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9 Attorneys for Plaintiff,  
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

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

14 MATEEL ENVIRONMENTAL  
JUSTICE FOUNDATION,

15 Plaintiff,

16 v.

18 AMERICAN LOCK COMPANY; CONAIR  
CORPORATION; J & B IMPORTERS, INC.  
19 DBA ROYCE UNION; PELICAN  
PRODUCTS, INC.; and TRIDENT DIVING  
20 EQUIPMENT,

21 Defendants.

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco  
JAN 22 2009  
GORDON PARK LI, Clerk  
BY: CRISTINA BADELTA  
CASE MANAGEMENT CONFERENCE  
JUN 26 2009 - 9:41 AM  
DEPARTMENT 210

CSC--09-484287  
CASE NO.

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

BUSINESS TORT

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 AMERICAN LOCK COMPANY; CONAIR CORPORATION; J & B  
26 IMPORTERS, INC. DBA ROYCE UNION; PELICAN PRODUCTS, INC.; and TRIDENT  
27 DIVING EQUIPMENT, (hereinafter "Defendants"), to give clear and reasonable warnings to  
28

1 those residents of California, who handle and use locks that are made of, or incorporate parts  
2 made of, brass and/or bronze (hereinafter referred to as "brass locks"), that handling and use of  
3 these locks causes those residents to be exposed to lead and lead compounds, lead acetate, lead  
4 phosphate, and lead subacetate (hereinafter, collectively, "lead"). Lead is known to the State of  
5 California to cause cancer, birth defects and male and female reproductive toxicity. Defendants  
6 manufacture, distribute, and/or market brass locks. These products cause exposures to lead and  
7 lead compounds, which are chemicals known to the State of California to cause cancer, birth  
8 defects and other reproductive harm.

9         2. Defendants are businesses that manufacture, market, and/or distribute brass locks.  
10 Defendants intend that residents of California handle and use brass locks that Defendants  
11 manufacture, market, and/or distribute. When these products are handled and used in their  
12 normally intended manner, they expose people to lead. In spite of knowing that residents of  
13 California were and are being exposed to these chemicals when they handle and use brass locks,  
14 Defendants did not and do not provide clear and reasonable warnings that these products cause  
15 exposure to chemicals known to cause cancer, birth defects and other reproductive harm.

16         3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7  
17 to compel Defendants to bring their business practices into compliance with section 25249.5 et  
18 seq. by providing a clear and reasonable warning to each individual who has been and who in the  
19 future may be exposed to the above mentioned toxic chemicals from the use of Defendants'  
20 products.

21         4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure  
22 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known  
23 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that  
24 defendants identify and locate each individual person who in the past has purchased brass locks  
25 and to provide to each such purchaser a clear and reasonable warning that the brass locks will  
26 cause exposures to chemicals known to cause birth defects.

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PARTIES

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

6. Defendants are each a person doing business within the meaning of Health & Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or market brass locks in California, including the City and County of San Francisco. Manufacture, distribution and/or marketing of these products in the City and County of San Francisco and/or to people who live in San Francisco, causes people to be exposed to lead and lead compounds while they are physically present in the City and County of San Francisco.

7. Plaintiff brings this enforcement action against Defendants pursuant to Health & Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a Notice of Violation dated September 17, 2008, which Mateel sent to California's Attorney General. Letters identical in substance were sent to every District Attorney in the state, and to the City Attorneys of every California city with a population greater than 750,000. On that same day, Mateel sent identical Notices of Violation to each defendant. Attached to the Notice of Violations sent to each defendant was a summary of Proposition 65 that was prepared by California's Office of Environmental Health Hazard Assessment. In addition, each Notice of Violation plaintiff sent was accompanied by a Certificate of Service attesting to the service of the Notice of Violation on each entity which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis

1 for the action was also sent with each Notice of Violation. Factual information sufficient to  
2 establish the basis of the Certificate of Merit was enclosed with the Notice of Violation Mateel  
3 sent to the Attorney General.

4 8. Defendants are all businesses that employ 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 brass locks. It is thus consistent with traditional notions of fair play and substantial justice for  
15 the San Francisco Superior Court to exercise jurisdiction over them.

16 11. Venue is proper in this Court because Defendants market their brass locks 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 and forfeitures imposed by statutes.

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

23 12. Plaintiff realleges and incorporates by reference into this First Claim for Relief, 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 persons who, in the course of doing business, knowingly and intentionally expose any  
2 individual to a chemical known to the State of California to cause cancer or birth defects must  
3 first provide a clear and reasonable warning to such individual prior to the exposure.

4 15. Since at least October 19, 2003, 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 and use brass locks. The normally intended use of brass locks causes exposure to lead  
8 and lead compounds, which are chemicals known to the State of California to cause cancer, birth  
9 defects and other reproductive harm. Defendants have not provided clear and reasonable  
10 warnings, within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

11 16. At all times relevant to this action, Defendants knew that the brass locks they  
12 manufactured, distributed or marketed were causing exposures to lead and lead compounds.  
13 Defendants intended that residents of California handle and use brass locks in such ways as  
14 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, requiring them to provide warnings to their past customers who purchased defendants'  
18 products without receiving a clear and reasonable warning, and to provide warnings to future  
19 customers.

