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ENDORSED
FILED
San Francisco County Superior Court

MAR 03 2008

GORDON PARK-LI, Clerk
BY: JOCELYN C. ROQUE
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION,

Plaintiff,

v.

PAN OCEANIC EYEWEAR LTD., ROMAR
INTERNATIONAL CORP., WALMART
STORES, INC., and WESTPORT
CORPORATION

Defendant.

Case No. CGC-06-457611

(JCL)

~~PROPOSED~~ CONSENT JUDGMENT
[WESTPORT CORPORATION]

1 **1. INTRODUCTION**

2 1.1 On July 12, 2006 the Mateel Environmental Justice Foundation (“MEJF”) and its
3 attorneys, Klamath Environmental Law Center (“KELC”) sent a 60 Day Notice Letter to the Office
4 of the California Attorney General of the State of California (“California Attorney General”), all
5 California counties’ District Attorneys and all City Attorneys of California cities with populations
6 exceeding 750,000, (collectively, “Public Enforcers”), charging certain businesses with violating the
7 Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code
8 Section 25249.5 et seq. (“Proposition 65”), in their manufacture, distribution and/or sale of small
9 bags and eyeglass cases made with a PVC material containing lead (hereinafter “Covered Products”).
10 Specifically, MEJF charged that persons handling the Covered Products were exposed to certain
11 chemicals, listed under Proposition 65, specifically lead and lead compounds, lead acetate, lead
12 phosphate, and lead subacetate.

13 1.2 On November 3, 2006, MEJF (“Plaintiff”), acting on behalf of itself, the public
14 interest, and the general public for the matters described in the Notice Letter, filed a Complaint for
15 civil penalties and injunctive relief (“Complaint”) in the San Francisco Superior Court, fashioned,
16 *MATEEL ENVIRONMENTAL JUSTICE FOUNDATION v. PAN OCEANIC EYEWEAR LTD., et al*,
17 Case No. CGC-06-457611, based on the Notice Letter.

18 1.3 The Complaint alleged, among other things, that WESTPORT CORPORATION.,
19 (hereinafter “Settling Defendant”) violated Proposition 65 by manufacturing, marketing and/or
20 distributing to California residents lead containing Covered Products and failing to provide clear and
21 reasonable warnings to California residents who handle and use such products that the handling and
22 use of those products in their normally intended manner will cause those persons to be exposed to
23 Proposition 65 Chemicals.

24 1.4 Settling Defendant denies generally and specifically each an every allegation in the
25 Complaint and asserts several affirmative defenses.

26 1.5 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 1.6 For purposes of this Consent Judgment, the term “Covered Products” means small
2 bags and eyeglass cases made with PVC materials that are manufactured, distributed, marketed or
3 sold by the Settling Defendant. The term “Covered Products” includes products which are
4 manufactured, distributed, marketed and/or sold by the Settling Defendant either under its own name
5 or brand or under the name or brand of another (e.g., privately labeled products).

6 1.7 For purposes of this Consent Judgment only, the Settling Defendant admits that: (a) it
7 is a business that employs more than ten persons and manufactures, distributes and/or sells Covered
8 Products into the State of California; (b) the Covered Products contain one or more Proposition 65
9 Chemicals; and (c) Proposition 65 Chemicals are chemicals listed under Proposition 65 as being
10 known to the State of California to cause cancer and/or reproductive toxicity.

11 1.8 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
12 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
13 over the Settling Defendant as to the acts alleged in the Complaint, that venue is proper in the County
14 of San Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full
15 settlement and resolution of the allegations contained in the Complaint and Notice Letters and of all
16 claims which were or could have been raised by any person or entity based in whole or in part,
17 directly or indirectly, on the facts alleged therein, arising there from or related thereto.

18 1.9 The Parties enter into this Consent Judgment pursuant to a full and final settlement of
19 any and all claims between the Parties for the purpose of avoiding prolonged litigation. This Consent
20 Judgment shall not constitute an admission with respect to any material allegation of the Complaint,
21 each and every allegation of which the Settling Defendant denies; nor may this Consent Judgment or
22 compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the
23 part of any Settling Defendant. The Settling Defendant maintains that its Covered Products have at
24 all times complied with all applicable laws, including Proposition 65.

25 2. **SETTLEMENT PAYMENT**

26 2.1 In settlement of all of the claims referred to in this Consent Judgment against the
27 Settling Defendant:
28

1 (a) The Settling Defendant shall pay, within thirty (30) days of execution of this
2 Consent Judgment by both parties, an amount in monetary relief totaling \$21,000 (twenty one
3 thousand dollars), which shall be made payable as follows: (i) \$16,000 (sixteen thousand dollars)
4 which shall be made payable to the Klamath Environmental Law Center (“KELC”) for attorneys fees
5 and costs incurred by KELC on behalf of Plaintiff in investigating this matter and negotiating this
6 Consent Judgment on behalf of itself and the general public, (ii) \$5,000 (five thousand dollars) which
7 shall be made payable to the Ecological Rights Foundation. The payments described above shall be
8 delivered to William Verick, 424 First Street, Eureka, CA 95501. If payment has not been received
9 as provided in this paragraph, Plaintiff may withdraw any motion to approve and enter the agreement
10 and the agreement shall become null and void. If this Consent Judgment has not been approved and
11 entered by the Court within 90 days of the execution of the agreement by the parties, the payments
12 described above shall be promptly returned to the Settling Defendant, and the terms of this agreement
13 shall be null and void.

14 2.2 MEJF and KELC represent and warrant that each of the organizations identified in
15 Paragraph 2.1(a)(ii) and (iii) above is a tax exempt, section 501(c)(3) non-profit organization and that
16 funds distributed to these organizations pursuant to this Consent Judgment may only be spent to
17 reduce harm from toxic chemicals, or to increase consumer, worker and community awareness of
18 health hazards posed by lead and other toxic chemicals.

19 2.3 Except as specifically provided in this Consent Judgment, each side shall bear its own
20 costs and attorney’s fees.

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

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

26 4.1 For purposes of Section 4 of this Consent Judgment, the term Settling Defendant shall
27 include the Settling Defendant, as defined above, and its past, present and future parents, divisions,
28

1 subdivisions, brands, subsidiaries, affiliates, licensees and business partners and the predecessors,
2 successors and assigns of any of them, as well as their past, present and future officers, directors,
3 employees, agents, attorneys, representatives, shareholders and assigns. For purposes of Section 4,
4 the term Settling Defendant shall also be deemed to include the Settling Defendant's supplier of
5 Covered Products, but only with respect to those Covered Products that such supplier ships for the
6 Settling Defendant.

7 4.2 As to Covered Products, this Consent Judgment is a final and binding resolution
8 between Plaintiff acting on behalf of itself and, (as to those matters referenced in the Notice Letters)
9 in the public interest pursuant to Health and Safety Code Section 25249.7(d) and the Settling
10 Defendant of: (a) any violation of Proposition 65; or, (b) with respect to exposures to the Proposition
11 65 Chemicals associated with the use of Covered Products, or (c) with respect to exposures to the
12 Proposition 65 Chemicals associated with the use of Covered Products, any other statutory or
13 common law claim, to the fullest extent that any such claims were or could have been asserted by any
14 person or entity against the Settling Defendant based on its or their exposure of persons to chemicals
15 contained in or otherwise associated with the use of Covered Products manufactured, sold or
16 distributed by, for or on behalf of the Settling Defendant and/or their alleged failure to provide a
17 clear and reasonable warning of such exposure to such individuals; or (d) as to exposures to
18 chemicals contained in or otherwise associated with the use of Covered Products, any other claim
19 based in whole or part on the facts alleged in the Complaint or Notice Letters, whether based on
20 actions or omissions committed by the Settling Defendant or any other entity within the Settling
21 Defendant's chain of distribution, including, but not limited to, customers, wholesale, retail or "e-
22 tail" sellers or distributors, licensees and business partners and any other person in the course of
23 doing business ("Downstream Entity").

24 4.3 Notwithstanding Sections 4.2 above, as to all customers, distributors, wholesalers,
25 retailers, licensees and business partners or any other Downstream Entity, except as otherwise
26 indicated in Sections 4.4 below, which may in the course of doing business use, maintain, distribute,
27 or sell Covered Products which are manufactured, distributed or sold by the Settling Defendant
28

1 (including Covered Products which are privately labeled by the Settling Defendant for a Downstream
2 Entity), Plaintiff (acting on behalf of itself and, as to those matters raised in the Notice Letters, on
3 behalf of the general public) waives all rights to institute any form of legal action whether under
4 Proposition 65 or the Unfair Competition Act or otherwise, arising out of or resulting from or related
5 directly or indirectly to, in whole or in part, exposure to, or otherwise associated with the use of and
6 alleged failure to warn with respect to Proposition 65 Chemicals contained in Covered Products.

7 4.4 Nothing in this Consent Judgment shall be deemed to require an out of state
8 manufacturer of Covered Products to provide a Proposition 65 warning for occupational exposures
9 occurring within the State of California. Nothing in this Consent Judgment will be deemed to release
10 a California employer from liability for failure to comply with its obligations, if any, to provide
11 warnings under Proposition 65 for the exposures of its employees to chemicals contained in or
12 otherwise associated with Non-Retail Covered Products (as defined in Section 7.6 below) unless such
13 employer makes Proposition 65 warning information available to its employees in the manner
14 specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code Regs. § 5194.

