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12	WITTELL LIVING WILLIVIAL JOSTICE FOOTE	
13	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
14	COUNTY OF H	
15	(Unlimited Jur	isdiction)
16	MATEEL ENVIRONMENTAL JUSTICE	CASE NO. DR140469
17	FOUNDATION,	
18	Plaintiff,	COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES
19	v.	
20	ANDERSON'S MAPLE SYRUP, INC.; B&G	TOXIC TORT/ENVIRONMENTAL
21	FOODS, INC.; BASCOM FAMILY FARMS, INC.; CITADELLE MAPLE SYRUP	
21	PRODUCERS CO-OPERATIVE; DUTCH GOLD HONEY, INC.; GREAT NORTHERN	
	MAPLE PRODUCTS INC.; L B MAPLE TREAT	
23	CORPORATION; LES INDUSTRIES BERNARD & FILS LTÉE; SPECIALTY	
24	BRANDS OF AMERICA, INC.; AND, VERMONT MAPLE SUGAR COMPANY, INC.	
25		
26	Defendants.	
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28		
	COMPLAINT FOR INJUNCTION	
	AND CIVIL PENALTIES 1	

AND CIVIL PENALTIES

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MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

- 1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants ANDERSON'S MAPLE SYRUP, INC.; B&G FOODS, INC.; BASCOM FAMILY FARMS, INC.; CITADELLE MAPLE SYRUP PRODUCERS CO-OPERATIVE; DUTCH GOLD HONEY, INC.; GREAT NORTHERN MAPLE PRODUCTS INC.; L B MAPLE TREAT CORPORATION; LES INDUSTRIES BERNARD & FILS LTÉE; SPECIALTY BRANDS OF AMERICA, INC.; and, VERMONT MAPLE SUGAR COMPANY, INC. (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle, use, and eat lead-contaminated maple syrup. Handling, using and eating this contaminated maple syrup causes people who do so to be exposed to lead, lead and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead"). Defendants sell, distribute and/or market this contaminated maple syrup. California residents ingest or otherwise come into contact with lead when they handle or eat this maple syrup that has been contaminated with lead. Eating or handling this contaminated maple syrup causes people to be exposed to lead a chemical known to the State of California to cause birth defects and other reproductive harm.
- 2. Defendants market, and/or distribute lead-contaminated maple syrup. Defendants intend that residents of California handle and eat maple syrup that has been contaminated with lead. Defendants intentionally market, and/or distribute this contaminated maple syrup. When this contaminated maple syrup is handled in its normally intended manner and when people eat the contaminated maple syrup, they are exposed to lead. Handling maple syrup causes people's skin to contact the lead-contaminated syrup. Defendants' syrup thus exposes Californians to lead via the dermal, mucous membrane, subcutaneous and ingestion routes. In spite of knowing that residents of California were and are being exposed to this toxic heavy metal when they handle, use and eat this contaminated maple syrup, Defendants did not and do not provide clear and reasonable warnings that this contaminated maple syrup causes exposure to chemicals known to cause birth defects and other reproductive harm.

- 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel Defendants to bring their business practices into compliance with section 25249.5 et seq. by providing a clear and reasonable warning to each individual who has been and who in the future may be exposed to lead from the use of Defendants' contaminated maple syrup. Plaintiff seeks an order that defendants identify and locate each individual person who in the past has purchased contaminated maple syrup and to provide to each such purchaser a clear and reasonable warning that eating, using or touching the contaminated maple syrup will cause exposures to chemicals known to cause birth defects and other reproductive harm.
- 4. Though lead has been listed pursuant to Health & Saf. Code § 25249.8 as known to cause both reproductive toxicity and cancer, this complaint alleges Proposition 65 violations only as to exposures to lead in its capacity as a reproductive toxin.
- 5. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known to cause birth defects and other reproductive harm.

