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**VIA ELECTRONIC SUBMISSION**

Monet Vela  
Office of Environmental Health Hazard Assessment  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, CA 95812

**Re: Comments to Proposed Amendments to Article 6, Clear and Reasonable Warnings**

Dear Coordinator Vela,

Miller Nash hereby submits comments for the Office of Environmental Health Hazard Assessment's ("OEHHA") Notice of Proposed Amendments and Announcement of Public Hearing: Amendments to Article 6, Clear and Reasonable Warnings, Safe Harbor Methods and Content. We appreciate the opportunity to submit these comments and be a part of OEHHA's rulemaking process.

Although we agree with OEHHA that Prop 65 warnings are overused, we strongly believe that these proposed changes to the short-form warnings are not a solution to the problem. The proposed changes are likely to increase complexity and cost for businesses, and fail to reduce overuse. However, assuming that OEHHA will not withdraw its proposed changes, we offer these comments in the hope that OEHHA will modify its proposed rule change to better provide a stable business environment and protect Californians.

First, we appreciate the inclusion of the sell-through provision, allowing products to be sold with compliant labels based on the date of their manufacture. However, we are concerned that the two-year phase-in provision is an insufficient amount of time to achieve compliance with the new requirements. Beyond the time required to craft new labels and use up already created labels that comply with the 2018 Prop 65 amendments, businesses will need to test all of their SKUs and variations for listed chemicals. More than two years is needed to test products, and, importantly, to seek out alternative suppliers who can make their products without listed chemicals. Furthermore, as a result of supply chain issues during and following

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the pandemic, many businesses have stockpiled parts and products and cannot sell them all in two years. Two years is not a realistic time frame to achieve compliance with the proposed changes and guarantee suppliers who can match the needed specifications.

Second, we believe that OEHHA places insufficient emphasis on the costs to businesses and to the public. OEHHA seems to only consider the cost of crafting new Prop 65 labels. As such, OEHHA's estimated costs to businesses are grossly out of proportion to the probable real-world magnitude. Businesses want to minimize litigation, and they will test all of their products if they can. Testing products is expensive, and this is a demanding undertaking for companies with thousands, if not tens of thousands, of SKUs. Unfortunately, the increased costs associated with testing products will be passed onto consumers. Just as inflation is starting to level out, these proposed changes will hurt Californians, raising costs even more.

Therefore, we strongly advise that OEHHA withdraw its proposed changes, or at the very least consider the costs to businesses and the public more realistically and extend the time for the proposed changes to take effect to at least three years.

Very truly yours,

A handwritten signature in blue ink that reads 'Tyler D. Bowlin'.

Tyler D. Bowlin