15 4.5 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and
16 benefits which it now has, or in the future may have, conferred upon it by virtue of the provisions of
17 Section 1542 of the California Civil Code, which provides as follows:

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

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

14 4.6 The Settling Defendant waives all rights to institute any form of legal action against
15 Plaintiff, its officers, directors, attorneys, consultants and representatives for all legal actions
16 undertaken or statements made in the course of such legal actions to seek enforcement of this action
17 and judgment.

18 **5. ENFORCEMENT OF JUDGMENT**

19 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
20 hereto by means of noticed motion or order to show cause before the Superior Court of San Francisco
21 County.

22 **6. MODIFICATION OF JUDGMENT**

23 6.1 This Consent Judgment may be modified only upon written agreement of the Parties
24 and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party
25 as provided by law and upon entry of a modified amended Consent Judgment by the Court.

26 Notwithstanding the immediately preceding sentence or any other term or provision of this Consent
27 Judgment, if Plaintiff or any affiliated entity, or the California Attorney General, enters into, or
28

1 agrees to in writing, or is otherwise bound by injunctive relief terms or provisions relating to the
2 provision of Proposition 65 warnings for Covered Products, which, taken together, are more
3 favorable to the defendant(s) than the terms or provisions that this Consent Judgment provide for a
4 Covered Product of like kind and characteristics and use, the terms of injunctive relief provided for in
5 Section 7 of this Consent Judgment shall automatically be deemed to have been modified to add such
6 more favorable terms or provisions as an option which the Settling Defendant may elect for
7 compliance with this Consent Judgment.

8 **7. INJUNCTIVE RELIEF**

9 7.12 Within 90 (ninety) days after entry of this Consent Agreement, all Covered Products
10 sold by Settling Defendant in California shall meet the following criteria:

- 11 (a) The formulation of PVC used shall have no intentionally added lead.
12 (b) A representative sample of the bulk PVC used to manufacture the Covered Products
13 has been tested for lead content and shown lead content by weight of less than 0.03%, or 300
14 parts per million ("ppm"), using a test method of sufficient sensitivity to establish a limit of
15 quantification (as distinguished from detection) of less than 300 ppm.

16 7.13 Settling Defendant may comply with the above requirements by relying on
17 information obtained from its suppliers regarding the PVC used in the products' manufacture
18 provided such reliance is in good faith.

19 **8. APPLICATION OF JUDGMENT**

20 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs,
21 acting in the public interest pursuant to Health and Safety Code section 25249.7(d) and on behalf of
22 the general public pursuant to Business and Professions Code section 17204, and the Settling
23 Defendant and the successors or assigns of any of them.

24 **9. AUTHORITY TO STIPULATE**

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

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

14. **COURT APPROVAL**

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

IT IS SO STIPULATED:

DATED: 11/20/07

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

By: 
William Verick

DATED: 11/20/2007

WESTPORT COPROATION

By: 

IT IS SO ORDERED.

DATED: MAR 03 2008

PETER J. BUSCH

JUDGE, SUPERIOR COURT OF CALIFORNIA

EXHIBIT A
(Copy Of 60-Day Notice Letters)

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Klamath

July 12, 2006

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private businesses on the attached service list have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with apparel accessories like small hand bags and glasses cases that are made with lead-containing plastic. These types of products are made from plastic (hereinafter "plastic accessories"). A list of specific examples of the specific types of these products is attached. Though a specific model or SKU or product number is given as an example for each type of product, this notice pertains to all models, and all variations, of the specific type of product of which the named model is an example. The plastic these accessories are made from contains lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead when they handle these plastic accessories. Lead in the plastic is transferred from the plastic to their hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the plastic, from oral contact with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. These lead exposures thus occur via the dermal absorption, subcutaneous, mucus membrane, ingestion and inhalation routes. The listed businesses did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least July 12, 2003, and will continue every day until the lead is removed from the plastic used to make these accessories, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any plastic accessories made outside of California, except as to workplaces these companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the property of these businesses and in each of California's 58 counties.

Cordially,



William Verick

PRODUCT LIST

PAN OCEANIC EYEWARE, LTD

SPONGEBOB SQUAREPANTS "CHILLIN" CHARACTER CASE EYEGLOSS CASE DEPT. 49 SKU# 4964941 UPC: 085612 023401: This product description pertains not only to the specific model of the product listed, but also for all units of all models of apparel accessories made from lead-containing plastic.

ROMAR INTERNATIONAL, CORP.

GEORGE CONFETTI TOTE BAG #33780101 PDSE GREEN 01-06 GG6161 WPM UPC: 015394 032797 and GEORGE CONFETTI BARRELL BAG #33780101 PDSE GREEN 01-06 GG6162 WPM UPC: 015394 032773: This product description pertains not only to the specific models of the products listed, but also for all units of all models of apparel accessories made from lead-containing plastic.

WAL-MART STORES, INC.

WEATHER RESISTANT MATTE PVC/NYLON CD ORGANIZER 24 CAPACITY #T-60175B UPC: 6937832 100049: This product description pertains not only to the specific model of the product listed, but also for all units of all models of apparel accessories made from lead-containing plastic.

WESTPORT CORPORATION

EYEWEAR ACCESSORIES EYEWEAR CASE FACILE EYE CASE #961029/01WM BROWN/TAN DEPT. 32 #6593 UPC: 077979 665936: This product description pertains not only to the specific model of the product listed, but also for all units of all models of apparel accessories made from lead-containing plastic.

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST. 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

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
202 C ST. FLOOR 3
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
225 FALLON ST. #9
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET ST.
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

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ATTORNEY
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825 5TH ST.
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COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

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COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

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

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ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
COUNTY ADMINISTRATION
BUILDING
707 NEVADA ST.
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
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OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
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COUNTY OF MARIPOSA
P.O. BOX 748
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
301 S. STATE ST.
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
P.O. BOX 1171
ALTURAS, CA 9610

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

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SALINAS, CA 93902

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COURTHOUSE ANNEX
NEVADA CITY, CA 95959

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

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
P.O. BOX 10716
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
P.O. BOX 749
SACRAMENTO, CA 95804

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

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

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
101 W. BROADWAY #1300
SAN DIEGO, CA 92101

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COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

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HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

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COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101-2008

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

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COUNTY OF SANTA CRUZ
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REDDING, CA 96001

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DOWNEVILLE, CA 95936

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COUNTY OF SISKIYOU
P.O. BOX 936
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

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

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

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COUNTY OF TEHAMA
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REDBLUFF, CA 96080

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COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

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COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

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COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
c/o GREGORY BROSE D.D.A.
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VENTURA, CA 93003

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
204 4TH ST
P.O. BOX 1247
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

RONALD TERZI, OWNER
PAN OCEANIC EYEWEAR, LTD.
15 W. 37TH STREET 5TH FLOOR
NEW YORK, NY 10018-5340

DAVID STEINBERG, OWNER
ROMAR INTERNATIONAL CORP.
1369 BROADWAY
NEW YORK, NY 10018

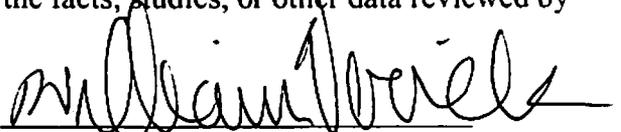
H LEE SCOTT, CEO
WAL-MART STORES, INC.
702 SW 8TH STREET MS #0555
BENTONVILLE, AR 72716-0555

RICHARD FLORIN, OWNER
WESTPORT CORPORATION
331 CHANGEBRIDGE RD
PINEBROOK, NJ 07058-9516

CERTIFICATE OF MERIT

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

Dated: July 12, 2006


William Verick

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

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On July 12, 2006 I caused the attached 60-DAY NOTICE 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 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 12, 2006, at Eureka, California.


Nicole Frank

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Klamath Environmental Law Center
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10 Attorneys for Plaintiff
11 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14
15 COUNTY OF SAN FRANCISCO

16
17 MATEEL ENVIRONMENTAL JUSTICE
18 FOUNDATION,

19 Plaintiff,

20
21 vs.

22 PAN OCEANIC EYEWEAR, LTD, et al.,
23
24 Defendants.
25
26 _____/

CASE NO. 457611

(JLR)
[Proposed] ORDER
27 APPROVING SETTLEMENT
AS TO DEFENDANT
28 WESTPORT, INC.

Date: March 3, 2008
Time: 9:30 a.m.
Dept. No.: 301

ENDORSED
FILED
San Francisco County Superior Court

MAR 03 2008

GORDON PARK-LI, Clerk
BY: JOCELYN C. ROQUE
Deputy Clerk

1 Plaintiff's motion for approval of settlement and entry of Consent Judgment as to
2 Defendant Westport, Inc. was heard on regular noticed motion on March 3, 2008, at 9:30 a.m. in
3 Department No. 301. Having reviewed the pleadings and the moving papers, having reviewed
4 the terms of the proposed consent judgment and having considered the arguments of counsel, the
5 Court finds as follows:

6 1. The warnings the Consent Judgment requires comply with the requirements of
7 Proposition 65.

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

10 3. The attorneys fees awarded under the Consent Judgment and the underlying
11 hourly rates, time expended, and costs incurred are reasonable.

12
13 IT IS SO ORDERED.

14
15 Dated: MAR 03 2008

PETER J. BUSCH
Judge of the Superior Court