

**ENDORSED  
FILED**  
San Francisco County Superior Court

SEP 07 2010

CLERK OF THE COURT  
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Deputy Clerk

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20 MATEEL ENVIRONMENTAL JUSTICE  
21 FOUNDATION

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA

23 COUNTY OF SAN FRANCISCO

24 MATEEL ENVIRONMENTAL JUSTICE  
25 FOUNDATION,

26 Plaintiff,

27 v.

28 SCHRADER BRIDGEPORT  
INTERNATIONAL, INC., et al.,

Defendant.

Case No. CGC-09-492160

**CONSENT JUDGMENT**

1. **INTRODUCTION**

1.1 On September 3, 2009, the Mateel Environmental Justice Foundation ("Plaintiff or MEJF") acting on behalf of itself and the general public, filed a complaint for civil penalties and injunctive relief in San Francisco Superior Court, Case No. CGC-09-492160, against defendant Schrader Bridgeport International, Inc. (hereafter, "Schrader Bridgeport"). On October 28, 2009, MEJF filed a First Amended Complaint ("Complaint") adding Balkamp Inc., as a

1 defendant. The Complaint alleges, among other things, that Schrader Bridgeport violated  
2 provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety  
3 Code Sections 25249.5, et seq. ("Proposition 65") by failing to give clear and reasonable  
4 warnings to those residents of California who handle and use products made of, or incorporate  
5 parts made of, leaded brass and/or leaded bronze, that handling and use of these products causes  
6 those residents to be exposed to lead and/or lead compounds. Lead is known to the State of  
7 California to cause cancer and/or birth defects or other reproductive harm. The Complaint was  
8 based upon (i) a 60-Day Notice letter, dated March 26, 2009, sent by MEJF to Schrader  
9 Bridgeport, the California Attorney General, all District Attorneys, and all City Attorneys with  
10 populations exceeding 750,000; and (ii) a 60-Day Notice letter dated May 21, 2009, sent by  
11 MEJF to defendant Balkamp Inc., and other commercial entities, the California Attorney General,  
12 all District Attorneys, and all City Attorneys with populations exceeding 750,000. Additionally,  
13 MEJF sent a 60-Day Notice letter dated March 11, 2010, to Genuine Parts Company and  
14 National Automotive Parts Association (NAPA), and other commercial entities, the California  
15 Attorney General, all District Attorneys, and all City Attorneys with populations exceeding  
16 750,000.

17           1.2     Schrader Bridgeport is a business that employs more than ten persons, and  
18 manufactures, distributes, and sells brass products, including but not limited to products and  
19 accessories for use with air compressors and tire hardware as well as industrial and automotive  
20 couplings, fittings, plugs, valves and lubrication equipment, including hose couplers, nozzles and  
21 air and gas hoses that have components or accessories that contain brass ("Brass Products").  
22 Many Brass Products contain components manufactured from brass that contains lead and/or lead  
23 compounds. Pursuant to Health and Safety Code Section 25249.8, lead and lead compounds are  
24 chemicals known to the State of California to cause cancer and reproductive toxicity. Plaintiff  
25 MEJF alleges that Brass Products with components containing lead-containing brass that are sold  
26 by Schrader Bridgeport for use in California require a warning under Proposition 65, pursuant to  
27 Health and Safety Code Section 25249.6. Schrader Bridgeport alleges that it has provided  
28 warnings with its Brass Products since 2007; that such warnings are compliant with this code

1 section, and that further warnings are not required by law.

2 1.3 As used in this Consent Judgment, "Party" shall mean MEJF and/or Schrader  
3 Bridgeport and "Parties" shall mean both MEJF and Schrader Bridgeport. For purposes of this  
4 Consent Judgment, the Parties stipulate that this Court has jurisdiction over the allegations of  
5 violations contained in the Complaint and personal jurisdiction over Schrader Bridgeport as to  
6 the acts alleged in the Complaint, that venue is proper in the County of San Francisco and that  
7 this Court has jurisdiction to enter this Consent Judgment as a full settlement and resolution of  
8 the allegations contained in the Complaint and of all claims which were or could have been raised  
9 by any person or entity based in whole or in part, directly or indirectly, on the facts alleged  
10 therein or arising therefrom or related to.

