

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1500
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

REPORT OF CIVIL COMPLAINT FILING

Please print or type required information

Original Filing Supplemental Filing Corrected Filing

PARTIES TO THE ACTION	PLAINTIFF(S) Mateel Environmental Justice Foundation		
	DEFENDANT(S) HUFFY CORPORATION; and RADIO FLYER, INC.		
CASE INFO	COURT DOCKET NUMBER 440130	COURT NAME San Francisco Superior Court	
	SHORT CASE NAME Mateel v. Huffey		
REPORT INFO	TYPE OF CLAIM (Check All That Apply)		RELIEF SOUGHT (Check All That Apply)
	<input type="checkbox"/> Proposition 65 Unlawful Discharge <input checked="" type="checkbox"/> Proposition 65 Failure to Warn <input type="checkbox"/> B&P Code section 17200 <input type="checkbox"/> Other _____		<input checked="" type="checkbox"/> Warning <input type="checkbox"/> Discharge Ban <input checked="" type="checkbox"/> Civil Penalty
COPY OF COMPLAINT MUST BE ATTACHED			
FILER INFO	NAME OF CONTACT William Verick		
	ORGANIZATION Klamath Environmental Law Center		TELEPHONE NUMBER ((707)) 268-8900
	ADDRESS 424 First Street		FAX NUMBER ((707)) 268-8901
	CITY Eureka	STATE ZIP CA 95501-0404	E-MAIL ADDRESS wverick@igc.org

For Internal Use Only

FILING INSTRUCTIONS: This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the complaint to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

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2 Klamath Environmental Law Center
3 FREDRIC EVENSON, SBN 198059
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5 Eureka, CA 95501
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7 Facsimile: (707) 268-8901

8 DAVID WILLIAMS, SBN 144479
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10 Public Interest Lawyers Group
11 2070 Allston Way, Suite 300
12 P.O. Box 12157
13 Berkeley, CA 94712-3157
14 Telephone: (510) 647-1900
15 Facsimile: (510) 6471905

16 Attorneys for Plaintiff,
17 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF SAN FRANCISCO
20 (Unlimited Jurisdiction)

21 MATEEL ENVIRONMENTAL
22 JUSTICE FOUNDATION,

23 Plaintiff,

24 v.

25 HUFFY CORPORATION; RADIO FLYER,
26 INC., and DOES 1 through 100 inclusive,

27 Defendants.

ENDORSED
FILED
San Francisco County Superior Court

APR 6 - 2005

GORDON PARK-LI, Clerk
BY: CRISTINA E. BAUTISTA
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

PLAN I SEP 9 - 2005 9:00AM

DEPARTMENT 212

CASE NO. **05-440130**

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants HUFFY CORPORATION; RADIO FLYER, INC., and DOES 1 through 100 inclusive (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle and use bicycles and tricycles, the handles of which are coated with thermoset/thermoplastic that contains lead (hereinafter referred to as "Leaded Handlebars"), that

1 handling and use of these products causes those residents to be exposed to lead and lead
2 compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead").
3 Lead is known to the State of California to cause cancer, birth defects and male and female
4 reproductive toxicity. Defendants manufacture, distribute, and/or market bicycles and tricycles
5 that have Leaded Handlebars. These products cause exposures to lead and lead compounds,
6 which are chemicals known to the State of California to cause cancer, birth defects and other
7 reproductive harm.

8 2. Defendants are businesses that manufacture, market, and/or distribute bicycles and
9 tricycles that have Leaded Handlebars. Defendants intend that residents of California handle and
10 use bicycles and tricycles that have Leaded Handlebars that Defendants manufacture, market,
11 and/or distribute. When these products are handled and used in their normally intended manner,
12 they expose people to lead. In spite of knowing that residents of California were and are being
13 exposed to these chemicals when they handle and use bicycles and tricycles that have Leaded
14 Handlebars, Defendants did not and do not provide clear and reasonable warnings that these
15 products cause exposure to chemicals known to cause cancer, birth defects and other
16 reproductive harm.

17 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
18 to compel Defendants to bring their business practices into compliance with section 25249.5 et
19 seq. by providing a clear and reasonable warning to each individual who has been and who in the
20 future may be exposed to the above mentioned toxic chemicals from the use of Defendants'
21 products.

22 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
23 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
24 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that
25 defendants identify and locate each individual person who in the past has purchased bicycles and
26 tricycles that have Leaded Handlebars and to provide to each such purchaser a clear and
27 reasonable warning that the bicycles and tricycles that have Leaded Handlebars will cause
28 exposures to chemicals known to cause birth defects.

1 PARTIES

2 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
3 is a non-profit organization dedicated to, among other causes, the protection of the environment,
4 promotion of human health, environmental education, and consumer rights. Mateel is based in
5 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
6 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
7 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
8 California are regularly exposed to lead and lead compounds from bicycles and tricycles that
9 have Leaded Handlebars manufactured, distributed or marketed by Defendants and are so
10 exposed without a clear and reasonable Proposition 65 warning.

