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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

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO
13 (Unlimited Jurisdiction)

14 MATEEL ENVIRONMENTAL
15 JUSTICE FOUNDATION,

CASE NO.

05-440164

16 Plaintiff,

17 v.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

18 THE BOMBAY COMPANY, INC.;
19 ACTRON MANUFACTURING
COMPANY; DARICE, INC.; GC/WALDOM
20 ELECTRONICS, INC.; VANCO
INTERNATIONAL, INC.; VIDEO DISPLAY
21 CORPORATION; VICTOR AUTOMOTIVE
PRODUCTS, INC., and DOES 1 through 100
22 inclusive,

TOXIC TORT/ENVIRONMENTAL

23 Defendants.

24 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

25 INTRODUCTION

26
27 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
28 failure of defendants THE BOMBAY COMPANY, INC; ACTRON MANUFACTURING

1 COMPANY; DARICE, INC.; GC/WALDOM ELECTRONICS, INC.; VANCO
2 INTERNATIONAL, INC.; VIDEO DISPLAY CORPORATION; AND VICTOR
3 AUTOMOTIVE PRODUCTS, INC., and DOES 1 through 100 inclusive (hereinafter
4 “Defendants”), to give clear and reasonable warnings to those residents of California, who handle
5 and use products that are or that incorporate thermoset/thermoplastic coated wires and cables in
6 which the coating material contains lead (hereinafter referred to as “Leaded Wire or Cable
7 Products”), that handling and use of these products causes those residents to be exposed to lead
8 and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively,
9 “lead”). The products to which this Complaint pertains are those listed in the Appendices A to
10 the Proposition 65 60-Day Notice Letters attached to and incorporated by reference into this
11 Complaint. Lead is known to the State of California to cause cancer, birth defects and male and
12 female reproductive toxicity. Defendants manufacture, distribute, and/or market Leaded Wire or
13 Cable Products. These products cause exposures to lead and lead compounds, which are
14 chemicals known to the State of California to cause cancer, birth defects and other reproductive
15 harm.

16 2. Defendants are businesses that manufacture, market, and/or distribute Leaded
17 Wire or Cable Products. Defendants intend that residents of California handle and use Leaded
18 Wire or Cable Products that Defendants manufacture, market, and/or distribute. When these
19 products are handled and used in their normally intended manner, they expose people to lead. In
20 spite of knowing that residents of California were and are being exposed to these chemicals when
21 they handle and use Leaded Wire or Cable Products, Defendants did not and do not provide clear
22 and reasonable warnings that these products cause exposure to chemicals known to cause cancer,
23 birth defects and other reproductive harm.

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

1 60-day Notice letters dated May 20, 2003, April 6, 2004, and June 4, 2004 which Mateel sent to
2 California's Attorney General. Substantially identical letters were sent to every District Attorney
3 in the state, and to the City Attorneys of every California city with a population greater than
4 750,000. On those same dates, Mateel sent identical 60-Day Notice letters to each defendant.
5 Attached to the 60-Day Notice Letters sent to each defendant was a summary of Proposition 65
6 that was prepared by California's Office of Environmental Health Hazard Assessment. In
7 addition, each 60-Day Notice Letter plaintiff sent was accompanied by a Certificate of Service
8 attesting to the service of the 60-Day Notice Letter on each entity which received it. Pursuant to
9 California Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the
10 reasonable and meritorious basis for the action was also sent with each 60-Day Notice Letter.
11 Factual information sufficient to establish the basis of the Certificate of Merit was enclosed with
12 the 60-Day Notice letter Mateel sent to the Attorney General.

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

14 JURISDICTION

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

20 11. This Court also has jurisdiction over Defendants because they are businesses that
21 have sufficient minimum contacts in California and within the City and County of San Francisco.
22 Defendants intentionally availed themselves of the California and San Francisco County markets
23 for Leaded Wire or Cable Products. It is thus consistent with traditional notions of fair play and
24 substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

25 12. Venue is proper in this Court because Defendants market their products in and
26 around San Francisco and thus cause people to be exposed to lead and lead compounds while
27 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
28 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this

1 Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

2 FIRST CAUSE OF ACTION
3 (Claim for Injunctive Relief)

4 13. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as
5 if specifically set forth herein, paragraphs 1 through 12, inclusive.

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

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

13 16. Since at least May 20, 2002, Defendants have engaged in conduct that violates
14 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
15 intentionally exposing to the above mentioned toxic chemicals, those California residents who
16 handle and use Leaded Wire or Cable Products. The normally intended use of Leaded Wire or
17 Cable Products causes exposure to lead and lead compounds, which are chemicals known to the
18 State of California to cause cancer, birth defects and other reproductive harm. Defendants have
19 not provided clear and reasonable warnings, within the meaning of Health & Safety Code
20 Sections 25249.6 and 25249.11.

21 17. At all times relevant to this action, Defendants knew that the Leaded Wire or
22 Cable Products they manufactured, distributed or marketed were causing exposures to lead and
23 lead compounds. Defendants intended that residents of California handle and use Leaded Wire
24 or Cable Products in such ways as would lead to significant exposures to these chemicals.

25 18. By the above described acts, Defendants have violated Cal. Health & Safety Code
26 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
27

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' Leaded
10 Wire or Cable Products.

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 Leaded Wire or Cable Products;

20 3. That Defendants be ordered to identify and locate each individual who purchased
21 Leaded Wire or Cable Products and provide a warning to each such person that the Leaded Wire
22 or Cable Products the person purchased will expose that person to chemicals known to cause
23 birth defects.

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

Dated: March 10, 2005

KLAMATH ENVIRONMENTAL LAW
CENTER

By 

William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation