

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

4 DAVID H. WILLIAMS CSB#144479  
5 BRIAN ACREE CSB#202505  
370 Grand Avenue, Suite 5  
6 Oakland, CA 94610  
(510) 271-0826

7 Attorneys for Plaintiff  
8 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

ENDORSED  
FILED  
San Francisco County Superior Court

MAY 03 2007

GORDON PARKER, Clerk  
BY: MARJORIE SCHWARTZ-SCOTT  
Deputy Clerk

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SAN FRANCISCO

12  
13 MATEEL ENVIRONMENTAL JUSTICE ) No. 454917  
FOUNDATION, )  
14 ) ~~PROPOSED~~ CONSENT JUDGMENT AS  
Plaintiff, ) TO DEFENDANTS ROCKY MOUNTAIN  
15 ) BICYCLE AND GROUPE PROCYCLE,  
vs. ) INC.  
16 )  
BELL SPORTS, INC., et al. )  
17 )  
Defendants. )  
18 \_\_\_\_\_ )

19  
20 1. INTRODUCTION

21 1.1 On or about October 17, 2005, the Mateel Environmental Justice Foundation  
22 ("MEJF") and its attorneys, Klamath Environmental Law Center ("KELC") sent 60-day notice  
23 letters to the Office of the California Attorney General of the State of California ("California  
24 Attorney General"), all California counties' District Attorneys and all City Attorneys of California  
25 cities with populations exceeding 750,000, ("Notice Letters"), charging defendant Rocky Mountain  
26 Bicycles and Groupe Procycle, Inc. ( hereinafter referred to collectively as "Rocky Mountain" or  
27 "Defendant") with violating the Safe Drinking Water and Toxic Enforcement Act of 1986,  
28 California Health and Safety Code Section 25249.5 et seq. ("Proposition 65"), in its manufacture,

1 distribution and/or sale of bicycles and tricycles (collectively, "Bicycles"). MEJF charged, *inter*  
2 *alia*, that persons handling plastic handlebar grips ("Grips") and/or brake or derailleur cables that are  
3 housed in thermoplastic (collectively, "Cables") on Bicycles were exposed to lead and lead  
4 compounds, which are chemicals listed under Proposition 65.

5 1.2 On August 8, 2006, MEJF ("Plaintiff"), acting on behalf of itself, the public interest,  
6 and the general public for the matters described in the Notice Letters, filed a Complaint for civil  
7 penalties and injunctive relief ("Complaint") in the San Francisco Superior Court fashioned  
8 *Mateel v. Bell Sports, Inc. et al.*, Case No. CGC-06-454917, based on the Notice Letter. The  
9 Complaint alleged, among other things, that Defendant violated Proposition 65 by manufacturing,  
10 marketing and/or distributing to California residents Covered Products (as defined in Paragraph 1.4  
11 below) and failing to provide clear and reasonable warnings to California residents who handle and  
12 use such products that the handling and use of those products in their normally intended manner will  
13 cause those persons to be exposed to Proposition 65 Chemicals.

14 1.3 For purposes of this Consent Judgment, unless otherwise set forth herein, the terms  
15 described in this Paragraph 1.3 shall have the following meanings. Plaintiff and Defendant are  
16 collectively referred to as the "Parties," with each of them a "Party." The term "Covered Products"  
17 means Bicycles and/or Bicycle Accessory Products manufactured, distributed, marketed or sold by  
18 Defendant. The term "Covered Products" includes products which are or were manufactured,  
19 distributed, marketed and/or sold by Defendant either under its own name or brand or under the  
20 name or brand of another (e.g., privately labeled products). The term "PVC Components" refers to  
21 Grips and Cables that are composed of or housed in thermoplastic and that are (i) on the Bicycle at  
22 the time it is sold to consumers or (ii) sold separately as replacement parts for those components.  
23 MEJF has alleged that (a) Defendant is a business that employs more than ten persons and  
24 manufactures, distributes and/or sells or makes available for sale Covered Products into the State of  
25 California, and (b) the Covered Products offered for sale in California by Defendant contain one or  
26 more Proposition 65 Chemicals. Defendant denies these and all of MEJF's other allegations.

