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9 Attorneys for Plaintiff,  
10 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 (Unlimited Jurisdiction)

14 MATEEL ENVIRONMENTAL  
15 JUSTICE FOUNDATION,

16 Plaintiff,

17 v.

18 GLOBAL AMICI, INC.

19 Defendant.

20 CASE NO. 03C07-464890

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

21 TOXIC TORT/ENVIRONMENTAL

22 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

23 INTRODUCTION

24 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
25 failure of defendant GLOBAL AMICI, INC., (hereinafter "Defendant"), to give clear and  
26 reasonable warnings to those residents of California, who handle and use beverage dispensers  
27 with brass valves and stopcocks that contain lead (Leaded Brass Beverage Dispensers). The

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 5 - 2007

GORDON PARK-LI, Clerk  
BY: ~~CASIMIRO BALBUENA~~ ~~CONFERENCE SET~~

DEC 7 2007 - 9:00 AM

DEPARTMENT 212

1 delivery stopcock or spigot or other components of these Leaded Brass Beverage Dispensers are  
2 made from leaded brass, which contains lead and lead compounds (“lead”), which are chemicals  
3 known to cause cancer, birth defects and other reproductive harm. California residents are  
4 exposed to lead when they consume beverages that have flowed through the leaded brass  
5 valves/stopcocks and when they handle the leaded components of these Leaded Brass Beverage  
6 Dispensers.

7 2. Defendant is a business that manufactures, markets, and/or distributes Leaded  
8 Brass Beverage Dispensers. Defendant intends that residents of California consume beverages  
9 that have flowed through the leaded brass valves/stopcocks and handle and use the Leaded Brass  
10 Beverage Dispensers that Defendant manufactures, markets, and/or distributes. When these  
11 products are handled, when beverages contained in these products are consumed, and, in general,  
12 when the products are used in their normally intended manner, they expose people to lead. In  
13 spite of knowing that residents of California were and are being exposed to these chemicals  
14 when they handle, consume beverages served from and use Leaded Brass Beverage Dispensers,  
15 Defendant did not and does not provide clear and reasonable warnings that these products cause  
16 exposure to chemicals known to cause cancer, birth defects and other reproductive harm.

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

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

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 Leaded Brass Beverage  
9 Dispensers manufactured, distributed or marketed by Defendant and are so exposed without a  
10 clear and reasonable Proposition 65 warning.

11           6.           Defendant is each a person doing business within the meaning of Health & Safety  
12 Code Section 25249.11. Defendant is a business that manufactures, distributes, and/or markets  
13 Leaded Brass Beverage Dispensers in California, including the City and County of San  
14 Francisco. Manufacture, distribution and/or marketing of these products in the City and County  
15 of San Francisco and/or to people who live in San Francisco, causes people to be exposed to lead  
16 and lead compounds while they are physically present in the City and County of San Francisco.

17           7.           Plaintiff brings this enforcement action against Defendant pursuant to Health &  
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
19 60-day Notice letter, dated March 22, 2007, which Mateel sent to California's Attorney General.  
20 Substantially identical letters were sent to every District Attorney in the state, and to the City  
21 Attorneys of every California city with a population greater than 750,000. On March 22, 2007,  
22 Mateel sent to each Defendant a letter substantively identical to the Notice letter it sent on that  
23 date to the Attorney General. Attached to the 60-Day Notice Letters sent to each defendant was  
24 a summary of Proposition 65 that was prepared by California's Office of Environmental Health  
25 Hazard Assessment. In addition, each 60-Day Notice Letter plaintiff sent was accompanied by a  
26 Certificate of Service attesting to the service of the 60-Day Notice Letter on each entity which  
27 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of

1 Merit attesting to the reasonable and meritorious basis for the action was also sent with each  
2 60-Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of  
3 Merit was enclosed with the 60-Day Notice letters Mateel sent to the Attorney General on the  
4 two dates.

