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County of Los Angeles

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MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF LOS ANGELES  
(Unlimited Jurisdiction)

14 MATEEL ENVIRONMENTAL  
JUSTICE FOUNDATION,

CASE NO.

BC 595795

15 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

16 v.

18 SIX FLAGS ENTERTAINMENT  
CORPORATION, SIX FLAGS MAGIC  
19 MOUNTAIN and MAGIC MOUNTAIN  
LLC,

TOXIC TORT/ENVIRONMENTAL

20 Defendants.

21 \_\_\_\_\_ /  
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 defendants SIX FLAGS ENTERTAINMENT CORPORATION, SIX FLAGS MAGIC  
26 MOUNTAIN and MAGIC MOUNTAIN LLC (hereinafter "SIX FLAGS" or "Defendant"), to  
27 give clear and reasonable warnings to patrons who visit the Six Flags Magic Mountain attraction,  
28 Cyclone 500, that standing or sitting in close proximity to Cyclone 500 causes exposure to engine

By Fax

1 exhaust and its toxic components, including carbon monoxide (hereinafter “engine exhaust”).  
2 Engine exhaust is known to cause cancer, birth defects and other reproductive harm. The go karts  
3 that patrons drive at Cyclone 500 emit engine exhaust and components of that exhaust, including  
4 carbon monoxide, are concentrated in the air at Cyclone 500 at levels that require warnings  
5 pursuant to Health & Safety Code section 25249.6. When people drive go karts at Cyclone 500,  
6 when they stand in line at Cyclone 500 and when they observe and photograph drivers at Cyclone  
7 500, they breathe engine exhaust and its components, including carbon monoxide, at levels that  
8 require Proposition 65 warnings.

9           2.       Six Flags operates “Six Flags Magic Mountain” an amusement park located in  
10 Valencia, California. Cyclone 500 is a go kart track at Six Flags Magic Mountain where Six  
11 Flags patrons can drive go karts around a track. The go karts at Cyclone 500 utilize gasoline-  
12 powered engines that emit engine exhaust. This exhaust contains the following components:  
13 engine exhaust (condensates/extracts), carbon monoxide, benzene, toluene, benzo(a)pyrene,  
14 formaldehyde, acetaldehyde, 1,3-butadiene, benz(a)anthracene, benzo(b)fluoranthene,  
15 benzo(k)fluoranthene, benzo(j)fluoranthene, chrysene, and indeno [1,2,3-cd] pyrene. These  
16 chemicals are all known to cause cancer, birth defects or other reproductive harm. Six Flags  
17 intends that residents of California go to Cyclone 500, stand in line at Cyclone 500, drive go  
18 karts at Cyclone 500, and watch and film people who are driving go karts at Cyclone 500. Six  
19 Flags knows that when people go to Cyclone 500, they inhale air. Six Flags knows that when  
20 people inhale air at Cyclone 500 they inhale, and are thus exposed to, engine exhaust and its  
21 components, including carbon monoxide and the other above-referenced components of engine  
22 exhaust. Six Flags did not and does not provide clear and reasonable warnings that the air in  
23 close proximity to Cyclone 500 causes exposure to chemicals known to cause cancer, birth  
24 defects or other reproductive harm.

25           3.       Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7  
26 to compel Six Flags to bring its business practices into compliance with section 25249.5 *et seq.*  
27 by providing a clear and reasonable warning to each individual who has been and who in the  
28 future may be exposed to engine exhaust and its components, including carbon monoxide, by

1 breathing go kart exhaust in proximity to Cyclone 500.

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

5 PARTIES

6 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”)  
7 is a non-profit organization dedicated to, among other causes, the protection of the environment,  
8 promotion of human health, environmental education, and consumer rights. Mateel is based in  
9 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a  
10 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement  
11 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of  
12 California are exposed to engine exhaust and its components, including carbon monoxide,  
13 without a clear and reasonable Proposition 65 warning, from the exhaust generated by the go  
14 karts Six Flags operates at Cyclone 500

15 6. Six Flags is a person doing business within the meaning of Health & Safety Code  
16 Section 25249.11. Six Flags is a business that owns, operates, and promotes “Six Flags Magic  
17 Mountain,” an amusement park located in Valencia, California. The exposures to engine exhaust  
18 and its components, including carbon monoxide, that is generated by the Cyclone 500 go karts  
19 Six Flags operates at “Six Flags Magic Mountain” occur in Los Angeles County.