27 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
28 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction

1 over Defendant as to the acts alleged in the Complaint, that venue is proper in the County of San  
2 Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full settlement and  
3 final resolution of the allegations contained in the Complaint and Notice Letters and of all claims  
4 which were or could have been raised by any person or entity based in whole or in part, directly or  
5 indirectly, on the facts alleged therein, arising therefrom or related thereto.

6 1.5 The Parties enter into this Consent Judgment pursuant to a full and final settlement of  
7 any and all claims between the Parties for the purpose of avoiding prolonged litigation. This  
8 Consent Judgment shall not constitute an admission with respect to any material allegation in the  
9 Complaint, each and every allegation of which Defendant denies; nor may this Consent Judgment or  
10 compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on  
11 the part of Defendant.

12 2. **SETTLEMENT PAYMENT**

13 In settlement of all of the claims that are alleged, or could have been alleged, in the Complaint  
14 concerning Defendant, within 10 days following the Court's entry of a judgment, Defendant shall pay  
15 \$20,000 to the Klamath Environmental Law Center ("KELC") to cover Plaintiff's attorneys' fees.  
16 Additionally, within 10 days following the Court's entry of a judgment, Defendant shall pay \$10,000  
17 to the Ecological Rights Foundation for use toward reducing exposures to toxic chemicals and other  
18 pollutants, and toward increasing consumer, worker and community awareness of health hazards  
19 posed by lead and other toxic chemicals. Defendant shall not be required to pay a civil penalty  
20 pursuant to Health and Safety Code section 25249.7(b).

21 3. **ENTRY OF CONSENT JUDGMENT**

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

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

25 4.1 For purposes of Section 4 of this Consent Judgment, the term Defendant shall include  
26 Rocky Mountain, and its past, present and future parents, divisions, subdivisions, subsidiaries and  
27 affiliates and the predecessors, successors and assigns of any of them, as well as their past, present  
28 and future officers, directors, employees, agents, attorneys, representatives, shareholders and

1 assigns. For purposes of this Section 4, the term Defendant shall also be deemed to include  
2 Defendant's direct and indirect suppliers of Covered Products, but only with respect to those  
3 Covered Products that such direct or indirect supplier manufactures for Defendant. In addition, for  
4 purposes of this Section 4, the term Defendant also includes, with respect to Defendant's Covered  
5 Products only, Defendant's chain of distribution, including, but not limited to, customers, wholesale  
6 or retail sellers or distributors and any other person in the course of doing business.

7 4.2 As to all matters addressed in the Notice Letters and Complaint, this Consent  
8 Judgment constitutes a final and binding resolution and release of liability between Plaintiff acting  
9 on behalf of itself and in the public interest pursuant to Health and Safety Code Section 25249.7(d)  
10 and Defendant or its parents, subsidiaries or affiliates, and all of their customers, distributors,  
11 wholesalers, retailers, and the successors and assigns of any of them, of any violation of  
12 Proposition 65 with respect to exposures to the Proposition 65 Chemicals associated with the use or  
13 handling of Covered Products.

14 4.3 This Consent Judgment also constitutes a final and binding resolution and release of  
15 liability between Plaintiff and Defendant with respect to any other statutory or common law claim  
16 that could have been asserted against Defendant or its parents, subsidiaries or affiliates, and all of  
17 their customers, distributors, wholesalers, retailers, and the successors and assigns of any of them,  
18 based on its or their exposure of persons to chemicals contained in or otherwise associated with the  
19 use of Covered Products manufactured, sold or distributed by, for or on behalf of Defendant and/or  
20 its alleged failure to provide a clear and reasonable warning of such exposure to such individuals.

21 4.4 As to all matters addressed in the Notice Letters and Complaint, any claims,  
22 violations (except violations of this Consent Judgment), actions, damages, costs, penalties, or causes  
23 of action which may arise or have arisen after the original date of entry of this Consent Judgment,  
24 compliance by Defendant with the terms of this Consent Judgment shall be deemed to constitute its  
25 full and complete compliance with Proposition 65 and shall bar such claims or the re-litigation of  
26 issues underlying such claims under the doctrines of res judicata and collateral estoppel.