11 1.4 This Consent Judgment resolves claims that are denied and disputed. The Parties  
12 enter into this Consent Judgment as a full and final settlement of any and all claims between the  
13 Parties and for the purpose of avoiding prolonged litigation. This Consent Judgment shall not  
14 constitute an admission with respect to any material allegation of the Complaint, each and every  
15 allegation of which Schrader Bridgeport denies, nor may this Consent Judgment or compliance  
16 with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of  
17 Schrader Bridgeport.

18 1.5 For purposes of this Consent Judgment, the term "Covered Products" means Brass  
19 Products as described in paragraph 1.2 for use with air compressors and tire hardware as well as  
20 industrial and automotive couplings, fittings, plugs, valves and lubrication equipment, including  
21 hose couplers, nozzles and air and gas hoses that have components or accessories that contain  
22 brass, manufactured, sold or distributed by Schrader Bridgeport or its parents, subsidiaries or  
23 affiliates, including, but not limited to, Bridge Products International, Gates Corporation, Epicor  
24 Industries and Plews & Edelman, collectively referred to as "Settling Defendants". "Covered  
25 Products" includes, without in any way limiting the scope of Covered Products, the products  
26 listed in Exhibit A.

27 1.6 The term "Effective Date" means 120 days after entry of this Consent Judgment.

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1     **2. SETTLEMENT PAYMENT**

2             2.1     In settlement of all the claims that are alleged, or could have been alleged, in the  
3 Complaint concerning Covered Products, Schrader Bridgeport shall pay \$38,000.00 to the  
4 Klamath Environmental Law Center ("KELC") to cover Plaintiff's attorneys' fees. Additionally,  
5 Schrader Bridgeport shall pay \$14,000.00 to the Ecological Rights Foundation and \$14,000.00 to  
6 Californians for Alternatives to Toxics for use toward reducing exposures to toxic chemicals and  
7 other pollutants, and toward increasing consumer, worker and community awareness of health  
8 hazards posed by lead and other toxic chemicals. The above described payments shall be  
9 forwarded by Schrader Bridgeport to MEJF so that they are received at least 5 days prior to the  
10 hearing date scheduled for approval of this Consent Judgment. If the Consent Judgment is not  
11 approved within 120 days of the date scheduled for approval, the above described payments shall  
12 be returned by MEJF to Schrader Bridgeport and the provisions of this Consent Judgment shall  
13 become null and void.

14             2.2     Schrader Bridgeport shall not be required to pay a civil penalty pursuant to Health  
15 and Safety Code Section 25249.7(b).

16     **3. ENTRY OF CONSENT JUDGMENT**

17             3.1     The Parties hereby request that the Court promptly enter this Consent Judgment.  
18 Upon entry of the Consent Judgment, Schrader Bridgeport and MEJF waive their respective  
19 rights to a hearing or trial on the allegations of the Complaint.

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

21             4.1     As to alleged exposures to lead or lead compounds from Covered Products, this  
22 Consent Judgment is a final and binding resolution between MEJF, acting on behalf of itself and  
23 (as to those matters raised in the 60-Day Notice Letters described in Paragraph 1.1) the general  
24 public, and Schrader Bridgeport of: (i) any violation of Proposition 65 regarding exposure of  
25 persons to lead or lead compounds from Covered Products (including but not limited to the  
26 claims made in the Complaint); and (ii) any other statutory or common law claim to the fullest  
27 extent that any of the foregoing described in (i) or (ii) was or could have been asserted by any  
28 person or entity against any of the Settling Defendants, their suppliers, customers, distributors,

1 wholesalers, retailers (including, but not limited to, National Automotive Parts Association, Inc.,  
2 Balkamp, Inc., and Genuine Parts Co.), or any other person in the course of doing business, and  
3 the successors and assigns of any of them, who may use, maintain, distribute or sell Covered  
4 Products (collectively referred to as "Released Entities"), based on its or their exposure of  
5 persons to lead or lead compounds from Covered Products or their failure to provide a clear and  
6 reasonable warning of exposure to such individuals; and (iii) as to alleged exposures to lead or  
7 lead compounds from Covered Products, any other claim based in whole or in part on the facts  
8 alleged in the Complaint, whether based on actions committed by the Released Entities or others.  
9 As to alleged exposures to lead or lead compounds from Covered Products, compliance with the  
10 terms of this Consent Judgment resolves any issue, now and in the future, concerning compliance  
11 by Schrader Bridgeport and the Released Entities, with the requirements of Proposition 65 with  
12 respect to exposures to lead and lead compounds from Covered Products.