20 7. Plaintiff brings this enforcement action against Six Flags pursuant to Health &  
21 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
22 Notice of Violation letter, dated June 30, 2015, which Mateel sent to California's Attorney  
23 General. Substantially identical letters were sent on that same day to the District Attorney of Los  
24 Angeles County, to the City Attorney for the City of Los Angeles, and to Six Flags. Attached to  
25 the Notice of Violation letters sent to Six Flags was a summary of Proposition 65 that was  
26 prepared by California’s Office of Environmental Health Hazard Assessment. In addition, each  
27 Notice of Violation letter plaintiff sent was accompanied by a Certificate of Service attesting to  
28 the service of the Notice of Violation letter on each entity that received it. Pursuant to California

1 Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and  
2 meritorious basis for the action was also sent with each Notice of Violation letter. Factual  
3 information sufficient to establish the basis of the Certificate of Merit was enclosed with the  
4 Notice of Violation letters Mateel sent to the Attorney General.

5 8. Six Flags employs more than nine people.

6 JURISDICTION

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

12 10. This Court also has jurisdiction over Six Flags because its is a businesses that has  
13 sufficient minimum contacts in California and within Los Angeles County. Six Flags  
14 intentionally availed itself of the legal protections offered by California and by Los Angeles  
15 County by locating its amusement park in Valencia, within the geographical confines of Los  
16 Angeles County, California. It is thus consistent with traditional notions of fair play and  
17 substantial justice for the Los Angeles County Superior Court to exercise jurisdiction over Six  
18 Flags.

19 11. Venue is proper in this Court because the location where exposures to engine  
20 exhaust and its components, including carbon monoxide, have occurred due to Six Flags'  
21 operation of go karts at its amusement park is within Los Angeles County. Liability for  
22 Plaintiff's causes of action, or some parts thereof, has accordingly arisen in Los Angeles County  
23 during the times relevant to this Complaint and Plaintiff seeks civil penalties imposed by statute.

24 FIRST CAUSE OF ACTION  
25 (Claim for Injunctive Relief)

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

28 13. The People of the State of California have declared by referendum under

1 Proposition 65 (California Health & Safety Code § 25249.5 *et seq.*) their right "[t]o be informed  
2 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

3 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates  
4 that businesses that knowingly and intentionally expose any individual to a chemical known to  
5 the State of California to cause cancer or birth defects must first provide a clear and reasonable  
6 warning to such individual prior to the exposure.

7 15. Since at least three years prior to receiving the Notice of Violation Letter, Six  
8 Flags has engaged in conduct that violates Health and Safety Code Section 25249.6 *et seq.* This  
9 conduct includes knowingly and intentionally exposing to the above mentioned toxic chemicals,  
10 those California residents who visit Cyclone 500. Six Flags has not provided clear and  
11 reasonable warnings of the exposure within the meaning of Health & Safety Code Sections  
12 25249.6 and 25249.11.

13 16. At all times relevant to this action, Six Flags knew that the exhaust from the  
14 Cyclone 500 go karts was causing exposures to engine exhaust and its components, including  
15 carbon monoxide. Six Flags intended that residents of California visit Cyclone 500 and its  
16 vicinity and that while there, they inhale air in a manner that would lead to significant exposures  
17 to these chemicals.

18 17. By the above described acts, Six Flags has violated Cal. Health & Safety Code  
19 § 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to  
20 provide warnings to all present and future park visitors regarding the exposures to engine exhaust  
21 and its components, including carbon monoxide, caused by go karts operated at Cyclone 500.

22  
23 SECOND CAUSE OF ACTION  
(Claim for Civil Penalties)

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

26 19. By the above described acts, Six Flags is liable and should be liable pursuant to  
27 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual  
28 exposed without proper warning to engine exhaust and its components, including carbon

1 monoxide, from Six Flags' operation of go karts at Cyclone 500.

2 PRAYER FOR RELIEF

3 Wherefore, plaintiff prays for judgment against DEFENDANT, as follows:

4 1. Pursuant to the First Cause of Action, that Six Flags be enjoined, restrained, and  
5 ordered to comply with the provisions of Section 25249.6 of the California Health & Safety  
6 Code;

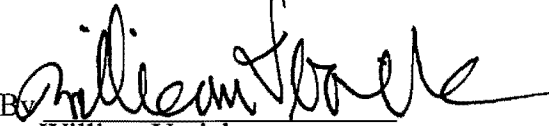
7 2. Pursuant to the Second Cause of Action, that Six Flags be assessed a civil penalty  
8 in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section 25249.6  
9 of the California Health & Safety Code, to engine exhaust and its components, including carbon  
10 monoxide, as the result of Six Flags' operation of go karts at Cyclone 500.;

11 3. That, pursuant to Civil Procedure Code § 1021.5, Six Flags be ordered to pay to  
12 Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

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

14  
15 Dated: September 23, 2015

KLAMATH ENVIRONMENTAL LAW CENTER

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18 William Verick  
19 Attorney for Plaintiff  
20 Mateel Environmental Justice Foundation  
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