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SAN FRANCISCO COUNTY  
SUPERIOR COURT

2008 MAR 14 AM 12:37

CORDON PARK-LL CLERK

BY: ~~WILLIAMS-SONOMA~~  
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1 WILLIAM VERICK, SBN 140972  
Klamath Environmental Law Center  
2 FREDRIC EVENSON, SBN 198059  
424 First Street  
3 Eureka, CA 95501  
Telephone: (707) 268-8900  
4 Facsimile: (707) 268-8901  
E-mail: wverick@igc.org

CASE MANAGEMENT CONFERENCE SET

AUG 15 2008 -9<sup>00</sup>AM

5 DAVID WILLIAMS, SBN 144479  
6 BRIAN ACREE, SBN 202505  
370 Grand Avenue, Suite 5  
7 Oakland, CA 94610  
Telephone: (510) 271-0826  
8 Facsimile: (510) 271-0829  
E-mail: dhwill7@gmail.com

DEPARTMENT 212

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,

CASE NO. **080-08-473336**

16 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

17 v.

18 COLUMBIAN HOME PRODUCTS, LLC;  
19 and WILLIAMS-SONOMA, INC.

TOXIC TORT/ENVIRONMENTAL

20 Defendant.

21 \_\_\_\_\_ /  
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 defendants COLUMBIAN HOME PRODUCTS, LLC; and WILLIAMS-SONOMA,  
26 INC. (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of  
27 California, who handle, use, and consume beverages and food made in or served from pots used  
28 to steam lobsters and/or other shellfish that utilize leaded brass valves and stopcocks (hereinafter

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

10       2. Defendants market, and/or distribute lobster steamers. Defendants intend that  
11 residents of California handle, use and consume food prepared in or served from the lobster  
12 steamers that Defendants market, and/or distribute. When these products are handled and used in  
13 their normally intended manner and, thus, when people consume food prepared in or served  
14 from, these lobster steamers, they are exposed to lead. In spite of knowing that residents of  
15 California were and are being exposed to these chemicals when they handle, use and consume  
16 food prepared in or served from lobster steamers, Defendants did not and do not provide clear  
17 and reasonable warnings that these products cause exposure to chemicals known to cause cancer,  
18 birth defects and other reproductive harm.

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

27       4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure  
28 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known

1 to cause cancer, birth defects and other reproductive harm.

2 PARTIES

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

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

18 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &  
19 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
20 60-day Notice letter, dated December 5, 2007, which Mateel sent to California's Attorney  
21 General. Substantively identical letters were sent to every District Attorney in the state, to the  
22 City Attorneys for every California city with a population greater than 750,000, and to each of  
23 the Defendants. Attached to the 60-Day Notice Letter sent to each Defendant was a summary of  
24 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
25 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  
28 Merit attesting to the reasonable and meritorious basis for the action was also sent with each 60-

1 Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit  
2 was enclosed with the 60-Day Notice letter Mateel sent to the Attorney General.

3 8. Defendants employ more than ten people.

4 JURISDICTION

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

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

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

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

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

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

27 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates  
28 that businesses that knowingly and intentionally expose any individual to a chemical known to

1 the State of California to cause cancer or birth defects must first provide a clear and reasonable  
2 warning to such individual prior to the exposure.

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

11 16. At all times relevant to this action, Defendants knew that the lobster steamers they  
12 distributed or marketed were causing exposures to lead and lead compounds. Defendants  
13 intended that residents of California handle, use and consume food prepared in or served from  
14 lobster steamers in such ways as would lead to significant exposures to these chemicals.

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

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

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

24 19. By the above described acts, Defendants are liable and should be liable pursuant  
25 to Health & Safety Code § 25249.7(b), for civil penalties of \$2,500.00 per day for each  
26 individual exposed without proper warning to lead and lead compounds from the handling, use  
27 of, or the consuming of food prepared in or served from Defendants' lobster steamers.  
28

1 PRAYER FOR RELIEF

2 Wherefore, plaintiff prays for judgment against Defendants, as follows:

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

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

10 3. That Defendants be ordered to identify and locate each individual who purchased  
11 lobster steamers and provide a warning to each such person that the lobster steamers the person  
12 purchased will expose that person to chemicals known to cause birth defects.

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

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

16 Dated: March 11, 2008

17 KLAMATH ENVIRONMENTAL LAW  
18 CENTER

19 By 

20 William Verick  
21 Attorney for Plaintiff  
22 Mateel Environmental Justice Foundation  
23  
24  
25  
26  
27  
28



# Klamath

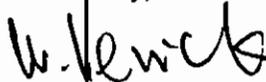
December 5, 2007

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 Williams-Sonoma, Inc. ("Williams-Sonoma") and Columbian Home Products, LLC ("Columbian") 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 pots used to steam lobster and/or other shellfish (hereinafter "brass valved lobster steamers"), and when they consume fluids that have flowed through the leaded brass valves/stopcocks. A specific example of the products to which this notice pertains is: Lobster Steamer, Item #64-9476565. 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 lobster steamers. The valves or stopcocks on these brass valved lobster steamers 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 removing fluids from these products, when washing them, or when consuming fluids 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 fluids that flow through the brass valves/stopcocks and is then consumed. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. Williams-Sonoma and Columbian did not and do not provide people with clear and reasonable warnings before they expose people to lead. These violations have occurred every day since at least December 5, 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 lobster steamer made outside of California, except as to workplaces Williams-Sonoma and Columbian themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off William-Sonoma's and Columbian's property and in each of California's 58 counties.

