

1 WILLIAM VERICK, CSB #140972
Klamath Environmental Law Center
2 FREDRIC EVENSON, CSB #198059
Law Offices of Fredric Evenson
3 424 First Street
Eureka, CA 95501
4 Telephone: (707) 268-8900
Facsimile: (707) 268-8901
5 wverick@igc.org
ecorights@earthlink.org

6 DAVID H. WILLIAMS, CSB #144479
7 BRIAN ACREE, CSB #202505
370 Grand Avenue, Suite 5
8 Oakland, CA 94610
Telephone: (510) 271-0826
9 Facsimile: (510) 271-0829
davidhwilliams@earthlink.net
10 brianacree@earthlink.net

SUMMONS ISSUED
FILED
San Francisco County Superior Court

SEP - 8 2009

GORDON PARK-LI, Clerk
BY: Elias B. H.
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

FEB - 5 2010 9:00 AM

DEPARTMENT 212

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 (Unlimited Jurisdiction)

14
15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,

17 Plaintiff,

18 v.

19 HSN, INC.; MARTHA STEWART LIVING
20 OMNIMEDIA, INC.; PIER 1 IMPORTS
(U.S.), INC.; REED & BARTON
21 CORPORATION; and RUSH GIDEON,
LLC,

22 Defendants.

CASE NO. 09B-09-492166

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

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

1 failure of defendants HSN, INC.; MARTHA STEWART LIVING OMNIMEDIA, INC.; PIER 1
2 IMPORTS (U.S.), INC.; REED & BARTON CORPORATION; and RUSH GIDEON, LLC,
3 (hereinafter “Defendants”), to give clear and reasonable warnings to those residents of California,
4 who use beverage dispensers with brass faucets or spigots that contain lead (Leaded Brass
5 Beverage Dispensers). The faucets of these Leaded Brass Beverage Dispensers are made from
6 leaded brass, which contains lead and lead compounds (“lead”), which are chemicals known to
7 cause cancer, birth defects and other reproductive harm. California residents are exposed to lead
8 when they drink beverages, such as lemonade, that is served from these Leaded Brass Beverage
9 Dispensers.

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

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

26 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
27

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

3 PARTIES

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

13 6. Each defendant is a person doing business within the meaning of Health & Safety
14 Code Section 25249.11. Each defendant is a business that manufactures, distributes, and/or
15 markets Leaded Brass Beverage Dispensers in California, including the City and County of San
16 Francisco. Manufacture, distribution and/or marketing of these products in the City and County
17 of San Francisco and/or to people who live in San Francisco, causes people to be exposed to lead
18 and lead compounds while they are physically present in the City and County of San Francisco.

19 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
20 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
21 60-day Notice letter, dated May 7, 2009, which Mateel sent to California's Attorney General.
22 Substantially identical letters were sent to every District Attorney in the state, and to the City
23 Attorneys of every California city with a population greater than 750,000. On May 7, 2009,
24 Mateel sent to each Defendant a letter substantively identical to the Notice letter it sent on that
25 date to the Attorney General. Attached to the 60-Day Notice Letters sent to each defendant was a
26 summary of Proposition 65 that was prepared by California's Office of Environmental Health
27

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

8 8. Each defendant is a business that employ more than ten people.

9 JURISDICTION

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

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

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

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 persons who, in the course of doing business, 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 3 years prior to the filing of this complaint each defendant has 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 and use Leaded Brass Beverage Dispensers. The normally intended use of Leaded Brass Beverage 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. Each defendant has 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, each defendant knew that the Leaded Brass Beverage Dispensers it manufactured, distributed or marketed were causing exposures to lead and lead compounds. Each defendant intended that residents of California use Leaded Brass Beverage Dispensers in such ways as would lead to significant exposures to these chemicals.

17. By the above described acts, each defendant has violated Cal. Health & Safety Code Section 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to provide warnings to all present and future customers, and to provide warnings to their past customers who purchased defendant's products without receiving a clear and

1 reasonable warning.

2 SECOND CAUSE OF ACTION
3 (Claim for Civil Penalties)

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

6 19. By the above described acts, each defendant is liable and should be liable pursuant
7 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
8 individual exposed without proper warning to lead and lead compounds from the handling or use
9 of each defendant's Leaded Brass Beverage Dispensers.

