

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.net

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

11 Attorneys for Plaintiff,  
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN FRANCISCO  
(Unlimited Jurisdiction)

15  
16 MATEEL ENVIRONMENTAL  
JUSTICE FOUNDATION,

17 Plaintiff,  
18 v.  
19

20 GRINDMASTER CECILWARE  
CORPORATION and, THE MIDDLEBY  
21 CORPORATION

22 Defendants.  
23

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

MAR 11 2011

CLERK OF THE COURT

BY: *P. Natt* Deputy Clerk

**P. NATT**

CASE NO.  
CGC-11-509105

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

24 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

25 INTRODUCTION

26 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
27 failure of defendants GRINDMASTER CECILWARE CORPORATION and, THE MIDDLEBY  
28 CORPORATION, (hereinafter "Defendants"), to give clear and reasonable warnings to those

1 residents of California, who handle and use, and drink beverages stored or contained in drink  
2 dispensers, such as coffee and tea dispensers, that utilize leaded brass valves, spigots and  
3 stopcocks (hereinafter referred to as "drink dispensers"), that handling and use of and drinking  
4 from these drink dispensers causes those residents to be exposed to lead and lead compounds,  
5 lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead"). The types of  
6 products to which this Complaint pertains are those types listed in the Product Lists appended to  
7 the Proposition 65 Notice of Violation Letters that are attached to and incorporated by reference  
8 into this Complaint. Lead is known to the State of California to cause cancer, birth defects and  
9 male and female reproductive toxicity. Defendants distribute, and/or market drink dispensers.  
10 These products cause exposures to lead and lead compounds, which are chemicals known to the  
11 State of California to cause cancer, birth defects and other reproductive harm.

12 2. Defendants market, and/or distribute drink dispensers. Defendants intend that  
13 residents of California handle, use and drink beverages stored or contained in the drink  
14 dispensers that Defendants market, and/or distribute. When these products are handled and used  
15 in their normally intended manner and when people drink beverages that has been stored in or  
16 contained in these drink dispensers the drink dispensers expose people to lead. In spite of  
17 knowing that residents of California were and are being exposed to this toxic heavy metal when  
18 they handle, use and drink beverages contained or stored in drink dispensers, Defendants did not  
19 and do not provide clear and reasonable warnings that these products cause exposure to  
20 chemicals known to cause cancer, birth defects and other reproductive harm.

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



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

6 8. Each defendant employs more than ten people.

7 JURISDICTION

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

13 10. This Court also has jurisdiction over Defendants because they are businesses that  
14 have sufficient minimum contacts in California and within the City and County of San Francisco.  
15 Defendants intentionally availed themselves of the California and San Francisco County markets  
16 for drink dispensers. It is thus consistent with traditional notions of fair play and substantial  
17 justice for the San Francisco Superior Court to exercise jurisdiction over Defendants.

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

23 FIRST CAUSE OF ACTION  
24 (Claim for Injunctive Relief)

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

27 13. The People of the State of California have declared by referendum under  
28 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed

1 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

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

6 15. Since at least three years prior to the Notice of Violation Letters, Defendants have  
7 engaged in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct  
8 includes knowingly and intentionally exposing to the above mentioned toxic chemicals, those  
9 California residents who handle, use or drink beverages stored or contained in drink dispensers.  
10 The normally intended use of drink dispensers causes exposure to lead and lead compounds,  
11 which are chemicals known to the State of California to cause cancer, birth defects and other  
12 reproductive harm. Defendants have not provided clear and reasonable warnings, within the  
13 meaning of Health & Safety Code Sections 25249.6 and 25249.11.

14 16. At all times relevant to this action, Defendants knew that the drink dispensers they  
15 distributed or marketed were causing exposures to lead and lead compounds. Defendants  
16 intended that residents of California handle, use and drink beverages stored or contained in drink  
17 dispensers in such ways as would lead to significant exposures to these chemicals.

18 17. By the above described acts, Defendants have violated Cal. Health & Safety Code  
19 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition  
20 65, to provide warnings to all present and future customers and to provide warnings to their past  
21 customers who purchased Defendants' products without receiving a clear and reasonable  
22 warning.