13 4.2 As to alleged exposures to lead or lead compounds from Covered Products, MEJF,  
14 by and on behalf of itself and its respective agents, successors and assigns, waives any and all  
15 rights to institute any form of legal action, and releases all claims against Schrader Bridgeport  
16 and the Released Entities, and all of their respective parents, subsidiaries, and all of their  
17 suppliers, customers, distributors, wholesalers, retailers, or any other person in the course of  
18 doing business, and the successors and assigns of any of them, who may use, maintain, distribute  
19 or sell the Covered Products, whether under Proposition 65 or otherwise, arising out of or  
20 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,  
21 including but not limited to any exposure to, or failure to warn with respect to, the Covered  
22 Products (referred to collectively in this paragraph as the "Claims"). In furtherance of the  
23 foregoing, as to alleged exposures to Covered Products, MEJF hereby waives any and all rights  
24 and benefits which it now has, or in the future may have, conferred upon it with respect to the  
25 Claims by virtue of the provisions of section 1542 of the California Civil Code, which provides  
26 as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
28 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT  
THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM,

1 MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE  
2 DEBTOR.

3 4.3 MEJF understands and acknowledges that the significance and consequence of  
4 this waiver of California Civil Code Section 1542 is that even if MEJF suffers future damages  
5 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the  
6 Covered Products, including but not limited to any exposure to, or failure to warn with respect to  
7 exposure to, lead or lead compounds from Covered Products, MEJF will not be able to make any  
8 claim for those damages against Schrader Bridgeport or the Released Entities. Furthermore,  
9 MEJF acknowledges that it intends these consequences for any such Claims as may exist as of  
10 the date of this release but which MEJF does not know exist, and which, if known, would  
11 materially affect their decision to enter into this Consent Judgment, regardless of whether their  
12 lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

13 **5. ENFORCEMENT OF JUDGMENT**

14 5.1 The terms of this Consent Judgment may be enforced only by a Party hereto,  
15 except that any Released Entity may assert the terms of this Consent Judgment as a defense to  
16 any action asserting a claim released hereunder. The Parties may, by noticed motion or order to  
17 show cause before the Superior Court of San Francisco County, giving the notice required by  
18 law, enforce the terms and conditions contained herein. A Party may enforce any of the terms  
19 and conditions of this Consent Judgment only after that Party first provides 60 days notice to the  
20 Party allegedly failing to comply with the terms and conditions of this Consent Judgment and  
21 attempts to resolve such Party's failure to comply in an open and good faith manner.

22 5.2 In any proceeding brought by either Party to enforce this Consent Judgment, such  
23 Party may seek whatever fines, costs, penalties or remedies as may be provided by law for any  
24 violation of Proposition 65 or this Consent Judgment.

25 **6. MODIFICATION OF JUDGMENT**

26 6.1 This Consent judgment may be modified only upon written agreement of the  
27 Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of  
28 any Party as provided by law and upon entry of a modified Consent Judgment by the Court.

6.2 If, with respect to brass containing lead, the Attorney General of the State of

1 California or Plaintiff permit any other reformulation standard by way of settlement or  
2 compromise with any other person in the course of doing business, or any other entity, or if  
3 another reformulation standard for brass is incorporated by way of final judgment as to any other  
4 person in the course of doing business, or any other entity, then Schrader Bridgeport is entitled to  
5 seek a modification to this Consent Judgment on the same terms as provided in those settlements,  
6 compromises or judgments.