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

6 JURISDICTION

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

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

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

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

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

26 13. The People of the State of California have declared by referendum under  
27 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 3 years prior to the filing of this complaint Defendant has engaged  
7 in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct includes  
8 knowingly and intentionally exposing to the above mentioned toxic chemicals, those California  
9 residents who consume beverages that are contained in and flow through the leaded brass  
10 valve/stopcock of Leaded Brass Beverage Dispensers and otherwise handle and use the Leaded  
11 Brass Beverage Dispensers in a normally intended manner. The normally intended use of  
12 Leaded Brass Beverage Dispensers causes exposure to lead and lead compounds, which are  
13 chemicals known to the State of California to cause cancer, birth defects and other reproductive  
14 harm. Defendant has not provided clear and reasonable warnings, within the meaning of Health  
15 & Safety Code Sections 25249.6 and 25249.11.

16 16. At all times relevant to this action, Defendant knew that the Leaded Brass  
17 Beverage Dispensers they manufactured, distributed or marketed were causing exposures to lead  
18 and lead compounds. Defendant intended that residents of California handle and use Leaded  
19 Brass Beverage Dispensers in such ways as would lead to significant exposures to these  
20 chemicals.

21 17. By the above described acts, Defendant has violated Cal. Health & Safety Code  
22 Section 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition  
23 65, to provide warnings to all present and future customers, and to provide warnings to their past  
24 customers who purchased defendant's products without receiving a clear and reasonable warning.

25  
26 SECOND CAUSE OF ACTION  
(Claim for Civil Penalties)

27 18. Plaintiff realleges and incorporates by reference into this Second Cause of Action,

1 as if specifically set forth herein, paragraphs 1 through 18, inclusive.

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

6 PRAYER FOR RELIEF

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

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

11 2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil  
12 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
13 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of  
14 Defendants' manufacturing, distributing or marketing of Leaded Brass Beverage Dispensers;


15 3. That Defendant be ordered to identify and locate each individual who purchased  
16 Leaded Brass Beverage Dispensers and provide a warning to each such person that the Leaded  
17 Brass Beverage Dispensers the person purchased will expose that person to chemicals known to  
18 cause birth defects.

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

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

22 Dated: July 2, 2007

LAW OFFICES OF DAVID WILLIAMS

23  
24  
25 By   
26 David Williams  
27 Attorney for Plaintiff  
28 Mateel Environmental Justice Foundation



# Klamath

ENVIRONMENTAL  
LAW CENTER

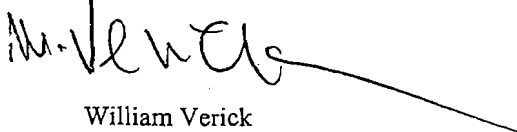
March 22, 2007

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") give you notice that Global Amici, Inc. has been, is, will be and threatens 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 the brass valves or stopcocks on lemonade jars and water tanks (hereinafter "brass valved beverage dispensers"), and when they drink beverages that have flowed through the leaded brass valves/stopcocks. An example of these products is the Amici 12 liter hex jar with spigot, UPC No. 023377012223. The valves or stopcocks on these brass valved beverage dispensers are made from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they handle the brass valves/stopcocks, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through the brass valves/stopcocks. Lead is transferred from the brass to peoples' 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 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. Lead also leaches from the brass into the beverages that flow through the brass valves/stopcocks and is then drunk. These lead exposures thus occur via the dermal absorption, subcutaneous, mucus membrane, ingestion and inhalation routes. Global Amici did not and does not provide people with clear and reasonable warnings before it exposes them to lead. These violations have occurred every day since at least March 22, 2004, and will continue every day until the lead is removed from the brass valves/stopcocks, 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 brass valved beverage dispenser made outside of California, except as to workplaces Global Amici itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off your private business property and in each of California's 58 counties.

Cordially,



William Verick

## SERVICE LIST

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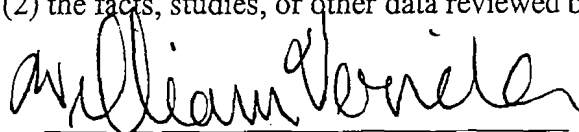
JEFFREY P SACKS, CEO  
GLOBAL AMICI, INC.  
8400 MIRAMAR ROAD 130  
SAN DIEGO, CA 92126



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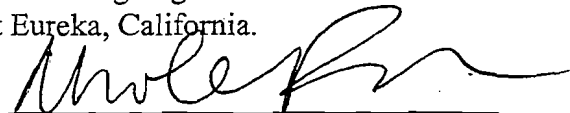
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed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

---

**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