Cordially,



William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

## SERVICE LIST

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

OFFICE OF THE CITY ATTORNEY  
CITY OF OAKLAND  
505 14TH ST 12TH FLOOR  
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN FRANCISCO  
CITY HALL ROOM 206  
400 VAN NESS  
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY  
CITY OF SACRAMENTO  
989 9<sup>th</sup> Street, 10<sup>th</sup> 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  
209 N. MAIN ST.  
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN DIEGO CONSUMER &  
ENVIRONMENTAL PROTECTION  
1200 THIRD AVENUE, SUITE 700  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALAMEDA  
1225 FALLON STREET ROOM 900  
OAKLAND, CA 94612

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALPINE  
P.O. BOX 248  
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF AMADOR  
703 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

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF COLUSA  
547 MARKET STREET  
COLUSA, CA 95932

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF CONTRA COSTA  
P.O. BOX 670  
MARTINEZ, CA 94553

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

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

OFFICE OF THE DISTRICT  
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

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF HUMBOLDT  
825 5TH ST.  
EUREKA, CA 95501

COUNTY OF IMPERIAL  
COURTHOUSE, FLOOR 2  
939 W. MAIN ST  
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF INYO  
P.O. DRAWER D  
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF KERN  
1215 TRUXTUN AVE. FLOOR 4  
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT  
ATTORNEY  
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  
18000 CRIMINAL COURTS  
BUILDING  
210 W. TEMPLE ST.  
LOS ANGELES, CA 90012

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

OFFICE OF THE DISTRICT  
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

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MERCED  
2222 M ST.  
MERCED, CA 95340

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MODOC  
204 SOUTH COURT STREET  
ALTURAS, CA 96101

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MONO  
P.O. BOX 617  
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF MONTEREY  
240 CHURCH STREET  
P.O. BOX 1131  
SALINAS, CA 93902

COUNTY OF NAPA  
931 PARKWAY MALL  
P.O. BOX 720  
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF NEVADA  
COURTHOUSE ANNEX  
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF ORANGE  
401 CIVIC CENTER DR WEST  
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLACER  
11562 B AVE  
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLUMAS  
520 MAIN STREET #404  
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE  
4075 MAIN ST.  
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SACRAMENTO  
901 G STREET  
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN BENITO  
419 4TH ST  
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN BERNARDINO  
316 MT. VIEW AVE.  
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN DIEGO  
330 W. BROADWAY  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN FRANCISCO  
850 BRYANT ST #322  
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN JOAQUIN  
222 E. WEBER AVE #202  
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN LUIS OBISPO  
COUNTY GOVERNMENT CENTER #450  
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN MATEO  
HALL OF JUSTICE AND RECORDS  
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA BARBARA  
1112 SANTA BARBARA ST.  
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY  
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

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SHASTA  
1525 COURT ST.  
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SIERRA  
P.O. BOX 457  
DOWNIEVILLE, 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

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TUOLUMNE  
2 S. GREEN ST.  
SONORA, CA 95370

VENTURA COUNTY DISTRICT  
ATTORNEY'S OFFICE  
800 SOUTH VICTORIA AVE  
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

BYRON STAUGER, CEO  
COLUMBIAN HOME PRODUCTS, LLC  
550 N RAND RD  
LAKE ZURICH, IL 60047

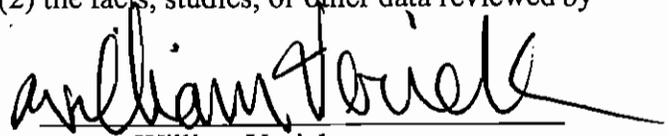
BYRON STAUGER, CEO  
COLUMBIAN HOME PRODUCTS, LLC  
1600 BEECH STREET  
TERRE HAUTE, IN 47804

HOWARD LESTER, CEO  
WILLIAMS-SONOMA, INC.  
3250 VAN NESS AVENUE  
SAN FRANCISCO, CA 94109

**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: December 5, 2007

  
William Verick

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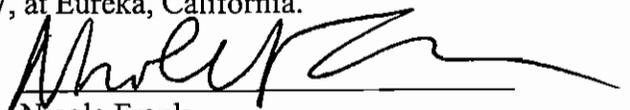
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed 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 December 5, 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 December 5, 2007, at Eureka, California.

  
Nicole Frank