27 4.5 As to the alleged exposures to Covered Products, compliance with the terms of this  
28 Consent Judgment resolves any issue, now and in the future, concerning compliance by Defendant or

1 its parents, subsidiaries or affiliates, and all of their customers, distributors, wholesalers, retailers,  
2 and the successors and assigns of any of them with the requirements of Proposition 65 with respect  
3 to Covered Products and any alleged resulting exposure. Nothing in this Consent Judgment shall be  
4 deemed to release, from past liability under Proposition 65, any entity which incorporates  
5 Components obtained from Defendant into a Covered Product.

6 4.6 Defendant waives all rights to institute any form of legal action against Plaintiff, its  
7 officers, directors, attorneys, consultants and representatives for all actions undertaken or statements  
8 made in the course of this Action as of the Effective Date of this Consent Judgment.

9 4.7 MEJF, by and on behalf of itself and its respective agents, successors and assigns,  
10 waives any and all rights to institute any form of legal action, and releases all claims against  
11 Defendant, its parents, subsidiaries or affiliates, and all of their customers, distributors, wholesalers,  
12 retailers, and the successors and assigns of any of them, who may use, maintain, distribute or sell the  
13 Covered Products, whether under Proposition 65 or otherwise, arising out of or resulting from, or  
14 related directly or indirectly to, in whole or in part, the Covered Products, including by not limited to  
15 an exposure to, or failure to warn with respect to, the Covered Products (referred collectively in the  
16 paragraph as the "Claims"). In furtherance of the foregoing, MEJF hereby waives any and all rights  
17 and benefits which it now has, or in the future may have, conferred upon it with respect to the  
18 Claims by virtue of the provisions of Section 1542 of the California Civil Code, which provides as  
19 follows:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR  
21 DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF  
22 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE  
MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

23 MEJF understands and acknowledges that the significance and consequence of this waiver of  
24 California Civil Code Section 1542 is that even if MEJF suffers future damages arising out of or  
25 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products, including  
26 but not limited to any exposure to, or failure to warn with respect to exposure, the Covered Products,  
27 MEJF will not be able to make any Claim for those damages against Defendant or its parents,  
28

1 subsidiaries or affiliates, and all of their customers, distributors, wholesalers, retailers, and the  
2 successors and assigns of any of them. Furthermore, MEJF acknowledges that it intends these  
3 consequences for any such Claims as may exist as of the date of this release but which MEJF does  
4 not know exist, and which, if known would materially affect their decision to enter into this Consent  
5 Judgment, regardless of whether its lack of knowledge is the result of ignorance, oversight, error,  
6 negligence, or any other cause.  
7

8 5. **ENFORCEMENT OF JUDGMENT**

9 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties  
10 hereto by means of noticed motion or order to show cause before the Superior Court of San  
11 Francisco County.

12 6. **MODIFICATION OF JUDGMENT**

13 This Consent Judgment may be modified only upon written agreement of the Parties and  
14 upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party as  
15 provided by law and upon entry of a modified amended Consent Judgment by the Court; any such  
16 stipulation shall be served on the California Attorney General no less than 15 days prior to its filing  
17 with the Court and any such motion shall be served on the California Attorney General when it is  
18 filed with the Court.

19 7. **INJUNCTIVE RELIEF**

20 On and after July 1, 2007, if Defendant sells any Covered Products for resale or use in  
21 California these Covered Products will meet the following criteria:

- 22 (a) the Surface Contact Layers of PVC Components shall have no lead as an  
23 intentionally added constituent; and  
24 (b) the Surface Contact Layer of PVC Components shall have lead content by weight  
25 as follows:  
26 (i) for PVC Components on Bicycles having wheels that measure over 20 inches  
27 in diameter, and for all other PVC Components, no more than 0.03% (300  
28 parts per million);

(ii) for PVC Components on Bicycles having wheels that measure 20 inches or less in diameter, no more than 0.003% (30 parts per million).

