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1 WILLIAM VERICK (BAR NO. 140972)
2 KLAMATH ENVIRONMENTAL LAW CENTER
3 FREDRIC EVENSON (BAR NO 198059)
4 424 First Street
5 Eureka, California 95501
6 (707) 268-8900 Voice
7 (707) 268-8901 Facsimile

8 DAVID H. WILLIAMS (BAR NO. 144479)
9 BRIAN ACREE (BAR NO. 202505)
10 370 Grand Avenue, Suite 5
11 Oakland, California 94610
12 (510) 271-0826 Voice
13 (510) 271-0829 Facsimile

14 Attorneys for Plaintiff Mateel Environmental Justice Foundation

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SAN FRANCISCO

17 MATEEL ENVIRONMENTAL JUSTICE
18 FOUNDATION,

19 Plaintiff,

20 v.

21 BELL AUTOMOTIVE PRODUCTS, INC.,
22 IMPERO ELECTRONICS, INC., POTTERY
23 BARN, INC., RESTORATION HARDWARE,
24 INC. SMART INNOVATIONS, INC., and Does
25 1 through 100, inclusive.

26 Defendants.

**ENDORSED
FILED**
San Francisco County Superior Court

JAN 10 2007

GORDON PARK-LI, Clerk
BY: MARJORIE SCHWARTZ-SCOTT
Deputy Clerk

Case No. 453399

~~[PROPOSED]~~ CONSENT JUDGMENT
AS TO BELL AUTOMOTIVE
PRODUCTS, INC.

1 **1. INTRODUCTION**

2 1.1 On or about December 22, 2005, the Mateel Environmental Justice Foundation
3 (“MEJF”) and its attorneys, Klamath Environmental Law Center (“KELC”), sent 60 Day Notice
4 Letters to the Office of the California Attorney General of the State of California (“California
5 Attorney General”), all California counties’ District Attorneys and all City Attorneys of
6 California cities with populations exceeding 750,000, (collectively, “Public Enforcers”),
7 charging certain businesses with violating the Safe Drinking Water and Toxic Enforcement Act
8 of 1986, California Health and Safety Code Section 25249.5 et seq. (“Proposition 65”), in their
9 manufacture, distribution and/or sale of wires and cables coated with polyvinyl chloride
10 (“PVC”). Specifically, MEJF charged that persons handling the PVC-coated wires and cables
11 (hereinafter sometimes referred to as the “Cords”) were exposed to certain chemicals, listed
12 under Proposition 65, including, cadmium, hexavalent chromium, vinyl chloride, lead and lead
13 compounds, lead acetate, lead phosphate, lead subacetate and di(2ethylhexyl) phthalate.

14 2.1 On or about June 21, 2006, MEJF (“Plaintiff”), acting on behalf of itself, the
15 public interest, and the general public for the matters described in the Notice Letter, filed a
16 Complaint for civil penalties and injunctive relief (“Complaint”) in the San Francisco Superior
17 Court, fashioned, *MATEEL ENVIRONMENTAL JUSTICE FOUNDATION v. BELL*
18 *AUTOMOTIVE PRODUCTS, INC., et al.* Case No. 453399 based on the Notice Letter. The
19 Complaint alleged, among other things, that Bell Automotive Products, Inc., (hereinafter “Bell
20 Automotive” or “Settling Defendant”) violated Proposition 65 by manufacturing, marketing
21 and/or distributing to California residents products that are themselves or which incorporate
22 wires and cables that are PVC-coated and failing to provide clear and reasonable warnings to
23 California residents who handle and use such products that the handling and use of those
24 products in their normally intended manner will cause those persons to be exposed to
25 Proposition 65 Chemicals.

26 3.1 Plaintiff and Settling Defendant are, for purposes of this Consent Judgment,
27 collectively referred to as the “Parties,” with each of them a “Party”.

28

1 4.1 For purposes of this Consent Judgment, the term "Covered Products" means
2 products that are themselves, or that incorporate, utilize, or have appended to them, Cords, and
3 that are manufactured, distributed, marketed or sold by the Settling Defendant. The term
4 Covered Products includes both such products that are subject to the Warning Requirements of
5 Section 7, and those that are not, including those products that are exempted from the warning
6 requirements of this Consent Judgment pursuant to Sections 7.1 or 7.3. The term "Covered
7 Products" also includes products which are manufactured, distributed, marketed and/or sold by
8 the Settling Defendant either under its own name or brand or under the name or brand of another
9 (e.g., privately labeled products).

10 5.1 For purposes of this Consent Judgment only, the Settling Defendant admits that:
11 (a) it is a business that employs more than ten persons and manufactures, distributes and/or sells
12 Covered Products into the State of California; (b) the Covered Products contain one or more
13 Proposition 65 Chemicals; and (c) Proposition 65 Chemicals are chemicals listed under
14 Proposition 65 as being known to the State of California to cause cancer and/or reproductive
15 toxicity.

16 6.1 For purposes of this Consent Judgment only, the Parties stipulate that this Court
17 has jurisdiction over the allegations of violations contained in the Complaints and personal
18 jurisdiction over the Settling Defendant as to the acts alleged in the Complaints, that venue is
19 proper in the County of San Francisco and that this Court has jurisdiction to enter this Consent
20 Judgment as a full settlement and resolution of the allegations contained in the Complaints and
21 Notice Letters and of all claims which were or could have been raised by any person or entity
22 based in whole or in part, directly or indirectly, on the facts alleged therein, arising therefrom or
23 related thereto.

24 7.1 The Parties enter into this Consent Judgment pursuant to a full and final
25 settlement of any and all claims between the Parties for the purpose of avoiding prolonged
26 litigation. This Consent Judgment shall not constitute an admission with respect to any material
27 allegation of the Complaints, each and every allegation of which the Settling Defendant denies;
28 nor may this Consent Judgment or compliance with it be used as evidence of any wrongdoing,

1 misconduct, culpability or liability on the part of any Settling Defendant. The Settling Defendant
2 maintains that its Covered Products have at all times complied with all applicable laws, including
3 Proposition 65.

4 2. SETTLEMENT PAYMENT

5 2.1 In settlement of all of the claims referred to in this Consent Judgment against the
6 Settling Defendant:

7 (a) On or before November 30, 2006, the Settling Defendant shall pay Forty
8 Thousand Dollars (\$40,000) to KELC. Payment shall be made in immediately negotiable funds
9 and sent to KELC, 424 First Street, Eureka, CA 95501. KELC shall hold these funds in its trust
10 account until entry of this Consent Judgment by the Court, after which KELC shall distribute the
11 payments as follows:

12 (i) Twenty Thousand Dollars (\$20,000) shall be paid to KELC for attorneys
13 fees and costs incurred by KELC on behalf of Plaintiff in investigating this matter and
14 negotiating this Consent Judgment on behalf of itself and the general public,

15 (ii) Twenty Thousand Dollars (\$20,000) shall be distributed by KELC at the
16 direction of MEJF among the following non-profit organizations: Californians for Alternatives
17 to Toxics; the Center for Ethics and Toxics, a project of the Tides Foundation; the Center on
18 Race, Poverty and the Environment; the Ecological Rights Foundation; the Environmental
19 Protection Information Center; Golden Gate University School of Law Environmental Litigation
20 Clinic; and Six Rivers Planned Parenthood to be used by Six Rivers Planned Parenthood for
21 counseling on the effects toxic exposures can have on birth defects and reproductive and
22 developmental toxicity;

23 (iii) If, within 120 days of the execution of this agreement by Settling Defendant,
24 the Consent Judgment has not be entered by the Court, KELC shall return the payment to the
25 Settling Defendant.

26 2.2 MEJF and KELC represent and warrant that each of the organizations identified
27 in Paragraph 2.1(a)(ii) above is a tax exempt, section 501(c)(3) non-profit organization and that
28 funds distributed to these organizations pursuant to this Consent Judgment may only be spent to

1 reduce harm from toxic chemicals, or to increase consumer, worker and community awareness of
2 health hazards posed by lead and other toxic chemicals.

3 2.3 Except as specifically provided in this Consent Judgment, each side shall bear its
4 own costs and attorney's fees.

5 3. **ENTRY OF CONSENT JUDGMENT**

6 3.1 The Parties request that the Court promptly enter this Consent Judgment and
7 waive their respective rights to a hearing or trial on the allegations of the Complaint.

8 4. **MATTERS COVERED BY THIS CONSENT JUDGMENT**

9 4.1 For purposes of Section 4 of this Consent Judgment, the term Settling Defendant
10 shall include the Settling Defendant, as defined above, and its past, present and future parents
11 (including BAP LLC), divisions, subdivisions, brands, subsidiaries and affiliates and the
12 predecessors, successors and assigns of any of them as well as their past, present and future
13 officers, directors, employees, agents, attorneys, representatives, shareholders and assigns. For
14 purposes of Section 4, the term Settling Defendant shall also be deemed to include the Settling
15 Defendant's supplier of Covered Products, but only with respect to those Covered Products that
16 such supplier manufactures for the Settling Defendant. The preceding sentence shall not apply
17 with respect to a supplier who ships Covered Products directly to a consumer at the request of
18 the Settling Defendant, where a warning is provided to address the obligations of this Consent
19 Judgment solely pursuant to Section 7.5(e) below. A list delineating some, but not necessarily
20 all, of the names of the various business entities and brands or product types referred to in this
21 Paragraph and in existence on or before the date of this Consent Judgment is attached hereto as
22 Exhibit C.

23 4.2 As to Covered Products, this Consent Judgment is a final and binding resolution
24 between Plaintiff acting on behalf of itself and, (as to those matters referenced in the Notice
25 Letters) in the public interest pursuant to Health and Safety Code Section 25249.7(d) and the
26 general public pursuant to Business and Professions Code Section 17204 and the Settling
27 Defendant of: (a) any violation of Proposition 65; or, (b) with respect to exposures to the
28 Proposition 65 Chemicals associated with the use of Covered Products, the Unfair Competition

1 Act, Business and Professions Code § 17200 *et seq.*; or (c) with respect to exposures to the
2 Proposition 65 Chemicals associated with the use of Covered Products, any other statutory or
3 common law claim, to the fullest extent that any such claims were or could have been asserted by
4 any person or entity against the Settling Defendant based on its or their exposure of persons to
5 chemicals contained in or otherwise associated with the use of Covered Products manufactured,
6 sold or distributed by, for or on behalf of the Settling Defendant and/or their alleged failure to
7 provide a clear and reasonable warning of such exposure to such individuals; or (d) as to
8 exposures to chemicals contained in or otherwise associated with the use of Covered Products,
9 any other claim based in whole or part on the facts alleged in the Complaints or Notice Letters,
10 whether based on actions or omissions committed by the Settling Defendant or any other entity
11 within the Settling Defendant's chain of distribution, including, but not limited to, customers,
12 wholesale or retail sellers or distributors and any other person in the course of doing business
13 ("Downstream Entity").

14 4.3 As to any claims, violations (except violations of this Consent Judgment), actions,
15 damages, costs, penalties, or causes of action which may arise or have arisen after the original
16 date of entry of this Consent Judgment, compliance by the Settling Defendant with the terms of
17 this Consent Judgment shall be deemed to constitute its full and complete compliance with
18 Proposition 65 with respect to the provision of warnings for chemicals contained in or otherwise
19 associated with the use of Covered Products, provided that the concentrations of those chemicals
20 other than lead are materially similar to that associated with the Covered Products with respect to
21 Proposition 65 at the time this Consent Judgment is entered.

22 4.4 Notwithstanding Sections 4.2 or 4.3 above, as to all customers, distributors,
23 wholesalers, retailers or any other Downstream Entity, except as otherwise indicated in Sections
24 4.5 and 4.6 below, which may in the course of doing business use, maintain, distribute, or sell
25 Covered Products which are manufactured, distributed or sold by the Settling Defendant
26 (including Covered Products which are privately labeled by the Settling Defendant for a
27 Downstream Entity), Plaintiff (acting on behalf of itself and, as to those matters raised in the
28 Notice Letters, on behalf of the general public) waives all rights to institute any form of legal

1 action whether under Proposition 65 or otherwise, arising out of or resulting from or related
2 directly or indirectly to, in whole or in part, exposure to, or otherwise associated with the use of
3 and alleged failure to warn with respect to Proposition 65 Chemicals contained in Covered
4 Products.

