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8 Attorneys for Plaintiff,  
9 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

ENDORSED  
FILED  
San Francisco County Superior Court

NOV 16 2007

GORDON PARK-LI, Clerk  
BY: ~~CHRISTINE E. BAUTISTA~~  
CASE MANAGEMENT CONFERENCE SET

APR 18 2008 -9<sup>00</sup>AM

DEPARTMENT 212

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO  
12 (Unlimited Jurisdiction)

13 ~~720~~07-469271

14 MATEEL ENVIRONMENTAL  
JUSTICE FOUNDATION,

CASE NO.

15 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

16 v.

17 HOME ESSENTIALS & BEYOND, INC.;  
18 BED BATH & BEYOND; SMITH &  
HAWKEN, LTD; SUR LA TABLE, INC.;  
19 and THE CONTAINER STORE, INC.

TOXIC TORT/ENVIRONMENTAL

20 Defendants.

21 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

22 INTRODUCTION

23 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
24 failure of defendants HOME ESSENTIALS & BEYOND, INC.; BED BATH & BEYOND;  
25 SMITH & HAWKEN, LTD; SUR LA TABLE, INC.; and THE CONTAINER STORE, INC.  
26 (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California,  
27 who handle and use, and drink beverages stored or contained in, lemonade jars and water tanks  
28

1 that utilize leaded brass valves, spigots and stopcocks (hereinafter referred to as "drink  
2 dispensers"), that handling and use of and drinking from these drink dispensers causes those  
3 residents to be exposed to lead and lead compounds, lead acetate, lead phosphate, and lead  
4 subacetate (hereinafter, collectively, "lead"). The types of products to which this Complaint  
5 pertains are those types listed in the Product List appended to the Proposition 65 60-Day Notice  
6 Letter that is attached to and incorporated by reference into this Complaint. Lead is known to  
7 the State of California to cause cancer, birth defects and male and female reproductive toxicity.  
8 Defendants distribute, and/or market drink dispensers. These products cause exposures to lead  
9 and lead compounds, which are chemicals known to the State of California to cause cancer, birth  
10 defects and other reproductive harm.

11 2. Defendants market, and/or distribute drink dispensers. Defendants intend that  
12 residents of California handle, use and drink beverages stored or contained in the drink  
13 dispensers that Defendants market, and/or distribute. When these products are handled and used  
14 in their normally intended manner and when people drink beverages that has been stored in or  
15 contained in these drink dispensers the drink dispensers expose people to lead. In spite of  
16 knowing that residents of California were and are being exposed to these chemicals when they  
17 handle, use and drink beverages contained or stored in drink dispensers, Defendants did not and  
18 do not provide clear and reasonable warnings that these products cause exposure to chemicals  
19 known to cause cancer, birth defects and other reproductive harm.

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

28 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure

1 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known  
2 to cause cancer, birth defects and other reproductive harm.

3 PARTIES

4 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")  
5 is a non-profit organization dedicated to, among other causes, the protection of the environment,  
6 promotion of human health, environmental education, and consumer rights. Mateel is based in  
7 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a  
8 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement  
9 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of  
10 California are regularly exposed to lead and lead compounds from drink dispensers  
11 manufactured, distributed or marketed by Defendants and are so exposed without a clear and  
12 reasonable Proposition 65 warning.

13 6. Defendants are persons doing business within the meaning of Health & Safety  
14 Code Section 25249.11. Defendants are businesses that distribute, and/or market drink dispensers  
15 in California, including the City and County of San Francisco. Distribution and/or marketing of  
16 these products in the City and County of San Francisco and/or to people who live in San  
17 Francisco, causes people to be exposed to lead and lead compounds while they are physically  
18 present in the City and County of San Francisco.

