

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: November 21, 2012

TO: Andrea Gordon, President – Diamond Baseball Company, Inc.
California Attorney General’s Office;
District Attorney’s Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Laurence Vinocur

I. INTRODUCTION

My name is Laurence Vinocur. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”). As noted above, notice is also being provided to the alleged violator, Diamond Baseball Company, Inc. (the “Violator”). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical (“listed chemical”) identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate (“DEHP”)
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the “products.” The sales of these products in California dating as far back as November 21, 2009 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposure to the listed chemical resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Thanks Coach Baseball, DSB-9 (#0 39403 10016 1)	Bilson’s Sport Shop Stanislaus County, Northern California	Diamond Baseball Company, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Baseballs	Thanks Coach Baseball, DSB-9 (#0 39403 10016 1)	Di(2-ethylhexyl)phthalate

*The specifically identified example of the type of product that is subject to this Notice is for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient’s custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On November 21, 2012, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH
HEALTH & SAFETY CODE § 25249.7(d);**

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE
ATTORNEY GENERAL)**

on the alleged Violator listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Andrea Gordon, President
Diamond Baseball Company, Inc.
1880 East Saint Andrew Place
Santa Ana, CA 92705

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

A list of addresses for each of these recipients is attached.

Executed on November 21, 2012, at Berkeley, California.



Eleanor Chen-Ranstrom

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

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

Dated: November 21, 2012



Clifford A. Chanler