

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

JUN - 3 2009

GORDON PARK-LI, Clerk  
BY: P. Natt Deputy Clerk

P. NATT

~~CASE MANAGEMENT CONFERENCE ST~~

NOV - 6 2009 - 9:21 AM

DEPARTMENT 212

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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)

21 MATEEL ENVIRONMENTAL  
22 JUSTICE FOUNDATION,

CASE NO. GC-09-488991

23 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

24 v.

25 NEMOX S.p.A.

TOXIC TORT/ENVIRONMENTAL

26 Defendant.

27 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

28 INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendant NEMOX S.p.A. (hereinafter "Nemox" or "Defendant"), to give clear and reasonable warnings to those residents of California, who handle, use, and drink beverages made in espresso machines and coffee makers that utilize leaded brass components (hereinafter collectively referred to as "espresso machines"), that handling and use of these espresso machines causes those residents to be exposed to lead and lead compounds, lead acetate, lead

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

8         2. Defendant markets, and/or distributes espresso machines. Defendant intends that  
9 residents of California handle, use and drink beverages made using the espresso machines that  
10 Defendant markets, and/or distributes. When these products are handled and used in their  
11 normally intended manner and when people drink beverages made from water that has been  
12 heated in them, these espresso machines expose people to lead. In spite of knowing that residents  
13 of California were and are being exposed to these chemicals when they handle, use and drink  
14 beverages made using espresso machines, Defendant did not and does not provide clear and  
15 reasonable warnings that these products cause exposure to chemicals known to cause cancer,  
16 birth defects and other reproductive harm.

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

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

PARTIES

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

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

17           7.       Plaintiff brings this enforcement action against Defendant pursuant to Health &  
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
19 Notice of Violation letter, dated January 29, 2009, which Mateel sent to California's Attorney  
20 General. Substantively identical letters were sent to every District Attorney in the state, and to the  
21 City Attorneys of every California city with a population greater than 750,000, and to the  
22 Defendant. Attached to the Notice of Violation Letter sent to the Defendant was a summary of  
23 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
24 Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a  
25 Certificate of Service attesting to the service of the Notice of Violation Letter on each entity  
26 which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate  
27 of Merit attesting to the reasonable and meritorious basis for the action was also sent with each  
28

1 Notice of Violation Letter. Factual information sufficient to establish the basis of the Certificate  
2 of Merit was enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

3 8. Defendant employs more than ten people.

4 JURISDICTION

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

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

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

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

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

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

27 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates  
28 that businesses that knowingly and intentionally expose any individual to a chemical known to

1 the State of California to cause cancer or birth defects must first provide a clear and reasonable  
2 warning to such individual prior to the exposure.

3 15. Since at least January 29, 2006, Defendant has engaged in conduct that violates  
4 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and  
5 intentionally exposing to the above mentioned toxic chemicals, those California residents who  
6 handle, use or drink beverages made using espresso machines. The normally intended use of  
7 espresso machines causes exposure to lead and lead compounds, which are chemicals known to  
8 the State of California to cause cancer, birth defects and other reproductive harm. Defendant has  
9 not provided clear and reasonable warnings, within the meaning of Health & Safety Code  
10 Sections 25249.6 and 25249.11.

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

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

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

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

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

PRAYER FOR RELIEF

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

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

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

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

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

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

Dated: May 26, 2009

KLAMATH ENVIRONMENTAL LAW CENTER

By

  
William Verick  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation



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") give you notice that Nemox SpA 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 at both Mateel and this office. The above referenced violations occur when California residents drink espresso, cappucino, cafe au lait, cafe latte (collectively "espresso drinks") and tea that are made using water that was heated in espresso machines marketed by Nemox SpA (hereinafter "Nemox") These Nemox espresso machines utilize leaded brass components (brass group heads, boilers, tubes, fittings, steam wands and porta filters, (collectively hereinafter "leaded brass plumbing"). Specific examples of the specific types of products are: CAFFE' NAPOLETANA ESPRESSO ITALIAN CASA UPC CODE: 819458 421011; and CAFFE' NAPOLETANA COFFE MAKER 10CZ UPC CODE: 819458 42101 Though specific model and code numbers are given as examples, this notice pertains to all espresso machines that utilize brass components. Lead and lead compounds ("lead") are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they drink beverages (such as coffee, espresso drinks or tea) that are made from water that has flowed through the leaded brass plumbing. Lead leaches from the leaded brass plumbing into the water that flows through this plumbing and is then made into drinks that are drunk. These lead exposures thus occur via the ingestion route of exposure. Nemox did not and does not provide people with clear and reasonable warnings before it exposes them to lead. These violations have occurred every day since at least January 29, 2006, and will continue every day until the lead is removed from the brass plumbing in these machines, until Nemox uses different espresso machines that do not impart lead to beverages made using the machines 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 beverages made outside of California, except as to workplaces Nemox itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Nemox's property and in each of California's 58 counties.

