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3 Eureka, CA 95501  
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8

9 Attorneys for Plaintiff,  
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO  
12 (Unlimited Jurisdiction)

13 MATEEL ENVIRONMENTAL  
14 JUSTICE FOUNDATION,  
15 Plaintiff,  
16 v.

CASE NO. **080-08-477118**

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

17 THE ASSOCIATED MERCHANDISING  
18 CORPORATION and TARGET  
19 CORPORATION  
20 Defendants.

TOXIC TORT/ENVIRONMENTAL

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 THE ASSOCIATED MERCHANDISING CORPORATION and TARGET  
25 CORPORATION (hereinafter "Defendants"), to give clear and reasonable warnings to those  
26 residents of California, who handle and use stained glass lamps that utilize lead solder, lead came  
27 and other leaded parts, (hereinafter referred to as "Leaded Stained Glass Lamps"), that handling  
28 and use of these products causes those residents to be exposed to lead and lead compounds, lead

9:15:00  
FILED  
SAN FRANCISCO COUNTY  
SUPERIOR COURT  
2008 JUL -7 AM 12:05  
CORRECTIONAL CLERK  
BY: ~~ELIAS BUTER~~

CASE MANAGEMENT CONFERENCE SET

DEC - 5 2008 - 9<sup>00</sup>AM

DEPARTMENT 212



1 promotion of human health, environmental education, and consumer rights. Mateel is based in  
2 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a  
3 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement  
4 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of  
5 California are regularly exposed to lead and lead compounds from Leaded Stained Glass Lamps  
6 manufactured, distributed or marketed by Defendants and are so exposed without a clear and  
7 reasonable Proposition 65 warning.

8         6. Defendants are a persons doing business within the meaning of Health & Safety  
9 Code Section 25249.11. Defendants are businesses that distribute, and/or market Leaded Stained  
10 Glass Lamps in California, including the City and County of San Francisco. Distribution and/or  
11 marketing of these products in the City and County of San Francisco and/or to people who live in  
12 San Francisco, causes people to be exposed to lead and lead compounds while they are physically  
13 present in the City and County of San Francisco.

14         7. Plaintiff brings this enforcement action against Defendants pursuant to Health &  
15 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
16 60-day Notice letter, dated December 20, 2007, which Mateel sent to California's Attorney  
17 General. Substantively identical letters were sent to every District Attorney in the state, and to the  
18 City Attorneys of every California city with a population greater than 750,000, and to  
19 Defendants. Attached to the 60-Day Notice Letter sent to defendant was a summary of  
20 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
21 Assessment. In addition, each 60-Day Notice Letter plaintiff sent was accompanied by a  
22 Certificate of Service attesting to the service of the 60-Day Notice Letter on each entity which  
23 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of  
24 Merit attesting to the reasonable and meritorious basis for the action was also sent with each 60-  
25 Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit  
26 was enclosed with the 60-Day Notice letter Mateel sent to the Attorney General.

27         8. Defendants employ more than ten people.  
28



1 violates Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and  
2 intentionally exposing to the above mentioned toxic chemicals, those California residents who  
3 handle and use Leaded Stained Glass Lamps. The normally intended use of Leaded Stained  
4 Glass Lamps causes exposure to lead and lead compounds, which are chemicals known to the  
5 State of California to cause cancer, birth defects and other reproductive harm. Defendants have  
6 not provided clear and reasonable warnings, within the meaning of Health & Safety Code  
7 Sections 25249.6 and 25249.11.

8 16. At all times relevant to this action, Defendants knew that the Leaded Stained  
9 Glass Lamps they distributed or marketed were causing exposures to lead and lead compounds.  
10 Defendants intended that residents of California handle and use Leaded Stained Glass Lamps in  
11 such ways as would lead to significant exposures to these chemicals.

