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Attorneys for Plaintiff  
DR. THOMAS F. SOWINSKI

SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

DR. THOMAS F. SOWINSKI, IN THE  
PUBLIC INTEREST,  
  
Plaintiff,

vs.

AMANA CORPORATION, AMERICAN  
RANGE CORPORATION, DYNAMIC  
COOKING SYSTEMS, INC., IMPERIAL  
COMMERCIAL COOKING EQUIPMENT  
CORPORATION, MAYTAG  
CORPORATION, THE MONTAGUE  
COMPANY; RANKIN-DELUX, INC.;  
ROYAL RANGE OF CALIFORNIA, INC.;  
THERMADOR CORPORATION;  
TOASTMASTER CORPORATION; U.S.  
RANGE; WHIRLPOOL CORPORATION  
AND DOES 1- 500

Defendants.

**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

JUL 07 2003

John A. Clarke, Executive Officer/Clerk  
*M Garcia*  
BY MARY GARCIA, Deputy

CASE NO. BC393706

COMPLAINT FOR VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE  
25249.5 ET SEQ

1 As and for his cause of action against Amana Corporation, American Range Corporation,  
2 Dynamic Cooking Systems, Inc., Imperial Commercial Cooking Equipment Corporation, Maytag  
3 Corporation, The Montague Company, Rankin-Delux, Inc., Royal Range of California, Inc.,  
4 Thermador Corporation, Toastmaster Corporation; U.S. Range, Whirlpool Corporation and  
5 DOES 1- 500, plaintiff Dr. Richard F. Sowinski alleges as follows:

6 ALLEGATIONS INCORPORATED INTO EACH CAUSE OF ACTION

7 A. PARTIES

8 1. Plaintiff Dr. Richard F. Sowinski is and has been at all relevant times a resident of  
9 the State of California, and brings this action in the public interest on behalf of the People of the  
10 State of California as defined under Health & Safety Code § 25249.7 (d).

11 2. Defendants Amana Corporation, American Range Corporation, Dynamic Cooking  
12 Systems, Inc., Imperial Commercial Cooking Equipment Corporation, Maytag Corporation, The  
13 Montague Company, Rankin-Delux, Inc., Royal Range of California, Inc., Thermador  
14 Corporation, Toastmaster Corporation; U.S. Range, Whirlpool Corporation and DOES 1- 500  
15 (hereinafter referred to collectively as "Defendants") are and at all times mentioned herein have  
16 been qualified to do business in the State of California.

17 3. Plaintiff is ignorant of the true names and capacities of defendants sued as DOES  
18 1- 500, inclusive, and therefore sue these defendants by such fictitious names. The fictitious  
19 defendants named in this Complaint are sued pursuant to the provisions of C.C.P. § 474.  
20 Plaintiff is informed and believes, and upon that ground, alleges that each fictitious defendant is  
21 in some way responsible for, participated in, or contributed to the matters and things of which  
22 Plaintiff complains herein, and in some fashion, has legal responsibility therefor. When the exact  
23 nature and identity of such fictitious defendants' responsibility for, participation in, and  
24 contribution to the matters and things alleged herein are ascertained by Plaintiff, Plaintiff will  
25 seek to amend this Complaint and all proceedings herein to set forth the same.

26 4. At all times mentioned herein each of the Defendants was a person within the  
27 meaning of Business & Professions Code § 17201 and a person doing business within the  
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1 meaning of Health & Safety Code § 25249.11 (a). Plaintiff is informed and believes and thereon  
2 alleges that at all times mentioned herein, each of the Defendants has had 10 or more employees.

3 5. The Court has jurisdiction over this action pursuant to California Constitution  
4 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
5 those given by statute to other trial courts. The statutes under which this action is brought do not  
6 specify any other basis of jurisdiction.

7 **CAUSE OF ACTION AGAINST ALL DEFENDANTS**

8 **AND DOES 1- 500**

9 **(Violation of California Health & Safety Code)**

10 6. Plaintiff repeats and incorporates by reference paragraphs 1 through 5 of this  
11 Complaint as though fully set forth herein.

12 7. Plaintiff is informed and believe and thereon allege that Defendants and DOES 1-  
13 500 knowingly and intentionally exposed consumers, their customers and/or the general public to  
14 chemicals known to the State of California to cause cancer, birth defects and reproductive  
15 toxicity, as set forth in Health & Safety Code §§ 25249.5, *et seq.* and 22 California Code of  
16 Regulations §§ 12000 through 14000 ("Proposition 65") without giving clear and reasonable  
17 warnings of that fact to the exposed persons prior to exposure.

18 8. Proposition 65 states that when parties, such as Defendants, entities with more  
19 than ten employees, have been or are knowingly and intentionally exposing their customers and  
20 users of the products they sell to a detectable level of any chemical designated by the State of  
21 California to cause cancer or reproductive toxicity (the "Designated Chemical"), they have  
22 violated the statute unless, prior to such exposure, they provide a clear and reasonable warning of  
23 the exposure to the potentially exposed persons (Health & Safety Code § 25249.6).