11 6. Defendants are each a person doing business within the meaning of Health &
12 Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or
13 market bicycles and tricycles that have Leaded Handlebars in California, including the City and
14 County of San Francisco. Manufacture, distribution and/or marketing of these products in the
15 City and County of San Francisco and/or to people who live in San Francisco, causes people to
16 be exposed to lead and lead compounds while they are physically present in the City and County
17 of San Francisco.

18 7. Mateel is unaware of the true names or capacities of the Defendants sued herein
19 under the fictitious names DOES 1 through 100, inclusive. Defendants DOES 1 through 100
20 inclusive are therefore sued herein pursuant to Cal. Code Civ. Proc. §474. When Mateel learns
21 their identities, it will amend the complaint.

22 8. Plaintiff brings this enforcement action against Defendants pursuant to Health &
23 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
24 60-day Notice letter dated June 4, 2004 which Mateel sent to California's Attorney General.
25 Substantially identical letters were sent to every District Attorney in the state, and to the City
26 Attorneys of every California city with a population greater than 750,000. On those same dates,
27 Mateel sent identical 60-Day Notice letters to each defendant. Attached to the 60-Day Notice
28 Letters sent to each defendant was a summary of Proposition 65 that was prepared by

1 California's Office of Environmental Health Hazard Assessment. In addition, each 60-Day
2 Notice Letter plaintiff sent was accompanied by a Certificate of Service attesting to the service of
3 the 60-Day Notice Letter on each entity which received it. Pursuant to California Health & Safety
4 Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis
5 for the action was also sent with each 60-Day Notice Letter. Factual information sufficient to
6 establish the basis of the Certificate of Merit was enclosed with the 60-Day Notice letter Mateel
7 sent to the Attorney General.

8 9. Defendants are all businesses that employ more than ten people.

9 JURISDICTION

10 10. The Court has jurisdiction over this action pursuant to California Health & Safety
11 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
12 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6
13 of the Health & Safety Code, which contains the statutes under which this action is brought, does
14 not grant jurisdiction to any other trial court.

15 11. This Court also has jurisdiction over Defendants because they are businesses that
16 have sufficient minimum contacts in California and within the City and County of San Francisco.
17 Defendants intentionally availed themselves of the California and San Francisco County markets
18 for bicycles and tricycles that have Leaded Handlebars. It is thus consistent with traditional
19 notions of fair play and substantial justice for the San Francisco Superior Court to exercise
20 jurisdiction over them.

21 12. Venue is proper in this Court because Defendants market their products in and
22 around San Francisco and thus cause people to be exposed to lead and lead compounds while
23 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
24 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
25 Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

26 FIRST CAUSE OF ACTION
27 (Claim for Injunctive Relief)

28 13. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as

1 if specifically set forth herein, paragraphs 1 through 12, inclusive.

2 14. The People of the State of California have declared by referendum under
3 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
4 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

5 15. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
6 that persons who, in the course of doing business, knowingly and intentionally expose any
7 individual to a chemical known to the State of California to cause cancer or birth defects must
8 first provide a clear and reasonable warning to such individual prior to the exposure.

9 16. Since at least June 4, 2001, Defendants have engaged in conduct that violates
10 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
11 intentionally exposing to the above mentioned toxic chemicals, those California residents who
12 handle and use bicycles and tricycles that have Leaded Handlebars. The normally intended use
13 of bicycles and tricycles that have Leaded Handlebars causes exposure to lead and lead
14 compounds, which are chemicals known to the State of California to cause cancer, birth defects
15 and other reproductive harm. Defendants have not provided clear and reasonable warnings,
16 within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

17 17. At all times relevant to this action, Defendants knew that the bicycles and tricycles
18 that have Leaded Handlebars they manufactured, distributed or marketed were causing exposures
19 to lead and lead compounds. Defendants intended that residents of California handle and use
20 bicycles and tricycles that have Leaded Handlebars in such ways as would lead to significant
21 exposures to these chemicals.

22 18. By the above described acts, Defendants have violated Cal. Health & Safety Code
23 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
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1 65 and requiring them to provide warnings to their past customers who purchased defendants'
2 products without receiving a clear and reasonable warning.

3 SECOND CAUSE OF ACTION
4 (Claim for Civil Penalties)

5 19. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as
6 if specifically set forth herein, paragraphs 1 through 18, inclusive.

7 20. By the above described acts, Defendants are liable and should be liable pursuant
8 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
9 individual exposed to lead and lead compounds from the handling or use of Defendants' bicycles
10 and tricycles that have Leaded Handlebars .

