

SWORN FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

2010 OCT -5 AM 10:14

CLERK OF THE COURT
BY: DEPUTY CLERK

D. STEPPE

CASE MANAGEMENT CONFERENCE SET

MAR 04 2011 9:00 AM

DEPARTMENT 202

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18 brianacree@earthlink.net

19 Attorneys for Plaintiff,
20 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA
22 COUNTY OF SAN FRANCISCO
23 (Unlimited Jurisdiction)

CGC-10-504374

24 MATEEL ENVIRONMENTAL
25 JUSTICE FOUNDATION,

CASE NO.

26 Plaintiff,
27 v.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

28 MANITOWOC FOODSERVICE
COMPANIES, LLC.; THE MANITOWOC
COMPANY, INC.; PEPPER MILL IMPORTS,
INC. and SERVER PRODUCTS, INC.,
Defendants.

TOXIC TORT/ENVIRONMENTAL

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants MANITOWOC FOODSERVICE COMPANIES, LLC.; THE

1 MANITOWOC COMPANY, INC.; PEPPER MILL IMPORTS, INC. and SERVER
2 PRODUCTS, INC., (hereinafter "Defendants"), to give clear and reasonable warnings to those
3 residents of California, who handle and use brass cookware or serving ware such as pepper mills,
4 syrup dispensers, and cooking pots and the nozzles or faucets attendant to these products. These
5 products or their components are made of leaded-brass or bronze, (hereinafter "brass cookware or
6 serving ware") , Handling this cookware, and eating or drinking food that has been prepared with
7 it, causes those residents to be exposed to lead and lead compounds, lead acetate, lead phosphate,
8 and lead subacetate (hereinafter, collectively, "lead"). The types of products to which this
9 Complaint pertains are those types listed in the Product Lists appended to the Proposition 65 60-
10 Day Notice Letters that are attached to and incorporated by reference into this Complaint. Lead
11 is known to the State of California to cause cancer, birth defects and male and female
12 reproductive toxicity. Defendants market leaded brass cookware or serving ware. These
13 products 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.

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17
18 2. Defendants are businesses that market and/or distribute leaded brass cookware or
19 serving ware. Defendants intend that residents of California handle and eat food that has been
20 prepared with leaded brass cookware or serving ware that Defendants market and/or distribute.
21 When these products are handled and used in their normally intended manner, they expose
22 people to lead. In spite of knowing that residents of California were and are being exposed to
23 these chemicals when they handle and use leaded brass cookware or serving ware, Defendants
24 did not and do not provide clear and reasonable warnings that these products cause exposure to
25 chemicals known to cause cancer, birth defects and other reproductive harm.
26
27

28 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7

1 to compel Defendants to bring their business practices into compliance with section 25249.5 et
2 seq. by providing a clear and reasonable warning to each individual who has been and who in the
3 future may be exposed to the above mentioned toxic chemicals from the use of Defendants'
4 products. Plaintiff seeks an order that defendants identify and locate each individual person who
5 in the past has purchased leaded brass cookware or serving ware and provide to each such
6 purchaser a clear and reasonable warning that the leaded brass cookware or serving ware will
7 cause exposures to chemicals known to cause birth defects.
8

9
10 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
11 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
12 to cause cancer, birth defects and other reproductive harm.
13

14 PARTIES

15 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
16 is a non-profit organization dedicated to, among other causes, the protection of the environment,
17 promotion of human health, environmental education, and consumer rights. Mateel is based in
18 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
19 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
20 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
21 California are regularly exposed to lead and lead compounds from leaded brass cookware or
22 serving ware marketed by Defendants and are so exposed without a clear and reasonable
23 Proposition 65 warning.
24

25
26 6. Defendants are each a person doing business within the meaning of Health &
27 Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or
28

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

6 10. This Court also has jurisdiction over Defendants because they are businesses that
7 have sufficient minimum contacts in California and within the City and County of San Francisco.
8 Defendants intentionally availed themselves of the California and San Francisco County markets
9 for leaded brass cookware or serving ware. It is thus consistent with traditional notions of fair
10 play and substantial justice for the San Francisco Superior Court to exercise jurisdiction over
11 them.
12

13 11. Venue is proper in the City and County of San Francisco because Defendants
14 market their products in and around San Francisco and thus cause people to be exposed to lead
15 and lead compounds while those people are physically present in San Francisco. Liability for
16 Plaintiff's causes of action, or some parts thereof, has accordingly arisen in San Francisco during
17 the times relevant to this Complaint and Plaintiff seeks civil penalties and forfeitures imposed by
18 statutes.
19
20

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

23 12. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
24 if specifically set forth herein, paragraphs 1 through 11, inclusive.
25

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

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

6 15. Since at least May 13, 2007 and July 22, 2007, Defendants have engaged in
7 conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct includes
8 knowingly and intentionally exposing to the above mentioned toxic chemicals, those California
9 residents who handle and eat food prepared with leaded brass cookware or serving ware. The
10 normally intended use of leaded brass cookware or serving ware causes exposure to lead and lead
11 compounds, which are chemicals known to the State of California to cause cancer, birth defects
12 and other reproductive harm. Defendants have not provided clear and reasonable warnings,
13 within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.
14

