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17 **MATEEL ENVIRONMENTAL JUSTICE FOUNDATION**

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 CITY AND COUNTY OF SAN FRANCISCO  
20 UNLIMITED JURISDICTION

21 MATEEL ENVIRONMENTAL JUSTICE )  
22 FOUNDATION, )

23 Plaintiff, )

24 v. )

25 HYDE GROUP, INC., et al., )

26 Defendants. )  
27 )  
28 )

Case No. CGC-10-504373

CONSENT JUDGMENT AS TO HYDE  
GROUP, INC.

1 **INTRODUCTION**

1.1 On October 5, 2010, the Mateel Environmental Justice Foundation ("Plaintiff MEJF") acting on behalf of itself and the general public, filed a Complaint for civil penalties and injunctive relief ("Complaint") in San Francisco Superior Court, Case No. CGC-10-504373, against defendant Hyde Group, Inc. (referred to as "Hyde" or "Defendant"). The Complaint alleges, among other things, that Hyde violated provisions of the Safe Drinking Water and Toxic

ENDORSED  
FILED  
San Francisco County Superior Court

SEP 26 2011

CLERK OF THE COURT  
BY: GINA GONZALES  
Deputy Clerk

1 Enforcement Act of 1986, Health and Safety Code Sections 25249.5, et seq. (Proposition 65) by  
2 failing to give clear and reasonable warnings to those residents of California who handle and  
3 come into contact with the brass parts of air and water hoses, hose connectors, couplers, hose  
4 accessory kits, tools that connect to air or water hoses, such as hose nozzles and pressure washers,  
5 and that handling and use of these products causes those residents to be exposed to lead and/or  
6 lead compounds. Lead is known to the State of California to cause cancer and/or birth defects or  
7 other reproductive harm. The Complaint was based upon a 60-Day Notice Letter, dated July 22,  
8 2010 (the "Notice"), sent by MEJF to Hyde, the California Attorney General, all District  
9 Attorneys, and all City Attorneys with populations exceeding 750,000.

10 1.2 Hyde is a business that employs more than ten persons, and manufactures,  
11 distributes, and sells pivot nozzle wands for pressure washers, including but not limited to the  
12 *Hyde 28" Pivot Nozzle Wand for Pressure Washers 28430, UPC Code: 079423284304* that  
13 contain lead (hereinafter "Pivot Nozzles"). Pursuant to Health and Safety Code Section 25249.8,  
14 lead and lead compounds are chemicals known to the State of California to cause cancer and  
15 reproductive toxicity. Plaintiff MEJF alleges that Pivot Nozzles that are sold by Hyde for use in  
16 California require a warning under Proposition 65, pursuant to Health and Safety Code Section  
17 25249.6. Hyde denies that a warning is required. For purposes of this Consent Judgment, the  
18 parties stipulate that this Court has jurisdiction over the allegations of violations contained in the  
19 Complaint and personal jurisdiction over Hyde as to the acts alleged in the Complaint, that venue  
20 is proper in the County of San Francisco and that this Court has jurisdiction to enter this Consent  
21 Judgment as a full settlement and resolution of the allegations contained in the Complaint and of  
22 all claims which were or could have been raised by any person or entity based in whole or in part,  
23 directly or indirectly, on the facts alleged therein or arising therefrom or related to.

24 1.3 This Consent Judgment resolves claims that are denied and disputed. The parties  
25 enter into this Consent Judgment pursuant to a full and final settlement of any and all claims  
26 between the parties for the purpose of avoiding prolonged litigation. This Consent Judgment  
27 shall not constitute an admission with respect to any material allegation of the Complaint, each  
28

1 and every allegation of which Hyde denies, nor may this Consent Judgment or compliance with it  
2 be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of Hyde.

3 1.4 For purposes of this Consent Judgment, the term "Covered Products" means Pivot  
4 Nozzles, as set forth in the Notice, that are manufactured or marketed by Hyde for consumer use  
5 in the State of California.

6 1.5 The term "Effective Date" means the date that this Consent Judgment is entered by  
7 the Court.

8 **2. SETTLEMENT PAYMENT**

9 2.1 In settlement of all of the claims that are alleged, or could have been alleged, in the  
10 Complaint concerning Covered Products, Hyde shall pay \$22,000 to the Klamath Environmental  
11 Law Center ("KELC") to cover Plaintiff's attorneys' fees. Additionally, Hyde shall pay \$8,000 to  
12 Californians for Alternatives to Toxics for use toward reducing exposures to toxic chemicals and  
13 other pollutants, and toward increasing consumer, worker and community awareness of health  
14 hazards posed by lead and other toxic chemicals. Hyde shall also pay \$5,000 to the California  
15 Office of Environmental Health Hazard Assessment. The parties agree and acknowledge that the  
16 charitable contributions made pursuant to this section shall not be construed as a credit against the  
17 personal claims of absent third parties for restitution against the Hyde. The above described  
18 payments shall be forwarded by Hyde so that they are received at least 5 days prior to the hearing  
19 date scheduled for approval of this Consent Judgment. If the Consent Judgment is not approved  
20 with 120 days of the date scheduled for approval, the above described payments shall be returned  
21 and the provisions of this Consent Judgment shall become null and void. Hyde shall not be  
22 required to pay a civil penalty pursuant to Health and Safety Code Section 25249.7(b).

