

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

MAY 28 2009

GORDON PARK-LI, Clerk  
By: Alisa Butt  
Deputy Clerk

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brianacree@earthlink.net

CASEMANAGEMENT CONFERENCE SET

OCT 30 2009 - 9<sup>00</sup>AM

DEPARTMENT 212

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. **CBC-09-488783**

17 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

18 v.

19 AMAZON.COM INTERNATIONAL, INC.,  
20 and NATIONAL ENTERTAINMENT  
21 COLLECTIBLES ASSOCIATION, INC.

TOXIC TORT/ENVIRONMENTAL

22 Defendant.  
\_\_\_\_\_ /

23  
24 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

25 INTRODUCTION

26 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
27 failure of defendant AMAZON.COM INTERNATIONAL, INC., and NATIONAL  
28 ENTERTAINMENT COLLECTIBLES ASSOCIATION, INC., (hereinafter "Defendants"), to

1 give clear and reasonable warnings to those residents of California, who handle and use products  
2 that are or that incorporate thermoset/thermoplastic coated wires and cables in which the coating  
3 material contains lead (hereinafter referred to as "Leaded Wire or Cable Products"), that  
4 handling and use of these products causes those residents to be exposed to lead and lead  
5 compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead").  
6 The types of products to which this Complaint pertains are those types listed in the Product List  
7 appended to the Proposition 65 60-Day Notice Letter that is attached to and incorporated by  
8 reference into this Complaint. Lead is known to the State of California to cause cancer, birth  
9 defects and male and female reproductive toxicity. Defendant manufactures, distributes, and/or  
10 markets Leaded Wire or Cable Products. These products cause exposures to lead and lead  
11 compounds, which are chemicals known to the State of California to cause cancer, birth defects  
12 and other reproductive harm.

13       2. Defendant is a business that manufactures, markets, and/or distributes Leaded  
14 Wire or Cable Products. Defendant intends that residents of California handle and use Leaded  
15 Wire or Cable Products that Defendant manufactures, markets, and/or distributes. When these  
16 products are handled and used in their normally intended manner, they expose people to lead. In  
17 spite of knowing that residents of California were and are being exposed to these chemicals  
18 when they handle and use Leaded Wire or Cable Products, Defendant did not and does not  
19 provide clear and reasonable warnings that these products cause exposure to chemicals known to  
20 cause cancer, birth defects and other reproductive harm.

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



1 Notice Letter plaintiff sent was accompanied by a Certificate of Service attesting to the service  
2 of the 60-Day Notice Letter on each entity which received it. Pursuant to California Health &  
3 Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and  
4 meritorious basis for the action was also sent with each 60-Day Notice Letter. Factual  
5 information sufficient to establish the basis of the Certificate of Merit was enclosed with the 60-  
6 Day Notice letter Mateel sent to the Attorney General.

7 8. Defendants, and each of them, are businesses that employ more than ten people.

8 JURISDICTION

9 9. The Court has jurisdiction over this action pursuant to California Health & Safety  
10 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court  
11 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter  
12 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought,  
13 does not grant jurisdiction to any other trial court.

14 10. This Court also has jurisdiction over each Defendant because it is a business that  
15 has sufficient minimum contacts in California and within the City and County of San Francisco.  
16 Defendant intentionally availed itself of the California and San Francisco County markets for  
17 Leaded Wire or Cable Products. It is thus consistent with traditional notions of fair play and  
18 substantial justice for the San Francisco Superior Court to exercise jurisdiction over each  
19 Defendant.

20 11. Venue is proper in this Court because each Defendant markets its products in and  
21 around San Francisco and thus causes people to be exposed to lead and lead compounds while  
22 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or  
23 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this  
24 Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

25 FIRST CAUSE OF ACTION  
26 (Claim for Injunctive Relief)

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



1 pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each  
2 individual exposed without proper warning to lead and lead compounds from the handling or use  
3 of Defendant's Leaded Wire or Cable Products.

4 PRAYER FOR RELIEF

5 Wherefore, plaintiff prays for judgment against each DEFENDANT, as follows:

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

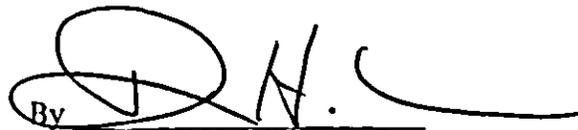
9 2. Pursuant to the Second Cause of Action, that each Defendant be assessed a civil  
10 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
11 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of  
12 Defendant's manufacturing, distributing or marketing of Leaded Wire or Cable Products;

13 3. That each Defendant be ordered to identify and locate each individual who  
14 purchased Leaded Wire or Cable Products and provide a warning to each such person that the  
15 Leaded Wire or Cable Products the person purchased will expose that person to chemicals  
16 known to cause birth defects.

