

FILED
San Francisco County Superior Court

MAY 22 2009

GORDON PARK-LI, Clerk

BY: Deborah J. [Signature]
Deputy Clerk

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CASE MANAGEMENT CONFERENCE SET

OCT 23 2009 - 9⁰⁰ AM

DEPARTMENT 212

16 Attorneys for Plaintiff,
17 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

SUMMONS ISSUED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO
(Unlimited Jurisdiction)

CGC-09-488626

18 MATEEL ENVIRONMENTAL
19 JUSTICE FOUNDATION,

CASE NO.

Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

v.

20 CARQUEST CORPORATION; CSK AUTO,
21 INC.; DAYTON ELECTRIC
22 MANUFACTURING, INC.; DRAMM
CORPORATION; GENERAL PARTS, INC.;
ONWARD MULTI-CORP., INC.; O'REILLY
AUTOMOTIVE, INC., and W.W.
GRAINGER, INC.

BUSINESS TORT

Defendants.

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants CARQUEST CORPORATION; CSK AUTO, INC.; DAYTON ELECTRIC

1 MANUFACTURING, INC.; DRAMM CORPORATION; GENERAL PARTS, INC.; ONWARD
2 MULTI-CORP., INC.; O'REILLY AUTOMOTIVE, INC.; and W.W. GRAINGER,
3 INC.(hereinafter "Defendants"), to give clear and reasonable warnings to those residents of
4 California, who handle and use tools, hose-fittings and locks that consist of, or which incorporate
5 components made of, leaded brass and/or bronze (hereinafter collectively referred to as "leaded-
6 brass tools and locks"), that handling and use of these products causes those residents to be
7 exposed to lead and lead compounds, lead acetate, lead phosphate, and lead subacetate
8 (hereinafter, collectively, "lead"). The specific types of products at issue in the complaint are
9 those listed in the Products Lists of the Proposition 65 Notice of Violation Letters that are
10 attached to this complaint and which are incorporated into this complaint. Lead is known to the
11 State of California to cause cancer, birth defects and male and female reproductive toxicity.
12 Defendants manufacture, distribute, and/or market leaded-brass tools and locks. These products
13 cause exposures to lead and lead compounds, which are chemicals known to the State of
14 California to cause cancer, birth defects and other reproductive harm.

15 2. Defendants are businesses that manufacture, market, and/or distribute leaded-
16 brass tools and locks. Defendants intend that residents of California handle and use leaded-brass
17 tools and locks that Defendants manufacture, market, and/or distribute. When these products are
18 handled and used in their normally intended manner, they expose people to lead. In spite of
19 knowing that residents of California were and are being exposed to these chemicals when they
20 handle and use leaded-brass tools and locks, Defendants did not and do not provide clear and
21 reasonable warnings that these products cause exposure to chemicals known to cause cancer,
22 birth defects and other reproductive harm.

23 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
24 to compel Defendants to bring their business practices into compliance with section 25249.5 et
25 seq. by providing a clear and reasonable warning to each individual who has been and who in the
26 future may be exposed to the above mentioned toxic chemicals from the use of Defendants'
27 products.

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

1 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
2 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that
3 defendants identify and locate each individual person who in the past has purchased leaded-brass
4 tools and locks and to provide to each such purchaser a clear and reasonable warning that the
5 leaded-brass tools and locks will cause exposures to chemicals known to cause birth defects.

6
7 PARTIES

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

17 6. Defendants are each a person doing business within the meaning of Health &
18 Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or
19 market leaded-brass tools and locks in California, including the City and County of San
20 Francisco. Manufacture, distribution and/or marketing of these products in the City and County
21 of San Francisco and/or to people who live in San Francisco, causes people to be exposed to lead
22 and lead compounds while they are physically present in the City and County of San Francisco.

23 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
24 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference are copies
25 Notice of Violation letters dated February 24 and 25, 2009, which Mateel sent to California's
26 Attorney General. Letters identical in substance were sent to every District Attorney in the state,
27 and to the City Attorneys of every California city with a population greater than 750,000. On
28 those same respective dates, Mateel sent identical Notice of Violation letters to each defendant.