7 **7. INJUNCTIVE RELIEF**

8 7.1 The requirements of paragraph 7 shall apply only to Covered Products that are  
9 manufactured by Settling Defendants after the Effective Date.

10 7.2 Covered Products shall be deemed to comply with Proposition 65 and to be  
11 exempt from any Proposition 65 warning requirements for lead if the surface materials that may  
12 be touched or handled for such products meet the following criteria: (a) the surface materials  
13 shall have no lead as an intentionally added constituent; and (b) the surface materials shall have a  
14 lead content by weight of no more than 0.03% (300 parts per million, or "300 ppm.").

15 7.3 (a) As to any Covered Product that contains a component made from brass that  
16 contains lead as an intentionally added ingredient, where such brass comes into contact with the  
17 user, a warning that contains one of the following warning statements shall be provided:

18 (1) **"WARNING: This product contains lead, a chemical known to the State**  
19 **of California to cause birth defects and other reproductive harm. *Wash hands after handling.*";** or

20 (2) **"WARNING: Handling the brass parts of this product will expose you to**  
21 **lead, a chemical known to the State of California to cause birth defects and other reproductive**  
22 **harm. *Wash hands after handling.*"**

23 The word "WARNING" shall be in bold text and the phrase "Wash hands after handling"  
24 shall be in italic text.

25 (b) The warning statements required by subparagraph (a) shall be provided as follows:

26 (1) For individually packaged Covered Products, the word "WARNING" shall be  
27 in bold. The words "Wash hands after handling" shall be italicized. Settling Defendants shall  
28 place such warning directly on or with the unit package of the Covered Products. Such warning

1 shall be prominently affixed to or printed on each Covered Product or its label or package. If  
2 printed on the label itself, the warning shall be contained in the same section that states other  
3 safety warnings, if any, concerning the use of the Covered Product.

4 (2) For Covered Products displayed and sold without packaging prepared by the  
5 Settling Defendants, no release shall apply to a Released Entity that is a retailer unless point of  
6 sales warnings using language substantially the same as the language required for packaged  
7 Covered Products is posted in close proximity to the point of display of the Covered Products.

8 (c) The requirements for product labeling, set forth in paragraph 7 are imposed  
9 pursuant to the terms of this Consent Judgment. The Parties recognize that product labeling is  
10 not the exclusive method of providing a warning under Proposition 65 and its implementing  
11 regulations.

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

13 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the  
14 terms of this Consent Judgment.

15 8.2 If Proposition 65 warnings for lead or lead compounds should no longer be  
16 required by the State of California, Schrader Bridgeport shall have no further warning obligations  
17 pursuant to this Consent Judgment. In the event that Schrader Bridgeport ceases to implement or  
18 modifies the warnings required under this Consent Judgment (because of change of law or  
19 otherwise), Schrader Bridgeport shall provide written notice to Mateel (through KELC) of its  
20 intent to do so, and the basis for its intent, no less than thirty (30) days in advance. Mateel shall  
21 notify Schrader Bridgeport in writing of any objection within thirty (30) days of its receipt of  
22 such notice, or such objection by Mateel shall be waived.

23 **9. AUTHORITY TO STIPULATE**

24 9.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
25 by the Party he or she represents to enter into this Consent Judgment and to execute it on behalf  
26 of the Party represented and legally to bind that Party.

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1 **10. DUTIES LIMITED TO CALIFORNIA**

2 10.1 This Consent Judgment only applies to Covered Products distributed for sale or  
3 sold by Settling Defendants in the State of California.

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

5 11.1 KELC shall serve a copy of this Consent Judgment, signed by both Parties, on the  
6 California Attorney General on behalf of the Parties so that the Attorney General may review this  
7 Consent Judgment prior to its submittal to the Court for approval. No sooner than forty five (45)  
8 days after the Attorney General has received the aforementioned copy of this Consent Judgment,  
9 and in the absence of any written objection by the Attorney General to the terms of this Consent  
10 Judgment, the Parties may then submit it to the Court for approval.

