



## Attorney General Issues Cease and Desist Letter Regarding "Pre-Notice" Letters

### PROPOSITION 65, ENFORCEMENT AND LITIGATION

By LUCAS WILLIAMS, September 8, 2020

On August 7, 2020, the Attorney General sent a **letter to Kyle Wallace**<sup>1)</sup> of Davitt, Lalley, Dey & McHale "confirming" that Mr. Wallace "will cease and desist from sending Pre-notice letters to companies threatening to sue them under Proposition 65 and offering to settle the matter." Such "Pre-notice" letters are sent by private enforcers prior to a formal 60-day notice in an attempt to avoid Attorney General oversight, which requires that Prop. 65 notices, lawsuits, and settlements be publicly reported and served on the Attorney General.

Mr. Wallace's firm, Davitt, Lalley, Dey & McHale, is located in Grand Rapids, Michigan. Mr. Wallace's firm has issued 277 notices of violation to date, mostly on behalf of Key Sciences. The Attorney General's letter informs Mr. Wallace that Pre-notice letters are improper as they "evade the intent of the statute that the Attorney General and other public enforcers be given an opportunity to evaluate the alleged violation and decide whether to take action, and that private enforcers report all settlements." The Attorney General's letter states that the Attorney General "understand[s] that [Mr. Wallace has] not entered into any settlements as a result of these [Pre-notice] letters. Please inform us immediately if that is not correct."

### Resources for this article

#### 1. letter to Kyle Wallace

<https://prop65clearinghouse.com/documents/64212>