PARTIES

- 6. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") is a non-profit organization dedicated to, among other causes, the protection of the environment, promotion of human health, environmental education, and consumer rights. Mateel is based in Eureka, California, and is incorporated under the laws of the State of California. Mateel is a "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of California are regularly exposed to lead and lead compounds from handling and eating contaminated maple syrup sold by Defendants and are so exposed without a clear and reasonable Proposition 65 warning.
- 7. Defendants are persons doing business within the meaning of Health & Safety Code Section 25249.11. Defendants are businesses that distribute, and/or market contaminated maple syrup in California, including the City of Eureka and the County of Humboldt.
- Distribution and/or marketing of this contaminated maple syrup in the City of Eureka and the

County of Humboldt and/or to people who live in the City of Eureka and the County of Humboldt, causes people to eat lead while they are physically present in the City of Eureka and the County of Humboldt.

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

JURISDICTION

- 10. The Court has jurisdiction over this action pursuant to California Health & Safety Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought, does not grant jurisdiction to any other trial court.
- 11. This Court also has jurisdiction over Defendants because they are businesses that have sufficient minimum contacts in California and within the City of Eureka and the County of Humboldt. Defendants intentionally availed themselves of the California and Humboldt County markets for maple syrup. It is thus consistent with traditional notions of fair play and substantial justice for the Humboldt Superior Court to exercise jurisdiction over Defendants.

12. Venue is proper in this Court because Defendants market contaminated maple syrup in and around the County of Humboldt and thus cause people to be exposed to lead while those people are physically present in the County of Humboldt. Liability for Plaintiff's causes of action, or some parts thereof, has accordingly arisen in the County of Humboldt during the times relevant to this Complaint and Plaintiff seeks civil penalties imposed by statute.

FIRST CAUSE OF ACTION (Claim for Injunctive Relief)

- 13. Plaintiff realleges and incorporates by reference into this First Cause of Action, as if specifically set forth herein, paragraphs 1 through 12, inclusive.
- 14. The People of the State of California have declared by referendum under Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, and reproductive harm."
- 15. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates that businesses that knowingly and intentionally expose any individual to a chemical known to the State of California to cause cancer or birth defects must first provide a clear and reasonable warning to such individual prior to the exposure.
- 16. Since at least three years prior to the attached Notice of Violation Letter,
 Defendants have engaged in conduct that violates Health and Safety Code Section 25249.6 et
 seq. This conduct includes knowingly and intentionally exposing to lead, those California
 residents who handle, use or eat contaminated maple syrup. For more than a year, defendants and
 their agents have been provided with laboratory analysis of their maple syrup. These analyses
 show that defendants' maple syrup contains lead. The normally intended use of the contaminated
 maple syrup (eating it) causes exposure to lead, a chemical known to the State of California to
 cause cancer, birth defects and other reproductive harm. Defendants have not provided clear and
 reasonable warnings within the meaning of Health & Safety Code Sections 25249.6 and
 25249.11.
- 17. At all times relevant to this action, Defendants knew that the contaminated maple syrup that they distributed or marketed was causing exposures to lead. Defendants intended that

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

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

SECOND CAUSE OF ACTION (Claim for Civil Penalties)

- 19. Plaintiff realleges and incorporates by reference into this Second Cause of Action, as if specifically set forth herein, paragraphs 1 through 18, inclusive.
- 20. By the above described acts, Defendants are liable and should be liable pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual exposed without proper warning to lead by eating, using and handling Defendants' contaminated maple syrup.

PRAYER FOR RELIEF

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

- 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety Code;
- 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed to lead in violation of Section 25249.6 of the California Health & Safety Code, as the result of Defendants' distributing or marketing of lead-contaminated maple syrup;
- 3. That Defendants be ordered to identify and locate each individual who purchased contaminated maple syrup and provide a warning to each such person that the contaminated maple syrup the person purchased will expose that person to chemicals known to cause birth 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: August 14, 2014

KLAMATH ENVIRONMENTAL LAW CENTER

William Verick

Mateel Environmental Justice Foundation