17 4. That, pursuant to Civil Procedure Code § 1021.5, each Defendant be ordered to  
18 pay to Plaintiff the attorneys' fees and costs Plaintiff incurred in bringing this enforcement  
19 action.

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

21 Dated: May 28, 2009

22  
23 By   
24 David H. Williams, Esq.  
25 Attorney for Plaintiff  
26 Mateel Environmental Justice Foundation  
27  
28

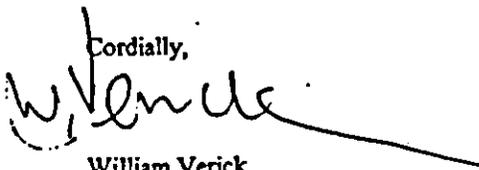


January 29, 2009

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") hereby give you notice that the companies on the attached service list have been, are and threaten to be in violation of Cal. Health & Safety Code § 25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when California residents come into contact with thermoset/thermoplastic-coated wires, cables, and/or cords/cord sets, including PVC-coated wires, cords/cord sets, plugs and connectors, and both SPT and HPN cords/cord sets (hereinafter collectively "Cords"). The listed companies market products that utilize or that themselves are, Cords. Some examples of the products that incorporate Cords are those listed in the attached Product List. Though a specific model or SKU or product number is given as an example, this notice pertains to all variations of the specific type of product of which the named model is an example. Handling of, and contact with, these Cords exposes people to acrylonitrile, antimony trioxide, arsenic, 1,3 butadiene, carbon tetrachloride, carbon black extracts, chlorinated paraffins, chloroform, ethyl acrylate, ethylene thiourea, nickel, toluene, cadmium, hexavalent chromium, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate, and di(2ethylhexyl) phthalate. Handling Cords causes these chemicals to come off the coating of the Cords and to be transferred to the skin of the person handling the Cords. These chemicals are then ingested through hand-to-mouth contact and hand-to-food-to-mouth and hand-to-cigarette-to-mouth behavior. These chemicals are also absorbed through the skin, through mucous membranes and enter the body through cuts, punctures and abrasions. Smokers also inhale those chemicals transferred from hands to cigarettes when they smoke the cigarettes. People are thus exposed to these chemicals via the ingestion, inhalation, dermal absorption, mucous membrane absorption and subcutaneous routes. These companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. The above referenced violations have occurred every day since at least January 29, 2006 and will continue every day until the above-referenced chemicals are removed from 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 the companies make 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 property of the companies and in each of California's 58 counties.

Cordially,  
  
William Verick

## PRODUCT LIST

AMAZON.COM, INTERNATIONAL, INC.

NATIONAL ENTERTAINMENT COLLECTIBLES ASSOCIATION, INC.

THE INCREDIBLE HULK MOVIE HOLIDAY LIGHTS STRAND BY NECA; JASON  
VOORHEES HOLIDAY LIGHT STRAND FROM FIRDAY THE 13TH BY NECA These  
product descriptions pertain not only to the specific models of the products listed, but also for all  
units of all models of this type of product to the extent the products utilize leaded-PVC coated  
wires.

## SERVICE LIST

EDWARD G. WJIL  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY  
GENERAL  
P.O. BOX 70150  
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY  
CITY OF OAKLAND  
303 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 95963

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 95968

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 95637

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  
DOWNEYVILLE, 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 1 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 P. BEZOS, PRESIDENT  
AMAZON.COM, INTERNATIONAL, INC.  
P.O. BOX 81226  
SEATTLE, WA 98108-1226

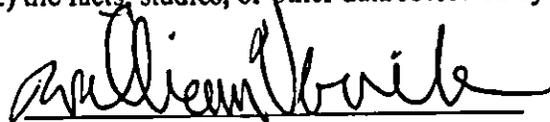
JOEL WEINSHANKER, PRESIDENT  
NATIONAL ENTERTAINMENT  
COLLECTIBLES ASSOCIATION, INC.  
P.O. BOX 3651  
CLARK, NJ 07066

JOEL WEINSHANKER, PRESIDENT  
NATIONAL ENTERTAINMENT  
COLLECTIBLES ASSOCIATION, INC.  
603 SWEETLAND, AVENUE  
HILLSIDE, NJ 07205

**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: January 29, 2009

  
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 January 29, 2009, 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 January 29, 2009, at Eureka, California.

  
Nicole Frank