5 4.5 Nothing in this Consent Judgment shall be deemed to release, from past liability
6 under Proposition 65 or any other statute or regulation (except from liability for occupational
7 exposures under the circumstances set forth in Sections 4.6, 7.5 and 7.6 of this Consent
8 Judgment), any entity which incorporates Cords obtained from the Settling Defendant into a
9 Covered Product the entity manufactures or distributes for sale to retail consumers, unless such
10 entity is itself a Settling Defendant; nor shall any such entity which is not itself a Settling
11 Defendant be entitled to utilize or otherwise rely on the provisions of this Consent Judgment.
12 Notwithstanding the preceding sentence, however, compliance with the terms of Section 7 of this
13 Consent Judgment by an entity that incorporates Cords obtained from the Settling Defendant into
14 a Covered Product it manufactures or distributes for sale to retail consumers, shall be deemed to
15 constitute compliance with Proposition 65 with respect to Covered Products it sells in the future.

16 4.6 Nothing in this Consent Judgment shall be deemed to require an out of state
17 manufacturer of Covered Products to provide a Proposition 65 warning for occupational
18 exposures occurring within the State of California. Nothing in this Consent Judgment will be
19 deemed to release a California employer from liability for failure to comply with its obligations,
20 if any, to provide warnings under Proposition 65 for the exposures of its employees to chemicals
21 contained in or otherwise associated with Non-Retail Covered Products (as defined in Section
22 7.6 below) unless such employer makes Proposition 65 warning information available to its
23 employees in the manner specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code
24 Regs. § 5194.

25 4.7 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and
26 benefits which it now has, or in the future may have, conferred upon it by virtue of the provisions
27 of Section 1542 of the California Civil Code, which provides as follows:

28 ////

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
2 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
3 TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING
4 THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE
5 MATERIALLY AFFECTED HIS SETTLEMENT WITH THE
6 DEBTOR.

7 Plaintiff understands and acknowledges that the significance and consequence of its waiver of
8 California Civil Code Section 1542 is that even if Plaintiff and/or, with respect to the matters
9 raised in the Notice Letters, any person or entity on whose behalf they purport to act or could act,
10 suffers future damages or harm arising out of, resulting from, or related directly or indirectly to,
11 in whole or in part, the matters covered in Sections 4.2, 4.3 and 4.4 above ("Damages"), Plaintiff
12 and any person or entity on whose behalf they purport to act or could act, will not be able to
13 make any claim for such Damages against the Settling Defendant or any of its customers,
14 distributors, wholesalers, retailers, or any other person in the course of doing business who may
15 use, maintain, distribute or sell the Covered Products. Furthermore, Plaintiff acknowledges that
16 it intends these consequences for any such Damages which may exist as of the date of this
17 release but which Plaintiff does not know exist, and which, if known, would materially affect its
18 decision to enter into this Consent Judgment, regardless of whether its lack of knowledge is the
19 result of ignorance, oversight, error, negligence, or any other cause, no matter how justifiable
20 such cause may be.

21 4.8 The Settling Defendant waives all rights to institute any form of legal action
22 against Plaintiff, its officers, directors, attorneys, consultants and representatives for all legal
23 actions undertaken or statements made in the course of such legal actions to seek enforcement of
24 this action and judgment.

25 5. **ENFORCEMENT OF JUDGMENT**

26 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
27 hereto by means of noticed motion or order to show cause before the Superior Court of San
28 Francisco County.

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1 **6. MODIFICATION OF JUDGMENT**

2 6.1 This Consent Judgment may be modified only upon written agreement of the
3 Parties and upon entry of a modified amended Consent Judgment by the Court, or upon motion
4 of any Party as provided by law and upon entry of a modified amended Consent Judgment by the
5 Court. Notwithstanding the immediately preceding sentence or any other term or provision of
6 this Consent Judgment, if Plaintiff or any affiliated entity, or the California Attorney General,
7 enters into, or agrees to in writing, or is otherwise bound by injunctive relief terms or provisions
8 relating to the provision of Proposition 65 warnings for products of a like kind to the Covered
9 Products, with regard to their Cords, which, taken together, are more favorable to the
10 defendant(s) than the terms or provisions that this Consent Judgment provide for a Covered
11 Product of like kind and characteristics with respect to its thermoset/thermoplastic-coated
12 electrical cord and use, the terms of injunctive relief provided for in Section 7 of this Consent
13 Judgment shall automatically be deemed to have been modified to add such more favorable
14 terms or provisions as an option which the Settling Defendant may elect for compliance with this
15 Consent Judgment.

16 **7. INJUNCTIVE RELIEF**

17 7.1 Covered Products shall be deemed to comply with Proposition 65 and be exempt
18 from any Proposition 65 warning requirements if the Cords that are sold as a part of or in
19 association with those Covered Products meet the following criteria: (a) the surface contact layer
20 of the Cords shall have no lead as an intentionally added constituent; and (b) the surface contact
21 layer of the Cords shall have lead content by weight of no more than 0.03% (300 parts per
22 million, or “300 ppm”). The Settling Defendant may comply with the above requirements by
23 relying on information obtained from its suppliers regarding the content of the surface contact
24 layer of the Cords, provided such reliance is in good faith. Obtaining test results showing that
25 the lead content is no more than 0.03%, using a method of sufficient sensitivity to establish a
26 limit of quantification (as distinguished from detection) of less than 300 ppm shall be deemed to
27 establish good faith reliance. Provided that the level of quantitation requirement set forth in the
28 preceding sentence is met, the test protocol and methods described on Exhibit D hereto may be

1 relied on. Nothing in the preceding two sentences shall preclude a Settling Defendant from
2 establishing good faith reliance by an alternative means.

3 7.2 Covered Products manufactured and shipped for distribution to or sale in
4 California on or after the Effective Date that do not meet the warning exemption standard set
5 forth in Section 7.1 of this Consent Judgment and are not exempt pursuant to Section 7.3 shall be
6 accompanied by a warning as described in Section 7.4 below. For purposes of this Section, 90
7 days after the entry of this Consent Judgment shall be considered the "Effective Date."

