

ENDORSED
FILED
San Francisco County Superior Court

MAY 08 2009

GORDON PARK-LI, Clerk
BY: *[Signature]*
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

OCT 09 2009 - 9⁰⁰ AM

DEPARTMENT 212

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10 Attorneys for Plaintiff,
11 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

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

15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,

CASE NO. **OGC-09-488191**

17 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

18 v.

19 CYDEA, 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 Defendant CYDEA, INC (hereinafter "Defendant"), to give clear and reasonable
26 warnings to those residents of California, who handle and use, and drink beverages served via
27 leaded brass valves, stopcocks or beer taps (hereinafter "beverage taps"), that handling and use of
28 and drinking from these beverages served via these taps causes those residents to be exposed to

1 lead and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter,
2 collectively, "lead"). The types of products to which this Complaint pertains are those types
3 listed in the Product List appended to the Proposition 65 Notice of Violation Letter that is
4 attached to and incorporated by reference into this Complaint. Lead is known to the State of
5 California to cause cancer, birth defects and male and female reproductive toxicity. Defendant
6 distributes, and/or markets beverage taps. These products cause exposures to lead and lead
7 compounds, which are chemicals known to the State of California to cause cancer, birth defects
8 and other reproductive harm.

9 2. Defendant markets, and/or distributes beverage taps. Defendant intends that
10 residents of California handle, use and drink beverages that are served via beverage taps that
11 Defendant markets, and/or distributes. When these products are handled and used in their
12 normally intended manner and when people drink beverages that have been served via them,
13 these beverage taps expose people to lead. In spite of knowing that residents of California were
14 and are being exposed to this toxic heavy metal when they handle, use and drink beverages
15 served via these beverage taps, Defendant did not and does not provide clear and reasonable
16 warnings that these products cause exposure to chemicals known to cause cancer, birth defects
17 and other reproductive harm.

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

26 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
27 of Defendant to provide clear and reasonable warnings regarding exposure to chemicals known
28 to cause cancer, birth defects and other reproductive harm.

PARTIES

1
2 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”)
3 is a non-profit organization dedicated to, among other causes, the protection of the environment,
4 promotion of human health, environmental education, and consumer rights. Mateel is based in
5 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
6 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
7 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
8 California are regularly exposed to lead and lead compounds from beverage taps manufactured,
9 distributed or marketed by Defendant and are so exposed without a clear and reasonable
10 Proposition 65 warning.

11 6. Defendant is a person doing business within the meaning of Health & Safety Code
12 Section 25249.11. Defendant is a business that distributes, and/or markets beverage taps in
13 California, including the City and County of San Francisco. Distribution and/or marketing of
14 these products in the City and County of San Francisco and/or to people who live in San
15 Francisco, causes people to be exposed to lead and lead compounds while they are physically
16 present in the City and County of San Francisco.

17 7. Plaintiff brings this enforcement action against Defendant pursuant to Health &
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
19 60-day Notice letter, dated November 13, 2008, which Mateel sent to California's Attorney
20 General. Substantively identical letters were sent to every District Attorney in the state, and to the
21 City Attorneys of every California city with a population greater than 750,000, and to each
22 defendant. Attached to the 60-Day Notice Letter sent to each defendant was a summary of
23 Proposition 65 that was prepared by California's Office of Environmental Health Hazard
24 Assessment. In addition, each 60-Day Notice Letter plaintiff sent was accompanied by a
25 Certificate of Service attesting to the service of the 60-Day Notice Letter on each entity which
26 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of
27 Merit attesting to the reasonable and meritorious basis for the action was also sent with each 60-
28 Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit

1 was enclosed with the 60-Day Notice letter Mateel sent to the Attorney General.

2 8. Each defendant employs more than ten people.

3 JURISDICTION

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

9 10. This Court also has jurisdiction over Defendant because it is a business that has
10 sufficient minimum contacts in California and within the City and County of San Francisco.
11 Defendant intentionally availed itself of the California and San Francisco County markets for
12 beverage taps. It is thus consistent with traditional notions of fair play and substantial justice for
13 the San Francisco Superior Court to exercise jurisdiction over Defendant.

