

ORIGINAL

FILED
San Francisco County Superior Court

AUG 05 2011

CLERK OF THE COURT
By:  Deputy Clerk

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10 Attorneys for Plaintiff,
11 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

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

15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,

CASE NO. CGC-11-511553

17 Plaintiff,
18 v.

FIRST AMENDED
COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

19 ACE HARDWARE CORPORATION and
20 ASHBY LUMBER COMPANY

TOXIC TORT/ENVIRONMENTAL

21 Defendant.

22 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

23 INTRODUCTION

24 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
25 failure of defendant ACE HARDWARE CORPORATION and ASHBY LUMBER COMPANY
26 (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California,
27 who handle and use lead wool. Lead wool is akin to "steel wool," except that is literally made
28

1 from lead fibers. The lead fibers, which users of the product touch, are basically pure lead.
2 Defendants do not warn their California customers that handling and use of lead wool causes
3 those customers to be exposed to lead and lead compounds, lead acetate, lead phosphate, and
4 lead subacetate (hereinafter, collectively, "lead"). The specific type of lead wool to which this
5 Complaint pertains is listed in the Proposition 65 Notice of Violation Letter that is attached to
6 and incorporated by reference into this Complaint. Lead is known to the State of California to
7 cause cancer, birth defects and male and female reproductive toxicity. Defendants distribute,
8 and/or market lead wool. This lead wool causes exposures to lead and lead compounds, which
9 are chemicals known to the State of California to cause cancer, birth defects and other
10 reproductive harm.

11 2. Defendants market, and/or distribute lead wool. Defendants intend that residents
12 of California handle and use lead wool that Defendants market, and/or distribute. When lead
13 wool is handled and used in its normally intended manner, it exposes people to lead. In spite of
14 knowing that residents of California were and are being exposed to these chemicals when they
15 handle and use lead wool, Defendants did not and do not provide clear and reasonable warnings
16 that these products cause exposure to chemicals known to cause cancer, birth defects and other
17 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 lead wool and to provide to each such purchaser a clear and reasonable
24 warning that the lead wool will cause exposures to chemicals known to cause birth defects.

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

PARTIES

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

11 6. Defendants are each a person doing business within the meaning of Health &
12 Safety Code Section 25249.11. Defendants are businesses that distribute, and/or market lead
13 wool in California, including San Francisco County. Distribution and/or marketing of this
14 product in San Francisco County, and/or to people who live in San Francisco County, causes
15 people to be exposed to lead and lead compounds while they are physically present in San
16 Francisco County.

17 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
19 Notice of Violation Letter, dated February 27, 2011 which Mateel sent to California's Attorney
20 General. Substantively identical letters were sent to the District Attorney in each of the State's 58
21 counties, to the City Attorneys of every California city with a population greater than 750,000,
22 and to defendant. Attached to the Notice of Violation Letter sent to defendant was a summary of
23 Proposition 65 that was prepared by California's Office of Environmental Health Hazard
24 Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a
25 Certificate of Service attesting to the service of the Notice of Violation Letter on each entity
26 which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate
27 of Merit attesting to the reasonable and meritorious basis for the action was sent with each Notice
28 of Violation Letter, and factual information sufficient to establish the basis of the Certificate of

1 Merit was enclosed with the Notice of Violation Letter Mateel sent to the Attorney General.

2 8. Defendants employ more than ten people.

3 JURISDICTION

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

9 10. This Court has jurisdiction over Defendants because they are each a business that
10 has sufficient minimum contacts in California and within the City and County of San Francisco.
11 Defendants intentionally availed themselves of the California and San Francisco County markets
12 for lead wool. It is thus consistent with traditional notions of fair play and substantial justice for
13 the San Francisco Superior Court to exercise jurisdiction over Defendants.

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

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

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

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

26 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
27 that businesses that knowingly and intentionally expose any individual to a chemical known to
28 the State of California to cause cancer or birth defects must first provide a clear and reasonable

1 warning to such individual prior to the exposure.

2 15. Since at least February 17, 2008, Defendants have engaged in conduct that
3 violates Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
4 intentionally exposing to the above mentioned toxic chemicals, those California residents who
5 handle and use lead wool. The normally intended use of lead wool causes exposure to lead and
6 lead compounds, which are chemicals known to the State of California to cause cancer, birth
7 defects and other reproductive harm. Defendants have not provided clear and reasonable
8 warnings, within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

9 16. At all times relevant to this action, Defendants knew that the lead wool it,
10 distributed or marketed was causing exposures to lead and lead compounds. Defendants
11 intended that residents of California handle and use lead wool in such ways as would lead to
12 significant exposures to these chemicals.

13 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
14 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
15 65, to provide warnings to all present and future customers and to provide warnings to its past
16 customers who purchased defendants' lead wool product without receiving a clear and reasonable
17 warning.

18 SECOND CAUSE OF ACTION
19 (Claim for Civil Penalties)

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

22 19. By the above described acts, Defendants are liable and should be liable pursuant
23 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
24 individual exposed without proper warning to lead and lead compounds from contact with
25 Defendants' lead wool.

26 PRAYER FOR RELIEF

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

28 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained,

1 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
2 Code;

3 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil
4 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
5 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
6 Defendants' distributing or marketing of lead wool;

7 3. That Defendants be ordered to identify and locate each individual who purchased
8 lead wool and provide a warning to each such person that the lead wool the person purchased
9 will expose that person to chemicals known to cause birth defects.

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

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

13 Dated: August 4, 2011

14 
15 By _____
16 David Williams
17 Attorney for Plaintiff
18 Mateel Environmental Justice Foundation
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February 17, 2011

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 lead wool, which is made of lead fibers. The lead fibers, which users of the product 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 lead wool. People are exposed to lead when they use this lead wool and their skin comes into contact with the lead fibers. Lead is transferred from the lead wool to the hands of the people using it. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions when people 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 February 17, 2008, and will continue every day until Proposition 65-compliant 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 this lead wool manufactured outside of California, except as to workplaces these companies themselves maintain in California.

Cordially,

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

William Verick

SERVICE LIST

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE BOX 70650
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 TRUXIUM 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
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

RAY A GRIFFITH, CEO
ACE HARDWARE CORPORATION
2200 KENSINGTON COURT
OAK BROOK, IL 60523-2103

JEFFREY O HOGAN, CEO
ASHBY LUMBER COMPANY
5818 MCANDREW DR
OAKLAND, CA 94611-3133

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: February 17, 2011

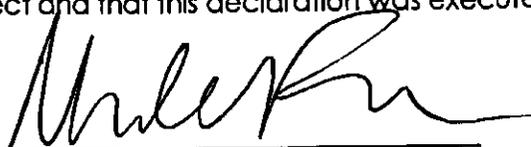

William Verick

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

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On February 17, 2011, I caused the attached NOTICE OF VIOLATION 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 NOTICE OF VIOLATION and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 17, 2011, at Eureka, California.


Nicole Frank