1 Attached to the Notice of Violation Letters sent to each defendant was a summary of Proposition
2 65 that was prepared by California's Office of Environmental Health Hazard Assessment. In
3 addition, each Notice of Violation Letter plaintiff sent was accompanied by a Certificate of
4 Service attesting to the service of the Notice of Violation Letter on each entity which received it.
5 Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting
6 to the reasonable and meritorious basis for the action was also sent with each Notice of Violation
7 Letter. Factual information sufficient to establish the basis of the Certificate of Merit was
8 enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

9 8. Defendants are all businesses that employ more than ten people.

10 JURISDICTION

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

16 10. This Court also has jurisdiction over Defendants because they are businesses that
17 have sufficient minimum contacts in California and within the City and County of San Francisco.
18 Defendants intentionally availed themselves of the California and San Francisco County markets
19 for leaded-brass tools and locks. It is thus consistent with traditional notions of fair play and
20 substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

21 11. Venue is proper in this Court because Defendants market their leaded-brass tools
22 and locks in and around San Francisco and thus cause people to be exposed to lead and lead
23 compounds while those people are physically present in San Francisco. Liability for Plaintiff's
24 causes of action, or some parts thereof, has accordingly arisen in San Francisco during the times
25 relevant to this Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

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

28 12. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as

1 if specifically set forth herein, paragraphs 1 through 11, inclusive.

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

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

9 15. Since at least February 24, 2006, Defendants have engaged in conduct that
10 violates Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
11 intentionally exposing to the above mentioned toxic chemicals, those California residents who
12 handle and use leaded-brass tools and locks. The normally intended use of leaded-brass tools
13 and locks causes exposure to lead and lead compounds, which are chemicals known to the State
14 of California to cause cancer, birth defects and other reproductive harm. Defendants have not
15 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
16 25249.6 and 25249.11.

17 16. At all times relevant to this action, Defendants knew that the leaded-brass tools
18 and locks they manufactured, distributed or marketed were causing exposures to lead and lead
19 compounds. Defendants intended that residents of California handle and use leaded-brass tools
20 and locks in such ways as would lead to significant exposures to these chemicals.

21 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
22 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
23 65, requiring them to provide warnings to their past customers who purchased defendants'
24 products without receiving a clear and reasonable warning, and to provide warnings to future
25 customers.

26 SECOND CAUSE OF ACTION
27 (Claim for Civil Penalties)

28 18. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as

1 if specifically set forth herein, paragraphs 1 through 17, inclusive.

2 19. By the above described acts, Defendants are liable and should be liable pursuant
3 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
4 individual exposed to lead and lead compounds from the handling or use of Defendants' leaded-
5 brass tools and locks.

6 PRAYER FOR RELIEF

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

8 A. Pursuant to the First Cause of Action, that all Defendants be enjoined, restrained,
9 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
10 Code;

11 B. Pursuant to the Second Cause of Action, that each Defendants be assessed a civil
12 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
13 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
14 Defendants' manufacturing, distributing or marketing of leaded-brass tools and locks;

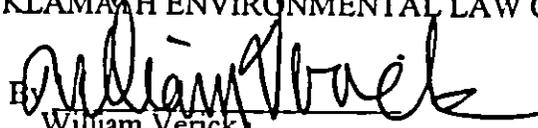
15 C. That Defendants be ordered to identify and locate each individual who purchased
16 leaded-brass tools and locks and provide a warning to each such person that the leaded-brass
17 tools and locks the person purchased will expose that person to chemicals known to cause birth
18 defects.

19 D. That Defendants be ordered to pay Mateel's attorney's fees and costs incurred in
20 prosecuting this action.

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

22 Dated: May 19, 2009

23 KLAMATH ENVIRONMENTAL LAW CENTER

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



Klamath

ENVIRONMENTAL
LAW CENTER

February 24, 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 Carquest Corporation and General Parts, Inc. 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 brass padlocks. Specific examples of the specific types of products at issue are: CARQUEST 1 1/2" PADLOCK BRASS DOUBLE LOCKING #72086 UPC: 796397 720866; CARQUEST 1 1/2" PADLOCK BRASS #72085 UPC: 796397 720859. These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass locks. Carquest Corporation and General Parts, Inc. market these products. The bodies of these brass locks 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 locks while using them to secure their property, or when they are unlocking them to gain access to their property. Lead is transferred from the brass locks 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. Carquest Corporation and General Parts, Inc. 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 February 24, 2006, and will continue every day until the lead is removed from the brass locks, 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 locks made outside of California, except as to workplaces Carquest Corporation and General Parts, Inc. themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the Carquest Corporation's and General Parts, Inc.'s businesses' properties and in each of California's 58 counties.

