

1 WILLIAM VERICK, SBN 140972  
2 FREDRIC EVENSON, SBN 198059  
3 KLAMATH ENVIRONMENTAL LAW CENTER  
4 424 First Street  
5 Eureka, CA 95501  
6 Telephone: (707) 268-8900  
7 Facsimile: (707) 268-8901  
8 Email: wverick@igc.org  
9 Email: ecorights@earthlink.net

6 DAVID WILLIAMS, SBN 144479  
7 BRIAN ACREE, SBN 202505  
8 370 Grand Avenue, Suite 5  
9 Oakland, CA 94610  
10 Telephone: (510) 271-0826  
11 Facsimile: (510) 271-0829  
12 Email: davidhwilliams@earthlink.net  
13 Email: brianacree@earthlink.net

10 Attorneys for Plaintiff, MATEEL  
11 ENVIRONMENTAL JUSTICE FOUNDATION

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN FRANCISCO**

15 MATEEL ENVIRONMENTAL  
16 JUSTICE FOUNDATION,

17 Plaintiff,

18 vs.

19 COGHLAN'S, LTD.,

20 Defendant.

Case No. CGC 08-471031

**CONSENT JUDGMENT**

(As to Defendant Coghlan's, Ltd.)

21  
22 **1. INTRODUCTION**

23 1.1 On or about January 14, 2008, MATEEL ENVIRONMENTAL JUSTICE  
24 FOUNDATION ("Mateel") acting on behalf of itself and the general public, filed a  
25 complaint for civil penalties and injunctive relief in the above captioned matter in San  
26 Francisco County Superior Court, against Coghlan's, Ltd. ("Coghlan's" or "Settling  
27 Defendant"). The Complaint alleges, among other things, that Settling Defendant violated  
28 provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and

**ENDORSED  
FILED**  
San Francisco County Superior Court

APR 01 2008

GORDON PARK-LI, Clerk  
BY: GINA GONZALES  
Deputy Clerk

1 Safety Code Section 25249.5. et seq. ("Proposition 65"). In particular, Mateel alleges that  
2 Settling Defendant has knowingly and intentionally exposed persons to leaded brass  
3 lantern lighting products ("Covered Products") which contain lead and/or lead  
4 compounds, which are chemicals known to the State of California to cause cancer and  
5 birth defects or other reproductive harm, without first providing a clear and reasonable  
6 warning to such individuals.

7       **1.2** On or about November 7, 2007, a 60 Day Notice Letter ("Notice Letter")  
8 was sent by Mateel to Settling Defendant, the California Attorney General, all California  
9 District Attorneys, and all City Attorneys of each California city with a population  
10 exceeding 750,000.

11       **1.3** Settling Defendant is a business that employs ten or more persons and  
12 manufactures, distributes, supplies and/or otherwise markets Covered Products within the  
13 State of California, which are alleged to contain lead and/or lead compounds. Lead and  
14 lead compounds are chemicals known to the State of California to cause cancer, and lead  
15 is a chemical known to the State of California to cause reproductive toxicity pursuant to  
16 Health and Safety Code Section 25249.9. Under specified circumstances, products  
17 containing lead and/or lead compounds that are sold or distributed in the State of  
18 California are subject to the Proposition 65 warning requirement set forth in Health and  
19 Safety Code Section 25249.6. Plaintiff Mateel alleges that the Covered Products  
20 manufactured, distributed, sold and/or marketed by Settling Defendant for use in  
21 California require a warning under Proposition 65.

22       **1.4** For purposes of this Consent Judgment, the parties stipulate that this Court  
23 has jurisdiction over the allegations of violations contained in the Complaint and personal  
24 jurisdiction over Settling Defendant as to the acts alleged in the Complaint, that venue is  
25 proper in the County of San Francisco and that this Court has jurisdiction to enter this  
26 Consent Judgment as a full settlement and resolution of the allegations contained in the  
27 Complaint and of all claims that were or could have been raised by Mateel, or as to those  
28 matters included in the 60 Day Notice, raised by a member of the general public.

1           1.5     This Consent Judgment resolves claims that are denied and disputed. The  
2 parties enter into this Consent Judgment pursuant to a full and final settlement of any and  
3 all claims between the parties for the purpose of avoiding prolonged litigation. This  
4 Consent Judgment shall not constitute an admission with respect to any material allegation  
5 of the Complaint, each and every allegation of which Settling Defendant denies, nor may  
6 this Consent Judgment or compliance with it be used as evidence of any wrongdoing,  
7 misconduct, culpability or liability on the part of Settling Defendant.