8 7.3 The following Covered Products are deemed to be exempt from any Proposition
9 65 warning requirements with respect to Cords: (a) Covered Products which because of their
10 size, weight or function have Cords that are handled only infrequently (such as upon their
11 installation in a setting where they are not typically plugged and unplugged) ("Infrequently
12 Handled Products"); (b) those Covered Products that: (i) are sold at retail before the Effective
13 Date; or (ii) are distributed or shipped for sale outside the State of California; (c) Covered
14 Products that use Cords only as internal components not normally accessible to the consumer
15 during ordinary use; and/or (d) Covered Products which contain the Proposition 65 Chemical
16 only as part of the inner conductor or other component not normally accessible to the consumer
17 during ordinary use. Exhibit E contains a list of Covered Products/Product types that are deemed
18 to meet the criteria for Infrequently Handled Products set forth in this Section 7.3 and are
19 therefore exempt. Plaintiffs have previously provided the California Attorney General's Office
20 and the Settling Defendant with a list of Covered Products/Product types that are deemed not to
21 meet the criteria for Infrequently Handled Products set forth in this Section 7.3 and therefore are
22 not exempt ("Non-Exempt Products List"). Exhibit E and the Non-Exempt Products List may be
23 used as guidance in determining whether other Covered Products meet these criteria; Exhibit E
24 and the Non-Exempt Products List may also be used by the Parties in the course of dispute
25 resolution pursuant to Section 9. The Parties acknowledge that common usage of the terms
26 "portable" and "non-portable" do not affect the classification of any Covered Products under this
27 Consent Judgment. Covered Products may be considered Infrequently Handled Products
28

1 regardless of their weight or the likelihood that they may be used while moving, whether that be
2 on a person, in a car, on an airplane or otherwise.

3 7.4 Should the Settling Defendant's Covered Products require Proposition 65
4 warnings under Section 7.2, the Settling Defendant shall, except as otherwise provided in Section
5 7.5 below, either provide one of the warnings described below or any other Proposition 65
6 warning that has been reviewed and approved in writing by the California Attorney General for
7 use with Covered Products regarding their thermoset/thermoplastic-coated wires and/or cables:

8 **"WARNING: This product contains chemicals, including lead, known to the**
9 **State of California to cause [cancer, and] birth defects or other reproductive harm.**
10 ***Wash hands after handling.*"**

11 or

12 **"WARNING: Handling the cord on this product will expose you to lead, a**
13 **chemical known to the State of California to cause [cancer, and] birth defects or**
14 **other reproductive harm. *Wash hands after handling.*"**

15 or

16 **"WARNING: The power cord on this product contains lead, a chemical known to**
17 **the State of California to cause [cancer, and] birth defects or other reproductive**
18 **harm. *Wash hands after handling.*"**

19

20 The word "WARNING" shall be in all capital letters and in bold typeface. The hand-washing
21 admonition shall be in bold typeface and italicized. Inclusion of the bracketed words "cancer,
22 and" in the above warning shall be at the Settling Defendant's option.

23 7.5 Unless otherwise indicated herein, the warning required or authorized in
24 Sections 7.4 shall be given by having it: (a) affixed to the Covered Product itself or to the unit
25 package of such Covered Product; (b) printed on the Covered Product itself or on the unit
26 package of such Covered Product; (c) displayed on an internet site for those units of Covered
27 Products sold on the internet; (d) included in the owner's manual if the conditions set forth in
28 Section 7.9 below are satisfied ("Owner's Manual Warning"); or, (e) printed on the invoice

1 issued directly to the consumer by the Settling Defendant to confirm the sale, where the Settling
2 Defendant sells Covered Products directly to consumers by telephone, mail order, or internet
3 sale, but never has physical possession of the Covered Product or its packaging.

4 7.6 If the warning is printed on the product, package label, or invoice, then the
5 warning shall be contained in the same section of the label that contains other safety warnings, if
6 any, concerning the use of the Covered Product or near its displayed price and/or UPC code.
7 Such warning shall be prominently affixed to or printed on each such Covered Product, its label
8 or package or invoice, and displayed with such conspicuousness, as compared with other words,
9 statements, designs, or devices on such Covered Product, its label, package or display or invoice
10 as to render it likely to be read and understood by an ordinary individual under customary
11 conditions of purchase or use. With respect to the preceding sentence, the type size of any
12 warning required by paragraph 7.4 must be legible, but otherwise need not be larger than any
13 other warning language used in conjunction with the Covered Product in question and its relative
14 size may take into account the nature, immediacy, and acuteness of the risks for which other
15 warnings are given. If the size of a Covered Product and its packaging is such that a warning
16 required by this Consent Judgment cannot physically be printed on its non-transparent portion in
17 a legible size, the warning may be printed on a separate piece of paper or cardstock and inserted
18 into the Covered Product's packaging, provided that i) the cardstock or paper containing the
19 warning is not white or uncolored and contains only the warning language, and ii) a substantial
20 portion of the exterior of the packaging material is transparent.

21 7.7 If a warning is provided on the internet pursuant to (c) above, the warning
22 message shall be displayed (or, upon the internet site user's identification as a California
23 resident, such as when the user types in a zip code, automatically appear) either: (a) on the same
24 page on which the Covered Product is displayed, (b) on the same page as the order form for the
25 Covered Product, or (c) on the same page as the price for the Covered Product.

26 7.8. If the warning is given in the owners manual pursuant to Section 7.9 below, it
27 shall be located in one of the following places in the manual: the outside of the front cover; the
28 inside of the front cover; the first page other than the cover; or the outside of the back cover.

1 The warning shall be printed or stamped in the manual or contained in a durable label or sticker
2 affixed to the manual in a font no smaller than the font used for other safety warnings in the
3 manual. Alternatively, the warning may be included in a safety warning section of the owner's
4 manual consistent with specifications issued by Underwriters Laboratories.

5 7.9 A warning in the owner's manual of a Covered Product may be used to satisfy the
6 warning requirements of this Section 7 only under the following circumstances: the Covered
7 Product (i) may cause serious injury or bodily harm (other than by means of fire or electrocution)
8 unless used as directed; or (ii) is sophisticated, difficult to understand or install, set-up, or
9 assemble; or (iii) has one or more features a consumer must read about in order to know how to
10 program or use the Covered Product. However, a Covered Product may not utilize an owner's
11 manual warning if it meets the following criteria: (a) the Covered Product is unlikely to cause
12 serious injury or bodily harm other than by means of fire or electrocution; (b) the Covered
13 Product is easily assembled or programmed by an ordinary consumer without need to reference
14 instructions; and (c) fundamental operation of the Covered Product is easily understood and
15 commonly performed by an ordinary consumer without training or need to reference operating
16 instructions. Exhibit F contains a list of Covered Products/product types for which Owner's
17 Manual Warnings are deemed to be an allowable method of communicating the warnings
18 required by this Section 7. Plaintiffs have previously provided the California Attorney General's
19 Office and the Settling Defendant with a list of Covered Products/product types for which
20 Owner's Manual Warnings are deemed not to be an allowable method of communicating the
21 warnings required by this Section 7 (the "Non-Owner's Manual Product List"). Exhibit F and
22 the Non-Owner's Manual Product List may be used as guidance in determining whether the
23 criteria for use of owner's manual warnings set forth in this Section are satisfied. Exhibit F and
24 the Non-Owner's Manual Products List may also be used by the Parties in the course of dispute
25 resolution pursuant to Section 9.

