WILLIAM VERICK, SBN 140972
Klamath Environmental Law Center
FREDRIC EVENSON, SBN 198059
424 First Street
Eureka, CA 95501
Telephone: (707) 268-8900
Facsimile: (707) 268-8901

DAVID WILLIAMS, SBN 144479
BRIAN ACREE, SBN 202505
370 Grand Avenue, Suite 5
Oakland, CA 94610
Telephone: (510) 271-0826
Facsimile: (510) 271-0829

Attorneys for Plaintiff,
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO
(Unlimited Jurisdiction)

CGC-09-486678

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION,

Plaintiff,

v.

THE NEIMAN-MARCUS GROUP, INC.; and AMERICA RETOLD,

Defendants.

/

CASE NO.

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

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 defendants THE NEIMAN-MARCUS GROUP, INC.; and AMERICA RETOLD (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle and use, and drink beverages stored or contained in drink dispensers, such as lemonade jars and water tanks, that utilize leaded brass valves, spigots and stopcocks (hereinafter referred to as "drink dispensers"), that handling and use of and drinking from these drink

dispensers causes those residents to be exposed to lead and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead"). The types of products to which this Complaint pertains are those types listed in the Product List appended to the Proposition 65 Notice of Violation Letter that is attached to and incorporated by reference into this Complaint. Lead is known to the State of California to cause cancer, birth defects and male and female reproductive toxicity. Defendants distribute, and/or market drink dispensers. These products cause exposures to lead and lead compounds, which are chemicals known to the State of California to cause cancer, birth defects and other reproductive harm.

2. Defendants market, and/or distribute drink dispensers. Defendants intend that residents of California handle, use and drink beverages stored or contained in the drink dispensers that Defendants market, and/or distribute. When these products are handled and used in their normally intended manner and when people drink beverages that has been stored in or contained in these drink dispensers the drink dispensers expose people to lead. In spite of knowing that residents of California were and are being exposed to this toxic heavy metal when they handle, use and drink beverages contained or stored in drink dispensers, Defendants did not and do not provide clear and reasonable warnings that these products cause exposure to chemicals known to cause cancer, birth defects and other reproductive harm.

3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel Defendants to bring their business practices into compliance with section 25249.5 et seq. by providing a clear and reasonable warning to each individual who has been and who in the future may be exposed to the above mentioned toxic chemicals from the use of Defendants' products. Plaintiff seeks an order that defendant identify and locate each individual person who in the past has purchased drink dispensers and to provide to each such purchaser a clear and reasonable warning that the drink dispensers will cause exposures to chemicals known to cause birth defects.

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

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 drink dispensers manufactured, distributed or marketed by Defendants and are so exposed without a clear and reasonable Proposition 65 warning.

6. Defendants are persons doing business within the meaning of Health & Safety Code Section 25249.11. Defendants are businesses that distribute, and/or market drink dispensers in California, including the City and County of San Francisco. 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 60-day Notice letter, dated December 23, 2008, which Mateel sent to California's Attorney General. Substantively identical letters 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, and to each defendant. Attached to the 60-Day Notice Letter 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 60-Day Notice Letter plaintiff sent was accompanied by a Certificate of Service attesting to the service of the 60-Day Notice Letter 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 for the action was also sent with each 60-Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit

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

8. Each defendant employs more than ten people.

JURISDICTION

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

10. This Court also has jurisdiction over Defendants because they are businesses that have sufficient minimum contacts in California and within the City and County of San Francisco. Defendants intentionally availed themselves of the California and San Francisco County markets for drink dispensers. It is thus consistent with traditional notions of fair play and substantial justice for the San Francisco Superior Court to exercise jurisdiction over Defendants.

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

FIRST CAUSE OF ACTION
(Claim for Injunctive Relief)

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

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

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

warning to such individual prior to the exposure.

15. Since at least December 23, 2005, Defendants have engaged in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and intentionally exposing to the above mentioned toxic chemicals, those California residents who handle, use or drink beverages stored or contained in drink dispensers. The normally intended use of drink dispensers causes exposure to lead and lead compounds, which are chemicals known to the State of California to cause cancer, birth defects and other reproductive harm. Defendants have not provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

16. At all times relevant to this action, Defendants knew that the drink dispensers they distributed or marketed were causing exposures to lead and lead compounds. Defendants intended that residents of California handle, use and drink beverages stored or contained in drink dispensers in such ways as would lead to significant exposures to these chemicals.

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

SECOND CAUSE OF ACTION
(Claim for Civil Penalties)

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

19. By the above described acts, Defendants are liable and should be liable pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of $2,500.00 per day for each individual exposed without proper warning to lead and lead compounds from the handling, use of, or the drinking of beverages stored or contained in Defendants' drink dispensers.

PRAYER FOR RELIEF

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

1. Pursuant to the First Cause of Action, that Defendants 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 Defendants be assessed a civil penalty in an amount equal to $2,500.00 per day per individual exposed, in violation of Section 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of Defendant's distributing or marketing of drink dispensers;

3. That Defendant be ordered to identify and locate each individual who purchased drink dispensers and provide a warning to each such person that the drink dispensers 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: March 23, 2009

KLAMATH ENVIRONMENTAL LAW CENTER

By _____
William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation

Klamath

ENVIRONMENTAL
LAW CENTER

December 23, 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. Though a specific model or SKU or product number is given as an example, this notice pertains to all models, and all variations, of the specific type of product of which the named model is an example. 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 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 December 23, 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

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

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, CA95249

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

PRESIDENT OR CEO
AMERICA RETOLD
403 WARREN STREET
P.O. BOX 1340
HUDSON, NY 12534

PRESIDENT OR CEO
ARTLAND TRADING, INC.
231 HERROD BLVD. SUITE A
DAYTON, NJ 08810

MING SEN CHENG , CEO
ARTLAND TRADING, INC.
41 MADISON AVENUE, 22ND FLOOR
NEW YORK, NY 10010

BURTON M TANSKY, CEO
THE NEIMAN-MARCUS GROUP, INC.
1201 ELM STREET SUITE 2900
DALLAS, TX 75270

ROBERT J ULRICH, PRESIDENT
TARGET CORPORATION
1000 NICOLLET MALL TPN9
MINNEAPOLIS, MN 55403

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: December 23, 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 23, 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 23, 2008, at Eureka, California.

Nicole Frank

PRODUCT LIST

AMERICA RETOLD
LEMONADE STAND RECYCLED GLASS/ANT NICKEL ITEM # LS215 UPC CODE: 811418 003640 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

ARTLAND TRADING, INC.
ARTLAND BEVERAGE JAR 2 GALLONS UPC CODE: 635452 670084 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

THE NEIMAN MARCUS GROUP
1 GALLON BEVERAGE JAR CAT/ITEM # HCF09/H3JYO This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass valved beverage dispensers.

TARGET CORPORATION
LARGE JUICE DISPENSER/ LEMONADE JAR WITH BRASS SPIGOT UPC CODE: 023055 393330; METAL WATER COOLER RED MODEL #02089 UPC CODE: 026602 020895 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of brass valved beverage dispensers.