8           **2.     SETTLEMENT PAYMENT**

9           2.1     Within ten (10) calendar days of entry of this Consent Judgment Settling  
10 Defendant shall pay \$8,500 (Eight Thousand Five Hundred Dollars) to the Ecological  
11 Rights Foundation and \$8,500 (Eight Thousand Five Hundred Dollars) to Californians for  
12 Alternatives to Toxics for work informing California consumers about the hazards of and  
13 exposures to toxic chemicals and for work to reduce exposures to and pollution from toxic  
14 chemicals. Both are California non-profit environmental organizations that advocate for  
15 workers' and consumers' safety, and for awareness and reduction of toxic exposures.

16           2.2     Within ten (10) calendar days of entry of this Consent Judgment by the  
17 Court, Settling Defendant shall pay a civil penalty totaling \$2,000 (Two Thousand  
18 Dollars), comprising a payment of \$1,500 (One Thousand Five Hundred Dollars) to the  
19 Office of the Attorney General and \$500 (Five Hundred Dollars) to plaintiff Mateel  
20 Environmental Justice Foundation.

21           2.3     Within ten (10) calendar days of entry of this Consent Judgment, Settling  
22 Defendant shall pay \$20,000 (Twenty Thousand Dollars) to the Klamath Environmental  
23 Law Center ("KELC") to cover a portion of the attorneys' fees and costs of plaintiff  
24 Mateel Environmental Justice Foundation.

25           2.4     All payments shall be made by check, payable to the above specified payee  
26 and mailed, or sent by other overnight delivery, to William Verick, Esq., Klamath  
27 Environmental Law Center, 424 First Street, Eureka, CA 95501, to be distributed by Mr.  
28 Verick to the ultimate recipients within a commercially reasonable time.

1     **3. ENTRY OF CONSENT JUDGMENT**

2             3.1     The parties hereby request that the Court promptly enter this Consent  
3 Judgment. Upon entry of the Consent Judgment, Settling Defendant and Mateel waive  
4 their respective rights to a hearing or trial on the allegations of the Complaint.

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

6             4.1     This Consent Judgment is a final and binding resolution between Mateel,  
7 acting on behalf of itself and, as to those matters raised in the 60 Day Notice Letter. the  
8 general public, and Settling Defendant, of any violation of Proposition 65, or the  
9 regulations promulgated thereunder, to the fullest extent that it could have been asserted  
10 by Mateel against the Settling Defendant based upon, arising out of, or relating to Settling  
11 Defendant's compliance with Proposition 65, or regulations promulgated thereunder, with  
12 respect to the Covered Products, whether based on actions committed by Settling  
13 Defendant, or by any other entity within the chain of distribution of the Covered Products,  
14 including, but not limited to, manufacturers, wholesale or retail sellers or distributors and  
15 any other person in the course of doing business that manufactured, sold, or distributed the  
16 Covered Products. As to alleged exposures to chemicals listed in the 60 Day Notice from  
17 Covered Products, compliance with the terms of this Consent Judgment resolves any  
18 issue, now and in the future, concerning compliance by Settling Defendant and its parents,  
19 subsidiaries or affiliates, predecessors, officers, directors, employees, and all  
20 manufacturers, customers, distributors, wholesalers, retailers or any other person in the  
21 course of doing business involving the Covered Products, and the successors and assigns  
22 of any of these who may manufacture, use, maintain, distribute, market or sell Covered  
23 Products, with the requirements of Proposition 65.

