

1 WILLIAM VERICK, SBN 140972
Klamath Environmental Law Center
2 FREDRIC EVENSON, SBN 198059
424 First Street
3 Eureka, CA 95501
Telephone: (707) 268-8900
4 Facsimile: (707) 268-8901
email: wverick@igc.org
5 email: ecorights@earthlink.net

6 DAVID WILLIAMS, SBN 144479
BRIAN ACREE, SBN 202505
7 370 Grand Avenue, Suite 5
Oakland, CA 94610
8 Telephone: (510) 271-0826
Facsimile: (510) 271-0829
9 email: davidhwilliams@earthlink.net
email: brianacree@earthlink.net

10 Attorneys for Plaintiff,
11 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO
14 (Unlimited Jurisdiction)

15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,

17 Plaintiff,

18 v.

19 ORCHARD SUPPLY HARDWARE
20 CORPORATION,

21 Defendant.

CASE NO.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

22 _____ /
23 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

24 INTRODUCTION

25 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
26 failure of defendant ORCHARD SUPPLY HARDWARE CORPORATION (hereinafter
27 "Defendant"), to give clear and reasonable warnings to those residents of California, who handle
28 and use products the outer surface of which has been galvanized with a galvanizing material

ENDORSED
FILED
San Francisco County Superior Court

MAY 1 - 2007

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

CASE MANAGEMENT CONFERENCE SET

SEP 28 2007 9 AM

DEPARTMENT 212

8807-462933

1 containing lead (Leaded Galvanized Products). The surface of these Leaded Galvanized
2 Products are covered with a layer of galvanizing material which contains lead and lead
3 compounds (“lead”), which are chemicals known to cause cancer, birth defects and other
4 reproductive harm. California residents are exposed to lead when they handle these Leaded
5 Galvanized Products.

6 2. Defendant is a business that manufactures, markets, and/or distributes Leaded
7 Galvanized Products. Defendant intends that residents of California handle and use Leaded
8 Galvanized Products that Defendant manufactures, markets, and/or distributes. When these
9 products are handled and used in their normally intended manner, they expose people to lead and
10 lead compounds. In spite of knowing that residents of California were and are being exposed to
11 toxic chemicals when they handle and use Leaded Galvanized Products, Defendant did not and
12 does not provide clear and reasonable warnings that these products cause exposure to chemicals
13 known to cause cancer, birth defects and other reproductive harm.

14 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
15 to compel Defendant to bring its business practices into compliance with section 25249.5 et seq.
16 by providing a clear and reasonable warning to each individual who has been and who in the
17 future may be exposed to the above mentioned toxic chemicals from the use of Defendant’s
18 products. Plaintiff seeks an order that Defendant identify and locate each individual person who
19 in the past has purchased Leaded Galvanized Products and to provide to each such purchaser a
20 clear and reasonable warning that the Leaded Galvanized Products will cause exposures to
21 chemicals known to cause birth defects.

22 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
23 of Defendant to provide clear and reasonable warnings regarding exposure to chemicals known
24 to cause cancer, birth defects and other reproductive harm.

25 PARTIES

26 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”)
27 is a non-profit organization dedicated to, among other causes, the protection of the environment,
28 promotion of human health, environmental education, and consumer rights. Mateel is based in

1 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
2 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
3 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
4 California are regularly exposed to lead and lead compounds from Leaded Galvanized Products
5 manufactured, distributed or marketed by Defendant and are so exposed without a clear and
6 reasonable Proposition 65 warning.

7 6. Defendant is a person doing business within the meaning of Health & Safety
8 Code Section 25249.11. Defendant is a business that manufactures, distributes, and/or markets
9 Leaded Galvanized Products in California, including the City and County of San Francisco.
10 Manufacture, distribution and/or marketing of these products in the City and County of San
11 Francisco and/or to people who live in San Francisco, causes people to be exposed to lead and
12 lead compounds while they are physically present in the City and County of San Francisco.

13 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
14 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
15 60-day Notice letter, dated July 20, 2006 which Mateel sent to California's Attorney General.
16 Substantially identical letters were sent to every District Attorney in the state, and to the City
17 Attorneys of every California city with a population greater than 750,000. On July 20, 2006,
18 Mateel sent to Defendant a letter substantively identical to the Notice letter it sent on that date to
19 the Attorney General. Attached to the 60-Day Notice Letter sent to the Defendant was a
20 summary of Proposition 65 that was prepared by California's Office of Environmental Health
21 Hazard Assessment. In addition, each 60-Day Notice Letter plaintiff sent was accompanied by a
22 Certificate of Service attesting to the service of the 60-Day Notice Letter on each entity which
23 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of
24 Merit attesting to the reasonable and meritorious basis for the action was also sent with each 60-
25 Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit
26 was enclosed with the 60-Day Notice letters Mateel sent to the Attorney General on the two
27 dates.

1 8. Defendant is a business that employs more than ten people.

2 JURISDICTION

3 9. The Court has jurisdiction over this action pursuant to California Health & Safety
4 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
5 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter
6 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought,
7 does not grant jurisdiction to any other trial court.

8 10. This Court also has jurisdiction over Defendant because it is a business that has
9 sufficient minimum contacts in California and within the City and County of San Francisco.
10 Defendant intentionally availed itself of the California and San Francisco County markets for
11 Leaded Galvanized Products. It is thus consistent with traditional notions of fair play and
12 substantial justice for the San Francisco Superior Court to exercise jurisdiction over it.

13 11. Venue is proper in this Court because Defendant markets its products in and
14 around San Francisco and thus causes people to be exposed to lead and lead compounds while
15 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
16 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
17 Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

18 FIRST CAUSE OF ACTION
19 (Claim for Injunctive Relief)

20 12. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
21 if specifically set forth herein, paragraphs 1 through 11, inclusive.

