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ENDORSED  
FILED  
San Francisco County Superior Court

JUL 17 2008

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FOUNDATION

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN FRANCISCO

15  
16 MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,

17  
18 Plaintiff,

19 v.

20 NEWELL RUBBERMAID, INC. et al.,

21 Defendants.  
22

) Case No. CGC-07-463540  
)  
)  
)

) CONSENT JUDGMENT AS TO THE  
) STANLEY WORKS  
)  
)

23 **1. INTRODUCTION**

24 1.1 On May 18, 2007, the Mateel Environmental Justice Foundation ("Plaintiff  
25 MEJF") acting on behalf of itself and the general public, filed a Complaint for civil penalties and  
26 injunctive relief ("Complaint") in San Francisco Superior Court, Case No. CGC-07-463540,  
27 against defendant The Stanley Works, (referred to as "Stanley Works" or "Defendant"). The  
28

1 Complaint alleges, among other things, that Defendant violated provisions of the Safe Drinking  
2 Water and Toxic Enforcement Act of 1986, Health and Safety Code Sections 25249.5, et seq.  
3 (Proposition 65) by failing to give clear and reasonable warnings to those residents of California  
4 who handle and use products made of, or incorporate parts made of, leaded brass and/or leaded  
5 bronze, that handling and use of these products causes those residents to be exposed to lead  
6 and/or lead compounds. Lead is known to the State of California to cause cancer and/or birth  
7 defects or other reproductive harm. The Complaint was based upon a 60-Day Notice letter, dated  
8 October 19, 2006, sent by MEJF to Stanley Works, the California Attorney General, all District  
9 Attorneys, and all City Attorneys with populations exceeding 750,000.

10 1.2 Defendant is a business that employs more than ten persons, and manufactures,  
11 distributes, and sells brass products, including but not limited to accessories, such as accessories  
12 for use with air compressors ("Brass Products"). Many Brass Products contain components  
13 manufactured from brass that contains lead and/or lead compounds. Pursuant to Health and  
14 Safety Code Section 25249.8, lead and lead compounds are chemicals known to the State of  
15 California to cause cancer and reproductive toxicity. Plaintiff MEJF alleges that Brass Products  
16 with components containing lead-containing brass that are sold by Stanley Works for use in  
17 California require a warning under Proposition 65, pursuant to Health and Safety Code Section  
18 25249.6. Stanley Works denies that a warning is required. For purposes of this Consent  
19 Judgment, the parties stipulate that this Court has jurisdiction over the allegations of violations  
20 contained in the Complaint and personal jurisdiction over Stanley Works as to the acts alleged in  
21 the Complaint, that venue is proper in the County of San Francisco and that this Court has  
22 jurisdiction to enter this Consent Judgment as a full settlement and resolution of the allegations  
23 contained in the Complaint and of all claims which were or could have been raised by any person  
24 or entity based in whole or in part, directly or indirectly, on the facts alleged therein or arising  
25 therefrom or related to.

26 1.3 This Consent Judgment resolves claims that are denied and disputed. The parties  
27 enter into this Consent Judgment pursuant to a full and final settlement of any and all claims  
28 between the parties for the purpose of avoiding prolonged litigation. This Consent Judgment

1 shall not constitute an admission with respect to any material allegation of the Complaint, each  
2 and every allegation of which Stanley Works denies, nor may this Consent Judgment or  
3 compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on  
4 the part of Stanley Works.

5 1.4 For purposes of this Consent Judgment, the term "Covered Products" means Brass  
6 Products as described in paragraph 1.2 that contain one or more components manufactured from  
7 brass.

8 1.5 The term "Effective Date" means 90 days after entry of this Consent Judgment.

