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16 Attorneys for Plaintiff  
17 **MATEEL ENVIRONMENTAL JUSTICE FOUNDATION**

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF SAN FRANCISCO**

20 MATEEL ENVIRONMENTAL  
21 JUSTICE FOUNDATION,

22 Plaintiff,

23 v.

24 CAMPBELL MANUFACTURING, INC. et  
25 al.,

26 Defendants.

Case No. CGC-10-502296

**CONSENT JUDGMENT**  
**(As to LARSEN SUPPLY, CO.)**

27 **1. INTRODUCTION**

28 **1.1** On December 9, 2010, the MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”) acting on behalf of itself and, pursuant to Health & Safety Code §25249.7, acting in the public interest, filed a Complaint for civil penalties and injunctive relief in San Francisco Superior Court, Case No. 502296, against Defendant Larsen Supply Co. (“Larsen” or “Settling Defendant”); The Complaint alleges, among

1 other things, that Larsen violated provisions of the Safe Drinking Water and Toxic  
2 Enforcement Act of 1986, Health and Safety Code Sections 25249.5, et seq. (“Proposition  
3 65”). In particular, Mateel alleges that Larsen knowingly and intentionally exposed  
4 persons to leaded brass products, including tools such as test gauges, squares and drain  
5 uncloggers and connector and tubing products such as hose accessories and connectors  
6 (“brass products”) that are made of or that include a component made of leaded brass,  
7 without first providing a clear and reasonable warning to such individuals. Lead and lead  
8 compounds are chemicals known to the State of California to cause cancer and birth  
9 defects or other reproductive harm.

10       **1.2**       On May 13, 2010, Mateel sent a Notice of Violation letter (“Notice  
11 Letter”) to Larsen, the California Attorney General, all California District Attorneys, and  
12 all City Attorneys of every California city with populations exceeding 750,000 concerning  
13 the brass products described in paragraph 1.1 above.

14       **1.3**       On March 24, 2011, Mateel sent a Notice of Violation letter (“Notice  
15 Letter”) to Larsen, the California Attorney General, all California District Attorneys, and  
16 all City Attorneys of every California city with populations exceeding 750,000,  
17 concerning brass hose nozzles and a claim that Larson knowingly and intentionally  
18 exposed persons to leaded brass hose nozzle without first providing a clear and reasonable  
19 warning. Upon entry of this consent judgment, the complaint and allegations of this case  
20 shall be considered amended to include claims involve brass hose nozzles.

21       **1.4**       Settling Defendant is a business that employs ten or more persons and  
22 manufactures, distributes or markets brass products within the State of California.

23       **1.5**       For purposes of this Consent Judgment, the term “Covered Products” shall  
24 be defined as all products included in the May 13, 2010, 60 Day Notice Letter, and the  
25 March 24, 2011 60 Day Notice Letter, including brass products, such as test gauges,  
26 squares, drain uncloggers, hose accessories and connectors, and brass hose nozzles, which  
27 are or were manufactured, distributed or otherwise marketed by Settling Defendant, , and  
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1 which are not considered the subject of California Health and Safety Code §116875  
2 (brass plumbing pipes and fittings). Products which are the subject of Health and Safety  
3 Code §116875 are expressly not included and not addressed by this Consent Judgment  
4 and no inference regarding compliance with or violation of the requirements of  
5 Proposition 65 by such products is intended by this judgment or any term or requirement  
6 contained herein.

7 **1.6** For purposes of this Consent Judgment, the parties stipulate that this Court  
8 has jurisdiction over the allegations of violations contained in the Complaint and personal  
9 jurisdiction over Larsen as to the acts alleged in the Complaints, that venue is proper in  
10 the County of San Francisco and that this Court has jurisdiction to enter this Consent  
11 Judgment as a full settlement and resolution of the allegations contained in the Complaint  
12 and of all claims that were or could have been raised by any person or entity based in  
13 whole or in part, directly or indirectly, on the facts alleged therein or arising there from or  
14 related thereto.

