

PCRM

PHYSICIANS
COMMITTEE
FOR
RESPONSIBLE
MEDICINE

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June 2, 2009

SENT VIA CERTIFIED, FIRST-CLASS MAIL WITH RETURN RECEIPT

TO ALL PARTIES LISTED IN THE ATTACHED CERTIFICATE OF SERVICE

Re: NOTICE OF VIOLATION OF PROPOSITION 65 TO KFC CORPORATION
FOR PHIP AND MEIOX IN GRILLED CHICKEN PRODUCTS

To Whom It May Concern:

The Physicians Committee for Responsible Medicine ("PCRM") hereby gives notice of its intent to sue KFC Corporation for violations of the California Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), CAL. HEALTH & SAFETY CODE § 25249.7(d)(1). Proposition 65 provides that "[n]o person . . . 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." CAL. HEALTH & SAFETY CODE § 25249.6. This *Notice of Violation* ("Notice") is served upon KFC Corporation ("KFC") and Yum! Brands, Inc., its parent company, pursuant to and in accordance with the notice requirements of Proposition 65 and its implementing regulations, satisfying the prerequisite to commence an action against KFC for its violations. See CAL. HEALTH & SAFETY CODE § 25249.7(d); CAL. CODE REGS. tit. 27, § 25903. KFC and Yum! Brands, Inc. are collectively referred to as "Violator."

I, Daniel Kinburn, am General Counsel of PCRM and the responsible individual within PCRM for purposes of this Notice and the intended lawsuit. My contact information is set forth above. In addition, PCRM has retained California counsel in this matter. Mr. Norman A. Dupont, Esq., of Richards Watson Gershon, may be contacted at 355 South Grand Avenue, 40th Floor, Los Angeles, CA 90071-3101, telephone: 213.253.0235.

Description of Violation:

- Violator: KFC Corporation, a wholly-owned subsidiary of Yum! Brands, Inc.
- Time period of violation: On information and belief, each of these ongoing violations has occurred and continues to occur at Violator's establishments in the State of California and in all California counties, since April 14, 2009, or when Violator first began selling its new Kentucky Grilled Chicken product line for consumer purchase. Violator has exposed and continues to expose consumers to significant health risks from PhIP and MeIQx by knowingly and intentionally failing to provide clear, reasonable and conspicuous warnings of these risks.
- Chemicals: "PhIP" (2-Amino-1-methyl-6-phenylimidazo[4,5-*b*]pyridine) and "MeIQx" (2-Amino-3,8-dimethyl-imidazo[4,5-*f*]quinoxaline) are the listed chemicals involved in Violator's violations of Proposition 65.
- Route of exposure: Consumer exposure to PhIP and MeIQx occurs from the purchase and ingestion of Kentucky Grilled Chicken, which has occurred and continues to occur at Violator's establishments.
- Consumer product: Kentucky Grilled Chicken.

Attachments:

- Attachment A: a *Certificate of Merit* pursuant to CAL. HEALTH & SAFETY CODE § 25249.7; pursuant to CAL. CODE REGS. tit. 11, § 3102, the Attorney General also received, as part of **Attachment A**, *Confidential Supporting Information for Certificate of Merit* that is sufficient to establish the basis for each violation alleged in the Notice.
- Attachment B: a summary of Proposition 65: *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary* provided only to Violator, specifically, to the CEO of Yum! Brands, Inc., the President of KFC Corporation, the General Counsel of Yum! Brands, Inc. and Violator's California agent for service of process,, pursuant to CAL. CODE REGS. tit. 27, § 25903(b)(1).
- Certificate of Service: an attachment, pursuant to CAL. CODE REGS. tit. 27, § 25903(c)(2), that lists the time, place, and manner of service, on the served parties as listed therein, specifically, Violator, Violator's agent for service of process, the California Attorney General, the District Attorneys of all California counties, and the City Attorneys of the four California cities with a population over 750,000 (Los Angeles, San Diego, San Francisco, and San Jose), all of whom were served on the same date and in accordance with the provisions of CAL. CODE REGS. tit. 27, § 25903(c).

PCRM is a non-profit 501(c)(3) organization acting in the public interest to promote preventive medicine and healthy eating. An expeditious resolution to these ongoing violations would serve the public interest and PCRM's missions. During the 60-day period, PCRM would welcome the discussion of remedies for the violations in this Notice. However, PCRM intends to file suit against Violator at the close of the motion period or shortly thereafter. Thus, any pursuit of discussions should be initiated immediately by KFC Corporation and Yum! Brands, Inc. in order to reach an expeditious resolution. Please direct all communications both to me, as General Counsel of PCRM, and PCRM's retained outside counsel, Norman A. Dupont, Esq., of Richards Watson Gershon at the contact information provided above.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dan K", with a long horizontal flourish extending to the right.

Daniel Kinburn, Esq.

Attachments

ATTACHMENT A:
CERTIFICATE OF MERIT
HEALTH AND SAFETY CODE § 25249.7(d)

I, Daniel Kinburn, hereby declare:

- 1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 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 the 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 plaintiffs' 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 the information identified in Health and Safety Code section 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.



Daniel Kinburn, Esq.

June 2, 2009

Date

CERTIFICATE OF SERVICE

I, Mark S. Kennedy, declare:

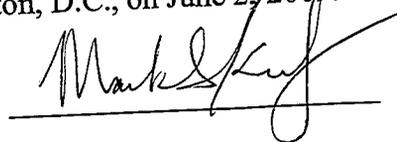
I am a resident of the District of Columbia, over the age of eighteen years, and not a party to the within action. My business address is Physicians Committee for Responsible Medicine ("PCRM"), 5100 Wisconsin Avenue, NW, Suite 400, Washington, D.C. 20016. On June 2, 2009, at 2:00 pm, I served the following documents:

- (1) ***Notice of Violation of Proposition 65 pursuant to Health & Safety Code § 25249.6 and in compliance with Health & Safety Code § 25249.7;***
- (2) ***Certificate of Merit pursuant to Health & Safety Code § 25249.7;***
- (3) ***Confidential Supporting Information for Certificate of Merit pursuant to CAL. CODE REGS. tit. 11, § 3102 (only to the Attorney General); and***
- (4) ***The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary to Violator (as defined in the Notice of Violation of Proposition 65) and Violator's California agent for service of process pursuant to Health & Safety Code § 25903;***

by placing a true and correct copy of the document(s) listed above in a sealed envelope with fully prepaid first-class postage through the United States Postal Service ("USPS"), via certified mail with return receipt, in the District of Columbia and sent to Violator, Violator's California agent for service of process, the California Attorney General, the District Attorneys of all California counties, and the City Attorneys of the four California cities with a population over 750,000 (Los Angeles, San Diego, San Francisco, and San Jose), at the names and addresses in the distribution list beginning on the following page.

I am readily familiar with PCRM's business practice for collection and processing of correspondence for mailing with USPS. Under that practice, the correspondence would be deposited with USPS on that same day with postage thereon fully prepaid in the ordinary course of business. The correspondence was placed in PCRM's mail room at 5100 Wisconsin Avenue, NW, Washington, D.C. 20016, for deposit with USPS on June 2, 2009. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Washington, D.C., on June 2, 2009.



Mark S. Kennedy

CERTIFICATE OF SERVICE

Distribution List

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President and Chief Concept Officer of
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California Agent for KFC Corporation
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