

1 who handle and use cookware with brass handles that contain lead that handling and use of these
2 products causes those residents to be exposed to lead and/or lead compounds. Lead is known to
3 the State of California to cause cancer and/or birth defects or other reproductive harm. The
4 Complaint was based upon a 60-Day Notice letter, dated July 27, 2006, sent by MEJF to
5 Defendant, the California Attorney General, all District Attorneys, and all City Attorneys with
6 populations exceeding 750,000.

7 1.2 Defendant is a business that employs more than ten persons, and markets and sells
8 cookware with brass handles that allegedly contains lead and/or lead compounds. Pursuant to
9 Health and Safety Code Section 25249.8, lead and lead compounds are chemicals known to the
10 State of California to cause cancer and reproductive toxicity. Plaintiff MEJF alleges that
11 cookware with lead-containing brass that is sold by Defendant for use in California requires a
12 warning under Proposition 65, pursuant to Health and Safety Code Section 25249.6. Defendant
13 denies that a warning is required. For purposes of this Consent Judgment, the parties stipulate
14 that this Court has jurisdiction over the allegations of violations contained in the Complaint and
15 personal jurisdiction over Defendant as to the acts alleged in the Complaint, that venue is proper
16 in the County of San Francisco, and that this Court has jurisdiction to enter this Consent
17 Judgment as a full settlement and resolution of the allegations contained in the Complaint and of
18 all claims which were or could have been raised by any person or entity based in whole or in part,
19 directly or indirectly, on the facts alleged therein or arising therefrom or related to.

20 1.3 This Consent Judgment resolves claims that are denied and disputed. The parties
21 enter into this Consent Judgment pursuant to a full and final settlement of any and all claims
22 between the parties for the purpose of avoiding prolonged litigation. This Consent Judgment
23 shall not constitute an admission with respect to any material allegation of the Complaint, each
24 and every allegation of which Defendant denies, nor may this Consent Judgment or compliance
25 with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of
26 Defendant.

27 1.4 For purposes of this Consent Judgment, the term "Covered Products" means
28 Ruffoni brand cookware with brass handles marketed or sold by Target Corporation.

1 1.5 The term "Effective Date" means 90 days after entry of this Consent Judgment.

2 **2. SETTLEMENT PAYMENT**

3 2.1 In settlement of all of the claims that are alleged, or could have been alleged, in the
4 Complaint concerning Covered Products, Defendant shall pay \$35,000 to the Klamath
5 Environmental Law Center ("KELC"), which shall subsequently and within a commercially
6 reasonable time be divided by KELC as follows: (i) \$20,000 shall be paid to KELC for attorneys'
7 fees and costs incurred by KELC on behalf of Plaintiff in investigating this matter and negotiating
8 this Consent Judgment, (ii) \$7,500 shall be distributed by KELC to the Ecological Rights
9 Foundation and \$7,500 shall be distributed by KELC to Californians for Alternatives to Toxics
10 for use toward reducing exposures to toxic chemicals and other pollutants, and toward increasing
11 consumer, worker and community awareness of health hazards posed by lead and other toxic
12 chemicals. The parties agree and acknowledge that the charitable contributions made pursuant to
13 this section shall not be construed as a credit against the personal claims of absent third parties for
14 restitution against the defendant. The above described payment shall be forwarded by Defendant
15 so that it is received at least 5 days prior to the hearing date scheduled for approval of this
16 Consent Judgment. If the Consent Judgment is not approved within 120 days of the date scheduled
17 for approval, the above described payment shall be returned and the provisions of this Consent
18 judgment shall become null and void.

19 2.2 Defendant shall not be required to pay a civil penalty pursuant to Health and
20 Safety Code Section 25249.7(b).

21 **3. ENTRY OF CONSENT JUDGMENT**

22 3.1 The parties hereby request that the Court promptly enter this Consent Judgment.
23 Upon entry of the Consent Judgment, Defendant and MEJF waive their respective rights to a
24 hearing or trial on the allegations of the Complaint.