11 **12. ENTIRE AGREEMENT**

12 12.1 This Consent Judgment contains the sole and entire agreement and understanding  
13 of the Parties with respect to the entire subject matter hereof and any and all prior discussions,  
14 negotiations, commitments and understandings related hereto. No representations, oral or  
15 otherwise, express or implied, other than those contained herein have been made by any Party  
16 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be  
17 deemed to exist or to bind any of the Parties.

18 **13. GOVERNING LAW**

19 13.1 The validity, construction and performance of this Consent Judgment shall be  
20 governed by the laws of the State of California, without reference to any conflicts of law  
21 provisions of California law.

22 **14. EXECUTION AND COUNTERPARTS**

23 14.1 This Consent Judgment may be executed in counterparts and by means of  
24 facsimile, which taken together shall be deemed to constitute one document.

25 **15. COURT APPROVAL**

26 15.1 If this Consent Judgment, in its entirety, is not approved by the Court, it shall be  
27 of no force or effect, and cannot be used in any proceeding for any purpose.

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1 16. NOTICES

2 16.1 Any notices under this Consent Judgment shall be by personal delivery of first  
3 Class Mail.

4 If to MEJF: William Verick, Esq.  
5 Klamath Environmental Law Center  
6 424 First Street  
7 Eureka, CA 95501

8 If to Schrader  
9 Bridgeport: Amy E. Wright  
10 Tenkins Industries, Inc.  
11 6450 Pee Avenue, Suite 100  
12 Dayton, Ohio 45414; and

13 R. Morgan Giliuly, Esq.  
14 Burg Coffin Lewis & Trapp  
15 350 California Street, 22<sup>nd</sup> Floor  
16 San Francisco, CA 94104

17 IT IS SO STIPULATED:

18 DATED: 7/20/10

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

19 BY: William Verick  
20 WILLIAM VERICK

21 DATED: 7-19-10

SCHRADER BRIDGEPORT  
INTERNATIONAL, INC

22 BY: [Signature]  
23 ITS: Vice President

24 IT IS SO ORDERED, ADJUDGED AND DECREED:

25 DATED: SEP 07 2010

26 CHARLOTTE WALTER WOOLARD  
27 JUDGE OF THE SUPERIOR COURT  
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EXHIBIT A

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1. NAPA TIRE HARDWARE 1/4" FNPT PUSH-TO-CONNECT COUPLER
2. NAPA TIRE HARDWARE 1/4" MNPT AUTOMOTIVE STYLE
3. NAPA TIRE HARDWARE ANGLED PUSH-PULL DULA FOOT AIR LINE CHUCK
4. NAPA TIRE HARDWARE BLOW GUN KIT 1/4" MNPT
5. NAPA TIRE HARDWARE CLIP-ON STRAIGHT AIR LINE CHUCK
6. NAPA TIRE HARDWARE D 1/4" FNPT INDUSTRIAL INTERCHANGE STYLE
7. NAPA TIRE HARDWARE D 1/4" MNPT INDUSTRIAL INTERCHANGE STYLE
8. NAPA TIRE HARDWARE FOOT AIR LINE CHUCK 1/4" FNPT NORMALLY CLOSED SOLID BRASS
9. NAPA TIRE HARDWARE TYPE D BRASS QUICK COUPLER
10. NAPA TIRE HARDWARE 3/8" FNPT STRAIGHT-THRU STYLE COUPLER
11. NAPA TIRE HARDWARE CLIP-ON STRAIGHT AIR LINE CHUCK
12. NAPA TIRE HARDWARE 1/4" FNPT PUSH TO CONNECT
13. NAPA TIRE HARDWARE 1/4" MNPT AUTOMOTIVE STYLE COUPLER C
14. NAPA TIRE HARDWARE 1/4" MNPT INDUSTRIAL INTERCHANGE STYLE
15. NAPA TIRE HARDWARE SAFETY BLOW GUN 1/4" MNPT
16. 1/4" FNPT AUTOMOTIVE STYLE COUPLING 90-600BR17.
17. NAPA 400S AIR HOSE 1/4" X 25'-300 PSI H240 3215-6101
18. NAPA RUBBER AIR HOSE 200S 1/4" X 25'
19. NAPA RUBBER AIR HOSE 200S 3/8" X 25'