11 PRAYER FOR RELIEF

12 Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

13 1. Pursuant to the First Cause of Action, that all Defendants be enjoined, restrained,
14 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
15 Code;

16 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil
17 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
18 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
19 Defendants' manufacturing, distributing or marketing of bicycles and tricycles that have Leaded
20 Handlebars;

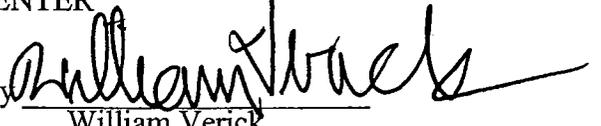
21 3. That Defendants be ordered to identify and locate each individual who purchased
22 bicycles and tricycles that have Leaded Handlebars and provide a warning to each such person
23 that the bicycles and tricycles that have Leaded Handlebars the person purchased will expose that
24 person to chemicals known to cause birth defects.

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4. For such other relief as this court deems just and proper.

Dated: March 25, 2005

KLAMATH ENVIRONMENTAL LAW
CENTER

By 
William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



Klamath

ENVIRONMENTAL
LAW CENTER

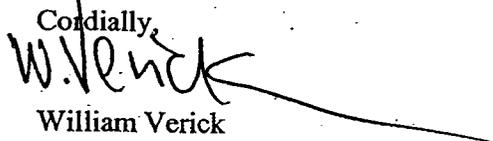
June 4, 2004

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

ATTORNEY GENERAL COPY
CONTAINS OFFICIAL
INFORMATION PURSUANT TO
EVIDENCE CODE §1040

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private businesses on the attached service list are in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual for both Mateel and this office. The above referenced violations occur when California residents, mainly children, come into contact with bicycles and tricycles, the handlebar grips of which are thermoplastic. The plastic on the handles of these bicycles and tricycles contains high levels of lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects, and other reproductive harm. These businesses either make or market these bicycles and tricycles. Children are exposed to lead when they ride or walk these bicycles and tricycles and their skin thus comes into contact with the plastic on the handlebar grips. Lead is transferred from the handlebar grips to the hands of the children using these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions, or when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. These businesses did not and do not provide people with clear and reasonable warnings before it exposes them to lead. The above referenced violations have occurred every day since at least June 4, 2000 and will continue every day until the lead is taken out of these bicycles and tricycles or until warnings are given. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the property of these private businesses and in each of California's 58 counties.

Cordially,

William Verick

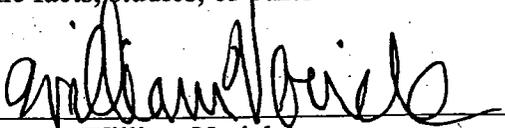
SERVICE LIST

- EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550
- OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST. 12TH FLOOR
OAKLAND, CA 94612
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102
- OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110
- OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO
202 C ST. FLOOR 3
SAN DIEGO, CA 92101
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
225 FALLON ST. #9
OAKLAND, CA 94612
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET ST.
COLUSA, CA 95932
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST. #171
CRESCENT CITY, CA 95531
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501
- COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUKTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST. # 424
LAKEPORT, CA 95453
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
COUNTY ADMINISTRATION
BUILDING
707 NEVADA ST.
SUSANVILLE, CA 96130
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 748
MARIPOSA, CA 95338
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
301 S. STATE ST.
UKIAH, CA 95482
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
P.O. BOX 1171
ALTURAS, CA 9610
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONTEREY
240 CHURCH ST.
P.O. BOX 180
SALINAS, CA 93902
- COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94539-0720
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
700 CIVIC CENTER DR WEST #A-200
SANTA ANA, CA 92701
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
P.O. BOX 10716
QUINCY, CA 95971
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
P.O. BOX 749
SACRAMENTO, CA 95804
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
101 W. BROADWAY #1440
SAN DIEGO, CA 92101
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1105 SANTA BARBARA ST.
SANTA BARBARA, CA 93101
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370
- VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
c/o GREGORY BROSE D.D.A.
4245 MARKET ST. #205
VENTURA, CA 93003
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF YOLO
204 4TH ST.
P.O. BOX 1247
WOODLAND, CA 95695
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901
- DON R GRABER, PRESIDENT
HUFFY CORPORATION
225 BYERS ROAD
MIAMISBURG, OH 45342-7617
- HEINZ KETTLER
KETTLER INTERNATIONAL, INC.
PO BOX 2747
VIRGINIA BEACH, VA 23450
- PAUL PASIN, PRESIDENT
RADIO FLYER, INC
6515 W. GRAND AVE
CHICAGO, IL 60707

CERTIFICATE OF MERIT

I, William Verick, hereby declare: 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. I am the attorney for the noticing party. 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 exposure to the listed chemical that is the subject of the action. 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. 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 person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 4, 2004



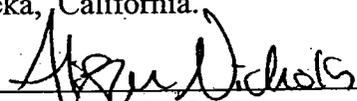
William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Alison Nichols, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On June 4, 2004, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 4, 2004, at Eureka, California.



ALISON NICHOLS