15 **1.7** This Consent Judgment resolves claims that are denied and disputed. The  
16 parties enter into this Consent Judgment pursuant to a full and final settlement of any and  
17 all claims between the parties for the purpose of avoiding prolonged litigation. This  
18 Consent Judgment shall not constitute an admission with respect to any material allegation  
19 of the Complaints, each and every allegation of which Settling Defendant denies, nor may  
20 this Consent Judgment or compliance with it be used as evidence of any wrongdoing,  
21 misconduct, culpability or liability on the part of Settling Defendant.

## 22 **2. SETTLEMENT PAYMENTS**

23 **2.1** In settlement of all of the claims referred to in this Consent Judgment,  
24 Settling Defendant shall collectively pay an aggregate of \$35,000(thirtyfive thousand  
25 dollars) in total monetary relief. Of the foregoing, a total of \$3,000 (three thousand  
26 dollars) shall be paid in civil penalties. A total of \$10,000 (ten thousand dollars) shall be  
27 paid by Settling Defendant in lieu of, and as an offset for, a larger civil penalty in the form  
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1 of two equal payments, one to the Ecological Rights Foundation, and one to Californians  
2 for Alternatives to Toxics.

3       **2.2**       In addition, a total amount of \$22,000 (twenty-two thousand dollars) shall  
4 be paid by the Settling Defendant to the Klamath Environmental Law Center (“KELC”) as  
5 reimbursement for attorneys’ fees and costs incurred by KELC on behalf of Plaintiff in  
6 investigating and prosecuting this matter and in negotiating this Consent Judgment on  
7 behalf of itself and in the public interest. The payments described in Paragraphs 2.1 and  
8 2.2 shall be made payable to the recipient, and lodged with counsel for Settling  
9 Defendants at least 5 court days prior to any hearing on a motion to approve this  
10 settlement, and sent by overnight mail on the day the settlement is approved, to William  
11 Verick, 424 First Street, Eureka, CA 95501. If this Consent Judgment has not been  
12 approved and entered by the Court within 120 days of the execution of the agreement by  
13 the parties, the payments described above shall be promptly returned to Settling  
14 Defendant and the terms of this agreement shall be null and void.

15       **2.3**       MEJF and KELC represent and warrant that recipients of the offset  
16 payments are tax exempt, section 501(c)(3) non-profit organizations and that funds  
17 distributed to these organizations pursuant to this Consent Judgment may only be spent to  
18 reduce harm from toxic chemicals, or to increase consumer, worker and community  
19 awareness of health hazards posed by lead and other toxic chemicals.

20       **2.4**       Except as specifically provided for in this Consent Judgment, each side  
21 shall bear its own costs and attorney’s fees.

22       **3.       ENTRY OF CONSENT JUDGMENT**

23       **3.1**       The parties hereby request that the Court promptly enter this Consent  
24 Judgment. Upon entry of the Consent Judgment, Settling Defendant and Mateel waive  
25 their respective rights to a hearing or trial on the allegations of the Complaints.

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

1           4.1       As to alleged exposure to lead or lead compounds from Covered Products,  
2 this Consent Judgment provides a full release of liability on behalf of the Public Interest,  
3 as defined in California Health & Safety Code §25249.7(d) to Larson, (as well as its past,  
4 present and future parents, subsidiaries affiliates, predecessors, successors, and assigns  
5 “Released Entities”), as to all claims and matters raised in the Notice of Violation.  
6 Notwithstanding any other provision of this Consent Judgment, no claim or matter is  
7 released on behalf of the Public Interest unless that claim or matter was raised in the May  
8 13, 2010, 60 Day Notice Letter, or the March 24, 2011 60 Day Notice Letter.