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

26 4.1 This Consent Judgment is a final and binding resolution between MEJF, acting on
27 behalf of itself and (as to those matters raised in the 60-Day Notice Letter) the general public, and
28 Defendant of: (i) any violation of Proposition 65 (including but not limited to the claims made in

1 the Complaint); and (ii) any other statutory or common law claim to the fullest extent that any of
2 the foregoing described in (i) or (ii) were or could have been asserted by any person or entity
3 against Defendant or its parents, subsidiaries or affiliates, and all of their suppliers, customers,
4 distributors, wholesalers, retailers, or any other person in the course of doing business, and the
5 successors and assigns of any of them, who may use, maintain, distribute or sell Covered
6 Products ("Released Entities"), based on its or their exposure of persons to lead or lead
7 compounds from Covered Products or their failure to provide a clear and reasonable warning of
8 exposure to such individuals; and (iii) as to alleged exposures to lead or lead compounds from
9 Covered Products, any other claim based in whole or in part on the facts alleged in the Complaint,
10 whether based on actions committed by the Released Entities or others. As to alleged exposures
11 to lead or lead compounds from Covered Products, compliance with the terms of this Consent
12 Judgment resolves any issue, now and in the future, concerning compliance by Defendant and the
13 Released Entities, with the requirements of Proposition 65 with respect to Covered Products, and
14 any alleged resulting exposure.

15 4.2 As to alleged exposures to lead or lead compounds from Covered Products, MEJF,
16 by and on behalf of itself and its respective agents, successors and assigns, waives any and all
17 rights to institute any form of legal action, and releases all claims against Defendant and the
18 Released Entities, and all of their respective parents, subsidiaries or affiliates, and all of their
19 suppliers, customers, distributors, wholesalers, retailers, or any other person in the course of
20 doing business, and the successors and assigns of any of them, who may use, maintain, distribute
21 or sell the Covered Products, whether, under Proposition 65 or otherwise, arising out of or
22 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,
23 including but not limited to any exposure to, or failure to warn with respect to, the Covered
24 Products (referred to collectively in this paragraph as the "Claims"). In furtherance of the
25 foregoing, as to alleged exposures to Covered Products, MEJF hereby waives any and all rights
26 and benefits which it now has, or in the future may have, conferred upon it with respect to the
27 Claims by virtue of the provisions of section 1542 of the California Civil Code, which provides as
28 follows:

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

6 4.3 MEJF understands and acknowledges that the significance and consequence of this
7 waiver of California Civil Code section 1542 is that even if MEJF suffers future damages arising
8 out of or resulting from, or related directly or indirectly to, in whole or in part, the Covered
9 Products, including but not limited to any exposure to, or failure to warn with respect to exposure
10 to, lead or lead compounds from Covered Products, MEJF will not be able to make any claim for
11 those damages against Defendant or the Released Entities. Furthermore, MEJF acknowledges
12 that it intends these consequences for any such Claims as may exist as of the date of this release
13 but which MEJF does not know exist, and which, if known, would materially affect their decision
14 to enter into this Consent Judgment, regardless of whether their lack of knowledge is the result of
15 ignorance, oversight, error, negligence, or any other cause.

16 5. ENFORCEMENT OF JUDGMENT

17 5.1 The terms of this Consent Judgment shall be enforced exclusively by the parties
18 hereto. The parties may, by noticed motion or order to show cause before the Superior Court of
19 San Francisco County, giving the notice required by law, enforce the terms and conditions
20 contained herein. A Party may enforce any of the terms and conditions of this Consent Judgment
21 only after that Party first provides 30 days notice to the Party allegedly failing to comply with the
22 terms and conditions of this Consent Judgment and attempts to resolve such Party's failure to
23 comply in an open and good faith manner.

24 5.2 In any proceeding brought by either party to enforce this Consent Judgment, such
25 party may seek whatever fines, costs, penalties or remedies as may be provided by law for any
26 violation of Proposition 65 or this Consent Judgment.

27 6. MODIFICATION OF JUDGMENT

1 6.1 This Consent Judgment may be modified only upon written agreement of the
2 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of
3 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

4 6.2 If, with respect to brass containing lead, the Attorney General of the State of
5 California or Plaintiff permit any other reformulation standard by way of settlement or
6 compromise with any other person in the course of doing business, or any other entity, or if
7 another reformulation standard for brass is incorporated by way of final judgment as to any other
8 person in the course of doing business, or any other entity, then Defendant is entitled to seek a
9 modification to this Consent Judgment on the same terms as provided in those settlements,
10 compromises or judgments.

11 **7. INJUNCTIVE RELIEF**

12 7.1 The requirements of this paragraph 7 shall apply only to Covered Products that are
13 offered for sale in California by Defendant after the Effective Date.

14 7.2 As to any Covered Product that contains a component made from brass that
15 contains lead as an intentionally added ingredient, where such brass comes into contact with the
16 user, a warning that contains one of the following warning statements shall be provided:

17 **“WARNING: This product contains chemicals, including lead, known to the State
18 of California to cause birth defects and other reproductive harm. *Wash hands
after handling*”** or

19 **“WARNING: Handling the brass parts of this product will expose you to lead, a
20 chemical known to the State of California to cause birth defects and other
reproductive harm. *Wash hands after handling.*”**

21 The word “WARNING” shall be in bold text, and the phrase “Wash hands after handling”
22 shall be in bold italic text.

23 7.2.1 The warning statements required in paragraph 7.2 shall be affixed to or
24 printed on the Covered Product itself or to the Covered Product’s packaging or labeling. The
25 warning shall be prominently affixed to or printed on the Covered Product or packaging or
26 labeling, and displayed with such conspicuousness, as compared with other words, statements,
27 designs, or devices on the Covered Product, or its packaging or labeling, as to render it likely to
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1 be read and understood by an ordinary individual under customary conditions of purchase or use.
2 For purposes of this paragraph, a warning may be contained in the same section of the packaging
3 or labeling that contains other safety warnings, if any, concerning the use of the Covered Product,
4 or near its displayed price and/or UPC code. The type size of the warning must be legible, but
5 need not be any larger than any other warning provided for the Covered Product, and its relative
6 size may take into account the nature, immediacy, and acuteness of the risks for which other
7 warnings are provided.

8 **8. RETENTION OF JURISDICTION**

9 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the
10 terms this Consent Judgment.

11 **9. AUTHORITY TO STIPULATE**

12 9.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
13 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of
14 the party represented and legally to bind that party.

15 **10. DUTIES LIMITED TO CALIFORNIA**

16 10.1 This Consent Judgment shall have no effect on Covered Products sold by
17 Defendant outside the State of California.

18 **11. SERVICE ON THE ATTORNEY GENERAL**

19 11.1 KELC shall serve a copy of this Consent Judgment, signed by all parties, on the
20 California Attorney General on behalf of the parties so that the Attorney General may review this
21 Consent Judgment prior to its submittal to the Court for approval. No sooner than forty five (45)
22 days after the Attorney General has received the aforementioned copy of this Consent Judgment,
23 and in the absence of any written objection by the Attorney General to the terms of this Consent
24 Judgment, the parties may then submit it to the Court for approval.

25 **12. ENTIRE AGREEMENT**

26 12.1 This Consent Judgment contains the sole and entire agreement and understanding
27 of the parties with respect to the entire subject matter hereof and any and all prior discussions,
28 negotiations, commitments and understandings related hereto. No representations, oral or

1 otherwise, express or implied, other than those contained herein have been made by any party
2 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
3 deemed to exist or to bind any of the parties.

4 **13. GOVERNING LAW**

5 13.1 The validity, construction and performance of this Consent Judgment shall be
6 governed by the laws of the State of California, without reference to any conflicts of law
7 provisions of California law.

8 **14. EXECUTION AND COUNTERPARTS**

9 14.1 This Consent Judgment may be executed in counterparts and by means of
10 facsimile, which taken together shall be deemed to constitute one document.

11 **15. COURT APPROVAL**

12 15.1 If this Consent Judgment, in its entirety, is not approved by the Court, it shall be of
13 no force or effect, and cannot be used in any proceeding for any purpose.

14 **16. NOTICES**

15 16.1 Any notices under this Consent Judgment shall be by personal delivery of First
16 Class Mail.

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

20 If to Target Jeffrey B. Margulies
21 Corporation: FULBRIGHT & JAWORSKI L.L.P.
555 South Flower Street, 41st Floor
22 Los Angeles, California 90071
Tel: (213) 892-9286/Fax: (213) 892-9494
jmargulies@fulbright.com

23 With a copy to:
24 Tim Baer
25 General Counsel
26 Target Corporation
1000 Nicollet Mall
27 TPS-3255
Minneapolis, Minnesota 55403

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IT IS SO STIPULATED:

DATED: _____

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

BY: *William Verick*
WILLIAM VERICK

DATED: February 15, 2008

TARGET CORPORATION
BY: *John Kelly*
ITS: Senior Counsel - Litigation

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED: JUL 15 2008

PATRICK J. MAHONEY
JUDGE OF THE SUPERIOR COURT
PATRICK J. MAHONEY, :