12 17. By the above described acts, Defendants have violated Cal. Health & Safety Code  
13 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition  
14 65, to provide warnings to all present and future customers and to provide warnings to its past  
15 customers who purchased Defendants' products without receiving a clear and reasonable  
16 warning.

17 SECOND CAUSE OF ACTION  
18 (Claim for Civil Penalties)

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

21 19. By the above described acts, Defendants are liable and should be liable pursuant  
22 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each  
23 individual exposed without proper warning to lead and lead compounds from the handling or use  
24 of Defendants' Leaded Stained Glass Lamps.

25 PRAYER FOR RELIEF

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

27 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained,  
28 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety

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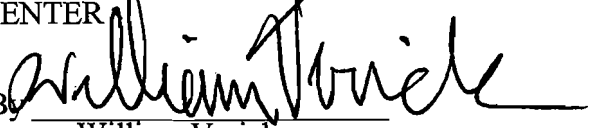
2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of Defendants' distributing or marketing of Leaded Stained Glass Lamps;

3. That Defendants be ordered to identify and locate each individual who purchased Leaded Stained Glass Lamps and provide a warning to each such person that the Leaded Stained Glass Lamps the person purchased will expose that person to chemicals known to cause birth defects.

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

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

Dated: June 30, 2008

KLAMATH ENVIRONMENTAL LAW  
CENTER  
By   
William Verick  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation



# Klamath

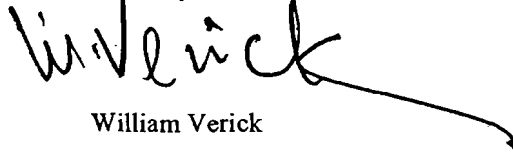
December 20, 2007

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 listed 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 leaded stained glass votive candle holders. A specific example of the products to which this notice pertains is: HOME CANDLE HOLDER VOTIVE 13 1/4" X 3-3/8" X 5" UPC: 717091 381948 SKU: 054 00 1664 ID435416-V This specific product description pertains not only to the specific model of the product listed, but also for all units of all models of similar products. The solder, came, and other parts used to manufacture these leaded stained glass votive candle holders contain lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead when they assemble, handle, clean, or otherwise use these products. Lead is transferred from the products to their 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 product, from oral contact 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. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. The listed private 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 December 20, 2004, and will continue every day until the lead is removed from the leaded glass votive candle holders, 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 leaded stained glass votive candle holders made outside of California, except as to workplaces these businesses themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the private businesses' property and in each of California's 58 counties.

Cordially,



William Verick

# 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  
980 9<sup>th</sup> Street, 10<sup>th</sup> Floor  
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN JOSE  
200 EAST SANTA CLARA STREET  
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY  
CITY OF LOS ANGELES  
200 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  
708 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  
DOWNTONVILLE, 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

STACIA ANDERSEN, CEO  
THE ASSOCIATED MERCHANDISING CORPORATION  
500 7TH AVENUE  
NEW YORK, NY 10018

STACIA ANDERSEN, CEO  
THE ASSOCIATED MERCHANDISING CORPORATION  
1000 NICOLLET MALL  
MINNEAPOLIS, MN 55403

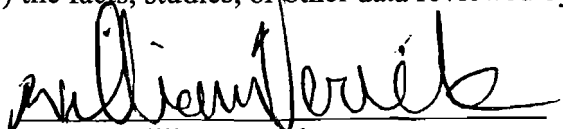
ROBERT J ULRICH, CEO  
TARGET CORPORATION  
1000 NICOLLET MALL TPN-0945  
MINNEAPOLIS, MN 55403



**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 20, 2007

  
William Verick

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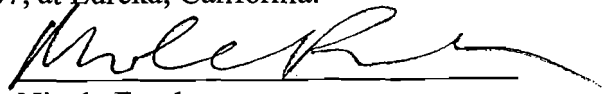
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed 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 20, 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 20, 2007, at Eureka, California.

  
Nicole Frank