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CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

APR 04 2016

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES  
(Unlimited Jurisdiction)

By Fax

<p>MATEEL ENVIRONMENTAL JUSTICE FOUNDATION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>GNS DEVELOPMENT CORPORATION, MULLIGAN LTD., A CALIFORNIA LIMITED PARTNERSHIP.</p> <p>Defendants.</p>	<p>Case No. BC 614636 48</p> <p>FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES</p> <p>TOXIC TORT/ENVIRONMENTAL</p>
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MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

Mateel v. GNS Development Corporation, Case No. BC 614636 - First Amended Complaint

## INTRODUCTION

1  
2  
3 1. This Complaint seeks civil penalties and an injunction to remedy the continuing  
4 failure of GNS Development Corporation; and Mulligan LTD., A California Limited Partnership  
5 (hereinafter individually "DEFENDANT" and collectively "DEFENDANTS"), to give clear and  
6 reasonable warnings to patrons who visit each go kart attraction of the amusement parks owned  
7 and operated by each DEFENDANT, that driving the go karts and standing or sitting in the area  
8 of the go karts causes exposure to engine exhaust and its toxic components, including carbon  
9 monoxide, benzene, toluene, benzo(a)pyrene, formaldehyde, acetaldehyde, 1,3-butadiene,  
10 benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(j)fluoranthene, chrysene,  
11 and indeno [1,2,3-cd] pyrene (hereinafter "Engine Exhaust"). Engine Exhaust is known to cause  
12 cancer, birth defects and other reproductive harm. The go karts that patrons drive at each of the  
13 DEFENDANTS' go kart attractions emit Engine Exhaust. Engine Exhaust is concentrated in the  
14 air at each of the go kart attractions at levels that require warnings pursuant to Health & Safety  
15 Code section 25249.6. When people drive go karts at each of the go kart attractions, when they  
16 stand in line at each of the go kart attractions and when they observe and photograph drivers at  
17 each of the go kart attractions, they breathe Engine Exhaust at levels that require Proposition 65  
18 warnings.  
19  
20

21 2. GNS Development Corporation operates "Golf N' Stuff," which is a chain of  
22 amusement parks located in Norwalk and Ventura. Mulligan LTD., A California Limited  
23 Partnership operates "Mulligan Family Fun Center," which is a chain of amusement parks  
24 located in Palmdale, Torrance and Murrieta. Each amusement park at each location operates a  
25 go kart attraction that includes gasoline powered go karts operated on a track where patrons can  
26 drive go karts around a track. The go karts at each go kart attraction use a gasoline-powered  
27 engine that emits Engine Exhaust. This exhaust contains the following: engine exhaust  
28

1 (condensates/extracts), carbon monoxide, benzene, toluene, benzo(a)pyrene, formaldehyde,  
2 acetaldehyde, 1,3-butadiene, benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene,  
3 benzo(j)fluoranthene, chrysene, and indeno [1,2,3-cd] pyrene. These chemicals are all known to  
4 cause cancer, birth defects or other reproductive harm. Each DEFENDANT intends that  
5 residents of California go to their amusement park, and the go kart attraction, stand in line at the  
6 go kart attraction, drive go karts at the go kart attraction, and watch and film people who are  
7 driving go karts at the go kart attraction. Each DEFENDANT knows that when people go to the  
8 amusement park go kart attraction, they inhale air. Each DEFENDANT knows that when people  
9 inhale air at the go kart attraction they inhale, and are thus exposed to, Engine Exhaust and its  
10 components, including carbon monoxide and the other above-referenced components of engine  
11 exhaust. Each DEFENDANT did not and does not provide clear and reasonable warnings that  
12 the air in close proximity to a go kart attraction causes exposure to chemicals known to cause  
13 cancer, birth defects or other reproductive harm.

14  
15  
16 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to  
17 compel each DEFENDANT to bring its business practices into compliance with section 25249.5  
18 et seq. by providing a clear and reasonable warning to each individual who has been and who in  
19 the future may be exposed to Engine Exhaust and its components, including carbon monoxide,  
20 by breathing go kart exhaust in proximity to the go kart attraction.

21  
22 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure of each  
23 DEFENDANT to provide clear and reasonable warnings regarding exposure to chemicals known  
24 to cause cancer, birth defects and other reproductive harm.

#### 25 PARTIES

26  
27 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”) is a  
28 non-profit organization dedicated to, among other causes, the protection of the environment,

1 promotion of human health, environmental education, and consumer rights. Mateel is based in  
2 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a  
3 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement  
4 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of  
5 California are exposed to Engine Exhaust and its components, including carbon monoxide,  
6 without a clear and reasonable Proposition 65 warning, from the exhaust generated by the go  
7 karts which are operated by each DEFENDANT at their amusement park go kart attractions.

