

ORIGINAL

1 WILLIAM VERICK, SBN 140972
Klamath Environmental Law Center
2 FREDRIC EVENSON, SBN 198059
424 First Street
3 Eureka, CA 95501
Telephone: (707) 268-8900
4 Facsimile: (707) 268-8901

NO SUMMONS ISSUED

5 DAVID WILLIAMS, SBN 144479
6 BRIAN ACREE, SBN 202505
370 Grand Avenue, Suite 5
7 Oakland, CA 94610
Telephone: (510) 271-0826
8 Facsimile: (510) 271-0829

CASE MANAGEMENT CONFERENCE SET

FILED
Superior Court of California
County of San Francisco

APR 16 2010 - 9:00 AM

NOV 17 2009

GORDON PARKER, Clerk

DEPARTMENT 212

9 Attorneys for Plaintiff,
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

SI

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO
12 (Unlimited Jurisdiction)

13 MATEEL ENVIRONMENTAL
14 JUSTICE FOUNDATION,

CASE NO. **09-494528**

15 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

16 v.

17 EUROMARKET DESIGNS, INC.

TOXIC TORT/ENVIRONMENTAL

18 Defendant.

19 _____
20 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

21 INTRODUCTION

22 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
23 failure of defendant EUROMARKET DESIGNS, INC. (hereinafter "Defendant"), to give clear
24 and reasonable warnings to those residents of California, who handle and use, and drink
25 beverages stored or contained in drink dispensers, such as lemonade jars, that utilize leaded brass
26 valves, spigots and stopcocks (hereinafter referred to as "drink dispensers"), that handling and
27 use of and drinking from these drink dispensers causes those residents to be exposed to lead and
28 lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively,

1 "lead"). The types of products to which this Complaint pertains are those types listed in the
2 Product List appended to the Proposition 65 Notice of Violation Letter that is attached to and
3 incorporated by reference into this Complaint. Lead is known to the State of California to cause
4 cancer, birth defects and male and female reproductive toxicity. Defendant distributes, and/or
5 markets drink dispensers. These products cause exposures to lead and lead compounds, which
6 are chemicals known to the State of California to cause cancer, birth defects and other
7 reproductive harm.

8 2. Defendant markets, and/or distributes drink dispensers. Defendant intends that
9 residents of California handle, use and drink beverages stored or contained in the drink
10 dispensers that Defendant markets, and/or distributes. When these products are handled and used
11 in their normally intended manner and when people drink beverages that has been stored in or
12 contained in these drink dispensers the drink dispensers expose people to lead. In spite of
13 knowing that residents of California were and are being exposed to this toxic heavy metal when
14 they handle, use and drink beverages contained or stored in drink dispensers, Defendant did not
15 and does not provide clear and reasonable warnings that these products cause exposure to
16 chemicals known to cause cancer, birth defects and other reproductive harm.

17 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
18 to compel Defendant to bring its business practices into compliance with section 25249.5 et seq.
19 by providing a clear and reasonable warning to each individual who has been and who in the
20 future may be exposed to the above mentioned toxic chemicals from the use of Defendant's
21 products. Plaintiff seeks an order that defendant identify and locate each individual person who
22 in the past has purchased drink dispensers and to provide to each such purchaser a clear and
23 reasonable warning that the drink dispensers will cause exposures to chemicals known to cause
24 birth defects.

25 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
26 of Defendant to provide clear and reasonable warnings regarding exposure to chemicals known
27 to cause cancer, birth defects and other reproductive harm.

28

PARTIES

1
2 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
3 is a non-profit organization dedicated to, among other causes, the protection of the environment,
4 promotion of human health, environmental education, and consumer rights. Mateel is based in
5 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
6 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
7 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
8 California are regularly exposed to lead and lead compounds from drink dispensers
9 manufactured, distributed or marketed by Defendants and are so exposed without a clear and
10 reasonable Proposition 65 warning.

11 6. Defendant is a person doing business within the meaning of Health & Safety Code
12 Section 25249.11. Defendant is a business that distributes, and/or markets drink dispensers in
13 California, including the City and County of San Francisco. Distribution and/or marketing of
14 these products in the City and County of San Francisco and/or to people who live in San
15 Francisco, causes people to be exposed to lead and lead compounds while they are physically
16 present in the City and County of San Francisco.

17 7. Plaintiff brings this enforcement action against Defendant pursuant to Health &
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
19 60-day Notice letter, dated June 25, 2009, which Mateel sent to California's Attorney General.
20 Substantively identical letters were sent to every District Attorney in the state, and to the City
21 Attorneys of every California city with a population greater than 750,000, and to Defendant.
22 Attached to the 60-Day Notice Letter sent to the defendant was a summary of Proposition 65 that
23 was prepared by California's Office of Environmental Health Hazard Assessment. In addition,
24 each 60-Day Notice Letter plaintiff sent was accompanied by a Certificate of Service attesting to
25 the service of the 60-Day Notice Letter on each entity which received it. Pursuant to California
26 Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and
27 meritorious basis for the action was also sent with each 60-Day Notice Letter. Factual
28

1 information sufficient to establish the basis of the Certificate of Merit was enclosed with the 60-
2 Day Notice letter Mateel sent to the Attorney General.

3 8. Defendant employs more than ten people.

4 JURISDICTION

5 9. The Court has jurisdiction over this action pursuant to California Health & Safety
6 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
7 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6
8 of the Health & Safety Code, which contains the statutes under which this action is brought, does
9 not grant jurisdiction to any other trial court.

10 10. This Court also has jurisdiction over Defendant because it is a business that has
11 sufficient minimum contacts in California and within the City and County of San Francisco.
12 Defendant intentionally availed itself of the California and San Francisco County markets for
13 drink dispensers. It is thus consistent with traditional notions of fair play and substantial justice
14 for the San Francisco Superior Court to exercise jurisdiction over Defendant.