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

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

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

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

26 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
27 that businesses that knowingly and intentionally expose any individual to a chemical known to
28 the State of California to cause cancer or birth defects must first provide a clear and reasonable

1 warning to such individual prior to the exposure.

2 15. Since at least November 13, 2005, Defendant has engaged in conduct that violates
3 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
4 intentionally exposing to the above mentioned toxic chemicals, those California residents who
5 handle, use or drink beverages served via Defendant's beverage taps. The normally intended use
6 of beverage taps causes exposure to lead and lead compounds, which are chemicals known to the
7 State of California to cause cancer, birth defects and other reproductive harm. Defendant has not
8 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
9 25249.6 and 25249.11.

10 16. At all times relevant to this action, Defendant knew that the beverage taps it
11 distributed or marketed were causing exposures to lead and lead compounds. Defendant
12 intended that residents of California handle, use and drink beverages served via beverage taps in
13 such ways as would lead to significant exposures to these chemicals.

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

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

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

23 19. By the above described acts, Defendant is liable and should be liable pursuant to
24 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual
25 exposed without proper warning to lead and lead compounds from the handling, use of, or the
26 drinking of beverages served via Defendant's beverage taps.

27 PRAYER FOR RELIEF

28 Wherefore, plaintiff prays for judgment against Defendant, as follows:

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

2. Pursuant to the Second Cause of Action, that Defendant 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 Defendant's distributing or marketing of beverage taps;

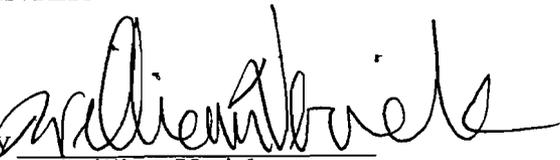
3. That Defendant be ordered to identify and locate each individual who purchased beverage taps and provide a warning to each such person that the beverage taps the person purchased will expose that person to chemicals known to cause birth defects.

4. That, pursuant to Civil Procedure Code § 1021.5, Defendant 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: May 5, 2009

KLAMATH ENVIRONMENTAL LAW
CENTER

By 

William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



November 13, 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 companies 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 the brass valves, stopcocks or beer taps ("taps") on beverage dispensers (hereinafter "brass valved beverage dispensers"), and when they drink beverages that have flowed through the leaded brass valves, stopcocks or taps that the listed businesses market. Specific examples of the products to which this notice pertains are listed on the attached products list. The valves, stopcocks or taps 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 or taps, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through the brass valves, stopcocks, or taps. 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 or taps and is then drunk. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. The listed companies 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 November 13, 2005, and will continue every day until the lead is removed from the brass valves, stopcocks or taps, 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 dispensers made outside of California, except as to workplaces the companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the companies private business properties 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
PO BOX 1948
SACRAMENTO, CA 95812-1948

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
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

MARK TOWER, CEO
FORMATION, INC.
1000 CHERRY AVE STE 140
SAN BRUNO, CA 94066

CRAIGH CONSTANZO, CEO
CYDEA, INC.
15386 FALCON CREST CT
SAN DIEGO, CA 92127

PRODUCTS LIST

CYDEA, INC.

CHROME FAUCET W/SS LEVER BF CFSL; ECONOMY BRASS GUINNESS STOUT BEER FAUCET TF SF2000; ECONOMY CHROME PLATED GUINNESS STOUT BEER FAUCET TF 2001; POLISHED BRASS BEER FAUCET W/BRASS LEVER; POLISHED BRASS BEER FAUCET W/BRASS LEVER MM4933KBR These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of beverage dispensing devices that utilize leaded brass.

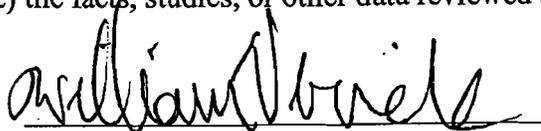
FORMATION, INC.

HOME BEVERAGE DISPENSER 14 15/16" 7 15/16" X 9" UPC CODE: 657284 642114 This product description pertains not only to the specific model of the product listed, but also for all units of all models of beverage dispensing devices that utilize leaded brass.

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: November 13, 2008


William Verick

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.

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 November 13, 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 November 13, 2008, at Eureka, California.


Nicole Frank