7.2 Defendant may comply with the criteria set forth in Paragraph 7.1 above (“Reformulation Levels”) by relying on information obtained from its suppliers regarding the content of the Surface Contact Layer of the PVC Components and Painted Components, provided such reliance is in good faith. Obtaining test results showing that the lead content does not exceed the Reformulation Levels using a method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection) of less than the Reformulation Level required for each Covered Product, shall be deemed to establish good faith reliance. Nothing in the preceding two sentences shall preclude Defendant from establishing good faith reliance by an alternative means

8. **APPLICATION OF JUDGMENT**

As to all matters addressed in the Notice Letters and the Complaint, the obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs acting in the public interest pursuant to Health and Safety Code section 25249.7(d), and Defendant and its successors or assigns.

9. **AUTHORITY TO STIPULATE**

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

10. **NOTICES**

Any notices under this Consent Judgment shall be by personal delivery of First Class Mail.

If to MEJF: William Verick, Esq.  
Klamath Environmental Law Center  
424 First Street  
Eureka, CA 95501

If to Rocky Mountain: Daniel Maheux  
Rocky Mountain Bicycles  
1322 Cliveden Avenue  
Annacis Park, Delta, BC  
Canada V3M-6G4

1    **11. RETENTION OF JURISDICTION**

2           This Court shall retain jurisdiction of this matter to implement the terms of injunctive relief  
3 provided for in this Consent Judgment and hear any motion or application properly made by a party  
4 hereto.

5    **12. ENTIRE AGREEMENT**

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

12   **13. GOVERNING LAW**

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

15   **14. COURT APPROVAL**

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

19   **15. COUNTERPARTS**

20           This Consent Judgment may be executed in any number of counterparts, each of which shall  
21 be deemed to be an original and all of which taken together shall be deemed to be one and the same  
22 instrument.

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1 IT IS SO STIPULATED:  
2 DATED: 3/14/07

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,

By:   
William Verick  
Attorney for Plaintiff

6 DATED: \_\_\_\_\_

8 ROCKY MOUNTAIN  
By: 

11 IT IS SO ORDERED, ADJUDGED AND DECREED:

12 MAY 01 2007  
13 DATED: \_\_\_\_\_

PETER J. BUSCH  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT  
PETER J. BUSCH

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1 WILLIAM VERICK, CSB #140972  
Klamath Environmental Law Center  
2 FREDRIC EVENSON, CSB #198059  
Law Offices of Fredric Evenson  
3 424 First Street  
Eureka, CA 95501  
4 Telephone: (707) 268-8900  
Facsimile: (707) 268-8901

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

9 Attorneys for Plaintiff  
10 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF SAN FRANCISCO

14  
15 MATEEL ENVIRONMENTAL JUSTICE  
16 FOUNDATION,

17 Plaintiff,

18 vs.

19 BELL SPORTS, INC., et al.,

20 Defendants.

CASE NO. 454917

{proposed} ORDER APPROVING  
SETTLEMENT AS TO ROCKY  
MOUNTAIN BICYCLES AND GROUPE  
PROCYCLE, INC.

Date: May 1, 2007  
Time: 9:30 a.m.  
Dept. No.: 301

21  
22 Plaintiff's motion for approval of settlement and entry of Consent Judgment was heard on  
23 noticed motion on May 1, 2007. The court finds that:

- 24 1. The reformulation requirements of the Consent Judgment comply with the  
25 requirements of Proposition 65;  
26 2. The payments in lieu of civil penalty specified in the Consent Judgment are  
27 reasonable based on the criteria in Cal Health & Safety Code §25249.7(b)(2); and  
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ENDORSED  
FILED  
San Francisco County Superior Court  
MAY 01 2007  
GORDON PARK-LI, Clerk  
BY: MARJORIE SCHWARTZ-SCOTT  
Deputy Clerk

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3. The attorneys' rates and fees awarded under the Consent Judgment are reasonable under California law.

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

IT IS SO ORDERED.

Dated: MAY 01 2007

PETER J. BUSCH

Judge of the Superior Court

**PETER J. BUSCH**