15 16. At all times relevant to this action, Defendants knew that the leaded brass
16 cookware or serving ware they marketed was causing exposures to lead and lead compounds.
17 Defendants intended that residents of California handle and use leaded brass cookware or serving
18 ware in such ways as would lead to significant exposures to these chemicals.
19

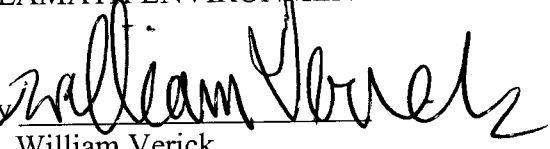
20 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
21 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
22 65 and requiring them to provide warnings to their past customers who purchased defendants'
23 products without receiving a clear and reasonable warning.
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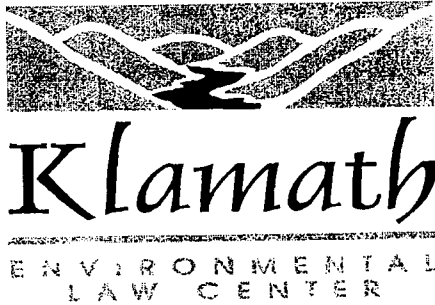
5. For such other relief as this court deems just and proper.

Dated: September 29, 2010

KLAMATH ENVIRONMENTAL LAW CENTER

By 

William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



May 13, 2010

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
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 for both Mateel and this office. The above-referenced violations occur when California residents come into contact with brass cookware, such as pepper mills, cheese slicers, and cooking pots, which are made, in part, of leaded-brass or bronze; and when California residents come into contact with cookstoves that incorporate brass components (collectively, hereinafter, "leaded-brass cookware"). Specific examples of these types of products are listed in the enclosed Product List. Though a specific model or SKU or product number is given as an example, this notice pertains to all models, and all variations, of the specific type of product of which the named model is an example. Brass and/or bronze parts of this leaded-brass cookware, which users of the products touch, contain high levels of lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects, and other reproductive harm. These companies either make or market this leaded-brass cookware. People are exposed to lead when they use this leaded-brass cookware and their skin comes into contact with the leaded brass or bronze parts of the leaded-brass cookware. Lead is transferred from the leaded-brass cookware to the hands of the people using these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. These companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. The above referenced violations have occurred every day since at least May 13, 2007, and will continue every day until the lead is taken out of these products or until warnings are given. These violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any of these products manufactured outside of California, except as to workplaces these companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the property of these companies and in each of California's 58 counties.

Cordially,

William Verick

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE 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 B
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
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

TERRI S. ALPERT, MEMBER
COOKING ENTHUSIAST, LLC
242 BRANFORD ROAD
NORTH BRANFORD, CT 06471

MILDRED L. POLANSKY, CEO
HAROLD IMPORT. CO., INC.
747 VASSAR AVE
LAKEWOOD, NJ 08701-6908

DWIGHT ASPINWALL, CEO
JETBOIL, INC.
540 N COML STREET SUITE 240
MANCHESTER, NH 03101

ERNEST BERMAN, CEO
JOHNSON-ROSE CORP.
5303 CROWN DRIVE
LOCKPORT, NY 14094

ERNEST BERMAN, CEO
JOHNSON-ROSE CORP.
P.O. BOX 447
LOCKPORT, NY 14095-0447

JOHNSON-ROSE INC.
7300 EAST DANBRO CRESCENT
MISSISSAUGA, ONTARIO
CANADA L5N 6C2

GUNNAR LIE, CEO
NORDIC PRODUCTS, INCORPORATED
2215 MERRILL CREEK PKWY
EVERETT, WA 98203

WILLIAM STIRLING, PRESIDENT
PEPPER MILL IMPORTS, INC.
1143 ECHO AVE STE J
SEASIDE, CA 93955-3700

WILLIAM STIRLING, PRESIDENT
PEPPER MILL IMPORTS, INC.
P.O. BOX 775
CARMEL, CA 93921

JAMES L. DAVIS, PRESIDENT
PRODYNE ENTERPRISES
9611 SANTA ANITA AVE
RANCHO CUCAMONGA, CA 91730

PRODUCTS LIST

HAROLD IMPORT COMPANY, INC.

STAINLESS STEEL ADJUSTABLE HANDHELD CHEESE SLICER UPC CODE: 781723
431042 This product description pertains not only to the specific type of cheese
slicer, but also for all units of all models of brass cheese slicers.

JETBOIL, INC.

HELIOS HIGH CAPACITY COOKING SYSTEM UPC CODE: 893483 000458 This
product description pertains not only to the specific type of cookstove, but also
for all units of all models of cookstoves that incorporate brass components.

JOHNSON-ROSE CORP.