23 SECOND CAUSE OF ACTION  
24 (Claim for Civil Penalties)

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

27 19. By the above described acts, Defendants are liable and should be liable pursuant  
28 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each

1 individual exposed without proper warning to lead and lead compounds from the handling, use  
2 of, or the drinking of beverages stored or contained in Defendants' drink dispensers.

3 PRAYER FOR RELIEF

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

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

8 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil  
9 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
10 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of  
11 Defendants' distributing or marketing of drink dispensers;

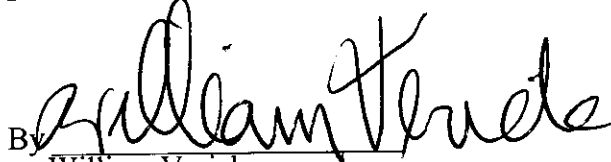
12 3. That Defendants be ordered to identify and locate each individual who purchased  
13 drink dispensers and provide a warning to each such person that the drink dispensers the person  
14 purchased will expose that person to chemicals known to cause birth defects.

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

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

18 Dated: February 16, 2011

KLAMATH ENVIRONMENTAL LAW CENTER

19  
20  
21 By 

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



September 15, 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 businesses on the attached service list have been, are, will 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 use or come into contact with the brass valves, taps, faucets and stopcocks (hereinafter collectively "brass valves") that are made in whole or in part of brass or other metal alloys containing lead. These brass valves are used on beverage servers and dispensers such as coffee urns, and iced tea and lemonade jars (hereinafter "beverage dispensers"). Though a specific example of the product to which this notice pertains may be included in the product list this product description pertains not only to the specific model of the product listed, but also for all units of all models of drink dispensers with leaded valves. The brass valves on these beverage dispensers are made from brass or other metal alloys leaded brass containing lead, 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, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through them. Lead is transferred from the brass valves 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 valves into the beverages that flow through them and is then drunk. This lead thus leaches into the food and beverages that are stored in or served from these products. 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 September 15, 2007, and will continue every day until the lead is removed from the brass valves or until clear and reasonable warnings are given. We do not, however, allege occupational exposure violations as to any brass nozzles made outside of California, except as to workplaces these companies themselves maintain in California.

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 VANNES  
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY  
CITY OF SACRAMENTO  
P.O. 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 95842

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

ROGER LAVERTY, CEO  
FARMER BROS CO.  
20333 S. NORMANDIE AVE.  
TORRANCE, CA 90502

SELIM A. BASSOUL, CEO  
THE MIDDLEBY CORPORATION  
1400 TOASTMASTER DR  
ELGIN, IL 60120



## PRODUCT LIST

### **FARMER BROS. CO.**

ZOJIRUSHI 2 GALLON THERMO SERVER WITH FAUCET MODEL # SGC-80 UPC CODE: 023596 181434 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.

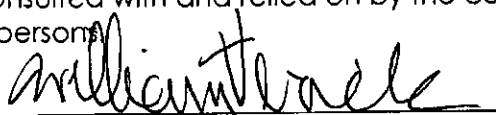
### **THE MIDDLEBY CORPORATION**

BLOOMFIELD SPIGOT S/S SHANK BLM8800-6 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.

### 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: September 15, 2010



William Verick

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This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

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### CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On September 15, 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 September 15, 2010, at Eureka, California.



Nicole Frank



# Klamath

THE KLAMATH ENVIRONMENTAL JUSTICE FOUNDATION  
ENVIRONMENTAL JUSTICE  
FUNDATION

October 27, 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 at both Mateel and this office. The above referenced violations occur when California residents come into contact with, or drink beverages that flow through, valves, taps, faucets and stopcocks (hereinafter collectively "brass valves") that are made in whole or in part of brass or other metal alloys that contain lead. These brass valves are components of beverage dispensers such as coffee urns, beer, wine, cider, tea and soda taps faucets and dispensing equipment, (hereinafter "beverage dispensers"). The listed businesses market these kinds of beverage dispensers. Though specific examples of the products to which this notice pertains are listed in the Product List, these product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of drink dispensers that utilize leaded valves. These products also utilize leaded solder to fasten parts of these products together. The brass valves on these beverage dispensers are made from brass or other metal alloys containing 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, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through them. Lead is transferred from the brass valves 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 valves into the beverages that flow through them and is then drunk. Lead also leaches from the solder, which is exposed where there are plating defects. This lead thus leaches into the food and beverages that are stored in or served from these products. 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 people to lead. These violations have occurred every day since at least October 27, 2007, and will continue every day until the lead is removed from the brass valves 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 these companies themselves maintain in California. This notice does not allege any environmental exposure violations.