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

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

4 8. Each defendant employs more than ten people. \_\_\_\_\_

5 JURISDICTION.

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

11 10. This Court also has jurisdiction over Defendants because they are businesses that  
12 have sufficient minimum contacts in California and within the City and County of San Francisco.  
13 Defendants intentionally availed themselves of the California and San Francisco County markets  
14 for drink dispensers. It is thus consistent with traditional notions of fair play and substantial  
15 justice for the San Francisco Superior Court to exercise jurisdiction over Defendants.

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

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

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

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

28 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates

1 that businesses that knowingly and intentionally expose any individual to a chemical known to  
2 the State of California to cause cancer or birth defects must first provide a clear and reasonable  
3 warning to such individual prior to the exposure.

4 15. Since at least July 18, 2004, Defendants have engaged in conduct that violates  
5 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and  
6 intentionally exposing to the above mentioned toxic chemicals, those California residents who  
7 handle, use or drink beverages stored or contained in drink dispensers. The normally intended  
8 use of drink dispensers causes exposure to lead and lead compounds, which are chemicals known  
9 to the State of California to cause cancer, birth defects and other reproductive harm. Defendants  
10 have not provided clear and reasonable warnings, within the meaning of Health & Safety Code  
11 Sections 25249.6 and 25249.11.

12 16. At all times relevant to this action, Defendants knew that the drink dispensers they  
13 distributed or marketed were causing exposures to lead and lead compounds. Defendants  
14 intended that residents of California handle, use and drink beverages stored or contained in drink  
15 dispensers in such ways as would lead to significant exposures to these chemicals.

16 17. By the above described acts, Defendants have violated Cal. Health & Safety Code  
17 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition  
18 65, to provide warnings to all present and future customers and to provide warnings to their past  
19 customers who purchased Defendants' products without receiving a clear and reasonable  
20 warning.

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

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

25 19. By the above described acts, Defendants are liable and should be liable pursuant  
26 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each  
27 individual exposed without proper warning to lead and lead compounds from the handling, use  
28 of, or the drinking of beverages stored or contained in Defendants' drink dispensers.

1  
2  
3 PRAYER FOR RELIEF

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

5 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained,  
6 and 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 Defendants 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 Defendant's distributing or marketing of drink dispensers;

12 3. That Defendant be ordered to identify and locate each individual who purchased  
13 drink dispensers and provide a warning to each such person that the drink dispensers the person  
14 purchased will expose that person to chemicals known to cause birth defects.

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

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

18 Dated: November 5, 2007

19 KLAMATH ENVIRONMENTAL LAW  
20 CENTER

21 By 

22 William Verick

23 Attorney for Plaintiff

24 Mateel Environmental Justice Foundation



# Klamath

ENVIRONMENTAL  
LAW CENTER

July 18, 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 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 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. A list of specific examples of the specific types of products at issue is attached. 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, mucous 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 18, 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 these companies themselves maintain 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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ATTORNEY  
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BUILDING  
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SAN RAFAEL, CA 94903

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2222 M ST.  
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COUNTY OF MODOC  
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222 E. WEBER AVE #202  
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COUNTY GOVERNMENT CENTER #450  
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PRESIDENT OR CEO  
AFTER 5 CATALOG  
132 ROBIN HILL ROAD  
SANTA BARBARA, CA 93117

PRESIDENT OR CEO  
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PHIL MINDX, PRESIDENT  
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SMYRNA, GA 30082

PRESIDENT OR CEO  
ASTRAL DIRECT, LLC  
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CHICAGO, IL 60606

STEVEN TEMARES, CEO  
BED BATH & BEYOND  
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UNION, NJ 07083

WILLIAM TINDELL, CEO  
THE CONTAINER STORE, INC.  
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COPELL, TX 75019

JEFFREY P. SACKS, CEO  
GLOBAL AMICI, INC.  
8400 MIRAMAR RD 130  
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IZIDOR GODINGER, CEO  
HOME ESSENTIALS & BEYOND, INC.  
3001 WOODBRIDGE, AVE  
EDISON, NJ 08837