23 **3. ENTRY OF CONSENT JUDGMENT**

24 3.1 The parties hereby request that the Court promptly enter this Consent Judgment.  
25 Upon entry of the Consent Judgment, Hyde and MEJF waive their respective rights to a hearing  
26 or trial on the allegations of the Complaint.  
27  
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1     **4.     MATTERS COVERED BY THIS CONSENT JUDGMENT**

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

1 collectively in this Section as the "Claims"). In furtherance of the foregoing, as to alleged  
2 exposures to Covered Products, MEJF, on its own behalf, hereby waives any and all rights and  
3 benefits which it now has, or in the future may have, conferred upon it with respect to the Claims  
4 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 MEJF understands and acknowledges that the significance and consequence of this waiver of  
12 California Civil Code section 1542 is that even if MEJF suffers future damages arising out of or  
13 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,  
14 including but not limited to any exposure to, or failure to warn with respect to exposure to, lead or  
15 lead compounds from Covered Products, MEJF will not be able to make any claim for those  
16 damages against Hyde or the Released Entities. Furthermore, MEJF acknowledges that it intends  
17 these consequences for any such Claims as may exist as of the date of this release but which  
18 MEJF does not know exist, and which, if known, would materially affect their decision to enter  
19 into this Consent Judgment, regardless of whether their lack of knowledge is the result of  
20 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 30 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     **7.     INJUNCTIVE RELIEF**

9           7.1     The requirements of this Section 7 shall apply only to Covered Products that are  
10 manufactured and shipped by Hyde for sale in California after the Effective Date.

11           7.2     As to any Covered Product that contains a component made from brass that  
12 contains lead as an intentionally added ingredient, where such brass comes into contact with the  
13 user, a warning that contains one of the following warning statements shall be provided:

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

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

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

20           7.3     The warning statements required in paragraph 7.2 shall be affixed to or printed on  
21 the Covered Product itself or to the Covered Product’s packaging, labeling, or instruction booklet,  
22 if any. The warning shall be prominently affixed to or printed on the Covered Product or  
23 packaging, labeling, or instruction booklet, and displayed with such conspicuousness, as  
24 compared with other words, statements, designs, or devices on the Covered Product, or its  
25 packaging, labeling, or instruction booklet, as to render it likely to be read and understood by an  
26 ordinary individual under customary conditions of purchase or use. A warning may be contained  
27 in the same section of the packaging, labeling, or instruction booklet that contains other safety  
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1 warnings, if any, concerning the use of the Covered Product, or near its displayed price and/or  
2 UPC code. The type size of the warning must be legible, but need not be any larger than any  
3 other warning provided for the Covered Product, and its relative size may take into account the  
4 nature, immediacy, and acuteness of the risks for which other warnings are provided.

5 **8. RETENTION OF JURISDICTION**

6 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the  
7 terms this Consent Judgment.

8 **9. AUTHORITY TO STIPULATE**

9 9.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
10 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of  
11 the party represented and legally to bind that party.

12 **10. DUTIES LIMITED TO CALIFORNIA**

13 10.1 This Consent Judgment shall have no effect on Covered Products sold by Hyde  
14 outside the State of California.

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

16 11.1 KELC shall serve a copy of this Consent Judgment, signed by both parties, on the  
17 California Attorney General on behalf of the parties so that the Attorney General may review this  
18 Consent Judgment prior to its submittal to the Court for approval. No sooner than forty five (45)  
19 days after the Attorney General has received the aforementioned copy of this Consent Judgment,  
20 and in the absence of any written objection by the Attorney General to the terms of this Consent  
21 Judgment, the parties may then submit it to the Court for approval.

22 **12. ENTIRE AGREEMENT**

23 12.1 This Consent Judgment contains the sole and entire agreement and understanding  
24 of the parties with respect to the entire subject matter hereof and any and all prior discussions,  
25 negotiations, commitments and understandings related hereto. No representations, oral or  
26 otherwise, express or implied, other than those contained herein have been made by any party  
27 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be  
28 deemed to exist or to bind any of the parties.

1 **13. GOVERNING LAW**

2 13.1 The validity, construction and performance of this Consent Judgment shall be  
3 governed by the laws of the State of California, without reference to any conflicts of law  
4 provisions of California law.

5 **14. EXECUTION AND COUNTERPARTS**

6 14.1 This Consent Judgment may be executed in counterparts and by means of  
7 facsimile or portable document format (pdf), which taken together shall be deemed to constitute  
8 one document.

9 **15. COURT APPROVAL**

10 15.1 If this Consent Judgment, in its entirety, is not approved by the Court, it shall be of  
11 no force or effect, and cannot be used in any proceeding for any purpose.

12 **16. NOTICES**

13 16.1 Any notices under this Consent Judgment shall be by personal delivery of First  
14 Class Mail.

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

18 If to Hyde: Corey Talbot  
19 Hyde Tools Inc.  
54 Eastford Rd  
20 Southbridge, MA 01550

21 With a copy to:  
22 Jeffrey B. Margulies  
23 FULBRIGHT & JAWORSKI, L.L.P.  
24 555 S. Flower Street, 41st Floor  
25 Los Angeles, California 90071  
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IT IS SO STIPULATED:

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

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

By: \_\_\_\_\_  
WILLIAM VERICK

DATED: 8/11/11

HYDE GROUP, INC.

By: Ronald P. Carlson  
Its: TREASURER / CFO

IT IS SO ORDERED, ADJUDGED AND DECREED:

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

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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IT IS SO STIPULATED:

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

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

BY:   
WILLIAM VERICK

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

HYDE GROUP, INC.

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

IT IS SO ORDERED, ADJUDGED AND DECREED:

SEP 26 2011

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

ERNEST H. GOLDSMITH

JUDGE OF THE SUPERIOR COURT