

1 WILLIAM VERICK, SBN 140972  
Klamath Environmental Law Center  
2 1125 Sixteenth Street, Suite 204  
Arcata, CA 95521  
3 Telephone: (707) 630-5061  
Facsimile: (707) 630-5064  
4 E-Mail wverick@igc.org

5 DAVID WILLIAMS, SBN 144479  
BRIAN ACREE, SBN 202505  
6 1700 Ygnacio Valley Road, Suite 202  
Walnut Creek, CA 94598  
7 Telephone: (510) 847-2356  
E-Mail: dhwill7@gmail.com; brian@brianacree.com

8 Attorneys for Plaintiff,  
9 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**07/27/2023**  
Clerk of the Court  
BY: MARK UDAN  
Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY SAN FRANCISCO  
12 (Unlimited Jurisdiction)

13 MATEEL ENVIRONMENTAL  
14 JUSTICE FOUNDATION,

CASE NO.

**CGC-23-607957**

15 Plaintiff,

16 v.

COMPLAINT FOR INJUNCTIVE RELIEF  
AND CIVIL PENALTIES

17 HERMÉS USA,

18 Defendant.  
19 \_\_\_\_\_/

TOXIC TORT/ENVIRONMENTAL

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 HERMÉS USA (hereinafter “Hermés” or “Defendant”), to give clear and  
24 reasonable warnings to those residents of California, who drink from leaded crystal glassware that  
25 Defendants sell in California. Defendant sells leaded crystal wine glasses, high ball glasses,  
26 cocktail glasses, decanters and other glassware that is made from leaded crystal and contains lead  
27 at high levels. When beverages are stored in or served from this leaded crystal, some of the lead  
28 leaches out of the crystal into the drink. A person who drinks from this crystal thus ingests lead, a

1 chemical known to the State of California to cause reproductive toxicity. This causes an exposure  
2 to lead within the meaning of Health and Safety Code Section 25249.6.

3 2. Defendant sells leaded crystal throughout California, including in San Francisco.  
4 Defendant's leaded crystal imparts lead to beverages that are stored in or served from it. This  
5 causes exposure to lead, a chemical listed pursuant to 27 Cal. Code Regs. § 27001 as known to  
6 cause male and female reproductive toxicity, as well as developmental toxicity.

7 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7  
8 to compel Defendant to bring its business practices into compliance with Health & Safety Code  
9 section 25249.5 et seq. by providing a clear and reasonable warning to each individual who has  
10 been and who in the future may be, exposed to lead by drinking from Defendant's leaded crystal.

11 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure  
12 of Defendant to provide clear and reasonable warnings regarding exposure to a chemical known to  
13 cause male and female reproductive toxicity, as well as developmental toxicity.

#### 14 PARTIES

15 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") is  
16 a non-profit organization dedicated to, among other causes, the protection of the environment,  
17 promotion of human health, environmental education, and consumer rights. Mateel is based in  
18 Arcata, California, and is incorporated under the laws of the State of California. Mateel is a  
19 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement action  
20 in the public interest pursuant to Health & Safety Code §25249.7(d).

21 6. Defendant is a manufacturer, importer, distributor and retailer of leaded crystal.  
22 Defendant is a person doing business within the meaning of Health & Safety Code Section  
23 25249.11. Defendant is a business that sells leaded crystal at retail in California, including in San  
24 Francisco County. Exposures to lead that are at issue in this case occur in the City and County of  
25 San Francisco.

26 7. Plaintiff brings this enforcement action against Defendant pursuant to Health &  
27 Safety Code Section 25249.7(d). Attached hereto as Exhibit 1 and incorporated by reference is a  
28 copy of the Notice of Violation letter, dated April 5, 2023 that Mateel sent to Defendant. A

1 substantively identical letter was sent to the California Attorney General, District Attorneys for  
2 the counties of San Francisco, Los Angeles, San Diego, Orange and Santa Clara. This same letter  
3 was also sent to the City Attorneys for the cities of San Francisco, San Jose, San Diego and Los  
4 Angeles. Attached to the Notice of Violation Letter sent to Defendant was a summary of  
5 Proposition 65 that was prepared by California's Office of Environmental Health Hazard  
6 Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a  
7 Certificate of Service attesting to the service of the Notice of Violation Letter on each entity that  
8 received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of  
9 Merit attesting to the reasonable and meritorious basis for the action was also sent with each  
10 Notice of Violation Letter. Factual information sufficient to establish the basis of the Certificate  
11 of Merit was enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

12 8. Defendant employs more than ten people.

#### 13 JURISDICTION

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

19 10. This Court also has jurisdiction over Defendant because it is a business that has  
20 sufficient contacts in California and within San Francisco County. Defendant intentionally  
21 availed itself of the legal protections offered by California and by San Francisco County when  
22 marketing its leaded crystal for use in San Francisco, California. It is thus consistent with  
23 traditional notions of fair play and substantial justice for the San Francisco Superior Court to  
24 exercise jurisdiction over Defendant.