24             4.2     As to alleged exposures to chemicals identified in the 60 Day Notice Letter  
25 from Covered Products, Mateel, acting on behalf of itself and, as to the matters in the 60  
26 Day Notice Letter, on behalf of the general public, and its agents, successors and assigns,  
27 waives all rights to institute any form of legal action, and releases all claims which were  
28 or could have been brought against Settling Defendant and its parents, subsidiaries or  
affiliates, predecessors, officers, directors, employees, and all customers, manufacturers,

1 distributors, wholesalers, retailers or any other person in the course of doing business  
2 involving the Covered Products, and the successors and assigns of any of them, who may  
3 manufacture, use, maintain, distribute or sell the Covered Products. This release of  
4 claims by the general public is not understood to extend beyond the claims included in the  
5 60 Day Notice Letter. In furtherance of the foregoing, Mateel, acting on behalf of itself  
6 and the general public, hereby waives any and all rights and benefits which it now has, or  
7 in the future may have, conferred upon it with respect to the Covered Products by virtue  
8 of the provisions of Section 1542 of the California Civil Code, which provides as follows:

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

14 Mateel understands and acknowledges that the significance and consequence of this  
15 waiver of California Civil Code Section 1542 is that even if Mateel or any member of the  
16 general public suffers future damages arising out of or resulting from, or related directly  
17 or indirectly to, in whole or in part, the Covered Products, it and/or they will not be able to  
18 make any claim for those damages against the Settling Defendant, its parents, subsidiaries  
19 or affiliates, predecessors, officers, directors, employees, and all customers,  
20 manufacturers, distributors, wholesalers, retailers or any other person in the course of  
21 doing business involving the Covered Products, and the successors and assigns of any of  
22 them, who may manufacture, use, maintain, distribute or sell the Covered Products,  
23 including but not limited to, Wal-Mart Stores, Inc. and any of its parents, affiliates (by  
24 way of example and not limitation, Sam's Club, Inc., et al.), subsidiaries, predecessors,  
25 officers, directors, and employees. Furthermore, Mateel acknowledges that it intends  
26 these consequences for any such claims which may exist as of the date of this release but  
27 which Mateel does not know exist, and which, if known, would materially affect its  
28

1 decision to enter into this Consent Judgment, regardless of whether its lack of knowledge  
2 is the result of ignorance, oversight, error, negligence, or any other cause.

3       **4.3** In addition to the other provisions of this section, Mateel agrees that as part  
4 of the settlement of this action, it will dismiss the pending action known as Mateel  
5 Environmental Justice Foundation vs. Newell Rubbermaid, Inc., et al., San Francisco  
6 Superior Court, Case No. CGC 07-463540, as against the defendant therein Wal-Mart  
7 Stores, Inc., upon the execution of this Consent Judgment by the parties hereto. Copies of  
8 the executed Request for Dismissal and the executed Stipulation for Dismissal as to  
9 defendant Wal-Mart Stores, Inc. in Case No. CGC 07-463540 are attached hereto as  
10 Exhibit A and Exhibit 1, respectively.

11 **5. ENFORCEMENT OF JUDGMENT**

12 The terms of this Consent Judgment shall be enforced exclusively by the parties  
13 hereto. The parties may, by noticed motion or order to show cause before the Superior  
14 Court of San Francisco County, giving the notice required by law, enforce the terms and  
15 conditions contained herein.

16 **6. MODIFICATION OF JUDGMENT**

17 This Consent Judgment may be modified only upon written agreement of the  
18 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon  
19 motion of any party as provided by law and upon entry of a modified Consent Judgment  
20 by the Court.

21 **7. INJUNCTIVE RELIEF – CLEAR AND REASONABLE WARNINGS**

22 For all Covered Products manufactured for sale in California 90 days after entry of  
23 this Consent Judgment, Defendant shall provide a Proposition 65 Warning as described  
24 below, or according to any warning agreed to by the California Attorney General:

25  
26 **PROP 65 WARNING: This product contains lead and lead compounds,**  
27 **known to the State of California to cause [cancer, and] birth defects or**  
28 **other reproductive harm. *Wash your hands after handling this product.***

1  
2 or

3 **PROP 65 WARNING: Handling the brass material on this product exposes**  
4 **you to lead, a chemical known to the State of California to cause [cancer, and]**  
5 **birth defects and other reproductive harm. *Wash hands after use.***

6 The phrase "PROP 65" may be excluded at the Settling Defendant's discretion. If  
7 included, the phrase "PROP 65" shall be in capitals. The word "WARNING" shall be in  
8 capitals. The words "*Wash hands after handling this product*" or "*Wash hands after use,*"  
9 shall be italicized or underlined. Inclusion of the bracketed words "cancer, and" in the  
10 above warning shall be at the option of the Settling Defendant. The foregoing does not  
11 preclude Settling Defendant from adding a warning for additional Proposition 65 listed  
12 chemicals unless the Attorney General takes the position that such a warning would be  
13 misleading or an over-warning. Such warning shall be prominently affixed to or printed  
14 on each Covered Product, its label, or package and contained in the same section of the  
15 label or package that contains other safety warnings, if any, concerning the use of the  
16 Covered Product or near its displayed price and/or UPC code, and with such  
17 conspicuousness, as compared with other words, statements, designs, or devices on the  
18 Covered Product, its label, package or display as to render it likely to be read and  
19 understood by an ordinary individual.