ADJUSTABLE CHEESE SLICER UPC CODE: 612941 030109 This product description
pertains not only to the specific type of cheese slicer, but also for all units of all
models of cheese slicers that incorporate brass components.

NORDIC PRODUCTS, INC.

NORPRO PROFESSIONAL CHEESE SLICER #330 UPC CODE: 028901 003302 This
product description pertains not only to the specific type of cheese slicer, but
also for all units of all models of cheese slicers that incorporate brass
components.

PEPPERMILL IMPORTS

ATLAS PEPPER MILL 10.5" MILL SPICE/HERB UPC CODE: 00000279354; ATLAS 9.5"
COPPER PEPPER MILL #0000083741 These product descriptions pertain not only to
the specific models of the products listed, but also for all units of all models of brass
peppermills

PRODYNE ENTERPRISES

PRODYNE 40-H DELUXE HAND HELD WIRE CHEESE SLICER UPC CODE: 022494
040089 This product description pertains not only to the specific type of cheese
slicer, but also for all units of all models of cheese slicers that incorporate brass
components.

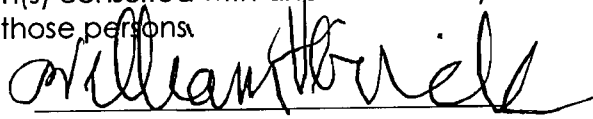
COOKING ENTHUSIAST, LLC

PEPPER MILL IMPORTS 11" BRASS PEPPER MILL #5 BRASS MILL UPC CODE: 764443
000057; PEPPER MILL IMPORTS 9" BRASS PEPPER MILL #104 ATLAS BRASS MILL UPC
CODE: 764443 001047 These product descriptions pertain not only to the specific
models of the products listed, but also for all units of all models of brass peppermills.

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 13, 2010



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 13, 2010, 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 13, 2010, at Eureka, California.



Nicole Frank



July 22, 2010

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that your company 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 for both Mateel and this office. The above-referenced violations occur when California residents come into contact with brass cookware, such as syrup dispensers and cooking pots and their nozzles or faucets, which are made, in part, of leaded-brass or bronze; and when California residents come into contact with brass cookware that incorporates brass components (collectively, hereinafter, "leaded-brass cookware"). Specific examples of these types of products are listed in the enclosed Product List. Though a specific model or SKU or product number is given as an example, this notice pertains to all models, and all variations, of the specific type of product of which the named model is an example. Brass and/or bronze parts of this leaded-brass cookware, which users of the products touch, contain high levels of lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects, and other reproductive harm. Your company either makes or markets this leaded-brass cookware. People are exposed to lead when they use this leaded-brass cookware and their skin comes into contact with the leaded brass or bronze parts of the leaded-brass cookware. Lead is transferred from the leaded-brass cookware to the hands of the people using these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. Your company did not and does not provide people with clear and reasonable warnings before you expose them to lead. The above referenced violations have occurred every day since at least July 22, 2007, and will continue every day until the lead is taken out of these products or until warnings are given. These violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any of these products manufactured outside of California, except as to workplaces your company itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off your company property and in each of California's 58 counties.

Cordially,

A handwritten signature in black ink, appearing to read "W. Verick", with a long horizontal flourish extending to the right.

William Verick

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE 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
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
DOWNTOWNVILLE, 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

BRETT GROSS, PRESIDENT
ALEGACY FOODSERVICE PRODUCTS GROUP, INC.
12683 CORRAL PL
SANTA FE SPRINGS, CA 90670

MIKW KACHMER, PRESIDENT
MANITOWOC FOODSERVICE COMPANIES, LLC.
2400 S 44TH STREET
MANITOWOC, WI 54220

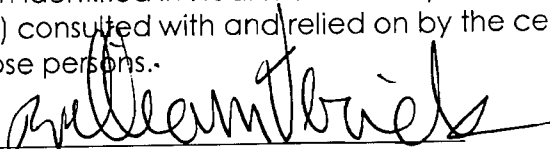
GLEN E TELLOCK, CEO
THE MANITOWOC COMPANY, INC.
2400 S 44TH ST
MANITOWOC, WI 54220

PAUL WICKESBERG, PRESIDENT
SERVER PRODUCTS, INC.
3601 PLEASANT HILL RD
RICHFIELD, WI 53076

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: July 22, 2010



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 July 22, 2010, 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 July 22, 2010, at Eureka, California.


Nicole Frank

PRODUCT LIST

ALEGACY FOODSERVICE PRODUCTS GROUP, INC.

EAGLEWARE 60 QT POT W/FAUCET UPC CODE: 801698 110435 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of stock pots and faucets.

MANITOWOC FOODSERVICE COMPANIES, LLC THE MANITOWOC COMPANY, INC.

LINCOLN WEAR-EVER 60 QT STOCK POT / FAUCET 4256B UPC CODE: 080814 002933 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of stock pots and faucets.

SERVER PRODUCTS, INC.

3.0 GALLON SYRUP SERVER WITH FAUCET #84190 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of syrup servers and faucets.