9 6. GNS Development Corporation is a person doing business within the meaning of Health  
10 & Safety Code Section 25249.11. GNS Development Corporation is a business that owns,  
11 operates, and promotes the "Golf N' Stuff" amusement park chain, which incorporates go kart  
12 attractions operating gasoline-powered go karts, at locations in California, including at least one  
13 amusement park in Los Angeles County. Exposures to Engine Exhaust and its components,  
14 including carbon monoxide, that is generated by the go karts operated by GNS Development  
15 Corporation occur in Los Angeles County.

17 7. Mulligan LTD., A California Limited Partnership, is a person doing business within the  
18 meaning of Health & Safety Code Section 25249.11. Mulligan LTD., A California Limited  
19 Partnership, is a business that owns, operates, and promotes the "Mulligan Family Fun Center"  
20 amusement park chain, which incorporates go kart attractions operating gasoline-powered go  
21 karts, at locations in California, including at least one in Los Angeles County. Exposures to  
22 Engine Exhaust and its components, including carbon monoxide, that is generated by the go karts  
23 operated by Mulligan LTD., A California Limited Partnership occur in Los Angeles County.

25 8. Plaintiff brings this enforcement action against each DEFENDANT pursuant to Health &  
26 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a  
27 Notice of Violation letter, dated July 23, 2015, which Mateel sent to California's Attorney  
28

1 General. A substantially identical letter was sent on that same day to the District Attorney of this  
2 County and to each DEFENDANT. Attached to the Notice of Violation letters sent to each  
3 DEFENDANT was a summary of Proposition 65 that was prepared by California's Office of  
4 Environmental Health Hazard Assessment. In addition, each Notice of Violation letter plaintiff  
5 sent was accompanied by a Certificate of Service attesting to the service of the Notice of  
6 Violation letter on each entity that received it. Pursuant to California Health & Safety Code  
7 Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the  
8 action was also sent with each Notice of Violation letter. Factual information sufficient to  
9 establish the basis of the Certificate of Merit was enclosed with the Notice of Violation letters  
10 Mateel sent to the Attorney General.  
11

12  
13 9. Each DEFENDANT employs more than ten people.

#### 14 JURISDICTION

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

21 11. This Court also has jurisdiction over each DEFENDANT because it is a businesses that  
22 has sufficient minimum contacts in California and within this county. Each DEFENDANT has  
23 intentionally availed itself of the legal protections offered by California and by locating an  
24 amusement park within the geographical confines of this county. It is thus consistent with  
25 traditional notions of fair play and substantial justice for this Superior Court to exercise  
26 jurisdiction over each DEFENDANT.  
27

28 12. Venue is proper in this Court because the location where exposures to Engine Exhaust and

1 its components, including carbon monoxide, have occurred due to each DEFENDANT's  
2 operation of go karts at its amusement park is within this county. Liability for Plaintiff's causes  
3 of action, or some parts thereof, has accordingly arisen in this county during the times relevant to  
4 this First Amended Complaint and Plaintiff seeks civil penalties imposed by statute.  
5

6 FIRST CAUSE OF ACTION  
7 (Claim for Injunctive Relief)

8 13. Plaintiff re-alleges and incorporates the foregoing paragraphs as if fully set forth herein.

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

12 15. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates that  
13 businesses that knowingly and intentionally expose any individual to a chemical known to the  
14 State of California to cause cancer or birth defects must first provide a clear and reasonable  
15 warning to such individual prior to the exposure.  
16

17 16. Since at least three years prior to receiving the Notice of Violation Letter, each  
18 DEFENDANT has engaged in conduct that violates Health and Safety Code Section 25249.6 et  
19 seq. This conduct includes knowingly and intentionally exposing to the above mentioned toxic  
20 chemicals, those California residents who visit the go kart attraction of each amusement park  
21 operated by each DEFENDANT . Each DEFENDANT has not provided clear and reasonable  
22 warnings of the exposure within the meaning of Health & Safety Code Sections 25249.6 and  
23 25249.11.  
24

25 17. At all times relevant to this action, each DEFENDANT knew that the exhaust from the go  
26 karts operated at the go kart attraction of the amusement park which the DEFENDANT owned  
27 and operated was causing exposures to Engine Exhaust and its components, including carbon  
28

1 monoxide. Each DEFENDANT intended that residents of California visit the go kart attraction  
2 of the amusement park owned and operated by each DEFENDANT and its vicinity and that  
3 while there, they inhale air in a manner that would lead to significant exposures to these  
4 chemicals.  
5

6 18. By the above described acts, each DEFENDANT has violated Cal. Health & Safety Code  
7 § 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to  
8 provide warnings to all present and future park visitors regarding the exposures to Engine  
9 Exhaust and its components, including carbon monoxide, caused by go karts operated at the go  
10 kart attraction of the amusement park owned and operated by that DEFENDANT.  
11

12 SECOND CAUSE OF ACTION  
13 (Claim for Civil Penalties)

14 19. Plaintiff re-alleges and incorporates the foregoing paragraphs as if fully set forth herein.

