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MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

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

16 MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION,

17 Plaintiff,

18 v.
19

20 ANDERSON'S MAPLE SYRUP, INC.; B&G
FOODS, INC.; BASCOM FAMILY FARMS,
21 INC.; CITADELLE MAPLE SYRUP
PRODUCERS CO-OPERATIVE; DUTCH
22 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.
27
28

FILED NS

AUG 14 2014

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

CASE NO.

DR140469

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 ANDERSON'S MAPLE SYRUP, INC.; B&G FOODS, INC.; BASCOM
5 FAMILY FARMS, INC.; CITADELLE MAPLE SYRUP PRODUCERS CO-OPERATIVE;
6 DUTCH GOLD HONEY, INC.; GREAT NORTHERN MAPLE PRODUCTS INC.; L B
7 MAPLE TREAT CORPORATION; LES INDUSTRIES BERNARD & FILS LTÉE;
8 SPECIALTY BRANDS OF AMERICA, INC.; and, VERMONT MAPLE SUGAR COMPANY,
9 INC. (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of
10 California, who handle, use, and eat lead-contaminated maple syrup. Handling, using and eating
11 this contaminated maple syrup causes people who do so to be exposed to lead, lead and lead
12 compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively, "lead").
13 Defendants sell, distribute and/or market this contaminated maple syrup. California residents
14 ingest or otherwise come into contact with lead when they handle or eat this maple syrup that has
15 been contaminated with lead. Eating or handling this contaminated maple syrup causes people to
16 be exposed to lead a chemical known to the State of California to cause birth defects and other
17 reproductive harm.

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

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

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 of Eureka and the County of
26 Humboldt. Defendants intentionally availed themselves of the California and Humboldt County
27 markets for maple syrup. It is thus consistent with traditional notions of fair play and substantial
28 justice for the Humboldt 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.

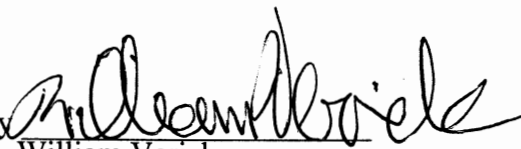
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4. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

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

Dated: August 14, 2014

KLAMATH ENVIRONMENTAL LAW CENTER

By 
William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation