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SAN FRANCISCO COUNTY
SUPERIOR COURT
2007 MAR -2 AM 9:09
GORDON PARK - LI. CLERK
BY: Deborah Steppe
DEPUTY CLERK

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CASE MANAGEMENT CONFERENCE SET

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AUG 03 2007 -9⁰⁰AM

DEPARTMENT 212

8 Attorneys for Plaintiff,
9 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 (Unlimited Jurisdiction)

13 MATEEL ENVIRONMENTAL
14 JUSTICE FOUNDATION,

CASE NO. CGC-07-460934

15 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

16 v.

17 HARLEY DAVIDSON, INC.,

TOXIC TORT/ENVIRONMENTAL

18 Defendant.
19

20 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

21 INTRODUCTION

22 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
23 failure of defendant HARLEY DAVIDSON, INC. (hereinafter "Defendant"), to give clear and
24 reasonable warnings to those residents of California, who handle and use products that are or that
25 incorporate thermoset/thermoplastic coated wires and cables in which the coating material
26 contains lead (hereinafter referred to as "Leaded Wire or Cable Products"), that handling and use
27 of these products causes those residents to be exposed to lead and lead compounds, lead acetate,
28 lead phosphate, and lead subacetate (hereinafter, collectively, "lead"). The types of products to

1 which this Complaint pertains are those types listed in the Product List appended to the
2 Proposition 65 60-Day Notice Letter that is attached to and incorporated by reference into this
3 Complaint. Lead is known to the State of California to cause cancer, birth defects and male and
4 female reproductive toxicity. Defendant distributes, and/or markets Leaded Wire or Cable
5 Products. These products cause exposures to lead and lead compounds, which are chemicals
6 known to the State of California to cause cancer, birth defects and other reproductive harm.

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

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

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

26 PARTIES

27 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
28 is a non-profit organization dedicated to, among other causes, the protection of the environment,

1 intentionally exposing to the above mentioned toxic chemicals, those California residents who
2 handle and use Leaded Wire or Cable Products. The normally intended use of Leaded Wire or
3 Cable Products causes exposure to lead and lead compounds, which are chemicals known to the
4 State of California to cause cancer, birth defects and other reproductive harm. Defendant has not
5 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
6 25249.6 and 25249.11.

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

11 17. By the above described acts, Defendant has violated Cal. Health & Safety Code
12 § 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to
13 provide warnings to all present and future customers and to provide warnings to its past
14 customers who purchased defendant's products without receiving a clear and reasonable warning.

15 SECOND CAUSE OF ACTION
16 (Claim for Civil Penalties)

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

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

23 PRAYER FOR RELIEF

24 Wherefore, plaintiff prays for judgment against DEFENDANT, as follows:

25 1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and
26 ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
27 Code;

28 2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil

1 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
2 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
3 Defendant's distributing or marketing of Leaded Wire or Cable Products;

4 3. That Defendant be ordered to identify and locate each individual who purchased
5 Leaded Wire or Cable Products and provide a warning to each such person that the Leaded Wire
6 or Cable Products the person purchased will expose that person to chemicals known to cause
7 birth defects.

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

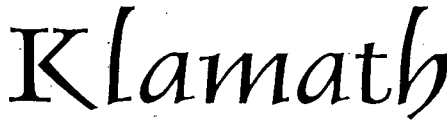
10 5. For such other relief as this court deems just and proper.

11 Dated: February 27, 2007

12 KLAMATH ENVIRONMENTAL LAW
13 CENTER

14 By 

15 William Verick
16 Attorney for Plaintiff
17 Mateel Environmental Justice Foundation
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Klamath