20 **8. AUTHORITY TO STIPULATE**

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

24 **9. RETENTION OF JURISDICTION**

25 This Court shall retain jurisdiction of this matter to implement the Consent  
26 Judgment.

27 **10. ENTIRE AGREEMENT**

28 This Consent Judgment contains the sole and entire agreement and understanding

1 of the parties with respect to the entire subject matter hereof, and any and all prior  
2 discussions, negotiations, commitments and understandings related hereto. No  
3 representations, oral or otherwise, express or implied, other than those contained herein  
4 have been made by any party hereto. No other agreements not specifically referred to  
5 herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

6 **11. GOVERNING LAW**

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

10 **12. FEES AND EXPENSES**

11 The parties acknowledge and agree that, except as set provided in Section 2.1 of  
12 this Consent Judgment, each party shall bear its own costs, expenses, consultant and  
13 expert fees, and attorneys fees arising out of and/or in connection with the litigation, the  
14 negotiation, drafting and execution of this Consent Judgment, and all matters arising out  
15 of and/or connected therewith, except that, in the event any action or proceeding is  
16 brought to enforce this Consent Judgment, the prevailing party shall be entitled to  
17 reasonable and necessary attorneys' fees, expenses, and costs in addition to all other relief  
18 to which that party may be entitled.

19 **13. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(F)**

20 Mateel agrees to comply with the reporting form and approval requirements  
21 referenced in Health & Safety Code Section 25249.7(f) and as implemented by various  
22 regulations.

23 **14. COURT APPROVAL**

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

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IT IS SO STIPULATED:

Dated:

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

\_\_\_\_\_  
William Verick  
CEO Mateel Environmental Justice Foundation,  
Klamath Environmental Law Center

Dated: *FEB 11/2008*

COGHLAN'S, LTD.

*[Signature]*  
\_\_\_\_\_

By:  
Its:

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated:

*(see next page)*  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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IT IS SO STIPULATED:

Dated:

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION



William Verick  
CEO Mateel Environmental Justice Foundation,  
Klamath Environmental Law Center

Dated:

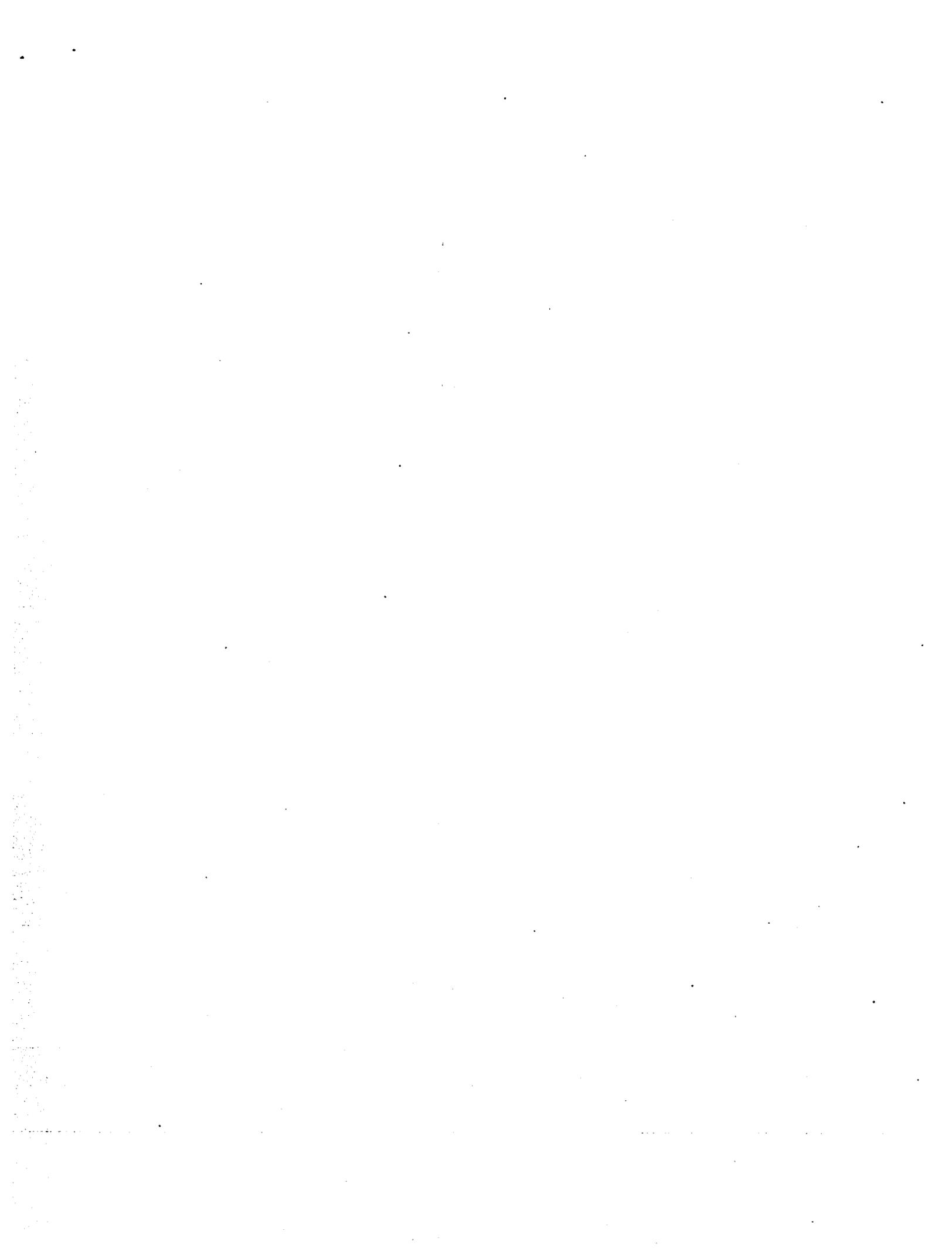
COGHLAN'S. LTD.

By:  
Its:

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: **APR 01 2008**

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



1 JAMES R. ARNOLD (SB# 56262)  
2 DENNIS J. BYRNE (SB# 172618)  
3 THE ARNOLD LAW PRACTICE  
4 3620 Happy Valley Road, First Floor  
5 Lafayette, CA 94549  
6 Telephone: (925) 284-8887  
7 Facsimile: (925) 284-1387  
8 Email: jarnold@arnoldlp.com

9 Attorneys for Defendant  
10 COGHLAN'S LTD.

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

13 MATEEL ENVIRONMENTAL  
14 JUSTICE FOUNDATION,  
15  
16 Plaintiff,  
17  
18 vs.  
19  
20 COGHLAN'S LTD., a Canadian  
21 Company,  
22  
23 Defendant.

Case No. CGC-471031

**STIPULATION FOR THE DISMISSAL OF  
WAL-MART STORES, INC. IN CASE  
NO. CGC 463540 IN CONJUNCTION WITH  
THE FILING OF MOTON FOR APPROVAL OF  
CONSENT JUDGMENT HEREIN**

24 WHEREFORE, the parties stipulate as follows:

25 This Stipulation is made by and between Mateel Environmental Justice Foundation and  
26 Coghlan's Ltd. (a Canadian company). Wal-Mart Stores, Inc. is currently a named defendant in a  
27 related matter pending before the Superior Court for the County of San Francisco titled MATEEL  
28 ENVIRONMENTAL JUSTICE FOUNDATION v. NEWELL RUBBERMAID, INC. et al., Case  
No. CGC 463540. Coghlan's Ltd. is not a party to that lawsuit.

Wal-Mart Stores, Inc.'s alleged liability in the NEWELL RUBBERMAID matter arises  
from the business relationship of Wal-Mart, Inc. with Coghlan's Ltd., the defendant in this  
lawsuit. Coghlan's Ltd. supplies a lantern lighter #503A that is sold by defendant Wal-Mart  
Stores, Inc. in its California stores. Plaintiff alleges in the NEWELL RUBBERMAID, INC.  
lawsuit that Wal-Mart Stores, Inc.'s sales of Coghlan's Ltd.'s lantern lighter products violate the

1 warning requirements of Proposition 65.