15 20. By the above described acts, each DEFENDANT is liable and should be liable pursuant to  
16 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual  
17 exposed without proper warning to Engine Exhaust and its components, including carbon  
18 monoxide, from that DEFENDANT's operation of go karts at the go kart attractions at the  
19 amusement parks owned and operated by that DEFENDANT.  
20

21 PRAYER FOR RELIEF

22 Wherefore, plaintiff prays for judgment against each DEFENDANT, as follows:

- 23 1. Pursuant to the First Cause of Action, that each DEFENDANT be enjoined, restrained,  
24 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety  
25 Code;
- 26 2. Pursuant to the Second Cause of Action, that each DEFENDANT be assessed a civil  
27 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section  
28

1 25249.6 of the California Health & Safety Code, to Engine Exhaust and its components,  
2 including carbon monoxide, as the result of each DEFENDANT's operation of go karts at the go  
3 kart attraction of its amusement park;  
4

5 3. That, pursuant to Civil Procedure Code § 1021.5, each DEFENDANT be ordered to pay to  
6 Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action;

7 4. For such other relief as this court deems just and proper.  
8

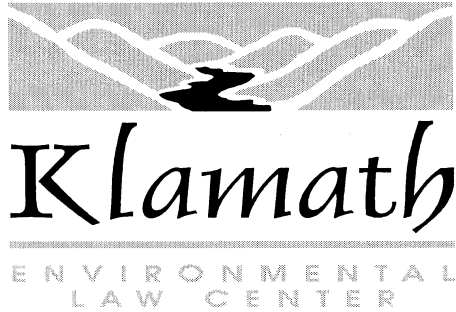
9 Dated: March 31, 2016

10  
11 By



12 David Williams  
13 Attorney for Plaintiff  
14 Mateel Environmental Justice Foundation  
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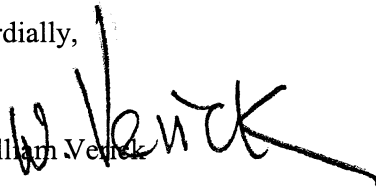
July 23, 2015

PROPOSITION 65 ENFORCEMENT REPORTING  
ATTENTION: PROP 65 COORDINATOR  
1515 CLAY STREET, SUITE 2000  
P.O. BOX 70550  
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the companies listed on the service list have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below-listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations pertain to the areas in proximity to the go kart tracks at the company locations listed on the accompanying locations list. The areas at the go kart tracks subject to this notice include inside the go karts themselves, the areas where people wait in line to take their turn driving the go karts, the areas where people wait for their friends or family members to disembark from the go karts, and where people stand to watch or photograph their friends and family members drive the go karts. These areas are hereinafter referred to collectively as "go kart tracks." The go karts at these go kart tracks are powered by small gasoline engines. The gasoline engines that power the go karts expose people at the go kart tracks to gasoline engine exhaust (condensates/extracts), as well as many of the toxic components of gasoline engine exhaust. These toxic components are carbon monoxide, benzene, toluene, benzo(a)pyrene, formaldehyde, acetaldehyde, 1,3-butadiene, benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(j)fluoranthene, chrysene and indeno[1,2,3-cd] pyrene (collectively hereinafter "engine exhaust components"). Gasoline engine exhaust and the listed components are all chemicals known to the State to cause cancer and/or reproductive toxicity. Because the small gasoline-engine powered go karts expel these chemicals as exhaust into the air, the people operating the go karts, and those standing nearby at the go kart tracks, inhale these chemicals. Their skin also comes into contact with these chemicals, and they ingest the chemicals. Exposure to these chemicals thus comes via the inhalation, dermal exposure and ingestion routes. The businesses subject to this notice -- the owners and operators of the go kart tracks -- did not and do not provide people with clear and reasonable warnings before it exposes them to engine exhaust components. Exposures that are the subject of this notice do not occur off the property of the businesses subject to this notice. These violations have occurred every day since July 21, 2012, and will continue every day until clear and reasonable warnings are provided to exposed people. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. This letter alleges environmental exposures that violate Section 25249.6. The common characteristic that all these sources of exposure share -- and which distinguishes these sources from other sources for which no violation is alleged -- is that the sources to which this letter pertains are the small gasoline-engines that power go karts and the operation of those go karts at the go kart tracks.