26 7.10 The Settling Defendant may provide an Owner's Manual Warning on any
27 Covered Products/product types, except for those listed on the Non-Owner's Manual Product
28 List, that satisfy the criteria in Section 7.9, whether or not that Covered Product or product type

1 is listed on Exhibit F. Settling Defendant shall provide to Plaintiff, by certified mail or other
2 confirmable delivery, a list of those Covered Products for which an owners manual warning is
3 proposed to be given. Plaintiff shall, within 60 days, notify Settling Defendant as to whether
4 Plaintiff agrees that an owner's manual warning is appropriate. In the event that Plaintiff
5 determines that an Owner's Manual Warning is not appropriate, it shall provide a written
6 explanation of the basis therefore. In the event that the Settling Defendant disagrees with
7 Plaintiff's determination the settling defendant may elect to invoke the Dispute Resolution
8 process provided for in Section 9 hereof. Products not existing as of the Effective Date that are
9 introduced for sale after January 1, 2009 may use a owner's manual warning if approved in
10 writing by the California Attorney General's office, following 60 days prior notice to Plaintiff.

11 7.11 The requirement for product labeling, set forth herein, is imposed pursuant to the
12 terms of this Consent Judgment. The Parties recognize that product labeling is not the exclusive
13 method of providing a warning under Proposition 65 and its implementing regulations.

14 8. **ADDED INFREQUENTLY HANDLED PRODUCTS**

15 8.1 Exhibit E contains a list of Infrequently Handled Products that are deemed to
16 meet the criteria of Section 7.3(a) and, therefore, deemed to be exempt from Proposition 65
17 warning requirements. The Products appearing on Exhibit E and the Non-Exempt Products List
18 may be used as guidance to interpret the criteria of Section 7.3(a). A Covered Product not
19 appearing on the Non-Exempt Products List, is exempt if it meets the criteria of Section 7.3(a)
20 whether or not it appears on Exhibit E.

21 8.2 At least 60 days prior to retail sale, Settling Defendant shall provide to Plaintiff
22 by certified mail or other confirmable delivery, a list of those Covered Products which do not
23 exist as of the Effective Date for which Settling Defendant contends are infrequently handled
24 products for which no warning is required. Plaintiff shall, within 60 days, notify Settling
25 Defendant as to whether Plaintiff agrees that that the Covered Product is infrequently handled
26 and does not require a warning. In the event that Plaintiff determines that a warning is required
27 it shall provide a written explanation of the basis therefore. In the event that the Settling
28 Defendant disagrees with Plaintiff's determination the settling defendant may elect to invoke the

1 Dispute Resolution process provided for in Section 9 hereof. Products not existing as of the
2 Effective Date that are introduced for sale after January 1, 2008 may be sold without a warning
3 because they are infrequently handled if so approved in writing by the California Attorney
4 General's office, following 60 days prior notice to Plaintiff.

5 9. **DISPUTE RESOLUTION**

6 9.1 Wherever this Consent Judgment provides that the Settling Defendant may invoke
7 the Dispute Resolution process or file a motion to have the Court resolve an issue, the Settling
8 Defendant seeking a resolution shall first mail (by certified mail) and fax a notice to Plaintiff,
9 setting forth the dispute and the basis for the Party's position. The Parties interested in the
10 dispute shall then meet and confer in good faith within sixty (60) days to determine whether the
11 dispute may be resolved in order to avoid further litigation of the issue, unless both Parties
12 waive, in writing, notice and the opportunity to meet and confer. In the event that Plaintiff fails
13 to meet and confer within the sixty (60) day period, the Settling Defendant's position shall be
14 deemed to have prevailed. In the event that, after meeting and conferring, Plaintiff disapproves
15 or disagrees with a position taken by the Settling Defendant, Plaintiff shall notify the Settling
16 Defendant in writing, sent by an overnight delivery service requiring a signature upon delivery,
17 within 14 (fourteen) days of meeting and conferring. Should the Plaintiff do so and should the
18 Settling Defendant wish to pursue its position, the Settling Defendant shall then seek to have the
19 California Attorney General concur with the Settling Defendant's position. If the California
20 Attorney General concurs in writing with the Settling Defendant, the Settling Defendant shall
21 provide notice thereof to Plaintiff and the Settling Defendant's view shall prevail. If, however,
22 the California Attorney General does not concur with the Settling Defendant within ninety (90)
23 days of the date on which the Settling Defendant sought the California Attorney General's
24 concurrence, the Settling Defendant shall have the right to bring the issue to the Court by noticed
25 motion for its de novo review and, provided that it is proceeding in good faith, shall not be
26 subject to further penalties during the pendency of such motion and/or if the motion is not
27 contested by Plaintiff. In the event that the Plaintiff chooses to contest such a motion and
28 prevails, 1) the Settling Defendant shall be deemed to be in compliance with the terms of this

1 Consent Judgment provided that it implements the warning requirements imposed as the result of
2 the Court's determination within ninety (90) days that the Court's determination is final; and 2)
3 Plaintiff may elect to seek to recover its attorney fees incurred in association with such motion as
4 provided for by California Civil Procedure Code Section 1021.5.

5 10. **APPLICATION OF JUDGMENT**

6 The obligations of this Consent Judgment shall apply to and be binding upon all
7 plaintiffs, acting in the public interest pursuant to Health and Safety Code section 25249.7(d) and
8 the Settling Defendant and the successors or assigns of any of them.

9 11. **AUTHORITY TO STIPULATE**

10 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
11 Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the
12 Party represented and legally to bind that Party.