IZIDOR GODINGER, CEO  
HOME ESSENTIALS & BEYOND, INC.  
C/O COHEN, FONTANI, LIEBERMAN,  
PAVANE  
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NEW YORK, NY 10017

PRESIDENT OR CEO  
LINDA ANDERSON.  
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OZARK, MO 65721-9156

GORDON M. ERICKSON, CEO  
SMITH & HAWKEN, LTD  
4 HAMILTON LANDING STE 100  
NOVATO, CA 94949

GORDON M. ERICKSON, CEO  
SMITH & HAWKEN, LTD  
14111 SCOTSLAWN ROAD  
MARYSVILLE, OH 43041

KATHY TIERNEY, CEO  
SUR LA TABLE, INC.  
5701 SIXTH AVE SOUTH #486  
SEATTLE, WA 98108



## PRODUCTS LIST

### AFTER 5 CATALOG

TERRA COTTA COTTAGE COOLER SET W/ STAND ITEM# 403-06001 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

### HOME ESSENTIALS & BEYOND, INC.

PROVENCE 2 GAL DRINK DISPENSER WITH BRASS TAP # 6029 UPC: 786460 060296 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

Purchased at: **ASTRAL DIRECT, LLC/ASTRAL BRANDS, INC.**  
**LINDA ANDERSON**

### HOME ESSENTIALS & BEYOND, INC.

HOME ESSENTIALS AND BEYOND DEL SOL HEXAGONAL GLASS CONTAINER WITH EASY POURING VALVE #1821 UPC: 786460 018211

This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

Purchased at: **BED BATH & BEYOND**

### GLOBAL AMICI, INC.

AMICI 6 LT HEX JAR W/ SPIGOT UPC: 6100000602 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

Purchased at: **THE CONTAINER STORE**

### GLOBAL AMICI, INC.

AMICI 6 LT HEX JAR W/ SPIGOT #926923 UPC:840319 026175 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

Purchased at: **SMITH & HAWKEN LTD**

### GLOBAL AMICI, INC.

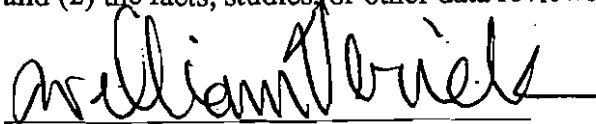
AMICI LEMONADE JAR W/ LID & SPIGOT This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

Purchased at: **SUR LA TABLE, INC.**

**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 18, 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 July 18, 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 July 18, 2007, at Eureka, California.



Nicole Frank

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

HOME ESSENTIALS & BEYOND, INC.; BED BATH & BEYOND;  
SMITH & HAWKEN, LTD; SUR LA TABLE, INC.; THE  
CONTAINER STORE, INC.

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is:  
(El nombre y dirección de la corte es):

Superior Court of California, County of San Francisco  
400 McAllister Street, San Francisco, CA 94102

CASE **07-469271**  
(Número de caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
William Verick, David Williams, Klamath Environmental Law Center, 424 First Street, Eureka, CA 95501  
Phone #: 707-268-8900, Fax #: 707-268-8901

**GORDON PARK-LI** Clerk, by \_\_\_\_\_, Deputy  
**CRISTINA E. BAUTISTA** (Secretario) (Adjunto)

DATE:  
(Fecha) **NOV 16 2007**

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

- NOTICE TO THE PERSON SERVED:** You are served
1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
- under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
- CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
- other (specify):
4.  by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 William Verick (SBN # 140972)  
 David Williams (SBN # 144479)  
 Klamath Environmental Law Center, 424 First Street, Eureka, CA 95501

TELEPHONE NO.: 707-268-8900 FAX NO.: 707-268-8901  
 ATTORNEY FOR (Name): Mateel Environmental Justice Foundation, Plaintiff

**FILED**  
 San Francisco County Superior Court

NOV 16 2007

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco  
 STREET ADDRESS: 400 McAllister Street  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: San Francisco, CA 94102  
 BRANCH NAME:

CASE NAME:  
 Mateel v. Home Essentials & Beyond, Inc., et al.