9 **2. SETTLEMENT PAYMENT**

10 2.1 In settlement of all of the claims that are alleged, or could have been alleged, in the  
11 Complaint concerning Covered Products, Stanley Works shall pay \$20,000 to the Klamath  
12 Environmental Law Center ("KELC") to cover Plaintiff's attorneys' fees. Additionally, Stanley  
13 Works shall pay \$7,500 to the Ecological Rights Foundation and \$7,500 to Californians for  
14 Alternatives to Toxics for use toward reducing exposures to toxic chemicals and other pollutants,  
15 and toward increasing consumer, worker and community awareness of health hazards posed by  
16 lead and other toxic chemicals. The parties agree and acknowledge that the charitable  
17 contributions made pursuant to this section shall not be construed as a credit against the personal  
18 claims of absent third parties for restitution against the defendant. The above described payments  
19 shall be forwarded by Defendant so that they are received at least 5 days prior to the hearing date  
20 scheduled for approval of this Consent Judgment. If the Consent Judgment is not approved within  
21 120 days of the date scheduled for approval, the above described payments shall be returned and  
22 the provisions of this Consent judgment shall become null and void.

23 2.2 Stanley Works shall not be required to pay a civil penalty pursuant to Health and  
24 Safety Code Section 25249.7(b).

25 **3. ENTRY OF CONSENT JUDGMENT**

26 3.1 The parties hereby request that the Court promptly enter this Consent Judgment.  
27 Upon entry of the Consent Judgment, Stanley Works and MEJF waive their respective rights to a  
28 hearing or trial on the allegations of the Complaint.

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

2             4.1     This Consent Judgment is a final and binding resolution between MEJF, acting on  
3     behalf of itself and (as to those matters raised in the 60-Day Notice Letter) the general public, and  
4     Stanley Works of: (i) any violation of Proposition 65 regarding exposure of persons to lead or  
5     lead compounds from Covered Products (including but not limited to the claims made in the  
6     Complaint); and (ii) any other statutory or common law claim to the fullest extent that any of the  
7     foregoing described in (i) or (ii) were or could have been asserted by any person or entity against  
8     Stanley Works or its parents, subsidiaries or affiliates, and all of their suppliers, customers,  
9     distributors, wholesalers, retailers, or any other person in the course of doing business, and the  
10    successors and assigns of any of them, who may use, maintain, distribute or sell Covered  
11    Products ("Released Entities"), based on its or their exposure of persons to lead or lead  
12    compounds from Covered Products or their failure to provide a clear and reasonable warning of  
13    exposure to such individuals; and (iii) as to alleged exposures to lead or lead compounds from  
14    Covered Products, any other claim based in whole or in part on the facts alleged in the Complaint,  
15    whether based on actions committed by the Released Entities or others. As to alleged exposures  
16    to lead or lead compounds from Covered Products, compliance with the terms of this Consent  
17    Judgment resolves any issue, now and in the future, concerning compliance by Stanley Works  
18    and the Released Entities, with the requirements of Proposition 65 with respect to Covered  
19    Products, and any alleged resulting exposure.

20             4.2     As to alleged exposures to lead or lead compounds from Covered Products, MEJF,  
21    by and on behalf of itself and its respective agents, successors and assigns, waives any and all  
22    rights to institute any form of legal action, and releases all claims against Stanley Works and the  
23    Released Entities, and all of their respective parents, subsidiaries or affiliates, and all of their  
24    suppliers, customers, distributors, wholesalers, retailers, or any other person in the course of  
25    doing business, and the successors and assigns of any of them, who may use, maintain, distribute  
26    or sell the Covered Products, whether, under Proposition 65 or otherwise, arising out of or  
27    resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,  
28    including but not limited to any exposure to, or failure to warn with respect to, the Covered

1 Products (referred to collectively in this paragraph as the "Claims"). In furtherance of the  
2 foregoing, as to alleged exposures to Covered Products, MEJF hereby waives any and all rights  
3 and benefits which it now has, or in the future may have, conferred upon it with respect to the  
4 Claims by virtue of the provisions of section 1542 of the California Civil Code, which provides as  
5 follows:

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

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

21 **5. ENFORCEMENT OF JUDGMENT**

22 5.1 The terms of this Consent Judgment shall be enforced exclusively by the parties  
23 hereto. The parties may, by noticed motion or order to show cause before the Superior Court of  
24 San Francisco County, giving the notice required by law, enforce the terms and conditions  
25 contained herein. A Party may enforce any of the terms and conditions of this Consent Judgment  
26 only after that Party first provides 60 days notice to the Party allegedly failing to comply with the  
27 terms and conditions of this Consent Judgment and attempts to resolve such Party's failure to  
28 comply in an open and good faith manner.