25 11. Venue is proper in this Court because exposures to lead caused by Defendant's  
26 leaded crystal occur in San Francisco. Liability for Plaintiff's causes of action, or some parts  
27 thereof, has accordingly arisen in San Francisco during the times relevant to this Complaint and  
28 Plaintiff seeks civil penalties imposed by statute.

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FIRST CAUSE OF ACTION  
(Claim for Injunctive Relief)

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

13. 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."

14. 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 developmental toxicity must first provide a clear and reasonable warning to such individual prior to the exposure.

15. Since at least three years prior to the Notice of Violation Letter, Defendant has 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 drink beverages that have been stored in or served from leaded crystal that Defendant sells at their its stores throughout California. Defendant has not provided clear and reasonable warnings of the exposure within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

16. At all times relevant to this action, Defendant knew that its leaded crystal was causing exposures to lead. In spite of this knowledge, Defendant sold leaded crystal, the intended use for which caused the lead exposures Defendant knew would occur.

17. By the above described acts, Defendant has violated Cal. Health & Safety Code § 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to provide warnings to all present and future customers who buy leaded crystal Defendant sells in California.

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SECOND CAUSE OF ACTION  
(Claim for Civil Penalties)

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

19. By the above described acts, Defendant is liable and should be liable pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500 per day for each individual exposed without proper warning to lead when these individuals drank lead-contaminated beverages from Defendants' leaded crystal.

## PRAAYER FOR RELIEF

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

1. Pursuant to the First Cause of Action, that Defendant 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 Defendant be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed in violation of Section 25249.6 of the California Health & Safety Code to lead when they drank lead-contaminated beverages from Defendants' leaded crystal;

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

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

Dated: July 26, 2023

Klamath Environmental Law Center

By   
William Verick  
Attorney for Plaintiff  
Mateel Environmental Justice Foundation



April 5, 2023

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

ATTORNEY GENERAL COPY  
CONTAINS OFFICIAL  
INFORMATION PURSUANT TO  
EVIDENCE CODE §1040

Greetings:

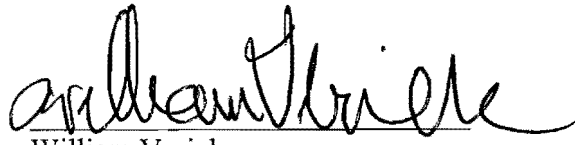
This office and the Mateel Environmental Justice Foundation (“Mateel”) hereby provide notice that Hermés USA has been, is, will be and threatens to be in violation of Cal. Health & Safety Code §25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below-listed address and telephone number, I may be considered a “responsible individual” at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when these businesses market crystal glass serve ware and drink ware, the glass for which, contains lead. Examples of such drink ware and serve ware include decanters, carafes, tumblers, wine glasses, champagne flutes, and cocktail glasses (as for martinis) (collectively hereinafter “Products at Issue”). Ingesting food or beverages stored in or served from the Products at Issue exposes the people who do so to lead and lead compounds, (hereinafter, collectively, “lead”). Lead leaches from the Products at Issue into the food or beverage stored in, or served from, them. The food or beverage is then consumed and the accompanying lead ingested. These exposures occur via the ingestion route of exposure. These violations have occurred every day since at least April 5, 2020, and will continue every day until reasonable warnings are given to those people exposed or until Hermés USA stops selling leaded crystal.

Cordially,  
  
William Verick

### 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: April 6, 2023



William Verick

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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 1125 Sixteenth Street, Suite 204, Arcata, California, 95521. On April 6, 2023, 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 April 6, 2023, at Arcata, 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 FRANCISCO  
CITY HALL, ROOM 234  
1 DR. CARLTON B. GOODLETT PLACE  
SAN FRANCISCO, CA 94102-4682

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN JOSE  
200 EAST SANTA CLARA STREET  
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY  
CITY OF LOS ANGELES  
200 N. MAIN ST.  
LOS ANGELES, CA 90012

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 LOS ANGELES  
18000 CRIMINAL COURTS BUILDING  
210 W. TEMPLE ST.  
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF ORANGE  
401 CIVIC CENTER DR WEST  
SANTA ANA, CA 92701

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 SAN FRANCISCO  
350 RHODE ISLAND STREET  
NORTH BUILDING, SUITE 400N  
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA CLARA  
70 W. HEDDING ST.  
SAN JOSE, CA 95110

ROBERT B. CHAVEZ, PRESIDENT/CEO  
HERMÉS USA  
55 E. 59TH STREET, 2ND FLOOR  
NEW YORK, NY 10022