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11 Attorneys for Plaintiff,

12 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF SAN FRANCISCO

16 (Unlimited Jurisdiction)

17 MATEEL ENVIRONMENTAL  
18 JUSTICE FOUNDATION;

18 Plaintiff,

19 v.

21 PRO SPECIALTIES GROUP, INC.,

22 Defendant.

CASE NO.

**CGC-07-466145**

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

24 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

25 INTRODUCTION

26 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
27 failure of defendant PRO SPECIALTIES GROUP, INC., (hereinafter "Defendant"), to give clear  
28

**ENDORSED  
FILED**  
*San Francisco County Superior Court*  
AUG 14 2007  
**GORDON PARK-LI, Clerk**  
BY: PARAM NATT  
Deputy Clerk

**CASE MANAGEMENT CONFERENCE SET**

**JAN 25 2008 -9<sup>00</sup>AM**

**DEPARTMENT 212**

1 and reasonable warnings to those residents of California, who handle and use products that are or  
2 that incorporate thermoset/thermoplastic coated wires and cables in which the coating material  
3 contains lead (hereinafter referred to as “Leaded Wire or Cable Products”), that handling and use  
4 of these products causes those residents to be exposed to lead and lead compounds, lead acetate,  
5 lead phosphate, and lead subacetate (hereinafter, collectively, “lead”). The types of products to  
6 which this Complaint pertains are those types listed in the Product List appended to the  
7 Proposition 65 60-Day Notice Letter that is attached to and incorporated by reference into this  
8 Complaint. Lead is known to the State of California to cause cancer, birth defects and male and  
9 female reproductive toxicity. Defendant manufactures, distributes, and/or markets Leaded Wire  
10 or Cable Products. These products cause exposures to lead and lead compounds, which are  
11 chemicals known to the State of California to cause cancer, birth defects and other reproductive  
12 harm.

13         2. Defendant is a business that manufactures, markets, and/or distributes Leaded  
14 Wire or Cable Products. Defendant intends that residents of California handle and use Leaded  
15 Wire or Cable Products that Defendant manufactures, markets, and/or distributes. When these  
16 products are handled and used in their normally intended manner, they expose people to lead. In  
17 spite of knowing that residents of California were and are being exposed to these chemicals  
18 when they handle and use Leaded Wire or Cable Products, Defendant did not and does not  
19 provide clear and reasonable warnings that these products cause exposure to chemicals known to  
20 cause cancer, birth defects and other reproductive harm.

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



1 of the 60-Day Notice Letter on each entity which received it. Pursuant to California Health &  
2 Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and  
3 meritorious basis for the action was also sent with each 60-Day Notice Letter. Factual  
4 information sufficient to establish the basis of the Certificate of Merit was enclosed with the 60-  
5 Day Notice letter Mateel sent to the Attorney General.

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

7 JURISDICTION

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

13 10. This Court also has jurisdiction over Defendant because it is a business that has  
14 sufficient minimum contacts in California and within the City and County of San Francisco.  
15 Defendant intentionally availed itself of the California and San Francisco County markets for  
16 Leaded Wire or Cable Products. It is thus consistent with traditional notions of fair play and  
17 substantial justice for the San Francisco Superior Court to exercise jurisdiction over Defendant.

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

23 FIRST CAUSE OF ACTION  
24 (Claim for Injunctive Relief)

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

27 13. The People of the State of California have declared by referendum under  
28 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed

1 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

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

6 15. Since at least March 22, 2004, Defendant has engaged in conduct that violates  
7 Health and Safety Code Section 25249.6 *et seq.* This conduct includes knowingly and  
8 intentionally exposing to the above mentioned toxic chemicals, those California residents who  
9 handle and use Leaded Wire or Cable Products. The normally intended use of Leaded Wire or  
10 Cable Products causes exposure to lead and lead compounds, which are chemicals known to the  
11 State of California to cause cancer, birth defects and other reproductive harm. Defendant has  
12 not provided clear and reasonable warnings, within the meaning of Health & Safety Code  
13 Sections 25249.6 and 25249.11.

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

18 17. By the above described acts, Defendant has violated Cal. Health & Safety Code  
19 § 25249.6 and is therefore subject to an injunction ordering them to stop violating Proposition 65  
20 and requiring them to provide warnings to their past customers who purchased Defendant's  
21 products without receiving a clear and reasonable warning.

22 SECOND CAUSE OF ACTION  
23 (Claim for Civil Penalties)

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

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

1 Defendants' Leaded Wire or Cable Products.

2  
3 PRAYER FOR RELIEF

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

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

8 2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil  
9 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
10 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of  
11 Defendants' manufacturing, distributing or marketing of Leaded Wire or Cable Products;

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

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

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

19 Dated: August 9, 2007

LAW OFFICES OF DAVID WILLIAMS

20  
21  
22  
23 By



David Williams  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation



# Klamath

ENVIRONMENTAL  
LAW CENTER

March 22, 2007

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 Pro Specialties Group, Inc. ("Pro Specialties") is 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 Pro Specialties markets decorative lights: the kind of lights people put on their Christmas trees, around their windows and porches and along their eaves. These lights are not necessarily associated with Christmas - there are varieties for Halloween, Thanksgiving and many other occasions. A specific example of these lights is NFL Football Lights—Raiders UPC Code No. 657175 083484. The wires of these holiday string lights are coated with polyvinyl chloride ("PVC"). Handling of, and contact with, these PVC-coated wires on these lights exposes people to cadmium, hexavalent chromium compounds, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate, and di(2-ethylhexyl) phthalate (collectively hereinafter, "Proposition 65 chemicals"). These exposures occur when people handle these lights -- to install them, to take them down, to replace burned out bulbs. When people handle the lights, Proposition 65 chemicals in the PVC come off on their hands and, via hand-to-mouth and hand-to-food then food-to-mouth behavior, the chemicals are ingested. Some of the Proposition 65 chemicals are also absorbed through the skin, some make their way through the skin via abrasions, cuts and punctures, and some of the dust on these lights is inhaled. Exposures are thus via the dermal, ingestion, inhalation and sub-cutaneous routes. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and/or 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, the PVC coated wires on these holiday string lights including during manufacture, installation, maintenance, handling. These violations have occurred every day since at least March 22, 2004 and will continue every day until reasonable warnings are given to those people exposed. We do not allege occupational-exposure violations as to products Pro Specialties makes outside of California, except as to workplaces that Pro Specialties itself maintains in California. Environmental-exposure violations occur in every county of the State and occur both on and off the property of Pro Specialties.

Cordially,

William Verick

## SERVICE LIST

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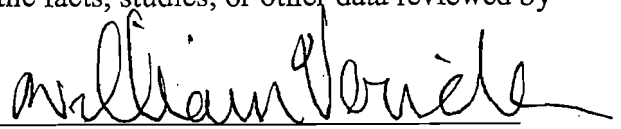
MICHAEL C H LIN, CEO  
PRO SPECIALTIES GROUP, INC.  
8295 AERO PLACE SUITE 260  
SAN DIEGO, CA 92123



**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: March 22, 2007

  
William Verick

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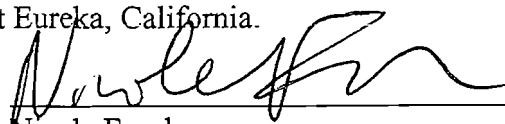
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed 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.

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**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 March 22, 2007, 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 March 22, 2007, at Eureka, California.

  
Nicole Frank