Cardially,

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  
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COUNTY OF AMADOR  
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JACKSON, CA 95642

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COUNTY OF BUTTE  
25 COUNTY CENTER DR.  
OROVILLE, CA 95965

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GOVERNMENT CENTER  
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COLUSA, CA 95932

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COURTHOUSE, FLOOR 2  
939 W. MAIN ST  
EL CENTRO, CA 92243

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P.O. DRAWER D  
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18000 CRIMINAL COURTS  
BUILDING  
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HALL OF JUSTICE #183  
SAN RAFAEL, CA 94903

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P.O. BOX 730  
MARIPOSA, CA 95338

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COUNTY OF MENDOCINO  
PO BOX 1000  
UKIAH, CA 95482

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COUNTY OF MODOC  
204 SOUTH COURT STREET  
ALTURAS, CA 96101

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COUNTY OF MONO  
P.O. BOX 617  
BRIDGEPORT, CA 93517

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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

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COUNTY OF NEVADA  
110 UNION STREET  
NEVADA CITY, CA 95959

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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  
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520 MAIN STREET #404  
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COUNTY OF RIVERSIDE  
4075 MAIN ST.  
RIVERSIDE, CA 92501

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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

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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

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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

RICHARD MOORE, CEO  
GRINDMASTER CECILWARE CORPORATION  
43-05-20TH AVENUE  
LONG ISLAND CITY, NY 11105

RICHARD MOORE, CEO  
CECILWARE CORPORATION  
43-05-20TH AVENUE  
LONG ISLAND CITY, NY 11105

DAVID HICKEY, PRESIDENT  
GRINDMASTER CORPORATION  
4003 COLLINS LN  
LOUISVILLE, KY 40245

PETER MUZZONIGRO, CEO  
MICRO MATIC USA, INC.  
19791 BAHAMA ST  
NORTHBRIDGE, CA 91324

## PRODUCT LIST

### **GRINDMASTER CECILWARE CORPORATION**

GRINDMASTER STAINLESS STEEL SATELLITE SHUTTLE 1.5 GALLON SERIAL # A404254  
MODEL CS-LL UPC CODE: 074491 802177 These product descriptions pertain not  
only to the specific models of the products listed, but also for all units of all  
models of brass valved beverage dispensers.

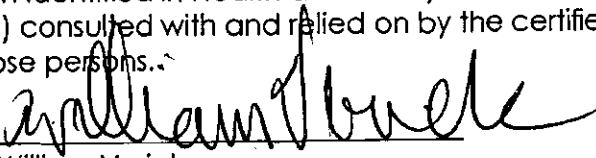
### **MICRO MATIC USA, INC./ Micro Matic A/S / MICRO MATIC USA, LLC**

2 1/2" COLUMN - BRASS FINISH ITEM # D4740B; G LEGEND W/ GOLD PLATED BASE  
ITEM # 7509E-G; STANDARD FAUCET- BRASS LEVER PART #4933KBR These product  
descriptions pertain not only to the specific types of products listed, but also for  
all units of all similar products with brass parts that are used to dispense  
beverages.

**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: October 27, 2010

  
William Verick

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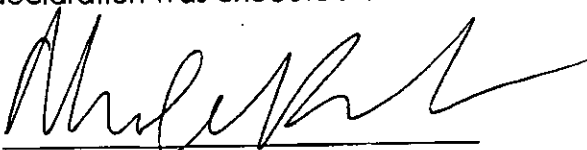
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

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**CERTIFICATE OF SERVICE**

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On October 27, 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 October 27, 2010, at Eureka, California.

  
Nicole Frank