9           4.2       As to alleged lead and lead compound exposures associated with Covered  
10 Products, Mateel, acting on behalf of itself, and its agents, attorneys, representatives,  
11 successors and assigns, waives all rights to institute or participate in, directly, or  
12 indirectly, any form of legal action, and releases all claims as between Mateel and Settling  
13 Defendant, including, without limitation, all actions, and causes of action, in law or in  
14 equity, suits, liabilities, demands, obligations, agreements, promises, royalties,  
15 accountings, damages, costs, fines, penalties, losses, or expenses (including, but not  
16 limited to, investigation fees, expert fees, and attorney’s fees) of any nature whatsoever,  
17 whether known or unknown, fixed or contingent (collectively “claims”), against Settling  
18 Defendant and its parents, subsidiaries or affiliates, predecessors, officers, directors,  
19 shareholders, attorneys, representatives, agents, 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 or  
23 components found in the Covered Products, including, but not limited to, any claims  
24 regarding exposure to, and/or failure to warn with respect to, the Covered Products. In  
25 furtherance of the foregoing, Mateel on its own behalf hereby waives any and all rights  
26 and benefits which it now has, or in the future may have respecting the Covered Products,  
27 conferred upon it with respect to claims involving Covered Products by virtue of the  
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1 provisions of Section 1542 of the California Civil Code, which provides as follows:

2           **“A GENERAL RELEASE DOES NOT EXTEND TO**  
3           **CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR**  
4           **SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE**  
5           **TIME OF EXECUTING THE RELEASE, WHICH IF**  
6           **KNOWN BY HIM OR HER MUST HAVE MATERIALLY**  
7           **AFFECTED HIS OR HER SETTLEMENT WITH THE**  
8           **DEBTOR.”**

9           Mateel understands and acknowledges that the significance and consequence of  
10 this waiver of California Civil Code Section 1542 is that even if Mateel suffers future  
11 damages arising out of or resulting from, or related directly or indirectly to, in whole or in  
12 part, the Covered Products, including but not limited to any exposure to, or failure to warn  
13 with respect to exposure to lead or lead compounds from, the Covered Products, Mateel  
14 will not be able to make any claim for those damages against Settling Defendant, its  
15 parents, subsidiaries or affiliates, predecessors, officers, directors, shareholders,  
16 representatives, attorneys, agents, employees, and all customers, manufacturers,  
17 distributors, wholesalers, retailers or any other person in the course of doing business  
18 involving the Covered Products, and the successors and assigns of any of them, who may  
19 manufacture, use, maintain, distribute or sell the Covered Products. Furthermore, Mateel  
20 acknowledges that it intends these consequences for any such claims and any other claims  
21 which may exist as of the date of this release but which Mateel does not know exist, and  
22 which, if known, would materially affect its decision to enter into this Consent Judgment,  
23 regardless of whether its lack of knowledge is the result of ignorance, oversight, error,  
24 negligence, or any other cause.

## 25           **5.       ENFORCEMENT OF JUDGMENT**

26           **5.1**       The terms of this Consent Judgment shall be enforced exclusively by the  
27 parties hereto. The parties may, by noticed motion or order to show cause before the  
28 Superior Court of San Francisco County, giving the notice required by law, enforce the  
terms and conditions contained herein. The parties hereto agree that prior to any such  
enforcement action, they will notify each other of any perceived violation of this Consent

1 Judgment. The parties further agree to take no enforcement action for 30 days after such  
2 notice is given, in order to allow the parties to meet and confer in good faith in an effort to  
3 resolve the alleged violation.

#### 4 **6. MODIFICATION OF JUDGMENT**

5 **6.1** Except as provided for in Paragraph 7.3(c), this Consent Judgment may be  
6 modified only upon written agreement of the parties and upon entry of a modified Consent  
7 Judgment by the Court thereon, or upon motion of any party as provided by law and upon  
8 entry of a modified Consent Judgment by the Court.

9 **6.2** Mateel shall give notice to Larson, per section 12, of all consent  
10 judgments entered into by Mateel described in Section 6.2 on or after the date of this  
11 Consent Judgment involving similar products to those at issue in this Consent Judgment,  
12 unless such consents are posted on the public Proposition 65 web site maintained by the  
13 California Attorney General.

#### 14 **7. INJUNCTIVE RELIEF - REFORMULATION**

15 **7.1** Covered Products' brass components shall be deemed to comply with the  
16 warning requirements of Proposition 65 for lead and lead compounds (H&S Code  
17 25249.6), and be exempt from any Proposition 65 warning requirements for these listed  
18 chemicals after the Effective Date, if the brass that is part of the Covered Products is made  
19 of an alloy which contains no intentionally added lead and no lead content by weight of  
20 more than 0.03% ("300 parts per million," or "300 ppm"). Settling Defendant may  
21 comply with this requirement by relying in good faith on information obtained from its  
22 suppliers regarding the content of the brass alloy from which the brass fittings are made.  
23 Although good faith reliance regarding the brass alloy may also be established by other  
24 means, Mateel agrees that obtaining test results showing that the lead content is no more  
25 than 0.03%, using a method of sufficient sensitivity to establish a limit of quantification  
26 (as distinguished from detection) of less than 300 ppm shall be deemed to establish good  
27 faith reliance.  
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2           **7.2** Covered Products that do not meet the warning exemption standard set forth  
3 in Sections 7.1 of this Consent Judgment shall be accompanied by a warning as described  
4 in paragraph 7.3 below. The warning requirements set forth in paragraph 7.3 shall apply  
5 only to products a Settling Defendant manufactures, distributes, markets, sells or ships  
6 after the Effective Date for sale or use inside the State of California.

7           **7.3** For Covered Products that do not meet the reformulation requirements of  
8 Sections 7.1, each Settling Defendant shall provide Proposition 65 warnings as follows:

9           (a) Each Settling Defendant shall provide either of the following warning  
10 statements:

11           **WARNING:** This product contains lead, a chemical known to the State of  
12 California to cause cancer and birth defects or other reproductive harm  
*Wash your hands after handling this product.*

13           or

14           **WARNING:** This product contains [one or more] chemicals, including  
15 lead, known to the State of California to cause cancer and birth defects or  
16 other reproductive harm. *Wash hands after handling.*

17           Bracketed language may be omitted at a Settling Defendant's  
18 option. A Settling Defendant may add additional listed chemicals to the  
19 warning unless the Attorney General advises that the inclusion of such  
20 additional chemicals would render the warning misleading or constitute an  
21 over warning. The word "WARNING" shall be in bold, and may be  
22 preceded by the word "CALIFORNIA", "PROP 65", or "CALIFORNIA  
23 PROP 65" at the Settling Defendant's option provided such words are also  
24 in bold. The words "Wash your hands after touching this product" or  
25 "Wash hands after handling" in either warning above may be replaced by  
26 "Wash hands after use", and in any case such words shall be underlined, in  
27 bold or italicized.

28           Settling Defendant shall provide such warning on or attached to



1 Covered Product or with the unit package of the Covered Products as  
2 packaged by Settling Defendant. Such warning shall be included with,  
3 affixed to or printed on each Covered Product or its label, package or  
4 container in the same section that states other safety warnings, if any,  
5 concerning the use of the product or near the product brand name, or  
6 displayed price and/or UPC code, in a manner reasonably calculated to be  
7 seen by an ordinary individual.

8 (b) If after the Effective Date, any Settling Defendant ships Covered  
9 Products to a retailer or distributor outside of California that neither  
10 provides the warnings specified in this paragraph nor meets the  
11 Reformulation Standard specified in paragraph of this Consent Judgment  
12 (“Non-Conforming Covered Products”), and if the retailer or distributor then  
13 offers those Non-Conforming Covered Products for sale in California, then  
14 as to those Non-Conforming Covered Products, that retailer or distributor,  
15 and their customers, are not released pursuant to Sections 4.1 and 4.2 above.

16 (c) Except as provided in paragraphs 4.1 and 4.2 hereof for Covered  
17 Products manufactured or distributed prior to the Effective Date, nothing in  
18 this Consent Judgment shall create a limitation on a Proposition 65  
19 enforcement action based on future conduct if such future conduct is not in  
20 compliance with the injunctive terms of this Consent Judgment.

21 7.4 Any warning shall be prominently placed with such conspicuousness as  
22 compared with other words, statements, designs, or devices as to render it likely to be read  
23 and understood by an ordinary individual under customary conditions before purchase or  
24 use. Any warning shall be provided in a manner such that the ordinary competent  
25 consumer or user understands to which specific Covered Product the warning applies.

26 Larson may provide warnings as specified in Section 7.4 as follows:  
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1 (a) Affixed Warnings. Settling Defendant may provide such warning on  
2 or attached to Covered Products or with the unit package of the Covered  
3 Products as packaged by Settling Defendant. Such warning shall be  
4 included with, affixed to or printed on each Covered Product or its label,  
5 package or container in the same section that states other safety warnings, if  
6 any, concerning the use of the product or near the product brand name, or  
7 displayed price and/or UPC code, in a manner reasonably calculated to be  
8 seen by an ordinary individual.

9 (b) Point of Sale Warnings. Settling Defendant may perform its warning  
10 obligation by arranging for the posting of the shelf labeling, signs, menus,  
11 warning slips or a combination of thereof as set forth in Health & Safety  
12 Code Section 25603.1 at retail outlets in the State of California where  
13 Covered Products are sold. In such instances, Settling Defendant shall  
14 provide the warning specified in Section 7.3, and instructions for its use,  
15 with the shipping materials containing the Covered Product. Such warning  
16 and instructions shall be included with or affixed to each package box or  
17 other container containing Covered Product(s). For a Point of Sale Warning  
18 to be considered reasonably calculated to be seen by an ordinary individual,  
19 the warning shall be posted at (1) each location in the store where the  
20 Covered Products are displayed and visible when the Covered Products are  
21 being viewed without the Covered Products being moved, or (2) for stores  
22 with less than 7,500 square feet retail space, adjacent to each check out  
23 counter, sales register, cash stand, cash wrap or similar check out location in  
24 the store. All warning signs must be displayed in such a manner that any  
25 potential purchaser would reasonably be expected to see the warning and  
26 adequately distinguish between brass products for which warnings are  
27 required and product which do not cause a lead exposure. If the point of  
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1 sale warning is not posted in such a manner, or any other manner otherwise  
2 agreed to by the Attorney General, the retail entity shall not benefit from the  
3 terms of this consent judgment, including the release of claims contained  
4 therein.

5 (c) News Media Notices. Settling Defendant may perform its warning  
6 obligation by placing notices in public news media per Health & Safety  
7 Code section 25249.11 so long as the Attorney General has agreed, upon  
8 review, that the size, location and frequency of any such warning(s) meets  
9 with the Proposition 65's "clear and reasonable" warning requirements.

10 (d) Other Approved Warning Methods. Settling Defendant may perform  
11 its warning obligations via any method specifically approved in writing by  
12 California's Office of Attorney General.

13  
14 **8. AUTHORITY TO STIPULATE**

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

18 **9. RETENTION OF JURISDICTION**

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

21 **10. ENTIRE AGREEMENT**

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

Unless specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

To Mateel:

William Verick, Esq.  
Klamath Environmental Law Center  
424 First Street  
Eureka, CA 95501

To Larsen's:

Larsen Supply Company  
12055 East Slauson Ave.  
Santa Fe Springs, CA 90670

With a copy to:

Albert S. Israel, Esq.  
Fields & Israel, LLP  
111 West Ocean Boulevard, 23<sup>rd</sup> Floor  
P.O. Box 22701  
Long Beach, CA 90801

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**13. 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:

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

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

DATED:

LARSEN SUPPLY COMPANY, INC.,

  
By: Ric LARSEN  
Its: PRESIDENT

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED:

JUDGE OF THE SUPERIOR COURT