24 9. Defendants knowingly and intentionally exposed consumers, customers, visitors,  
25 Employees and/or the general public to chemicals known to the State of California to cause  
26 cancer, birth defects and reproductive toxicity, as set forth in Health & Safety Code § 25249.5, *et*  
27 *seq.* and 22 California Code of Regulations §§ 12000 through 14000 through the manufacture,  
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1 sells and/or distribution throughout California of clothes drying equipment which use or can use  
2 propane gas.

3 10. In the ordinary course of business, Defendants, since at least April 11, 2004  
4 through the present date, have manufactured, sold and/or distributed throughout California  
5 propane gas clothes drying equipment ("the Products") both through stores and on various  
6 internet websites. The Products produce, in the ordinary course of usage, hazardous emissions in  
7 significant amounts that pose a serious health risk to unsuspecting people. These gas dryers burn  
8 propane gas which produce benzene levels that exceed the allowable threshold exposure level set  
9 forth in California Health & Safety Code § 25249.6. Defendants now and for at least the four  
10 years prior to this Notice has failed to provide its customers with a clear and reasonable warning  
11 of this potential exposure.

12 11. Each of the Products, when used to dry clothes, emit vapors, gases and particles  
13 containing the following Designated Chemical: benzene, a chemical known to the State of  
14 California to cause cancer and reproductive toxicity. Persons using the Products will be exposed  
15 to this Designated Chemical primarily via inhalation, that is, by breathing in the chemical.  
16 Defendants have however not placed on its Products, a clear and reasonable warning that use of  
17 any such Product will expose the user to the Designated Chemical, Benzene. Defendants are  
18 therefore violating Health & Safety Code Section 25249.6.

19 12. At all times relevant to this action Defendants knew that their customers,  
20 consumers, and/or the general public could be and/or were being exposed, through inhalation and  
21 dermal contact, to benzene, a chemical known to the State of California to cause cancer, birth  
22 defects and reproductive toxicity, as set forth in Health & Safety Code § 25249.5, *et seq.* and 22  
23 California Code of Regulations §§ 12000 through 14000.

24 13. Defendants and DOES 1- 500 knowingly and intentionally exposed their  
25 customers, consumers and/or the general public to benzene without providing prior clear and  
26 reasonable warnings to those customers, consumer and/or the general public that use of the  
27 Product could expose them and others to a chemical known to the State of California to cause  
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1 cancer, birth defects and reproductive toxicity, as set forth in Health & Safety Code §§ 25249.5,  
2 *et seq.* and 22 California Code of Regulations §§ 12000 through 14000.

3 14. The route of exposure for the said chemicals has been primarily through  
4 inhalation, that is, via the breathing of the said chemical.

5 15. More than sixty (60) days prior to filing this action Plaintiff mailed to each of the  
6 Defendants a Sixty (60) Day Notice of Intent to Sue (hereinafter referred to collectively as "the  
7 Notices") for violations of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act  
8 (commencing with Health & Safety Code § 25249.5) by knowingly and intentionally exposing  
9 consumers, their customers and/or the general public to benzene, a chemical designated by the  
10 State of California to cause cancer, birth defects and reproductive toxicity without first giving  
11 clear and reasonable warning of that fact to the exposed persons as required by Health & Safety  
12 Code § 24249.6. The Notices specifically identified the Products manufactured, sold and/or  
13 distributed throughout California by Defendants and the chemical to which Defendants had  
14 exposed consumers, their customers and/or the general public. The Notices identified the the  
15 time period wherein such exposures had occurred, and also identified the route of exposure for  
16 the chemicals as inhalation. Included with the Notices was a copy of "The Safe Drinking Water  
17 and Toxic Enforcement Act of 1986 (Proposition 65): A Summary."

18 16. Copies of the Notices referred to in paragraph 15 were mailed to the California  
19 Attorney General, the relevant County District Attorneys and City Attorneys for each city  
20 containing a population of at least 750,000 people (hereinafter referred to collectively as the  
21 "Prosecutors") where the Defendants had violated Health & Safety Code §§ 25249.5, *et seq.* and  
22 22 California Code of regulations §§ 12000 through 14000.

23 17. No response was ever received from any of the Prosecutors. None of the  
24 Prosecutors is prosecuting an action against any Defendant herein for the violations set forth  
25 above.

26 18. Individuals exposed to the listed chemicals suffered and continue to suffer harm  
27 due to their exposure to said chemicals without prior clear and reasonable warning.  
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19. This action for injunctive relief and penalties for violation of Health & Safety Code §§ 25249.5, *et seq.* is specifically authorized by Health & Safety Code § 25249.7.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request against Defendants and DOES 1 - 500:

- 1. A permanent injunction pursuant to California Health & Safety Code § 25249.7(a), and the equitable powers of the court;
- 2. Penalties pursuant to California Health & Safety Code § 25249.7(b) in the amount of \$2,500.00 per day per violation at each of the locations listed in Exhibit A;
- 3. Costs of suit;
- 4. Reasonable attorneys fees and costs; and,
- 5. Any further relief that the court may deem just and equitable.

DATED: June 26, 2008

GRAHAM & MARTIN, LLP

By: Anthony G. Graham  
 Anthony G. Graham  
 Attorneys for Plaintiff  
 DR. RICHARD F. SOWINSKI