

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; ecorights@earthlink.net

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

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,

16 Plaintiff,

17 v.

18 JT SPORTS, LLC; HOLLOW POINT, INC.;
19 KINGMAN INTERNATIONAL
20 CORPORATION; PURSUIT MARKETING,
INC.,

21 Defendants.

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 JT SPORTS, LLC; HOLLOW POINT, INC.; KINGMAN
26 INTERNATIONAL CORPORATION; PURSUIT MARKETING, INC. (hereinafter
27 "Defendants"), to give clear and reasonable warnings to those residents of California, who handle
28

COMPLAINT FOR INJUNCTION
AND CIVIL PENALTIES

FILED
Superior Court of California
County of San Francisco
MAR 4 - 2009

MAR 11 2009
ASEM
GORDON PARK MANAGEMENT CONFERENCE SE
BY: Victoria E. Handley
Deputy Clerk

AUG 7 2009 - 9:30 AM

SUMMIT 1000 DEPARTMENT 212

CGC-09-485693
CASE NO.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

1 and use paintball guns, carbon dioxide cartridges and carbon dioxide cartridge adapters – all of
2 which incorporate or utilize leaded brass fittings and other leaded brass parts, (hereinafter
3 referred to as “Leaded Brass Paintball Guns and Accessories”), that handling and use of these
4 products causes those residents to be exposed to lead and lead compounds, lead acetate, lead
5 phosphate, and lead subacetate (hereinafter, collectively, “lead”). The types of products to which
6 this Complaint pertains are those types listed in the Product List appended to the Proposition 65
7 60-Day Notice Letter that is attached to and incorporated by reference into this Complaint.

8 Lead is known to the State of California to cause cancer, birth defects and male and female
9 reproductive toxicity. Defendants distribute, and/or market Leaded Brass Paintball Guns and
10 Accessories. These products cause exposures to lead and lead compounds, which are chemicals
11 known to the State of California to cause cancer, birth defects and other reproductive harm.

12 2. Defendants market, and/or distribute Leaded Brass Paintball Guns and
13 Accessories. Defendants intend that residents of California handle and use Leaded Brass
14 Paintball Guns and Accessories that Defendants market, and/or distribute. When these products
15 are handled and used in their normally intended manner, they expose people to lead. In spite of
16 knowing that residents of California were and are being exposed to these chemicals when they
17 handle and use Leaded Brass Paintball Guns and Accessories, Defendants did not and do not
18 provide clear and reasonable warnings that these products cause exposure to chemicals known to
19 cause cancer, birth defects and other reproductive harm.

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

28 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure

1 of Defendantss to provide clear and reasonable warnings regarding exposure to chemicals known
2 to cause cancer, birth defects and other reproductive harm.

3 PARTIES

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

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

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

1 Merit attesting to the reasonable and meritorious basis for the action was also sent with each 60-
2 Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit
3 was enclosed with the 60-Day Notice letter Mateel sent to the Attorney General.

4 8. Defendants employs 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 each a business
12 that has sufficient minimum contacts in California and within the City and County of San
13 Francisco. Defendants intentionally availed themselves of the California and San Francisco
14 County markets for Leaded Brass Paintball Guns and Accessories. It is thus consistent with
15 traditional notions of fair play and substantial justice for the San Francisco Superior Court to
16 exercise jurisdiction over Defendants.

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

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

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

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

1 individual exposed without proper warning to lead and lead compounds from the handling or use
2 of Defendants' Leaded Brass Paintball Guns and Accessories.

3 PRAYER FOR RELIEF

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

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

8 2. 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' distributing or marketing of Leaded Brass Paintball Guns and Accessories;

12 3. That Defendants be ordered to identify and locate each individual who purchased
13 Leaded Brass Paintball Guns and Accessories and provide a warning to each such person that the
14 Leaded Brass Paintball Guns and Accessories the person purchased will expose that person to
15 chemicals known to cause birth defects.

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

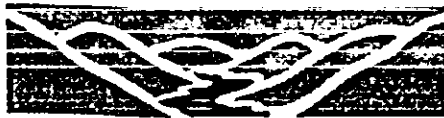
18 5. For such other relief as this court deems just and proper.

19 Dated: February 26, 2009

20 KLAMATH ENVIRONMENTAL LAW
21 CENTER

22 B. 

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



Klamath

ENVIRONMENTAL
LAW CENTER

December 18, 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 CO(2) cartridges and adapters for attaching CO(2) cartridges to paintball guns. Specific examples of the specific types of products at issue are listed on the Product List. Though specific model and UPC numbers are given as examples, this notice pertains to all similar types of brass components. The fittings that people handle to attach and remove the CO(2) cartridges 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 fittings while using them to attach and remove CO(2) cartridges from their paintball guns. Lead is transferred from the brass fittings 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 companies did not and do not provide people with clear and reasonable warnings before it exposes them to lead. These violations have occurred every day since at least December 18, 2005, and will continue every day until the lead is removed from the brass fittings, 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 of the products at issue that are made outside of California, except as to workplaces the listed companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the listed companies' 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
347 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
- JEFFREY L. PERLMUTTER, PRESIDENT
HOLLOW POINT, INC.
55 E HOWARD
DES PLAINES IL 60018
- PRESIDENT OR CEO
JT SPORTS, LLC
1209 ORANGE ST.
WILMINGTON, DE 19801
- PRESIDENT OR CEO
JT SPORTS, LLC
1201 SE 30TH ST
BENTONVILLE, AR 72712
- ARTHUR CHIN JUNG CHANG, CEO
KINGMAN INTERNATIONAL CORPORATION
14010 LIVE OAK AVE
BALDWIN PARK, CA 91706
- JEFFREY PERLMUTTER, CEO
PURSUIT MARKETING, INC.
55 E HOWARD AVE
DES PLAINES, IL 60018

PRODUCT LIST

HOLLOW POINT, INC.

PURSUIT MARKETING, INC.

PMI PURE ENERGY 12 OZ CO2 ALUMINUM CYLINDER ITEM #40112UPC: 789625

41125 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of brass components.

KINGMAN INTERNATIONAL CORPORATION

SPYDER 12OZ CO2 TANK (BLACK) ITEM# JA1203 UPC: 696737 004246 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of brass components.

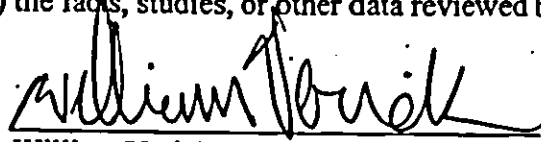
JT SPORTS, LLC

STRYKER 24 OZ CO2 #142926-000 UPC: 835924 13924 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of brass components.

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 18, 2008



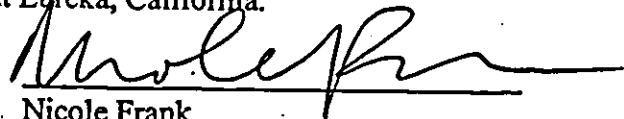
William Verick

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 December 18, 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 18, 2008, at Eureka, California.



Nicole Frank