Cordially,

William Verick

# SERVICE LIST

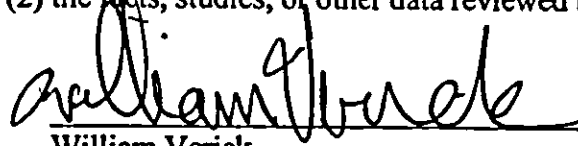
- EDWARD G. WEIL  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY  
GENERAL  
P.O. BOX 70550  
OAKLAND CA 94612-0550
- OFFICE OF THE CITY ATTORNEY  
CITY OF OAKLAND  
505 14TH ST 12TH FLOOR  
OAKLAND, CA 94612
- OFFICE OF THE CITY ATTORNEY  
CITY OF SAN FRANCISCO  
CITY HALL ROOM 206  
400 VAN NESS  
SAN FRANCISCO, CA 94102
- OFFICE OF THE CITY ATTORNEY  
CITY OF SACRAMENTO  
PO BOX 1948  
SACRAMENTO, CA 95812-1948
- OFFICE OF THE CITY ATTORNEY  
CITY OF SAN JOSE  
200 EAST SANTA CLARA STREET  
SAN JOSE, CA 95113
- OFFICE OF THE CITY ATTORNEY  
CITY OF LOS ANGELES  
200 N. MAIN ST.  
LOS ANGELES, CA 90012
- OFFICE OF THE CITY ATTORNEY  
CITY OF SAN DIEGO CONSUMER &  
ENVIRONMENTAL PROTECTION  
1200 THIRD AVENUE, SUITE 700  
SAN DIEGO, CA 92101
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALAMEDA  
1225 FALLON STREET ROOM 900  
OAKLAND, CA 94612
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALPINE  
P.O. BOX 248  
MARKLEEVILLE, CA 96120
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF AMADOR  
708 COURT STREET  
JACKSON, CA 95642
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF BUTTE  
25 COUNTY CENTER DR.  
OROVILLE, CA 95965
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF CALAVERAS  
GOVERNMENT CENTER  
891 MOUNTAIN RANCH ROAD  
SAN ANDREAS, CA 95249
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF COLUSA  
547 MARKET STREET  
COLUSA, CA 95932
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF CONTRA COSTA  
P.O. BOX 670  
MARTINEZ, CA 94553
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF DEL NORTE  
450 H ST #171  
CRESCENT CITY, CA 95531
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF EL DORADO  
515 MAIN ST.  
PLACERVILLE, CA 95667
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF FRESNO  
2220 TULARE ST #1000  
FRESNO, CA 93721
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF GLENN  
P.O. BOX 430  
WILLOWS, CA 95988
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF HUMBOLDT  
825 5TH ST.  
EUREKA, CA 95501
- COUNTY OF IMPERIAL  
COURTHOUSE, FLOOR 2  
939 W. MAIN ST  
EL CENTRO, CA 92243
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF INYO  
P.O. DRAWER D  
INDEPENDENCE, CA 93526
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF KERN  
1215 TRUXTUN AVE. FLOOR 4  
BAKERSFIELD, CA 93301
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF KINGS  
1400 W. LACEY BLVD.  
HANFORD, CA 93230
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LAKE  
255 N. FORBES ST # 424  
LAKEPORT, CA 95453
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LASSEN  
220 SOUTH LASSEN ST. STE 8  
SUSANVILLE, CA 96130
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LOS ANGELES  
18000 CRIMINAL COURTS  
BUILDING  
210 W. TEMPLE ST.  
LOS ANGELES, CA 90012
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MADERA  
209 W. YOSEMITE AVE.  
MADERA, CA 93637
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MARIN  
HALL OF JUSTICE #183  
SAN RAFAEL, CA 94903
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MARIPOSA  
P.O. BOX 730  
MARIPOSA, CA 95338
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MENDOCINO  
PO BOX 1000  
UKIAH, CA 95482
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MERCED  
2222 M ST.  
MERCED, CA 95340
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MODOC  
204 SOUTH COURT STREET  
ALTURAS, CA 96101
- OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MONO  
P.O. BOX 617  
BRIDGEPORT, CA 93517
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF MONTEREY  
240 CHURCH STREET  
P.O. BOX 1131  
SALINAS, CA 93902
- COUNTY OF NAPA  
931 PARKWAY MALL  
P.O. BOX 720  
NAPA, CA 94559-0720
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF NEVADA  
COURTHOUSE ANNEX  
NEVADA CITY, CA 95959
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF ORANGE  
401 CIVIC CENTER DR WEST  
SANTA ANA, CA 92701
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLACER  
11562 B AVE  
AUBURN, CA 95603-2687
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLUMAS  
520 MAIN STREET #404  
QUINCY, CA 95971
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE  
4075 MAIN ST.  
RIVERSIDE, CA 92501
- OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF 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
- GIORGIO GUERRINI, DIRECTOR  
NEMOX S.P.A.  
VIA ENRICO MATTEI, 14  
25026 PONTEVICO  
BRESCIA, ITALY



**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