

SUMMONS ISSUED  
**FILED**  
San Francisco County Superior Court

JUN - 3 2009

BY: GORDON PAH-LI Clerk  
P. Natt Deputy Clerk

P. NATT

~~CASE MANAGEMENT CONFERENCE SAT~~

NOV - 6 2009 - 9:20 AM

~~DEPARTMENT 212~~

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5 Eureka, CA 95501  
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12 Oakland, CA 94610  
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15 E-mail: dhwill7@gmail.com

16 Attorneys for Plaintiff,  
17 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF SAN FRANCISCO  
20 (Unlimited Jurisdiction)

CGC-09-488988

21 MATEEL ENVIRONMENTAL  
22 JUSTICE FOUNDATION,

CASE NO.

23 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

24 v.

25 DAISO CALIFORNIA, LLC,

26 Defendant.

TOXIC TORT/ENVIRONMENTAL

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendant DAISO CALIFORNIA, LLC (hereinafter "Daiso" or "Defendant"), to give clear and reasonable warnings to those residents of California, who handle and use products that are or that incorporate thermoset/thermoplastic coated tool handles in which the coating material contains lead (hereinafter referred to as "Leaded-Plastic Coated Tools"), that handling and use of these products causes those residents to be exposed to lead and lead compounds, lead acetate,

COMPLAINT FOR INJUNCTION  
AND CIVIL PENALTIES



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

9         6. Defendant is a person doing business within the meaning of Health & Safety Code  
10 Section 25249.11. Defendant is a business that manufactures, distributes, and/or markets Leaded-  
11 Plastic Coated Tools in California, including the City and County of San Francisco.  
12 Manufacture, distribution and/or marketing of these products in the City and County of San  
13 Francisco and/or to people who live in San Francisco, causes people to be exposed to lead and  
14 lead compounds while they are physically present in the City and County of San Francisco.

15         7. Plaintiff brings this enforcement action against Defendant pursuant to Health &  
16 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
17 Notice of Violation letter dated December 4, 2008, which Mateel sent to California's Attorney  
18 General. Substantially identical letters were sent to the District Attorney for each of California's  
19 58 counties, and to the City Attorneys of every California city with a population greater than  
20 750,000. On those same dates, Mateel sent a substantially identical Notice of Violation letter to  
21 Defendant. Attached to the Notice of Violation Letter sent to each defendant was a summary of  
22 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
23 Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a  
24 Certificate of Service attesting to the service of the Notice of Violation Letter on each entity  
25 which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate  
26 of Merit attesting to the reasonable and meritorious basis for the action was also sent with each  
27 Notice of Violation Letter. Factual information sufficient to establish the basis of the Certificate  
28 of Merit was enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

1 8. Defendant is a business that employs more than ten people.

2 JURISDICTION

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

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

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

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

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

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

25 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates  
26 that persons who, in the course of doing business, knowingly and intentionally expose any  
27 individual to a chemical known to the State of California to cause cancer or birth defects must  
28 first provide a clear and reasonable warning to such individual prior to the exposure.



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

4           2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil  
5 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
6 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of  
7 Defendant's manufacturing, distributing or marketing of Leaded-Plastic Coated Tools;

8           3. That Defendant be ordered to identify and locate each individual who purchased  
9 Leaded-Plastic Coated Tools and provide a warning to each such person that the Leaded-Plastic  
10 Coated Tools the person purchased will expose that person to chemicals known to cause birth  
11 defects.

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

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

16 Dated: May 26, 2009

KLAMATH ENVIRONMENTAL LAW CENTER

17 By   
18

William Verick  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation  
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28



December 4, 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 Daiso California, LLC (hereinafter "Daiso") has been, is, will be and threatens 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 for both Mateel and this office. The above referenced violations occur when California residents come into contact with tools, the handles of which are coated with leaded thermoplastic. Though a specific model or SKU or product number may be given as examples, this notice pertains to all models, and all variations, of the specific types of product of which the named model is an example: RATCHET HANDLE 6.35 M/M SQUARE DRIVE S 45CUPC: 4984343 497351 and RATCHET HANDLE 3/8" DRIVE 19 CM UPC CODE: 4984343 368576. The plastic on the handles of these tools contains high levels of lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects, and other reproductive harm. Daiso makes or markets these cooking utensils. People are exposed to lead at work or elsewhere when they use these tools and their skin comes into contact with the plastic on the handles. Lead is transferred from the tools to the hands of the people using these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes and/or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. Daiso did not and does not provide people with clear and reasonable warnings before it exposes them to lead. The above referenced violations have occurred every day since at least December 4, 2005 and will continue every day until the lead is taken out of these products or until warnings are given. These 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 of these products made outside of California, except as to workplaces Daiso itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Daiso's property and in each of California's 58 counties.

Cordially,

William Verick

# SERVICE LIST

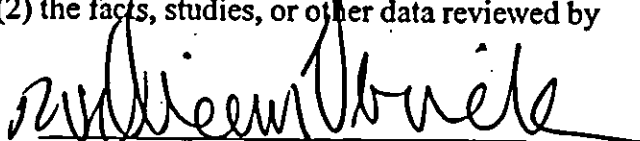
- EDWARD G. WEIL  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY  
GENERAL  
P.O. BOX 70550  
OAKLAND CA 94612-0550
- OFFICE OF THE CITY ATTORNEY  
CITY OF OAKLAND  
501 14TH ST 12TH FLOOR  
OAKLAND, CA 94612
- OFFICE OF THE CITY ATTORNEY  
CITY OF SAN FRANCISCO  
CITY HALL ROOM 206  
400 VAN NESS  
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  
513 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 95317
- 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  
DOWNEVILLE, 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 SLUTTER  
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
- MASAYOSHI NAITO, CEO  
DAISO CALIFORNIA LLC  
533 AIRPORT BLVD #527  
BURLINGAME, CA 94010



**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 4, 2008

  
William Verick

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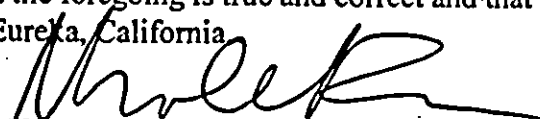
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed 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 December 4, 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 December 4, 2008, at Eureka, California.

  
Nicole Frank