13 12. **NOTICES**

14 Whenever a notice is called for by this Consent Judgment, it shall be provided to the
15 Settling Defendant at the addresses identified in Exhibit B hereto. If any Party desires to change
16 the individual and/or address designated to receive notice on its behalf, such Party shall provide
17 notice to all other Parties pursuant to the terms of this Section.

18 13. **RETENTION OF JURISDICTION**

19 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

20 14. **ENTIRE AGREEMENT**

21 This Consent Judgment contains the sole and entire agreement and understanding of the
22 Parties with respect to the entire subject matter hereof, and any and all prior discussions,
23 negotiations, commitments and understandings related hereto. No representations, oral or
24 otherwise, express or implied, other than those contained herein have been made by any Party
25 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
26 deemed to exist or to bind any of the Parties.

27 ////

28

1 15. GOVERNING LAW

2 The validity, construction and performance of this Consent Judgment shall be governed
3 by the laws of the State of California, without reference to any conflicts of law provisions of
4 California law.

5 16. COURT APPROVAL

6 If this Consent Judgment is not approved and entered by the Court, or if the entry of this Consent
7 Judgment is successfully challenged, this Consent Judgment shall be of no force or effect, and
8 cannot be used in any proceeding for any purpose.

9
10 IT IS SO STIPULATED:

11 DATED: _____

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

12
13
14 By: 
William Verick

15
16 DATED: _____

BELL AUTOMOTIVE PRODUCTS, INC.

17
18
19 By: 
Timothy W. Brasher
President & CEO

20
21
22 IT IS SO ORDERED.

23 DATED: JAN 10 2007

PETER J. BUSCH

JUDGE, SUPERIOR COURT OF CALIFORNIA

PETER J. BUSCH

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EXHIBIT A
(Copy Of 60-Day Notice Letter)

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EXHIBIT B
(Address For Notice Under Consent Judgment)

BELL AUTOMOTIVE PRODUCTS, INC.
General Counsel
Bell Automotive Products, Inc.
8388 E. Hartford Drive, Suite 102
Scottsdale, AZ 85255
Tel: 480-991-5055

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION
William Verick
Klamath Environmental Law Center
424 First Street
Eureka, CA 95501
Tel: 707-268-8900
Fax: 707-268-8901

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EXHIBIT C
(Optional List of Certain Brand Names and Product Type)

A. Brand Names:

- Victor
- Bell
- Monkey Grip
- Mobil Gear

B: Product Types:

BELL AUTOMOTIVE PRODUCTS, INC. products with power cords, sold under the brand names noted above.

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EXHIBIT D
(Exemplar of Optional Testing Protocol)

Step 1: Cut 3-inch section of a cable that has not previously been used or wiped.

Step 2. On multiconductor cables, remove the insulated conductors and any other inner components from the 3-inch section of the cable. On single insulated conductors, remove the metallic conductor from the 3-inch section of the cable. Place the outer nonmetallic covering into a lead free receptacle (such as a pre-labeled resealable plastic food storage bag).

Step 3. Repeat steps 1 and 2 above for two additional cables such that a total of three samples are produced for laboratory analysis.

Step 4. Prepare samples for laboratory analysis according to EPA Method 160.4 or 3050. Samples must be completely digested before proceeding to step 5.

Step 5. Analyze samples for total lead by EPA Method 7420 (AA Flame).

Step 6. Compute the arithmetic mean from the three samples.

EXHIBIT E
(Infrequently Handled Products)

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1	208- and 220-volt appliances (unless appliance is portable)
2	AC Adapters for foreign outlets and other voltage converters
3	Adjustable beds
4	Air Conditioner
5	Air Purifier
6	Amplifier for home stereo systems (including associated power and interconnector cords, but not including interconnector cords for microphones or musical instruments)
7	Answering machine
8	Audio mixer and associated power cords for in-studio, non-portable mixer units
9	Audio or video cable and adapter cords
10	Audio switcher power cords, unless designed to plug into front of audio/video appliance
11	Audio/video equipment and associated power and patch/pin cords (if A/V equipment is (i) not portable, e.g., no handle or carrying case, (ii) is not designed to plug into front of audio/video appliance, and (iii) is otherwise designed for long term installation)
12	Auto power adapters and cord, unless designed to plug into cigarette lighter or similar in-dash power source
13	Automotive wires and cables (installed)
14	Back cushion massager
15	Bathtub bubble mat
16	Bathtub spas
17	Battery Connection Cords (internal)
18	Battery charger units (except those used for automobiles)
19	Beard Trimmer (cordless models only)
20	Blender (not including hand-held models)
21	Bread Machine
22	Broadcast Equipment, and associated power and interconnector cords (if designed for in-studio or other non-portable installation)
23	Building wire (installed)
24	Calculator
25	Caller ID Unit
26	Can Opener
27	Carafes/Decanters, if cord attaches to separate base unit
28	Carbon Monoxide Detectors
29	Cash Registers
30	CATV Receiver Power Cords
31	CB radio/antenna cords (not handsets)
32	CD Player/changer (non-portable units only)
33	CD/DVD Home Theater Systems
34	Cielo Bath
35	Circuit Cable
36	Clock
37	Coffee Maker
38	Color Imaging System Power Cord & Cable (non-portable and not for use with portable computer system)
39	Combo Wash/Dryer
40	Compactor
41	Computer Adapter Cords (not for laptops, and not designed to plug into front of system)
42	Computer Cables (in walls)