2 Lantern lighter #503A is a product at issue in this Proposition 65 lawsuit and in the related  
3 NEWELL RUBBERMAID, INC. matter.

4 Plaintiff Mateel Environmental Justice Foundation and Defendant Coghlan's Ltd. have  
5 agreed to terms of settlement. The terms of settlement reached are stated in a Consent Judgment  
6 to be submitted to the Court for approval in the instant matter. The terms of settlement reached in  
7 the instant action between Mateel Environmental Justice Foundation and Coghlan's Ltd. fully  
8 address Plaintiff's claims with respect to Wal-Mart Stores, Inc. in the related NEWELL  
9 RUBBERMAID matter.

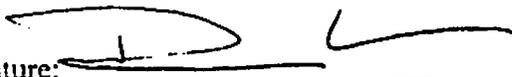
10 Therefore, the parties hereto stipulate as follows:

11 Plaintiff Mateel Environmental Justice Foundation hereby agrees to voluntarily dismiss  
12 defendant Wal-Mart Stores, Inc. in Case No. CGC 463540, with prejudice. A form of Request for  
13 Dismissal of Wal-Mart Stores, Inc. in that matter is attached hereto as Exhibit A.

14 The filing of the request for dismissal of Wal-Mart, Inc. in Case No. CGC 463540 shall  
15 coincide with the filing by Plaintiff of the Motion for Approval of Consent Judgment in the  
16 instant action.

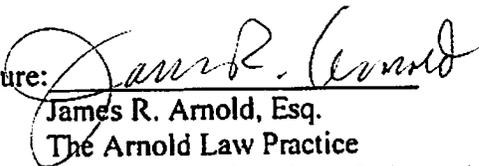
17 **IT IS SO STIPULATED:**

18  
19 Date: 2-7-2008

Signature: 

David Williams, Esq.  
The Law Office of David Williams  
Attorneys for Mateel Environmental  
Justice Foundation

22  
23 Date: 2-13-2008

Signature: 

James R. Arnold, Esq.  
The Arnold Law Practice  
Attorneys for Coghlan's Ltd. herein  
(and for defendant Wal-Mart Stores, Inc.  
in Case No. CGC 463540).

|  |                              |                              |
|--|------------------------------|------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)<br>David H. Williams (SBN 144479)<br>Law Offices of David H. Williams<br>370 Grand Avenue, Suite 5<br>Oakland, CA 94610  | TELEPHONE NO<br>510 271-0826 | FOR COURT USE ONLY           |
| ATTORNEY FOR (Name) Mateel Environmental Justice Foundation  |                              |                              |
| Insert name of court and name of judicial district and branch court, if any<br>Superior Court of San Francisco   |                              |                              |
| PLAINTIFF/PETITIONER: Mateel Environmental Justice Foundation<br>DEFENDANT/RESPONDENT: Newell Rubbermaid, Inc., et al.,  |                              |                              |
| <b>REQUEST FOR DISMISSAL</b><br><input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death<br><input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br><input type="checkbox"/> Family Law<br><input type="checkbox"/> Eminent Domain<br><input checked="" type="checkbox"/> Other (specify): Proposition 65 |                              | CASE NUMBER<br>CGC 07-463540 |
| - A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -  |                              |                              |

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1)  With prejudice (2)  Without prejudice
- b. (1)  Complaint (2)  Petition
- (3)  Cross-complaint filed by (name):
- (4)  Cross-complaint filed by (name):
- (5)  Entire action of all parties and all causes of action
- (6)  Other (specify):\* As to Defendant Wal-Mart Stores, Inc. only

on (date):  
on (date):

Date: February 7, 2008

David H. Williams

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*If dismissal requested is of specified parties only or of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

- Plaintiff/Petitioner  Defendant/Respondent
- Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

- Plaintiff/Petitioner  Defendant/Respondent
- Cross-complainant

(To be completed by clerk)

- 3.  Dismissal entered as requested on (date):
- 4.  Dismissal entered on (date): as to only (name):
- 5.  Dismissal not entered as requested for the following reasons (specify):
- 6.  a. Attorney or party without attorney notified on (date):
- b. Attorney or party without attorney not notified. Filing party failed to provide  a copy to conformed  means to return conformed copy

Date:

Clerk, by \_\_\_\_\_, Deputy