Cordially,

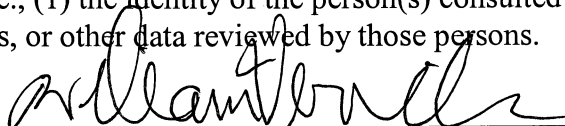
  
William Venick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

## CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached notice(s) of violation in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: July 23, 2015



William Verick

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This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

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## CERTIFICATE OF SERVICE

I, Matt Lang, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On July 23, 2015, I caused the attached NOTICE OF VIOLATION LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached NOTICE OF VIOLATION and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 23, 2015, at Eureka, California.



Matt Lang

# SERVICE LIST

PROPOSITION 65 ENFORCEMENT REPORTING  
ATTENTION: PROP 65 COORDINATOR  
1515 CLAY STREET, SUITE 2000  
POST OFFICE BOX 70550  
OAKLAND, CA 94612-0550

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN DIEGO CONSUMER &  
ENVIRONMENTAL PROTECTION  
1200 THIRD AVENUE, SUITE 700  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF ALAMEDA  
1225 FALLON STREET ROOM 900  
OAKLAND, CA 94612

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF KERN  
1215 TRUXTUN AVE. FLOOR 4  
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF LOS ANGELES  
18000 CRIMINAL COURTS BUILDING  
210 W. TEMPLE ST.  
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE  
3960 ORANGE ST.  
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SACRAMENTO  
901 G STREET  
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN BERNARDINO  
316 MT. VIEW AVE.  
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN DIEGO  
330 W. BROADWAY, SUITE 1100  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF STANISLAUS  
1100 I ST. #200  
MODESTO, CA 95354

VENTURA COUNTY DISTRICT ATTORNEY'S  
OFFICE  
800 SOUTH VICTORIA AVE  
VENTURA, CA 93009

CURTIS PARKS, CEO  
AMUSEMENT MANAGEMENT PARTNERS, LLC.  
4446 HENDRICKS AVE #147  
JACKSONVILLE, FL, 32207

JOHN ROBERT HARRIS, II, CEO  
GO KART WORLD, INC.  
13 ROCKINGHORSE ROAD  
RANCHO PALOS VERDES, CA 90275

JOHN AND CHERRY TREBLE-PARKER  
LEIGHTON RUFF, LLC, DBA LOLLIPOP PARK  
PO BOX 3090  
LAKE ARROWHEAD, CA 92352

JAMES STRATTON BUCK, CEO  
UMIGO RACING, INC.  
91 MACALVEY DR  
MARTINEZ, CA 94553

W. ROSS BRILES, CEO  
PUTT PUTT OF MODESTO, INC.  
603 FLOYD AVE.  
MODESTO, CA 95350

GEORGIA S. CLAESSENS  
MULLIGAN LIMITED, A CALIFORNIA LIMITED  
PARTNERSHIP  
4281 KATELLA AVENUE # 215  
CYPRESS, CA 90720

GEORGIA S. CLAESSENS  
MULLIGAN LIMITED, A CALIFORNIA LIMITED  
PARTNERSHIP  
1313 WEST SEPULVEDA BLVD.  
TORRANCE, CA 90501

GEORGE BRIMHALL, CEO  
GNS DEVELOPMENT CORPORATION  
9211 N MARTINGALE RD.  
PARADISE VALLEY, AZ 85234

WILLIAM TY LARSON, CEO  
SCANDIA FAMILY FUN CENTERS, INC.  
4607 WARDMAN BULLOCK  
ETIWANDA, CA 91739

JAMES W. RICHARDSON, CEO  
KARTSCAPE, INC.  
8123 MIRALANI DR  
SAN DIEGO, CA, 92126

## LOCATION LIST

**Camelot Park** (Bakersfield, Kern County) - Amusement Management Partners, LLC.

**Go Kart World** (Carson, Los Angeles County) - Go Kart World, Inc.

**Lollipop Park** (Lake Arrowhead, San Bernadino County) - Leighton Ruff, LLC, DBA Lollipop Park

**Umigo Indoor Kart Racing** (Livermore, Alameda County) - Umigo Racing, Inc.

**FunWorks** (Modesto, Stanislaus County) - Putt Putt of Modesto, Inc.

**Mulligan Family Fun Center** (Torrance, Los Angeles County; Palmdale, Los Angeles County) - Mulligan LTD, A California Limited Partnership

**Golf N Stuff** (Norwalk, Los Angeles County; Ventura, Ventura County) - GNS Development Corporation

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**Scandia** (Ontario, San Bernadino County; Sacramento, Sacramento County; Victorville, San Bernadino County) - Scandia Family Fun Centers, Inc.

**Miramar Speed Circuit** (San Diego, San Diego County) - Kartscape, Inc.