1	43	Computer CD/DVD Drives (installed, not used with laptops)
2	44	Computer docking system
3	45	Computer Keyboard
4	46	Computer modem line (data and power)
5	47	Computer monitor cable
6	48	Computer Mouse (cordless)
7	49	Computer Peripheral AC Adaptor cord and I/F cable (not including those for portable computers or portable peripheral devices)
8	50	Computer Peripheral PCMCIA Card Cord (not including those for portable computers)
9	51	Computer Peripheral Wires & Cables (not including those for portable computers and those designed to plug into front of desktop computer (e.g., USB cords))
10	52	Computer Scanners (not including those designed for portable computers)
11	53	Computer Servers and External Storage Units
12	54	Computer Speaker Cords (not including those used with portable computers)
13	55	Computer Tape Drives
14	56	Controller/Tuner Power Cord
15	57	Convactor Power Cords
16	58	Cooktop Power Cords (not including those used with small portable hot plates)
17	59	Copier
18	60	Cordless Toothbrush
19	61	Data Logger Cable (unless included with portable device)
20	62	Deep fryer
21	63	Desktop computer power/patch/pin cords (unless designed to plug into front of computer (e.g., USB cords))
22	64	Digital imaging equipment (non-portable and not for use with portable computer system)
23	65	Digital media editor power cords/connecting cables (for installed, non-portable media editor units)
24	66	Digital Sender (digitizes and transmits images), for installed, non-portable units
25	67	Digital Tuner (non-portable units only)
26	68	Dishwasher
27	69	Drink Mixer (not hand-held)
28	70	Dryer
	71	DVD (non-portable units only)
	72	DVD Audio/Video Cable (unless designed to plug into front of system)
	73	DVD Recorder Power/Interconnector Cords (non-portable units only)
	74	Egg Cooker
	75	Electric Bedding
	76	Electric Grill - Indoor or Outdoor
	77	Electric Recliners/Massage Chairs
	78	Electric Sewing Machine (non-portable units only, i.e., those which have no handle or case)
	79	Electric Thermos Pot (if cord attaches to separate base unit)
	80	Electric/Digital Pianos, Organs (non-portable units only)
	81	Electrolysis Water System (corded base unit only)
	82	Electronic Musical instruments, including associated power and adaptor cords (non-portable units only)
	83	Electronic White Board/Print Board Power Cords and Cables
	84	Espresso & Cappucino Makers
	85	Facial Spas
	86	Factory Automation Equipment (industrial systems, not for home use)
	87	Fan/Heater Products (non-portable models only; i.e., in excess of 10 pounds, as packaged, or having blade diameter 9 inches or greater (rounded to the nearest whole inch) or smaller units which otherwise are regularly installed, or not typically moved from place to place).

1	88	Fax Machines
2	89	Fire Alarm cable
3	90	Fish Roaster
4	91	Flatbread Maker
5	92	Food Processor/Chopper (not including hand-held models)
6	93	Fountain, Decorative
7	94	Freezer
8	95	Garbage Disposals and associated cords (whether sold separately or with product)
9	96	Generators (large systems with only grounding wire)
10	97	Hair Clippers (cordless models only)
11	98	Hair Dryer (only models with retractable cord)
12	99	Hair setter (rollers only, not curling irons)
13	100	Ham and Two-Way Radio and Accessories and Adapters (not handset cords, unless microphone is designed on stand with switch)
14	101	Hard Disk Recorder peripheral and power cords (not including those for portable computers)
15	102	Headphones (cordless models only)
16	103	Headset with Earphone and Microphone (cordless models only)
17	104	Hole punch
18	105	Hot Lather Machine
19	106	Hot Lotion dispenser
20	107	Hot Pot/Kettle/Tea Brewer (if cord attaches to separate base unit)
21	108	Hot Water Dispenser
22	109	Humidifier/Dehumidifier
23	110	Ice Cream Maker
24	111	Ice Maker
25	112	Indoor and outdoor phone cable (if designed for permanent installation)
26	113	Intercoms (non-hand-held models only)
27	114	Inverters/other power supplies (non-automotive uses)
28	115	Iron (cordless only)
	116	Juicer/Juice extractor (non-hand-held models only)
	117	LCD Projector (CRT Monitor, receives data from computer) (except for use with portable computer)
	118	Letter opener
	119	Lighting (including tabletop and floor lamps, spotlights, or ceiling lighting, not holiday string lights or clip-on lights)
	120	Magnetic Card Reader/Writer including associated power cord and cable
	121	Meat Grinder (not hand-held models)
	122	Meat Slicer (not hand-held Electric Knives)
	123	Microphone (only including cords powering base unit of cordless microphone system)
	124	Microwave Oven
	125	Mini Speaker System including associated connection cords (not including those for use with laptop computers or other portable devices)
	126	Mixer (non-hand-held models only)
	127	Mobil telephone battery cables (internal wires and cords only)
	128	Mobile telephone accessories (only those using corded base charging unit or permanently installed in automobiles)
	129	Mobile video screens designed for permanent installation (such as for use in automobiles or boats)
	130	Multi-function office support device (combines functions such as copier, printer, fax machine, PBX, voice mail into one)
	131	Neon sign & oil burner ignition cable
	132	NIC/Modem cables

1	133	Optical Cable/Stereo Optical Cords (unless designed to plug into front of system)
2	134	Optical Disc AC Adapter (non-portable and not for use with portable computer systems)
3	135	Optical Disc Power Cords (non-portable and not for use with portable computer systems)
4	136	Ovens
5	137	Over-Range Microwave Ovens/Hoods
6	138	Paper shredder
7	139	Parrafin/wax Bath for Hands
8	140	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold with device otherwise excluded)
9	141	Pencil sharpener
10	142	Personal Hygiene System and assoicated power cord
11	143	Pest Repeller
12	144	Pet Cage Dryers
13	145	Portable Dishwasher
14	146	Portable heater (only if designed for permanent installation)
15	147	Portable Washer
16	148	Postage meters
17	149	Postal scales
18	150	Potpourri heater
19	151	Power bases for charging wireless devices (if designed for long term installation)
20	152	Power tools (corded, cordless, stationary, or portable)
21	153	Power/control/instrumentation tray cable (except for non-permanently-installed public address systems)
22	154	Pressure Cooker
23	155	Printer cables
24	156	Printer power cord
25	157	Projector, non-portable (no handle or carrying case)
26	158	Public Address Amplifier and Accessories (non-portable or otherwise designed for permanent or long term installation)
27	159	Radiator
28	160	Radios with attached cord and without handles (including clock radios)
	161	Range
	162	Range Hoods/Vent
	163	Rechargeable Flashlights
	164	Rechargeable Lanterns
	165	Refrigerator
	166	Rice Cake Maker
	167	Rice Cooker
	168	Riser/Plenum cable (if designed for permanent/long term installation)
	169	Roaster Oven
	170	Rope Lights (other than holiday string lights) if designed for permanent/long term installation
	171	Satellite dish
	172	Scales
	173	Scanner antenna
	174	Shavers - Cordless w/Corded Recharger Base only
	175	Sink Top Switch for Disposer or Hot Water Dispenser (air activated switch mounted to sink or countertop, designed for permanent/long term installation)
	176	Smoke detector (internal wires or if designed for permanent/long term installation)
	177	Speaker wire (designed for use with components designed for long term/permanent installation; speaker wire associated with portable equipment with attached handle or carrying case not excluded)