Cordially,

William Verick

SERVICE LIST

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FAIRFIELD, CA 94533

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COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

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MODESTO, CA 95354

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COURTHOUSE #224
VISALIA, CA 93291

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215 5TH ST.
MARYSVILLE, CA 95901

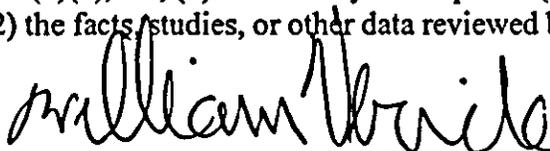
TODD HACK, PRESIDENT
CARQUEST CORPORATION
2635 E. MILLBROOK RD
RALEIGH, NC 27604

O TEMPLE SLOAN III, PRESIDENT
GENERAL PARTS, INC.
2635 MILLBROOK RD
RALEIGH, NC 97604

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: February 24, 2009



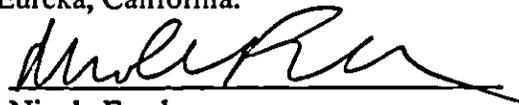
William Verick

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 February 24, 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 February 24, 2009, at Eureka, California.



Nicole Frank



February 24, 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 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 brass hose nozzles, brass quick connects, brass connectors, brass couplings, and other brass hose ends and hose accessories, all of which are made from leaded-brass, (hereinafter "brass hose accessories"). A list of specific examples of the specific types of products at issue is attached. These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories. The listed businesses market these products. The brass hose accessories that people handle 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 brass hose accessories. Lead is transferred from the brass hose accessories 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. 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 they expose them to lead. These violations have occurred every day since at least February 24, 2006, and will continue every day until the lead is removed from the brass hose accessories, 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 hose accessories made outside of California, except as to workplaces the businesses themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the private businesses' properties and in each of California's 58 counties.

Cordially,

William Verick

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SERVICE LIST

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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
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1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

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ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

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708 COURT STREET
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825 5TH ST.
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COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

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P.O. DRAWER D
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HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

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MERCED, CA 95340

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931 PARKWAY MALL
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OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
110 UNION STREET
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

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520 MAIN STREET #404
QUINCY, CA 95971

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COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

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901 G STREET
SACRAMENTO, CA 95814

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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

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330 W. BROADWAY
SAN DIEGO, CA 92101

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COUNTY GOVERNMENT CENTER #430
SAN LUIS OBISPO, CA 93408

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SANTA CRUZ, CA 95060

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MODESTO, CA 95354

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COUNTY OF SUTTER
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YUBA CITY, CA 95993

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COUNTY OF TEHAMA
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COURTHOUSE #224
VISALIA, CA 93291

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COUNTY OF TUOLUMNE
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SONORA, CA 95370

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VENTURA, CA 93009

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COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

TODD HACK, PRESIDENT
CARQUEST CORPORATION
2635 E. MILLBROOK RD
RALEIGH, NC 27604

LARRY MONDRY, CEO
CSK AUTO, INC.
645 E MISSOURI AVE STE 400
PHOENIX, AZ 85012

R L KEYSER, PRESIDENT
DAYTON ELECTRIC MANUFACTURING, INC.
100 GRAINGER PARKWAY
LAKE FOREST IL 60045

CHARLES GOODMAN, CEO
DISCOUNT BUILDERS SUPPLY
1693 MISSION STREET
SAN FRANCISCO, CA 94103

KURT W DRAMM, CEO
DRAMM CORPORATION
2000 NORTH 18TH STREET
MANITOWOC, WI 54221

O TEMPLE SLOAN III, PRESIDENT
GENERAL PARTS, INC.
2635 MILLBROOK RD
RALEIGH, NC 97604

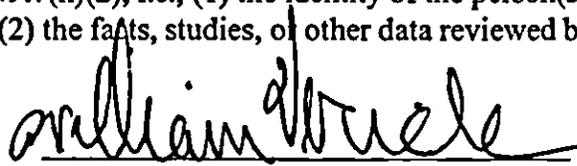
PRESIDENT OR CEO
O'REILLY AUTOMOTIVE, INC.
233 S. PATTERSON
SPRINGFIELD, MO 65802-2298

JAMES T RYAN, CEO
W. W. GRAINGER, INC.
100 GRAINGER PKWY
LAKE FOREST, IL 60045-5201

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: February 24, 2009


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 February 24, 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 February 24, 2009, at Eureka, California.


