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11 Attorneys for Plaintiff,  
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

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

16 MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,

17 Plaintiff,

18 v.  
19

20 B & G FOODS, INC.; BASCOM FAMILY  
FARMS, INC.; CITADELLE MAPLE SYRUP  
21 PRODUCERS CO-OPERATIVE; ; GREAT  
NORTHERN MAPLE PRODUCTS INC.;  
22 GLENCOURT, INC.; LUCERNE FOODS, INC.;  
NOW HEALTH GROUP, INC.; SAFEWAY,  
23 INC.; SPECIALTY BRANDS OF AMERICA,  
INC.; SPROUTS FARMERS MARKET, LLC;  
24 STONEWALL KITCHEN, LTD; TARGET  
CORPORATION; TRADER JOE'S COMPANY;  
25 THE VONS COMPANIES, INC.; and WORLD  
BRANDS, INC.

26 Defendants.  
27  
28

CASE NO. CGC - 13 - 534016

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

1 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

2 INTRODUCTION

3 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
4 failure of defendants B & G FOODS, INC.; BASCOM FAMILY FARMS, INC.; CITADELLE  
5 MAPLE SYRUP PRODUCERS CO-OPERATIVE; ; GREAT NORTHERN MAPLE  
6 PRODUCTS INC.; GLENCOURT, INC.; LUCERNE FOODS, INC.; NOW HEALTH GROUP,  
7 INC.; SAFEWAY, INC.; SPECIALTY BRANDS OF AMERICA, INC.; SPROUTS FARMERS  
8 MARKET, LLC; STONEWALL KITCHEN, LTD.; TARGET CORPORATION; TRADER  
9 JOE'S COMPANY; THE VONS COMPANIES, INC. and WORLD BRANDS, INC. (hereinafter  
10 "Defendants"), to give clear and reasonable warnings to those residents of California, who  
11 handle, use, and eat lead-contaminated maple syrup. Handling, using and eating this  
12 contaminated maple syrup causes people who do so to be exposed to lead, lead and lead  
13 compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead").  
14 Defendants sell, distribute and/or market this contaminated maple syrup. California residents  
15 ingest or otherwise come into contact with lead when they handle or eat this maple syrup that has  
16 been contaminated with lead. Eating or handling this contaminated maple syrup causes people to  
17 be exposed to lead a chemical known to the State of California to cause birth defects and other  
18 reproductive harm.

19 2. Defendants market, and/or distribute lead-contaminated maple syrup. Defendants  
20 intend that residents of California handle and eat maple syrup that has been contaminated with  
21 lead. Defendants intentionally market, and/or distribute this contaminated maple syrup. When  
22 this contaminated maple syrup is handled in its normally intended manner and when people eat  
23 the contaminated maple syrup, they are exposed to lead. Handling maple syrup causes people's  
24 skin to contact the lead-contaminated syrup. Defendants' syrup thus exposes Californians to lead  
25 via the dermal, mucous membrane, subcutaneous and ingestion routes. In spite of knowing that  
26 residents of California were and are being exposed to this toxic heavy metal when they handle,  
27 use and eat this contaminated maple syrup, Defendants did not and do not provide clear and  
28 reasonable warnings that this contaminated maple syrup causes exposure to chemicals known to

1 cause birth defects and other reproductive harm.

2 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7  
3 to compel Defendants to bring their business practices into compliance with section 25249.5 et  
4 seq. by providing a clear and reasonable warning to each individual who has been and who in the  
5 future may be exposed to lead from the use of Defendants' contaminated maple syrup. Plaintiff  
6 seeks an order that defendants identify and locate each individual person who in the past has  
7 purchased contaminated maple syrup and to provide to each such purchaser a clear and  
8 reasonable warning that eating, using or touching the contaminated maple syrup will cause  
9 exposures to chemicals known to cause birth defects and other reproductive harm.

10 4. Though lead has been listed pursuant to Health & Saf. Code § 25249.8 as known  
11 to cause both reproductive toxicity and cancer, this complaint alleges Proposition 65 violations  
12 only as to exposures to lead in its capacity as a reproductive toxin.

13 5. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure  
14 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known  
15 to cause birth defects and other reproductive harm.

16 PARTIES

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

26 7. Defendants are persons doing business within the meaning of Health & Safety  
27 Code Section 25249.11. Defendants are businesses that distribute, and/or market contaminated  
28 maple syrup in California, including the City and County of San Francisco. Distribution and/or

1 marketing of this contaminated maple syrup in the City and County of San Francisco and/or to  
2 people who live in San Francisco, causes people to eat lead while they are physically present in  
3 the City and County of San Francisco.

4 8. Plaintiff brings this enforcement action against Defendants pursuant to Health &  
5 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
6 Notice of Violation dated June 6, 2013, which Mateel sent to California's Attorney General. On  
7 that same day, substantively identical letters were sent to every District Attorney in the state, to  
8 the City Attorneys of every California city with a population greater than 750,000, and to each  
9 defendant. Attached to the Notice of Violation sent to each defendant was a summary of  
10 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
11 Assessment. In addition, each Notice of Violation plaintiff sent was accompanied by a  
12 Certificate of Service attesting to the service of the Notice of Violation on each entity which  
13 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of  
14 Merit attesting to the reasonable and meritorious basis for the action was also sent with each  
15 Notice of Violation. Factual information sufficient to establish the basis of the Certificate of  
16 Merit was enclosed with the Notice of Violation letters Mateel sent to the Attorney General.

17 9. Each defendant employs more than ten people.

#### 18 JURISDICTION

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

24 11. This Court also has jurisdiction over Defendants because they are businesses that  
25 have sufficient minimum contacts in California and within the City and County of San Francisco.  
26 Defendants intentionally availed themselves of the California and San Francisco County markets  
27 for maple syrup. It is thus consistent with traditional notions of fair play and substantial justice  
28 for the San Francisco Superior Court to exercise jurisdiction over Defendants.



1 residents of California handle, use and or eat contaminated maple syrup in such ways as would  
2 cause significant exposures to these chemicals.

3 18. By the above described acts, Defendants have violated Cal. Health & Safety Code  
4 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition  
5 65, to provide warnings to all present and future customers and to provide warnings to their past  
6 customers who purchased Defendants' contaminated maple syrup without receiving a clear and  
7 reasonable warning.

8 SECOND CAUSE OF ACTION  
9 (Claim for Civil Penalties)

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

12 20. By the above described acts, Defendants are liable and should be liable pursuant  
13 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each  
14 individual exposed without proper warning to lead by eating, using and handling Defendants'  
15 contaminated maple syrup.

16 PRAYER FOR RELIEF

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

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

21 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil  
22 penalty in an amount equal to \$2,500.00 per day per individual exposed to lead in violation of  
23 Section 25249.6 of the California Health & Safety Code, as the result of Defendants' distributing  
24 or marketing of lead-contaminated maple syrup;

25 3. That Defendants be ordered to identify and locate each individual who purchased  
26 contaminated maple syrup and provide a warning to each such person that the contaminated  
27 maple syrup the person purchased will expose that person to chemicals known to cause birth  
28 defects.

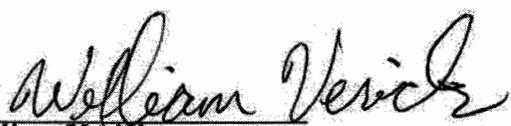
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4. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

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

Dated: September 3, 2013

KLAMATH ENVIRONMENTAL LAW CENTER

By   
William Verick  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation