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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN FRANCISCO**

17 MATEEL ENVIRONMENTAL JUSTICE
18 FOUNDATION,

19 Plaintiff,

20 v.

21 HICKORY HARDWARE, INC.,

22 Defendant.

Case No. CGC 07-463543

[PROPOSED] CONSENT JUDGMENT

23 **1. INTRODUCTION**

24 **1.1** On May 18, 2007, the MATEEL ENVIRONMENTAL JUSTICE FOUNDATION
25 (“Mateel”), acting on behalf of itself and the general public, filed a Complaint for civil penalties
26 and injunctive relief (“Complaint”) in San Francisco County Superior Court, Case No.CGC-0-
27 463543, against Defendant Hickory Hardware (“Hickory” or “Defendant”). The Complaint
28 alleges, among other things, that Defendant violated provisions of the Safe Drinking Water and

1 Toxic Enforcement Act of 1986, Health and Safety Code Sections 25249.5, *et seq.* (“Proposition
2 65”). In particular, Mateel alleges that Hickory has knowingly and intentionally exposed persons
3 to padlocks made of brass containing lead and/or lead compounds (hereinafter “lead
4 which are chemicals known to the State of California to cause cancer and birth defects or other
5 reproductive harm, without first providing a clear and reasonable warning to such individuals.

6 **1.2** On July 29, 2006, a 60-Day Notice letter (“Notice Letter”) was sent by Mateel to
7 Hickory, the California Attorney General, all California District Attorneys, and all City Attorneys
8 of every California city with populations exceeding 750,000.

9 **1.3** Hickory is a business that employs ten or more persons and manufactures,
10 distributes, and/or markets locks, including padlocks, within the State of California. Some of
11 those products are alleged to contain lead and/or lead compounds. Lead and lead compounds are
12 chemicals known to the State of California to cause cancer, and lead is a chemical known to the
13 State of California to cause reproductive toxicity pursuant to Health and Safety Code Section
14 25249.9. Under specified circumstances, products containing lead and/or lead compounds that
15 are sold or distributed in the State of California are subject to the Proposition 65 warning
16 requirement set forth in Health and Safety Code Section 25249.6. Plaintiff Mateel alleges that
17 leaded brass padlocks manufactured, distributed, sold and/or marketed by Hickory for use in
18 California require a warning under Proposition 65.

19 **1.4** For purposes of this Consent Judgment, the term “Covered Products” shall be
20 defined as locks containing lead and/or lead compounds, such as leaded brass padlocks, to the
21 extent such products are distributed and sold within the state of California, that are manufactured,
22 distributed, marketed and/or sold by Hickory, regardless of whether they bear Hickory labels.

23 **1.5** For purposes of this Consent Judgment, the parties stipulate that this Court has
24 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
25 over Hickory as to the acts alleged in the Complaint, that venue is proper in the County of San
26 Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full settlement
27 and resolution of the allegations contained in the Complaint and of all claims that were or could
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1 have been raised by any person or entity based in whole or in part, directly or indirectly, on the
2 facts alleged therein or arising therefrom or related thereto.

3 **1.6** This Consent Judgment resolves claims that are denied and disputed. The parties
4 enter into this Consent Judgment pursuant to a full and final settlement of any and all claims
5 between the parties for the purpose of avoiding prolonged litigation. This Consent Judgment
6 shall not constitute an admission with respect to any material allegation of the Complaint, each
7 and every allegation of which Hickory denies, nor may this Consent Judgment or compliance
8 with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of
9 Hickory or any other Defendant.

10 **2. SETTLEMENT PAYMENT**

11 **2.1** In settlement of all of the claims referred to in this Consent Judgment against the
12 Settling Defendant, within thirty (30) business days of notice entry of this Consent Judgment,
13 Hickory shall pay \$15,000 to the Klamath Environmental Law Center (“KELC”) to cover
14 Mateel’s attorneys’ fees and costs.

15 **2.2** Within thirty (30) business days of notice of entry of this Consent Judgment,
16 Hickory shall pay \$10,000 to the Ecological Rights Foundation, a California non-profit
17 environmental organization that advocates for workers’ and consumers’ safety, and for awareness
18 and reduction of toxic exposures.

19 **3. ENTRY OF CONSENT JUDGMENT**

20 **3.1** The parties hereby request that the Court promptly enter this Consent Judgment.
21 Upon entry of the Consent Judgment, Hickory and Mateel waive their respective rights to a
22 hearing or trial on the allegations of the Complaint.

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

24 **4.1** This Consent Judgment is a final and binding resolution between Mateel, acting on
25 behalf of itself and the general public, and Hickory, of: (i) any violation of Proposition 65 with
26 respect to the Covered Products, and (ii) any other statutory or common law claim, to the fullest
27 extent that any of the foregoing described in (i) or (ii) were or could have been asserted by any
28 person or entity against Hickory based upon, arising out of or relating to Hickory’s compliance

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8. AUTHORITY TO STIPULATE

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

9. RETENTION OF JURISDICTION

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

10. ENTIRE AGREEMENT

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

11. GOVERNING LAW

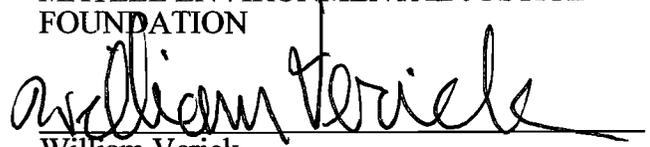
The validity, construction and performance of this Consent Judgment shall be governed by the laws of the State of California, without reference to any conflicts of law provisions of California law.

12. COURT APPROVAL

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

IT IS SO STIPULATED:

DATED: 9/10/07

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

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