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178	Stapler
179	Steam cooker
180	Stereo and audio power/patch/pin cords (for use with non-portable components and except where designed to plug into front of system)
181	Surge protector
182	Telecom Data Cable (installed)
183	Telecom Power Cable (installed)
184	Tele-Homecare System (power cords)
185	Telephone power and data cord (phone to wall cords only)
186	Television (except small mobile models with attached/built in handle or carrying case)
187	Television Antenna
188	Television distribution system/swapper
189	Television Monitor (including computer monitors except small mobile models with attached/built in handle or carrying case)
190	Television peripheral cords (unless designed for use with devices that plug into the front of the set)
191	Thermostat Cable
192	Toaster
193	Toaster Oven
194	Towel Warmer
195	Transcriber and foot pedal and associated power and interconnecting cords
196	Underground Low-Energy Cable (exclusion applies to consumer uses only)
197	Vanity/lighted makeup mirror
198	VCR (unless portable with attached handle or carrying case)
199	Video mixer and switcher (if component of desktop system with no separate mice)
200	Video printer power cords/connecting cables (unless used with laptop)
201	Warming drawer
202	Washer/Dryer
203	Water distiller
204	Water filter units designed for permanent/long term installation
205	Water heater designed for permanent/long term installation
206	Water jet - Dental
207	Waxers - hair removal (corded base unit only)
208	Wine cellars
209	Diesel Locomotive and Motor Cable
210	Ignition Cable for Gas Tube Signage
211	Hook-Up Wire (intended for permanent or long-term installation)
212	Telephone Switching Station Cable
213	Loop Detector Wire Used in Traffic Counting
214	Utility Cable and Wire (Power and Communications)
215	Signal Cable
216	Power/Control/Instrumentation/Signal Cable Utility Cable and Wire (Power and Communications)

EXHIBIT F
 (Examples of Products For Which Warnings May Be Given In Owner's Manual)

1	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold concurrently with equipment that also appears on this list)
2	AC adaptor cords (when sold concurrently with equipment that also appears on this list)
3	Air Pumps
4	Power and patch cords for professional/commercial audio/video equipment used in field (when sold concurrently with the equipment)
5	Interconnection or patchcables for portable audio/video/computer components or peripheral devices (when sold concurrently with equipment that also appears on this list)
6	Power adapters and cord for use with automotive cigarette lighter or similar power outlet (when sold concurrently with equipment that also appears on this list)
7	Power and interconnector cords for broadcast equipment used in field (when sold concurrently with the broadcast equipment)
8	Coffee warmer/urn (party-size)
9	Adapter and power cords for laptop and desktop computers/peripherals (when sold concurrently with computer or peripheral device)
10	Computer Joystick (owner's manual warning authorized only where reference to the owners manual is necessary to program or install software for use; alternatively, warning that otherwise would be placed in owner's manual must appear as part of on-screen programming/installation instructions)
11	Computer Mouse (when sold concurrently with equipment that also appears on this list)
12	Digital camera cords and cables (when sold concurrently with digital camera)
13	Portable DVD Player (e.g., with handles/carrying case)
14	Power and adaptor cords for portable electronic musical instruments and keyboards (when sold concurrently with the electronic musical instrument or keyboard)
15	Foot Massagers (wet)
16	Laptop Computer
17	Sandwich Maker
18	Telephone handset cord (handset-to-phone portion only where sold concurrently with telephone with programmable features)
19	Thermoelectric coolers
20	Travel Steamer
21	Vacuum cleaner, deep cleaner/extractor and/or carpet shampoo machine (both regular or retractable cord models)
22	Vaporizer
23	Video Camera power cords, adaptor cords (e.g., AC, auto), charger cords, connecting cables (when sold concurrently with video camera)
24	Video game accessories (owner's manual warning authorized where: i) accessory is sold with another product for which owners manual warnings are allowed; or ii) reference to the owners manual is necessary to program or install software for use). Warning that would otherwise be placed in owner's manual may alternatively be displayed as part of on-screen programming/installation instructions where use of such are necessary for initial product use.
25	Stand alone video mixer or switcher with non-integrated mouse
26	Portable warming tray

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27	Cord of handheld waxers used for hair removal
28	Mobile telephones
29	Camera Cords and cables (only if sold concurrently with camera)
30	Telephones with programmable features

COPY

1 WILLIAM VERICK, CSB #140972
2 FREDRIC EVENSON, CSB #198059
3 KLAMATH ENVIRONMENTAL LAW CENTER
4 424 First Street
5 Eureka, CA 95501
6 (707) 268-8900

7 DAVID H. WILLIAMS, CSB #144479
8 BRIAN ACREE, CSB #202505
9 370 Grand Avenue, Suite 5
10 Oakland, CA 94610
11 Telephone: (510) 271-0826
12 Facsimile: (510) 271-0829

13 Attorneys for Plaintiff
14 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SAN FRANCISCO

17 MATEEL ENVIRONMENTAL JUSTICE
18 FOUNDATION,

19 Plaintiff,

20 vs.

21 BELL AUTOMOTIVE PRODUCTS, INC.,
22 et al.,

23 Defendants.

CASE NO. 453399

~~PROPOSED~~ ORDER APPROVING
CONSENT JUDGMENT AS TO
DEFENDANT BELL AUTOMOTIVE
PRODUCTS, INC.

Date: January 10, 2007
Time: 9:30 a.m.
Dept. No.: 301

24 Plaintiff's motion for approval of settlement and entry of Consent Judgment was heard on
25 noticed motion on January 10, 2007. The court finds that:

26 1. The warnings and reformulation the Consent Judgment requires comply with the
27 requirements of Proposition 65.

ENDORSED
FILED
San Francisco County Superior Court

JAN 10 2007

GORDON PARK-LI, Clerk
BY: MARJORIE SCHWARTZ-SCOTT
Deputy Clerk

1 2. The payments in lieu of civil penalties specified in the Consent Judgment are
2 reasonable and conform to the criteria of Health & Safety Code § 25249.7(b)(2).

3 3. The attorneys fees awarded under the Consent Judgment are reasonable as are the
4 rates awarded the attorneys.

5 Based on these findings, the settlement and the Consent Judgment are approved.

6 IT IS SO ORDERED.

7 Dated: JAN 1 0 2007

PETER J. BUSCH

Judge of the Superior Court

PETER J. BUSCH