

ENDORSED
FILED
San Francisco County Superior Court

OCT 17 2005

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Deputy Clerk

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16 Attorneys for Plaintiff,
17 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

CASE MANAGEMENT CONFERENCE SET

MAR 17 2006 9 00 AM

DEPARTMENT 212

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO
(Unlimited Jurisdiction)

18 MATEEL ENVIRONMENTAL
19 JUSTICE FOUNDATION,

CASE NO.

000-05-445774

20 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

21 v.

22 BABY TREND, INC., and DOES 1 through
23 100 inclusive,

24 Defendants.

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 BABY TREND, INC., and DOES 1 through 100 inclusive (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle and use baby strollers, the brake cable-housings for which are coated with lead-containing plastic (hereinafter "leaded cable-housings"), that handling and use of these products causes those

1 residents to be exposed to lead and lead compounds, lead acetate, lead phosphate, and lead
2 subacetate (hereinafter, collectively, "lead"). Lead is known to the State of California to cause
3 cancer, birth defects and male and female reproductive toxicity. Defendants manufacture,
4 distribute, and/or market baby strollers that have leaded cable-housings. These products cause
5 exposures to lead and lead compounds, which are chemicals known to the State of California to
6 cause cancer, birth defects and other reproductive harm.

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

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

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

28

PARTIES

1
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 baby strollers that have leaded
9 cable-housings manufactured, distributed or marketed by Defendants and are so exposed without
10 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 baby strollers that have leaded cable-housings 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 April 29, 2005, 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 baby strollers. It is thus consistent with traditional notions of fair play and substantial justice
19 for the San Francisco Superior Court to exercise jurisdiction over them.

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

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

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



Klamath


April 29, 2005

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

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") hereby give you notice that Hoop Retail Stores, LLC and Baby Trend, Inc. are in violation of Cal. Health & Safety Code § 25249.6. With regard to Hoop, the specific type of product at issue is any electronic device that is, or which incorporates Cords, as more fully described below. With regard to Baby Trend, the specific product at issue is the Expedition Jogging Stroller. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when California residents come into contact with thermoset/thermoplastic-coated wires, cables, and/or cords/cord sets, including PVC-coated wires, cords/cord sets, plugs and connectors, and both SPT and HPN cords/cord sets and the sheathing on brake cables used to stop baby strollers (hereinafter collectively "Cords and Cables"). These businesses market products with, or that are themselves, Cords. These cords and cables are often attached to electronic devices such as stereos, headphones, hair dryers, and clothes irons. Cables reach from the braking mechanism near the wheel of the stroller to the stroller's handle where there is a lever that is squeezed to activate the braking mechanism. Handling of, and contact with, these cords and cables exposes people to acrylonitrile, antimony trioxide, arsenic, 1,3 butadiene, carbon tetrachloride, carbon black extracts, chlorinated paraffins, chloroform, ethyl acrylate, ethylene thiourea, nickel, toluene, cadmium, hexavalent chromium, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate, and di(2ethylhexyl) phthalate. Handling Cords and Cables causes these chemicals to come off the coating of the Cords and Cables and to be transferred to the skin of the person handling or touching the Cord or Cable. These chemicals are then ingested through hand-to-mouth contact and hand-to-food-to-mouth and hand-to-cigarette-to-mouth behavior. These chemicals are also absorbed through the skin, through mucous membranes and enter the body through cuts, punctures and abrasions. Smokers also inhale those chemicals transferred from hands to cigarettes. People are thus exposed to these chemicals via the ingestion, inhalation, dermal absorption, mucous membrane absorption and subcutaneous routes. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and services. In occupational settings, the type of work that is done during which the above-referenced exposures occur is the handling of, and contact with, Cords and Cables, including during the manufacture, installation, maintenance, handling and/or use of electrical equipment and baby strollers to which these Cords or Cables are attached. As described above, the exposures that are the subject of this notice occur via the dermal absorption, inhalation, ingestion and subcutaneous routes. These violations have occurred every day since at least April 29, 2004 and will continue every day until reasonable warnings are given to those people exposed. Environmental exposure violations occur in every county of the State and occur both on and off the property of the aforementioned private businesses.

Cordially,



William Verick

SERVICE LIST

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GENERAL
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OAKLAND CA 94612-0550

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CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

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CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814

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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

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225 FALLON ST. #9
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MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642

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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

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547 MARKET ST.
COLUSA, CA 95932

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515 MAIN ST.
PLACERVILLE, CA 95667

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ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

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COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

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OUNTY OF IMPERIAL
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EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
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P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN 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

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HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

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301 S. STATE ST.
UKIAH, CA 95482

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ALTURAS, CA 9610

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240 CHURCH ST.
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NEVADA CITY, CA 95959

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316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

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SAN FRANCISCO, CA 94103

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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

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HALL OF JUSTICE AND RECORDS
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COUNTY OF SONOMA
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COUNTY OF TRINITY
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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.
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VENTURA, CA 93003

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COUNTY OF YOLO
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P.O. BOX 1247
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

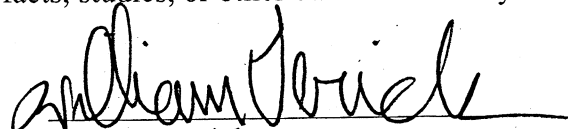
Tzu-Hsien Tsai, President
Baby Trend, Inc.
1567 S. Campus Ave
Ontario, CA 91761

Hoop Retail Stores, LLC
Attn: General Counsel
915 Secaucus Road
Secaucus, NJ 07094

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: April 29, 2005

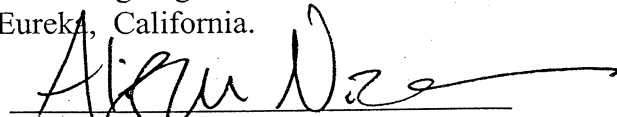

William Verick

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 April 29, 2005, 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 April 29, 2005, at Eureka, California.


ALISON NICHOLS