who purchased or used the PRODUCTS  
2 without receiving a clear and reasonable warning.

3 30. An action for injunctive relief under Proposition 65 is specifically authorized by  
4 Health & Safety Code §25249.7(a).

5 31. Continuing commission by DEFENDANT of the acts alleged above will  
6 irreparably harm the citizens of the State of California, for which harm they have no plain,  
7 speedy, or adequate remedy at law.

8 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth  
9 hereafter.

10  
11 **SECOND CAUSE OF ACTION**  
12 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, *et seq.* concerning the**  
13 **PRODUCTS described in PLAINTIFF's Notice)**  
14 **Against DEFENDANT**

15 32. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 31,  
16 inclusive, as if specifically set forth herein.

17 33. By committing the acts alleged in this Complaint, DEFENDANT at all times  
18 relevant to this action, and continuing through the present, has violated H&S Code §25249.6  
19 by, in the course of doing business, knowingly and intentionally exposing individuals who use  
20 or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICAL, without first  
21 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§  
22 25249.6 and 25249.11(f).

23 34. By the above-described acts, DEFENDANT is liable, pursuant to H&S Code  
24 §25249.7(b), for a civil penalty of up to \$2,500 per day per violation for each unlawful  
25 exposure to the LISTED CHEMICAL from the PRODUCTS.

26 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth  
hereafter.

1                                   **THE NEED FOR INJUNCTIVE RELIEF**

2           35.     PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through  
3 34, as if set forth below.

4           36.     By committing the acts alleged in this Complaint, DEFENDANT has caused or  
5 threatens to cause irreparable harm for which there is no plain, speedy or adequate remedy at  
6 law. In the absence of equitable relief, DEFENDANT will continue to create a substantial risk  
7 of irreparable injury by continuing to cause or threatening to cause consumers to be  
8 involuntarily and unwittingly exposed to the LISTED CHEMICAL through the use and/or  
9 handling of the PRODUCTS.

10  
11                                   **PRAYER FOR RELIEF**

12           Wherefore, PLAINTIFF accordingly prays for the following relief:

13           A.     a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),  
14 enjoining DEFENDANT, its agents, employees, assigns, and all persons acting in concert or  
15 participating with DEFENDANT, from distributing or selling the PRODUCTS in California  
16 without first providing a clear and reasonable warning, within the meaning of Proposition 65,  
17 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICAL;

18           B.     an injunctive order, pursuant to H&S Code §25249.7(b), compelling  
19 DEFENDANT to identify and locate each individual who has purchased the PRODUCTS since  
20 August 25, 2014, and to provide a warning to such person that the use of the PRODUCTS will  
21 expose the user to a chemical known to birth defects and other reproductive harm;

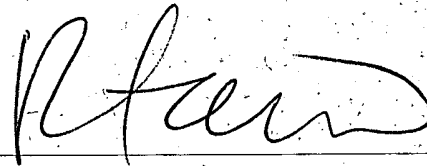
22           C.     an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),  
23 against DEFENDANT in the amount of \$2,500 per day for each violation of Proposition 65;

24           D.     an award to PLAINTIFF of its reasonable attorney's fees and costs of suit  
25 pursuant to California Code of Civil Procedure §1021.5, as PLAINTIFF shall specify in further  
26 application to the Court; and,

1 E. such other and further relief as may be just and proper.  
2

3 DATED: November 13, 2017

LAW OFFICE OF RICHARD M. FRANCO

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6 Richard M. Franco  
7 Attorney for Plaintiff  
8 Environmental Research Center, Inc.  
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**LAW OFFICE OF RICHARD M. FRANCO**

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**VIA CERTIFIED MAIL**

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Current President or CEO  
Gamma Enterprises, LLC,  
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Gamma Labs  
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**VIA ONLINE SUBMISSION**

Office of the California Attorney General

**VIA FIRST CLASS MAIL**

District Attorneys of Select California  
Counties and Select City Attorneys  
(See Attached Certificate of Service)

**Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.***

Dear Addressees:

I represent the Environmental Research Center, Inc. ("ERC") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

**Gamma Enterprises, LLC, individually and doing business as Gamma Labs**

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

1. **Gamma Labs 24K Strength Formula Mixed Berry - Lead**
2. **Gamma Labs G Fuel Energy Formula Peach Mango - Lead**
3. **Gamma Labs G Fuel Energy Formula Blue Ice - Lead**
4. **Gamma Labs G Fuel Energy Formula Watermelon - Lead**

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5. **Gamma Labs G Fuel Energy Formula Fazeberry - Lead**
6. **Gamma Labs G Fuel Energy Formula Blood Orange - Lead**
7. **Gamma Labs G Fuel Energy Formula Kiwi Strawberry -Lead**
8. **Gamma Labs G Fuel Energy Formula Caffeine Free Orange -Lead**
9. **Gamma Labs G Fuel Energy Formula Coconut - Lead**
10. **Gamma Labs G Fuel Energy Formula Green Apple - Lead**
11. **Gamma Labs G Fuel Energy Formula Pink Lemonade - Lead**
12. **Gamma Labs G Fuel Energy Formula Lemon Lime - Lead**
13. **Gamma Labs G Fuel Energy Formula Pineapple - Lead**
14. **Gamma Labs G Fuel Energy Formula Tropical Rain - Lead**
15. **Gamma Labs G Fuel Energy Formula Mystery Flavor - Lead**
16. **Gamma Labs G Fuel Energy Formula Fruit Punch - Lead**
17. **Gamma Labs G Fuel Energy Formula Grape - Lead**
18. **Gamma Labs G Fuel Energy Formula Lemonade - 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.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since August 25, 2014, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive

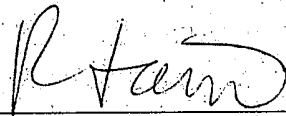
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resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



Rick Franco

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Gamma Enterprises, LLC, individually and doing business as Gamma Labs)

Additional Supporting Information for Certificate of Merit (to AG only)



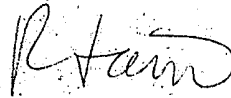
**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by  
Gamma Enterprises, LLC, individually and doing business as Gamma Labs**

I, Rick Franco, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 25, 2017



Rick Franco

August 25, 2017

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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 August 25, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Gamma Enterprises, LLC,  
individually and doing business as  
Gamma Labs  
113 Alder Street  
West Babylon, NY 11704

Current President or CEO  
Gamma Enterprises, LLC,  
individually and doing business as  
Gamma Labs  
115 Alder Street  
West Babylon, NY 11704

On August 25, 2017, between 10:00 a.m. and 4:30 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 August 25, 2017 between 10:00 a.m. and 4:30 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:

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

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
[mlatimer@co.lassen.ca.us](mailto:mlatimer@co.lassen.ca.us)

Allison Haley, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

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

August 25, 2017

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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

Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
gregory.alker@sfgov.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

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

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
jbarnes@sonoma-county.org

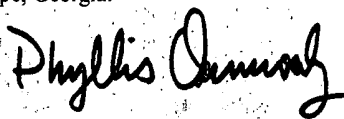
Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

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 August 25, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, I served the following documents:  
**NOTICE OF VIOLATIONS, 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 with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on August 25, 2017, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

August 25, 2017

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Service List

District Attorney, Alameda  
County  
1225 Fallon Street, Suite 900  
Oakland, CA 94612

District Attorney, Alpine  
County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney, Amador  
County  
708 Court Street, Suite 202  
Jackson, CA 95642

District Attorney, Butte  
County  
25 County Center Drive,  
Suite 245  
Oroville, CA 95965

District Attorney, Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney, Colusa  
County  
346 Fifth Street Suite 101  
Colusa, CA 95932

District Attorney, Del Norte  
County  
450 H Street, Room 171  
Crescent City, CA 95531

District Attorney, El Dorado  
County  
515 Main Street  
Placerville, CA 95667

District Attorney, Fresno  
County  
2220 Tulare Street, Suite  
1000  
Fresno, CA 93721

District Attorney, Glenn  
County  
Post Office Box 430  
Willows, CA 95988

District Attorney, Humboldt  
County  
825 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501

District Attorney, Imperial  
County  
940 West Main Street, Ste  
102  
El Centro, CA 92243

District Attorney, Inyo  
County  
230 W. Line Street  
Bishop, CA 93514

District Attorney, Kern  
County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney, Kings  
County  
1400 West Lacey Boulevard  
Hanford, CA 93230

District Attorney, Lake  
County  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney, Los  
Angeles County  
Hall of Justice  
211 West Temple St., Ste  
1200  
Los Angeles, CA 90012

District Attorney, Madera  
County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin  
County  
3501 Civic Center Drive,  
Room 130  
San Rafael, CA 94903

District Attorney, Mariposa  
County  
Post Office Box 730  
Mariposa, CA 95338

District Attorney,  
Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced  
County  
550 W. Main Street  
Merced, CA 95340

District Attorney, Modoc  
County  
204 S Court Street, Room  
202  
Alturas, CA 96101-4020

District Attorney, Mono  
County  
Post Office Box 617  
Bridgeport, CA 93517

District Attorney, Nevada  
County  
201 Commercial Street  
Nevada City, CA 95959

District Attorney, Orange  
County  
401 West Civic Center Drive  
Santa Ana, CA 92701

District Attorney, Placer  
County  
10810 Justice Center Drive,  
Ste 240  
Roseville, CA 95678

District Attorney, Plumas  
County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney, San Benito  
County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

District Attorney, San  
Bernardino County  
316 N. Mountain View  
Avenue  
San Bernardino, CA 92401

District Attorney, San Diego  
County  
330 West Broadway, Suite  
1300  
San Diego, CA 92101

District Attorney, San Mateo  
County  
400 County Ctr., 3rd Floor  
Redwood City, CA 94063

District Attorney, Santa  
Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney, Santa Cruz  
County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta  
County  
1355 West Street  
Redding, CA 96001

District Attorney, Sierra  
County  
PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou  
County  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano  
County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

District Attorney, Stanislaus  
County  
832 12th Street, Ste 300  
Modesto, CA 95354

District Attorney, Sutter  
County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama  
County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity  
County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tuolumne  
County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Yuba  
County  
215 Fifth Street, Suite 152  
Marysville, CA 95901

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200 N. Main Street, Suite  
800  
Los Angeles, CA 90012

San Diego City Attorney's  
Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

San Francisco, City Attorney  
City Hall, Room 234  
1 Dr Carlton B Goodlett PL  
San Francisco, CA 94102

San Jose City Attorney's  
Office  
200 East Santa Clara Street,  
16th Floor  
San Jose, CA 95113