15 11. Venue is proper in this Court because Defendant markets its products in and
16 around San Francisco and thus causes people to be exposed to lead and lead compounds while
17 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
18 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
19 Complaint and Plaintiff seeks civil penalties imposed by statute.

20 FIRST CAUSE OF ACTION
(Claim for Injunctive Relief)

21 12. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
22 if specifically set forth herein, paragraphs 1 through 11, inclusive.

23 13. The People of the State of California have declared by referendum under
24 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
25 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

26 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
27 that businesses that knowingly and intentionally expose any individual to a chemical known to
28

1 the State of California to cause cancer or birth defects must first provide a clear and reasonable
2 warning to such individual prior to the exposure.

3 15. Since at least June 25, 2006, Defendant has engaged in conduct that violates
4 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
5 intentionally exposing to the above mentioned toxic chemicals, those California residents who
6 handle, use or drink beverages stored or contained in drink dispensers. The normally intended
7 use of drink dispensers causes exposure to lead and lead compounds, which are chemicals known
8 to the State of California to cause cancer, birth defects and other reproductive harm. Defendant
9 has not provided clear and reasonable warnings, within the meaning of Health & Safety Code
10 Sections 25249.6 and 25249.11.

11 16. At all times relevant to this action, Defendant knew that the drink dispensers it
12 distributed or marketed were causing exposures to lead and lead compounds. Defendant
13 intended that residents of California handle, use and drink beverages stored or contained in drink
14 dispensers in such ways as would lead to significant exposures to these chemicals.

15 17. By the above described acts, Defendant has violated Cal. Health & Safety Code
16 § 25249.6 and is therefore subject to an injunction ordering them to stop violating Proposition
17 65, to provide warnings to all present and future customers and to provide warnings to its past
18 customers who purchased Defendant's products without receiving a clear and reasonable
19 warning.

20 SECOND CAUSE OF ACTION
(Claim for Civil Penalties)

21 18. Plaintiff realleges and incorporates by reference into this Second Cause of Action,
22 as if specifically set forth herein, paragraphs 1 through 17, inclusive.

23 19. By the above described acts, Defendant is liable and should be liable pursuant to
24 Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each individual
25 exposed without proper warning to lead and lead compounds from the handling, use of, or the
26 drinking of beverages stored or contained in Defendant's drink dispensers.
27
28

PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANT, as follows:

1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety Code;

2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of Defendant's distributing or marketing of drink dispensers;

3. That Defendant be ordered to identify and locate each individual who purchased drink dispensers and provide a warning to each such person that the drink dispensers the person purchased will expose that person to chemicals known to cause birth defects.

4. That, pursuant to Civil Procedure Code § 1021.5, Defendant be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

5. For such other relief as this court deems just and proper.

Dated: November 16, 2009

KLAMATH ENVIRONMENTAL LAW
CENTER

By 
William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



June 25, 2009

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that Euromarket Designs, Inc. dba Crate & Barrel (hereinafter "Euromarket") has been, is, will be and threatens to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with the valves, stopcocks or beer taps ("taps") on beverage dispensers (hereinafter "beverage dispensers"), and when they drink beverages that have flowed through the valves, stopcocks or taps that Euromarket markets. A specific example of the products to which this notice pertains is: JAR COLD BEVERAGE 211 OZ SKU 308-504 Though a specific model or SKU or product number is given as an example, this notice pertains to all models, and all variations, of the specific type of product of which the named model is an example. The valves, stopcocks or taps on these beverage dispensers are made from brass or copper alloys which contain lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they handle the valves, stopcocks or taps, such as when serving beverages from these products, when washing them, or when drinking beverages that have flowed through the valves, stopcocks, or taps. Lead is transferred from the valves to peoples' hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. Lead also leaches into the beverages that flow through the valves, stopcocks or taps and is then drunk. These lead exposures occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. Euromarket did not and does not provide people with clear and reasonable warnings before it exposes them to lead. These violations have occurred every day since at least June 25, 2006, and will continue every day until the lead is removed from the valves, stopcocks or taps, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any valved beverage dispensers made outside of California, except as to workplaces that Euromarket itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Euromarket's private business properties and in each of California's 58 counties.

Cordially,

William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

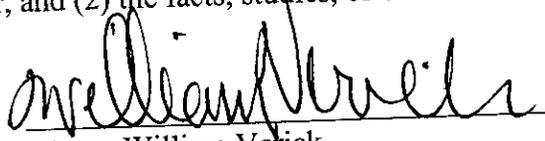
SERVICE LIST

- EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550
- OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST. 12TH FLOOR
OAKLAND, CA 94612
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102
- OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
PO BOX 1948
SACRAMENTO, CA 95812-1948
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113
- OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012
- OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA95249
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501
- COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101
- OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902
- COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
110 UNION STREET
NEVADA CITY, CA 95959
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
10810 JUSTICE CENTER DR., STE 240
ROSEVILLE, CA 95678
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY, SUITE 1100
SAN DIEGO, CA 92101
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370
- VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695
- OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901
- BARBARA TURF, PRESIDENT
EUROMARKET DESIGNS, INC.
1250 TECHNY RD
NORTHBROOK, IL 60062

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 25, 2009

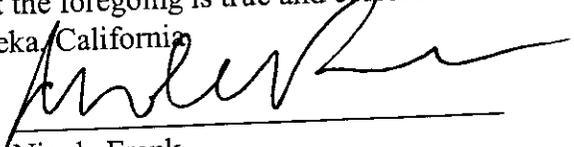

William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On June 25, 2009, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 25, 2009, at Eureka, California.


Nicole Frank