

1 WILLIAM VERICK, CSB #140972
Klamath Environmental Law Center
2 1125 16th Street, Suite 204
Arcata, CA 95521
3 Telephone: (707) 630-5061
Facsimile: (707) 630-5064
4 email: wverick@igc.org

5 DAVID H. WILLIAMS, CSB #144479
BRIAN ACREE, CSB #202505
6 1990 North California Blvd., 8th Floor
Walnut Creek, CA 94596
7 Telephone: (510) 847-2356
8 email: dhwill7@gmail.com
brian@brianacree.com

9 Attorneys for Plaintiff,
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13 (Unlimited Jurisdiction)

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

08/19/2021
Clerk of the Court
BY: RONNIE OTERO
Deputy Clerk

CGC-21-594626

14 MATEEL ENVIRONMENTAL
JUSTICE FOUNDATION,

CASE NO.

15 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

16 v.

17
18 CYDEA, INC.

TOXIC TORT/ENVIRONMENTAL

19 Defendant.

20 _____ /
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

21 INTRODUCTION

22 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
23 failure of Defendant CYDEA, INC (hereinafter "Defendant"), to give clear and reasonable
24 warnings to those residents of California, who handle and use, and drink beverages served via
25 leaded brass valves, stopcocks or beer taps (hereinafter "beverage taps"), that handling and use of
26 and drinking from these beverages served via these taps causes those residents to be exposed to
27 lead and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter,
28

1 collectively, “lead”). The types of products to which this Complaint pertains are those types
2 listed in the Proposition 65 Notice of Violation Letter that is attached to and incorporated by
3 reference into this Complaint. Lead is known to the State of California to cause cancer, birth
4 defects and male and female reproductive toxicity. Defendant distributes, and/or markets
5 beverage taps. These products cause exposures to lead and lead compounds, which are chemicals
6 known to the State of California to cause cancer, birth defects and other reproductive harm.

7 2. Defendant markets, and/or distributes beverage taps. Defendant intends that
8 residents of California handle, use and drink beverages that are served via beverage taps that
9 Defendant markets, and/or distributes. When these products are handled and used in their
10 normally intended manner and when people drink beverages that have been served via them,
11 these beverage taps expose people to lead. In spite of knowing that residents of California were
12 and are being exposed to this toxic heavy metal when they handle, use and drink beverages
13 served via these beverage taps, Defendant did not and does not provide clear and reasonable
14 warnings that these products cause exposure to chemicals known to cause cancer, birth defects
15 and other reproductive harm.

16 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
17 to compel Defendant to bring its business practices into compliance with section 25249.5 et seq.
18 by providing a clear and reasonable warning to each individual who has been and who in the
19 future may be exposed to the above mentioned toxic chemicals from the use of Defendant’s
20 products. Plaintiff seeks an order that defendant identify and locate each individual person who
21 in the past has purchased beverage taps, and to provide to each such purchaser a clear and
22 reasonable warning that the beverage taps will cause exposures to chemicals known to cause
23 birth defects.

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

27 PARTIES

28 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”)

1 is a non-profit organization dedicated to, among other causes, the protection of the environment,
2 promotion of human health, environmental education, and consumer rights. Mateel is based in
3 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
4 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
5 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
6 California are regularly exposed to lead and lead compounds from beverage taps manufactured,
7 distributed or marketed by Defendant and are so exposed without a clear and reasonable
8 Proposition 65 warning.

9 6. Defendant is a person doing business within the meaning of Health & Safety Code
10 Section 25249.11. Defendant is a business that distributes, and/or markets beverage taps in
11 California, including the City and County of San Francisco. Distribution and/or marketing of
12 these products in the City and County of San Francisco and/or to people who live in San
13 Francisco, causes people to be exposed to lead and lead compounds while they are physically
14 present in the City and County of San Francisco.

15 7. Plaintiff brings this enforcement action against Defendant pursuant to Health &
16 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
17 Notice of Violation letter, dated January 14, 2021, which Mateel sent to California's Attorney
18 General. Substantively identical letters were sent to every District Attorney in the state, and to the
19 City Attorneys of every California city with a population greater than 750,000, and to each
20 defendant. Attached to the Notice of Violation letter sent to each defendant was a summary of
21 Proposition 65 that was prepared by California's Office of Environmental Health Hazard
22 Assessment. In addition, each Notice of Violation letter plaintiff sent was accompanied by a
23 Certificate of Service attesting to the service of the Notice of Violation
24 Letter on each entity which received it. Pursuant to California Health & Safety Code Section
25 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the action
26 was also sent with each 60-Day Notice Letter. Factual information sufficient to establish the
27 basis of the Certificate of Merit was enclosed with the 60-Day Notice letter Mateel sent to the
28 Attorney General.

1 8. Each defendant employs more than ten people.

2 JURISDICTION

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

8 10. This Court also has jurisdiction over Defendant because it is a business that has
9 sufficient minimum contacts in California and within the City and County of San Francisco.
10 Defendant intentionally availed itself of the California and San Francisco County markets for
11 beverage taps. It is thus consistent with traditional notions of fair play and substantial justice for
12 the San Francisco Superior Court to exercise jurisdiction over Defendant.

13 11. Venue is proper in this Court because Defendant markets its products in and
14 around San Francisco and thus causes people to be exposed to lead and lead compounds while
15 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
16 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
17 Complaint and Plaintiff seeks civil penalties imposed by statute.

18 FIRST CAUSE OF ACTION
19 (Claim for Injunctive Relief)

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

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

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

1 15. Since at least January 14, 2020, Defendant has engaged in conduct that violates
2 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
3 intentionally exposing to the above mentioned toxic chemicals, those California residents who
4 handle, use or drink beverages served via Defendant's beverage taps. The normally intended use
5 of beverage taps causes exposure to lead and lead compounds, which are chemicals known to the
6 State of California to cause cancer, birth defects and other reproductive harm. Defendant has not
7 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
8 25249.6 and 25249.11.

9 16. At all times relevant to this action, Defendant knew that the beverage taps it
10 distributed or marketed were causing exposures to lead and lead compounds. Defendant
11 intended that residents of California handle, use and drink beverages served via beverage taps in
12 such ways as would lead to significant exposures to these chemicals.

13 17. By the above described acts, Defendant has violated Cal. Health & Safety Code
14 § 25249.6 and is therefore subject to an injunction ordering them to stop violating Proposition
15 65, to provide warnings to all present and future customers and to provide warnings to their past
16 customers who purchased Defendant's products without receiving a clear and reasonable
17 warning.

18 SECOND CAUSE OF ACTION
19 (Claim for Civil Penalties)

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

22 19. By the above described acts, Defendant is liable and should be liable pursuant to
23 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual
24 exposed without proper warning to lead and lead compounds from the handling, use of, or the
25 drinking of beverages served via Defendant's beverage taps.

26 PRAYER FOR RELIEF

27 Wherefore, plaintiff prays for judgment against Defendant, as follows:

28 1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and

1 ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
2 Code;

3 2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil
4 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
5 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
6 Defendant's distributing or marketing of beverage taps;


7 3. That Defendant be ordered to identify and locate each individual who purchased
8 beverage taps and provide a warning to each such person that the beverage taps the person
9 purchased will expose that person to chemicals known to cause birth defects.

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

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

13 Dated: August 19, 2021

14 KLAMATH ENVIRONMENTAL LAW
15 CENTER

16
17 By 

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