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

22 18. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as  
23 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 a civil penalty of \$2,500.00 per day for each  
26 individual exposed to lead and lead compounds from the handling or use of Defendants' brass  
27 locks.

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2  
3 PRAYER FOR RELIEF

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

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

8 B. 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 Defendants' manufacturing, distributing or marketing of brass locks;

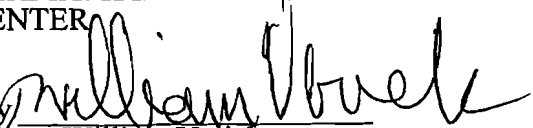
12 C. That Defendants be ordered to identify and locate each individual who purchased  
13 Brass locks and provide a warning to each such person that the brass locks the person purchased  
14 will expose that person to chemicals known to cause birth defects.

15 D. That Defendants be ordered to pay Mateel's attorney's fees and costs incurred in  
16 prosecuting this action.

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

18 Dated: January 7, 2009

19 KLAMATH ENVIRONMENTAL LAW  
20 CENTER

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



# Klamath

ENVIRONMENTAL  
LAW CENTER

September 17, 2008

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 brass padlocks. A list of specific examples of the specific types of products at issue is attached. The bodies of these brass locks 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 when they handle these locks while using them to secure their property, or when they are unlocking them to gain access to their property. Lead is transferred from the brass locks 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 brass, 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 September 17, 2005, and will continue every day until the lead is removed from the brass locks, 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 locks made outside of California, except as to workplaces the private 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

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CRETE, IL 60417

PRESIDENT OR CEO  
CONAIR CORPORATION  
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PETER SONG, PRESIDENT  
INTERNATIONAL MERCHANDISING  
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FULLERTON, CA 92833

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J & B IMPORTERS, INC.  
DBA ROYCE UNION  
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LYNDON J. FAULKNER, CEO  
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TORRANCE, CA 90505

LOWELL DREYFUSS, CEO  
TRIDENT DIVING EQUIPMENT  
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CHATSWORTH, CA 91311

PRESIDENT OR CEO  
ULTRA HARDWARE PRODUCTS, INC.  
1777 HYLTON RD  
PENNSAUKEN, NJ 08110



## **PRODUCTS LIST**

### **AMERICAN LOCK COMPANY**

AMERICAN LOCK 10 BLADE TUMBLER SECURITY LOCK ITEM # 045-L50KA-D385; AMERICAN LOCK LUGGAGE LOCKS B20QCC UPC CODE: 037325 962584; AMERICAN LOCK SOLID BRASS PADLOCK #42CC UPC CODE: 037325 090119; AMERICAN LOCK SOLID BRASS HARDENED STEEL SHACKLE #B42CC UPC CODE: 037325 962799; TOOL BOX LOCK #A101TB These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

### **CONAIR CORPORATION**

TRAVEL SMART BY FRANZUS MINI BRASS PADLOCKS MODEL P-440 UPC CODE: 1039052 044014; TRAVEL SMART BRASS PADLOCKS MODEL TSM-2A01TS UPC CODE: 039052 827266 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

### **INTERNATIONAL MERCHANDISING SERVICE COMPANY**

POWER PRO CRAFT 25MM BRASS LOCK #PADB25 UPC CODE: 608383 029252 This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

### **PELICAN PRODUCTS, INC.**

1506 PELILOCK (BRASS) UPC CODE: 019428 020118 This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

### **ROYCE UNION CO.**

BIKE GEAR PADLOCK COMPONENTS SOLID BRASS/HARDENED SHACKLE #6244-5 UPC #: 072774 624454 This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

### **TRIDENT DIVING EQUIPMENT**

TRIDENT BRASS LOCK KIT UA65 0827970013 This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

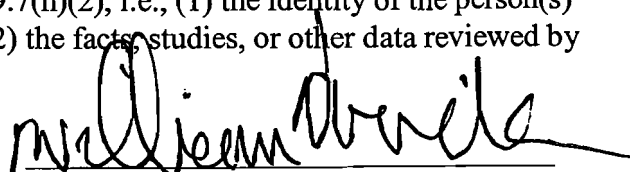
### **ULTRA HARDWARE PRODUCTS, INC.**

DELUXE SECURITY 3" JIMMYPROOF PADLOCK SOLID BRASS W/STAINLESS STEEL ROLLER CODE 55032 MODEL 1068KA UPC #: 749694-550322; ULTRA 1 1/2" BRASS PADLOCK #55029 UPC#: 749694 550292 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of brass padlocks.

**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: September 17, 2008

  
William Verick

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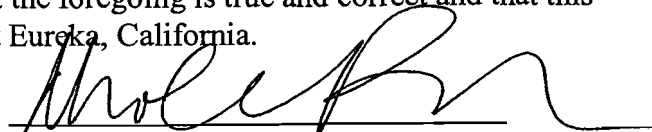
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed 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 September 17, 2008, 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 September 17, 2008, at Eureka, California.

  
Nicole Frank