Nicole Frank

PRODUCT LIST

CARQUEST CORPORATION GENERAL PARTS, INC.

CARQUEST BRASS TWIST HOSE NOZZLE #50008 UPC: 796397 500086; CARQUEST FLEXIBLE AIR HOSE NYLON-11 25' X 1/4" #31561 UPC: 796397 315611; CARQUEST INSULATED PROFESSIONAL HOSE NOZZLE #50010 UPC: 796397 500109; CARQUEST 1/4" X 25' RUBBER AIR HOSE #31660 UPC: 796397 316601; CARQUEST 6" ADJUSTABLE BRASS NOZZLE #50011 UPC: 796397 500116; CARQUEST DELUXE SPRAY NOZZLE #50007 UPC: 796397 500079; CARQUEST HEAVY DUTY INSULATED SPRAY NOZZLE #50006 UPC: 796397 500062; SAFETY STRIPE 3/8" X 25' - 300 PSI AIR HOSE #27488 UPC: 072053 387247 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.

CSK AUTO, INC.

O'REILLY AUTOMOTIVE, INC.

PRO X ONE 50' X 3/8" PVC AIR HOSES MODEL # 390214 UPC: 850210 001256; PRO X ONE 50' X 3/8" PVC AIR HOSES MODEL # 390214 UPC: 850210 001256 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.

DAYTON ELECTRIC MANUFACTURING, INC.

W.W. GRAINGER, INC.

DAYTON 3/8" IN X 2.5' PVC AIR WHIP HOSE RD #11AFJ1; DAYTON MULTI PURPOSE HOSE 1/4" X 25' LENGTH 1/4" FITTINGS ITEM 3JT63; SPEEDAIRE MULTI PURPOSE HOSE 1/4" X 50'- 1/4" FITTINGS ITEM 2Z010 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.

DISCOUNT BUILDERS SUPPLY

SWEEPER NOZZLE ONE PIECE-BRASS 3/4" FHT 6" #3376-T UPC: 048314 033765; TWIST ACTION BR. NOZZLE 372-T UPC: 048314 003720 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.

DRAMM CORPORATION

DRAMM ACE PISTOL MODEL #12724 UPC: 036434 127242; DRAMM BRASS SHUT OFF VALVE MODEL # 12353 UPC: 036434 123534; DRAMM SYPHONJECT FERTILIZER SIPHON MIXER MODEL #22624 UPC: 036434 226242 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.



Klamath

ENVIRONMENTAL
LAW CENTER

February 25, 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 Onward Multi-Corp, Inc. ("Onward") 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 come into contact with brass components of equipment used in connection with torches and welding equipment. These components include brass valves, nozzles, brass quick connects, brass couplers and brass regulators (collectively hereinafter "welding equipment"). Onward markets these products. A specific example of the specific types of products at issue is: GRILL PRO QUICK DISCONNECT COUPLER #82130 UPC Code: 060162 821301 Though a specific model or UPC number may be given as an example, this notice pertains to all similar types of welding equipment. The brass components on this welding equipment that people handle 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 the brass components on this welding equipment. Lead is transferred from the brass components 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. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. Onward 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 February 25, 2006 and will continue every day until the lead is removed from the brass components on this welding equipment, 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 welding equipment made outside of California, except as to workplaces Onward itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Onward's 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)

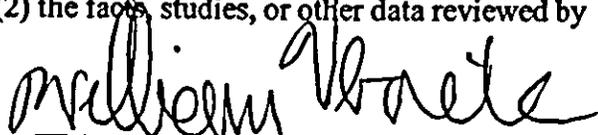
SERVICE LIST

- EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550
- OFFICE OF THE CITY ATTORNEY
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- OFFICE OF THE DISTRICT ATTORNEY
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215 5TH ST.
MARYSVILLE, CA 95901
- TED WITZEL, PRESIDENT
ONWARD MULTI-CORP INC
585 KLUMPF DRIVE,
WATERLOO, ONTARIO, CANADA
N2V 1K3

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: February 25, 2009



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 February 25, 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 February 25, 2009, at Eureka, California.



Nicole Frank