**CIVIL CASE COVER SHEET**

**Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**

Counter  Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: NOV 16 2007  
 07-469271  
 JUDGE:  
 DEPT:

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |  |   |   |
|--|---|---|
| <p><b>Auto Tort</b></p> <p><input type="checkbox"/> Auto (22)<br/> <input type="checkbox"/> Uninsured motorist (46)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p><input type="checkbox"/> Asbestos (04)<br/> <input type="checkbox"/> Product liability (24)<br/> <input type="checkbox"/> Medical malpractice (45)<br/> <input type="checkbox"/> Other PI/PD/WD (23)</p> <p><b>Non-PI/PD/WD (Other) Tort</b></p> <p><input checked="" type="checkbox"/> Business tort/unfair business practice (07)<br/> <input type="checkbox"/> Civil rights (08)<br/> <input type="checkbox"/> Defamation (13)<br/> <input type="checkbox"/> Fraud (16)<br/> <input type="checkbox"/> Intellectual property (19)<br/> <input type="checkbox"/> Professional negligence (25)<br/> <input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p><b>Employment</b></p> <p><input type="checkbox"/> Wrongful termination (36)<br/> <input type="checkbox"/> Other employment (15)</p> | <p><b>Contract</b></p> <p><input type="checkbox"/> Breach of contract/warranty (06)<br/> <input type="checkbox"/> Collections (09)<br/> <input type="checkbox"/> Insurance coverage (18)<br/> <input type="checkbox"/> Other contract (37)</p> <p><b>Real Property</b></p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br/> <input type="checkbox"/> Wrongful eviction (33)<br/> <input type="checkbox"/> Other real property (26)</p> <p><b>Unlawful Detainer</b></p> <p><input type="checkbox"/> Commercial (31)<br/> <input type="checkbox"/> Residential (32)<br/> <input type="checkbox"/> Drugs (38)</p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Asset forfeiture (05)<br/> <input type="checkbox"/> Petition re: arbitration award (11)<br/> <input type="checkbox"/> Writ of mandate (02)<br/> <input type="checkbox"/> Other judicial review (39)</p> | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)<br/> <input type="checkbox"/> Construction defect (10)<br/> <input type="checkbox"/> Mass tort (40)<br/> <input type="checkbox"/> Securities litigation (28)<br/> <input type="checkbox"/> Environmental/Toxic tort (30)<br/> <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p><b>Enforcement of Judgment</b></p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p><input type="checkbox"/> RICO (27)<br/> <input type="checkbox"/> Other complaint (not specified above) (42)</p> <p><b>Miscellaneous Civil Petition</b></p> <p><input type="checkbox"/> Partnership and corporate governance (21)<br/> <input type="checkbox"/> Other petition (not specified above) (43)</p> |
|--|---|---|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |

3. Type of remedies sought (check all that apply):
- a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive
4. Number of causes of action (specify):
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 5, 2007  
 William Verick  
 (TYPE OR PRINT NAME)

*William Verick*  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

**NOTICE TO PLAINTIFF**

A Case Management Conference is set for

**DATE: APR-18-2008**

**TIME: 9:00AM**

**PLACE: Department 212  
400 McAllister Street  
San Francisco, CA 94102-3680**

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference.

However, it would facilitate the issuance of a case management order **without an appearance** at the case management conference if the case management statement is filed, served and lodged in Department 212 twenty-five (25) days before the case management

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state.

**ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS**

**IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A MANDATORY SETTLEMENT CONFERENCE OR TRIAL.  
(SEE LOCAL RULE 4)**

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

**[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]**

Superior Court Alternative Dispute Resolution Coordinator  
400 McAllister Street, Room 103  
San Francisco, CA 94102  
(415) 551-3876

See Local Rules 3.6, 6.0 C and 10 D re stipulation to commissioners acting as temporary judges