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FILED
SAN FRANCISCO COUNTY
SUPERIOR COURT

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16 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF SAN FRANCISCO
19 (Unlimited Jurisdiction)

20 MATEEL ENVIRONMENTAL
21 JUSTICE FOUNDATION,

CASE NO. CGC - 14 - 539537

22 Plaintiff,

23 COMPLAINT FOR INJUNCTIVE RELIEF
24 AND CIVIL PENALTIES

25 v.

26 APEX TOOL GROUP, LLC.;
27 BATTENFELD TECHNOLOGIES, INC.;
28 BLAZER MANUFACTURING, CORP.;
29 FROST CUTLERY; MASCO
30 CORPORATION; OHAUS CORP.; THE
31 L.R. STARRETT COMPANY; WEEMS &
32 PLATH, INC.,

BUSINESS TORT

33 Defendants.

34 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:
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1 and who in the future may be exposed to the above mentioned toxic chemicals from the use of
2 Defendants' products.

3 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
4 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
5 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that
6 defendants identify and locate each individual person who in the past has purchased Leaded-
7 brass Products and to provide to each such purchaser a clear and reasonable warning that the
8 Leaded-brass Products will cause exposures to chemicals known to cause birth defects.

9
10 PARTIES

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

20 6. Defendants are each a person doing business within the meaning of Health &
21 Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or
22 market Leaded-brass Products in California, including the City and County of San Francisco.
23 Manufacture, distribution and/or marketing of these products in the City and County of San
24 Francisco and/or to people who live in San Francisco, causes people to be exposed to lead and
25 lead compounds while they are physically present in the City and County of San Francisco.

26 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
27 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
28 Notice of Violation letter dated February 12, 2014, which Mateel sent to California's Attorney

1 General. Letters identical in substance were sent to every District Attorney in the state, and to
2 the City Attorneys of every California city with a population greater than 750,000. On that
3 same date, Mateel sent an identical Notice of Violation letter to defendant Masco Corporation.
4 Also attached hereto and incorporated by reference is a Notice of Violation letter dated March 6,
5 2014, which Mateel sent to California's Attorney General. Letters identical in substance were
6 sent to every District Attorney in the state, and to the City Attorneys of every California city
7 with a population greater than 750,000. On that same date, Mateel sent an identical Notice of
8 Violation letter to each of defendants, Apex Tool Group, LLC; Battenfeld Technologies, Inc.;
9 Blazer Manufacturing, Corp.; Dramm Corporation; Frost Cutlery; Ohaus Corp.; The L.R.
10 Starrett Company; The Sports Authority, Inc.; Toolmart, Inc.; Weems & Plath, Inc.
11 Attached to the Notice of Violation Letters sent to each defendant was a summary of
12 Proposition 65 that was prepared by California's Office of Environmental Health Hazard
13 Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a
14 Certificate of Service attesting to the service of the Notice of Violation Letter on each entity
15 which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate
16 of Merit attesting to the reasonable and meritorious basis for the action was also sent with each
17 Notice of Violation Letter. Factual information sufficient to establish the basis of the Certificate
18 of Merit was enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

19 8. Defendants are all businesses that employ more than ten people.
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21 JURISDICTION

22 9. The Court has jurisdiction over this action pursuant to California Health & Safety
23 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
24 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter
25 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought,
26 does not grant jurisdiction to any other trial court.

27 10. This Court also has jurisdiction over Defendants because they are businesses that
28 have sufficient minimum contacts in California and within the City and County of San

1 Francisco. Defendants intentionally availed themselves of the California and San Francisco
2 County markets for leaded-brass tools. It is thus consistent with traditional notions of fair play
3 and substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

4 11. Venue is proper in this Court because Defendants market their leaded-brass tools
5 in and around San Francisco and thus cause people to be exposed to lead and lead compounds
6 while those people are physically present in San Francisco. Liability for Plaintiff's causes of
7 action, or some parts thereof, has accordingly arisen in San Francisco during the times relevant
8 to this Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

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10 FIRST CAUSE OF ACTION
(Claim for Injunctive Relief)

11 12. Plaintiff realleges and incorporates by reference into this First Claim for Relief,
12 as if specifically set forth herein, paragraphs 1 through 11, inclusive.

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

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

20 15. Since at least June 1, 2011, Defendants have engaged in conduct that violates
21 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
22 intentionally exposing to the above mentioned toxic chemicals, those California residents who
23 handle and use Leaded-brass Products. The normally intended use of Leaded-brass Products
24 causes exposure to lead and lead compounds, which are chemicals known to the State of
25 California to cause cancer, birth defects and other reproductive harm. Defendants have not
26 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
27 25249.6 and 25249.11.

28 16. At all times relevant to this action, Defendants knew that the Leaded-brass

1 Products they manufactured, distributed or marketed were causing exposures to lead and lead
2 compounds. Defendants intended that residents of California handle and use Leaded-brass
3 Products in such ways as would lead to significant exposures to these chemicals.

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

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10 SECOND CAUSE OF ACTION
(Claim for Civil Penalties)

11 18. Plaintiff realleges and incorporates by reference into this First Claim for Relief,
12 as if specifically set forth herein, paragraphs 1 through 17, inclusive.

13 19. By the above described acts, Defendants are liable and should be liable pursuant
14 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
15 individual exposed to lead and lead compounds from the handling or use of Defendants' leaded-
16 brass tools.

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1 PRAYER FOR RELIEF

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

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

6 B. Pursuant to the Second Cause of Action, that each Defendants be assessed a civil
7 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
8 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
9 Defendants' manufacturing, distributing or marketing of Leaded-brass Products;

10 C. That Defendants be ordered to identify and locate each individual who purchased
11 Leaded-brass Products and provide a warning to each such person that the Leaded-brass
12 Products the person purchased will expose that person to chemicals known to cause birth
13 defects.

14 D. That, pursuant to Cal. Code of Civil Procedure §1021.5, Defendants be ordered
15 to pay Mateel's attorney's fees and costs incurred in prosecuting this action.

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

17 Dated: May 29, 2014

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20 David Williams
21 Attorney for Plaintiff
22 Mateel Environmental Justice Foundation
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