1           5.2    In any proceeding brought by either party to enforce this Consent Judgment, such  
2 party may seek whatever fines, costs, penalties or remedies as may be provided by law for any  
3 violation of Proposition 65 or this Consent Judgment.

4    **6.    MODIFICATION OF JUDGMENT**

5           6.1    This Consent Judgment may be modified only upon written agreement of the  
6 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of  
7 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

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

15    **7.    INJUNCTIVE RELIEF**

16           7.1    The requirements of this paragraph 7 shall apply only to Covered Products that are  
17 manufactured by Stanley Works after the Effective Date.

18           7.2    As to any Covered Product that contains a component made from brass that  
19 contains lead as an intentionally added ingredient, where such brass comes into contact with the  
20 user, a warning that contains one of the following warning statements shall be provided:

21                   (a)    **“WARNING: This product contains chemicals, including lead, known to**  
22 **the State of California to cause birth defects and other reproductive harm. *Wash hands after***  
23 ***handling*”** or

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

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

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

14 **8. TERMINATION AND RETENTION OF JURISDICTION**

15 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the  
16 terms this Consent Judgment.

17 **9. AUTHORITY TO STIPULATE**

18 9.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
19 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of  
20 the party represented and legally to bind that party.

21 **10. DUTIES LIMITED TO CALIFORNIA**

22 10.1 This Consent Judgment shall have no effect on Covered Products sold by Stanley  
23 Works outside the State of California.

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

25 11.1 KELC shall serve a copy of this Consent Judgment, signed by both parties, on the  
26 California Attorney General on behalf of the parties so that the Attorney General may review this  
27 Consent Judgment prior to its submittal to the Court for approval. No sooner than forty five (45)  
28 days after the Attorney General has received the aforementioned copy of this Consent Judgment,

1 and in the absence of any written objection by the Attorney General to the terms of this Consent  
2 Judgment, the parties may then submit it to the Court for approval.

3 **12. ENTIRE AGREEMENT**

4 12.1 This Consent Judgment contains the sole and entire agreement and understanding  
5 of the parties with respect to the entire subject matter hereof and any and all prior discussions,  
6 negotiations, commitments and understandings related hereto. No representations, oral or  
7 otherwise, express or implied, other than those contained herein have been made by any party  
8 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be  
9 deemed to exist or to bind any of the parties.

10 **13. GOVERNING LAW**

11 13.1 The validity, construction and performance of this Consent Judgment shall be  
12 governed by the laws of the State of California, without reference to any conflicts of law  
13 provisions of California law.

14 **14. EXECUTION AND COUNTERPARTS**

15 14.1 This Consent Judgment may be executed in counterparts and by means of  
16 facsimile, which taken together shall be deemed to constitute one document.

17 **15. COURT APPROVAL**

18 15.1 If this Consent Judgment, in its entirety, is not approved by the Court, it shall be of  
19 no force or effect, and cannot be used in any proceeding for any purpose.

20 **16. NOTICES**

21 16.1 Any notices under this Consent Judgment shall be by personal delivery of First  
22 Class Mail.

23 If to MEJF: William Verick, Esq.  
24 Klamath Environmental Law Center  
25 424 First Street  
Eureka, CA 95501

26 If to Stanley Works: Theodore Morris, Esq.  
27 Assistant General Counsel  
The Stanley Works  
1000 Stanley Drive  
28 New Britain, CT 06053



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IT IS SO STIPULATED:

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

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

BY: William Verick  
WILLIAM VERICK

DATED: April 17, 2008

THE STANLEY WORKS  
BY: David R. Hall  
ITS: Attorney

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED: JUL 17 2008

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