10 PRAYER FOR RELIEF

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

12 1. Pursuant to the First Cause of Action, that Defendants, and each them, be
13 enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the
14 California Health & Safety Code;

15 2. Pursuant to the Second Cause of Action, that Defendants, and each of them, be
16 assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed, in
17 violation of Section 25249.6 of the California Health & Safety Code, to lead and lead compounds
18 as the result of Defendants' manufacturing, distributing or marketing of Leaded Brass Beverage
19 Dispensers;

20 3. That Defendants, and each of them, be ordered to identify and locate each
21 individual who purchased one or more Leaded Brass Beverage Dispensers and provide a warning
22 to each such person that the Leaded Brass Beverage Dispenser the person purchased will expose
23 that person to chemicals known to cause birth defects.


24 4. That, pursuant to Civil Procedure Code § 1021.5, Defendants, and each of them,
25 be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement
26 action.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Dated: September 1, 2009

KLAMATH ENVIRONMENTAL LAW
CENTER

By 

William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



May 7, 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 the brass valves or stopcocks on beverage dispensers such as lemonade jars, coffee urns, and beverage servers, (hereinafter "brass valved beverage dispensers"), and when they drink beverages that have flowed through the leaded brass valves/stopcocks that the listed businesses market. Specific examples of the products to which this notice pertains are listed on the attached products list. The valves or stopcocks 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, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through the brass valves/stopcocks. 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 and is then drunk. 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 May 7, 2006, and will continue every day until the lead is removed from the brass valves/stopcocks, 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 dispenser 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,

A handwritten signature in black ink, appearing to read "W. Verick". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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 TULARA 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
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
10810 JUSTICE CENTER DR., STE 240
ROSEVILLE, CA 95678

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, SUITE 1100
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
DOWNEVILLE, CA 95936

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

JAMES D SINEGAL, CEO
COSTCO WHOLESALE CORPORATION
999 LAKE DR
ISSAQUAH, WA 98027

PRESIDENT OR CEO
THE GERSON COMPANY
1430 SOUTH LONE ELM
OLATHE, KS 66061

MINDY GROSSMAN, CEO
HSN, INC.
1 HSN DRIVE
ST. PETERSBURG, FL 32729

TERRY J LUNDGREN, CEO
MACY'S, INC.
7 WEST SEVENTH ST
CINCINNATI, OH 45202

CHARLES KOPPELMAN, CEO
MARTHA STEWART LIVING
OMNIMEDIA, INC.
11 W 42ND ST 25TH FL
NEW YORK, NY 10036

ALEXANDER W SMITH, CEO
PIER 1 IMPORTS (U.S.), INC.
100 PIER 1 PLACE
FORT WORTH, TX 76102

TIMOTHY K RIDDLE, CEO
REED AND BARTON CORPORATION
144 BRITANNIA ST
TAUNTON, MA 02780

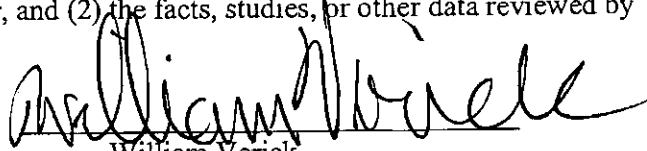
PRESIDENT OR CEO
RUSH GIDEON, LLC
11160 AURORA AVE
DES MOINES, IA 50322

W HOWARD LESTER, CEO
WILLIAMS-SONOMA, INC.
3250 VAN NESS AVE
SAN FRANCISCO, CA 94109

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: May 7, 2009

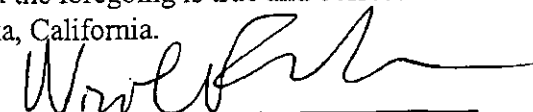

William Verick

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 May 7, 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 May 7, 2009, at Eureka, California.


Nicole Frank

PRODUCT LIST

COSTCO CORPORATION

REED AND BARTON CORPORATION

BURGUNDY SILVERPLATED COFFEE URN UPC CODE: 735092 170989 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 GERSON COMPANY

BEVERAGE SERVER GLASS W/BROWN METAL BEVS/31555 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.

HSN, INC.

RED TEA BEVERAGE DISPENSER JAR ITEM#324-618 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.

MACY'S INC.

MARTHA STEWART LIVING OMNIMEDIA, INC.

MARTHA STEWART DRINK DISPENSER 2 GAL UPC CODE: 636193 169882; PRIMULA ICE TEA DISPENSER PTA-3115 UPC CODE: 741393 2176505 These product descriptions pertain not only to the specific model of the products listed, but also for all units of all models of brass valved beverage dispensers.

PIER 1 IMPORTS (U.S.), INC.

HEX LEMONADE JAR SKU 2320256 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.

RUSH GIDEON LLC

TAG CERAMIC BEVERAGE DISPENSER CODE 187-8547.G 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.

WILLIAMS-SONOMA, INC.

DRINK DISPENSER ITEM# 99-8978348 PB 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.