ENVIRONMENTAL
JUSTICE CENTER

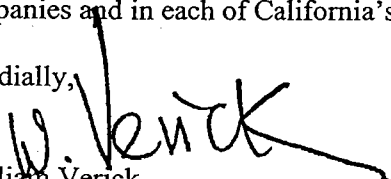
October 19, 2006

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") hereby give you notice that the companies on the attached service list have been, are and threaten to be in violation of Cal. Health & Safety Code § 25249.6. 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 (hereinafter collectively "Cords"). The listed companies market products with, or that are themselves, Cords. Some examples of the products that incorporate Cords are those listed in the attached Product List. Though a specific model or SKU or product number is given as an example, this notice pertains to all variations of the specific type of product of which the named model is an example. Handling of, and contact with, these Cords 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 causes these chemicals to come off the coating of the Cords and to be transferred to the skin of the person handling the Cords. 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 when they smoke the cigarettes. People are thus exposed to these chemicals via the ingestion, inhalation, dermal absorption, mucous membrane absorption and subcutaneous routes. These companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. The above referenced violations have occurred every day since at least October 19, 2003 and will continue every day until the lead is taken out of these products or until warnings are given. These 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 of these products the companies make outside of California, except as to workplaces the companies' themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the property of the companies and in each of California's 58 counties.

Cordially,



William Verick

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: October 19, 2006



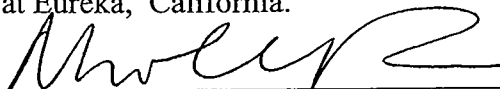
William Verick

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. October 19, 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 October 19, 2006, at Eureka, California.



Nicole Frank

SERVICE LIST

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

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OAKLAND, CA 94612

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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

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

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CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
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1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

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ATTORNEY
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P.O. BOX 248
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OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
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

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547 MARKET STREET
COLUSA, CA 95932

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P.O. BOX 670
MARTINEZ, CA 94553

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ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

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ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

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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

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825 5TH ST.
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939 W. MAIN ST
EL CENTRO, CA 92243

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P.O. DRAWER D
INDEPENDENCE, CA 93526

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BAKERSFIELD, CA 93301

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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
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
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BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

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ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

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ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

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ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

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ATTORNEY
COUNTY OF MODOC
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ALTURAS, CA 96101

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BRIDGEPORT, CA 93517

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SALINAS, CA 93902

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COURTHOUSE ANNEX
NEVADA CITY, CA 95959

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COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

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HALL OF JUSTICE AND RECORDS
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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

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COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

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DOWNEVILLE, 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

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COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

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ATTORNEY'S OFFICE
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VENTURA, CA 93009

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

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

HARLEY-DAVIDSON, INC.
JAMES L ZIEMER, PRESIDENT
3700 WEST JUNEAU AVENUE
MILWAUKEE, WI 53208

PENNZOIL-QUAKER STATE COMPANY
DOUGLAS S BOYLE, CEO
910 LOUISIANA ST
HOUSTON, TX 77002

RICCAR AMERICA
CRAIG NEAL, PRESIDENT
1800 E WALNUT AVE
FULLERTON, CA 92831-4844

SHINN FU COMPANY OF AMERICA,
INC.
STEVEN HUANG, PRESIDENT
10939 N. POMONA AVE.
KANSAS CITY, MO 64153

TACONY CORPORATION
KENNETH J. TACONY, CEO
1760 GILSINN LN
FENTON, MO 63026

PRODUCTS LIST

SHIN FU COMPANY OF AMERICA, INC.

MVP RECHARGEABLE SPOTLIGHT 1.5M CANDLEPOWER #WL-316 UPC: 652597 193315 This product description pertains not only to the specific model of the product listed, but also for all units of all models of the same types of products.

PENZOIL-QUAKER STATE COMPANY

AXIUS AUTO EXPRESSIONS CLIP-ON FAN #83106 UPC: 019912 518886 This product description pertains not only to the specific model of the product listed, but also for all units of all models of the same types of products.

RICCAR AMERICA/TACONY CORPORATION

RICCAR MINI VACUUM #"GEM-R" UPC: 098612 500704 This product description pertains not only to the specific model of the product listed, but also for all units of all models of the same types of products.

HARLEY DAVIDSON

HARLEY DAVIDSON SUPERSMART BATTERY TENDER JUNIOR #94654-98 NO UPC This product description pertains not only to the specific model of the product listed, but also for all units of all models of the same types of products.