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

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

1 15. Since at least July 20, 2003, prior to the filing of this complaint Defendant has
2 engaged in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct
3 includes knowingly and intentionally exposing to the above mentioned toxic chemicals, those
4 California residents who handle and use Leaded Galvanized Products. The normally intended
5 use of these Leaded Galvanized Products causes exposure to lead and lead compounds, which
6 are chemicals known to the State of California to cause cancer, birth defects and other
7 reproductive harm. Defendant has not provided clear and reasonable warnings, within the
8 meaning of Health & Safety Code Sections 25249.6 and 25249.11.

9 16. At all times relevant to this action, Defendant knew that the Leaded Galvanized
10 Products it manufactured, distributed or marketed were causing exposures to lead and lead
11 compounds. Defendant intended that residents of California handle and use Leaded Galvanized
12 Products in such ways as would lead to significant exposures to these chemicals.

13 17. By the above described acts, Defendant has violated, and continues to violate Cal.
14 Health & Safety Code § 25249.6 and is therefore subject to an injunction ordering it to stop
15 violating Proposition 65, to provide warnings to all present and future customers, and to provide
16 warnings to their past customers who purchased defendants' products without receiving a clear
17 and reasonable warning.

18 SECOND CAUSE OF ACTION
19 (Claim for Civil Penalties)

20 18. Plaintiff realleges and incorporates by reference into this Second Cause of Action,
21 as if specifically set forth herein, paragraphs 1 through 17, inclusive.

22 19. By the above described acts, Defendant is liable and should be liable pursuant to
23 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual
24 exposed without proper warning to lead and lead compounds from the handling or use of
25 Defendant's Leaded Galvanized Products.

26 PRAYER FOR RELIEF

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

28 1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and

1 ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
2 Code;

3 2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil
4 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
5 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
6 Defendant's manufacturing, distributing or marketing of Leaded Galvanized Products;

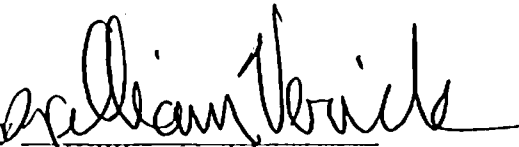
7 3. That Defendant be ordered to identify and locate each individual who purchased
8 Leaded Galvanized Products and provide a warning to each such person that the Leaded
9 Galvanized Products the person purchased will expose that person to chemicals known to cause
10 birth defects.

11 4. That, pursuant to Civil Procedure Code § 1021.5, Defendant be ordered to pay to
12 Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

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

14 Dated: April 26, 2007

KLAMATH ENVIRONMENTAL LAW CENTER

15
16
17 BY 

18 William Verick
19 Attorney for Plaintiff
20 Mateel Environmental Justice Foundation
21
22
23
24
25
26
27
28




Klamath

July 20, 2006

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") give you notice that the private businesses on the attached service list have been, are, will be and threaten to be 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 at both Mateel and this office. The above referenced violations occur when California residents come into contact with galvanized chains and galvanized nuts and bolts (collectively hereinafter, "galvanized products"). A list of specific examples of the specific types of products at issue is attached. The surface zinc coating on these galvanized products contains lead as an intended constituent. Lead is a chemical known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead when they handle these galvanized products while installing them and while using them for their intended purpose. Lead is transferred from the leaded-zinc coating to their hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the brass, from oral contact with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. These lead exposures thus occur via the dermal absorption, subcutaneous, mucus membrane, ingestion and inhalation routes. The listed businesses did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least July 20, 2006, and will continue every day until the lead is removed from the galvanized products, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any galvanized products made outside of California, except as to workplaces these companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the companies properties and in each of California's 58 counties.

Cordially,

William Verick

PRODUCT LIST

ORCHARD SUPPLY HARDWARE CORPORATION

1/2" GALVANISED CHAIN & 1/4" GALVANISED CHAIN

GALVANISED 5/8" 90 DEGREE BOLT These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of galvanized chains and galvanized fasteners.

UNIFIED MARINE, INC.

SEASENSE ANCHOR CHAIN #P/N 50074742 4FT OF GALVANIZED ANCHOR CHAIN UPC: 737765 747429 This product description pertains not only to the specific model of the product listed, but also for all units of all models of of galvanized chain.

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
450 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
500 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
250 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. #7
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 TRUXTON AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HARTFORD, 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 96133

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 95335

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 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
400 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
ALBURN, 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 #1300
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
150 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
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101-2008

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
DOWNTONVILLE, 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
REDFLUFF, 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

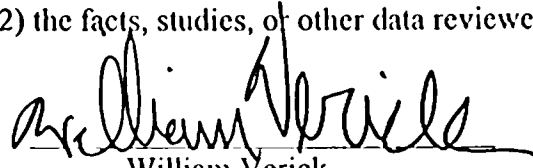
ROBERT LYNCH, CEO
ORCHARD SUPPLY HARDWARE
CORPORATION
3333 BEVERLY ROAD, B2-130B
HOFFMAN ESTATES, IL 60179

STEVE TAUGHER, PRESIDENT
UNIFIED MARINE, INC.
1455 RAIL HEAD BLVD. #30
NAPLES, FL 34110 8478

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: July 20, 2006

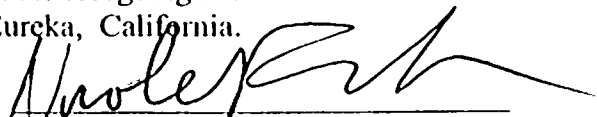

William Verick

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, Nicole Frank, 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 July 20, 2006 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 July 20, 2006, at Eureka, California.


Nicole Frank