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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

MATTEL, INC., and FISHER PRICE,
INC.,

Defendants.

NO. 08-2-42789-7 SEA

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER
CONSUMER PROTECTION ACT

I. INTRODUCTION

1.1 This is an action brought in the public interest by Plaintiff State of Washington through its Attorney General, Robert M. McKenna under the Consumer Protection Act, RCW 19.86 against Defendants for manufacturing and/or selling in or into the State of Washington children's toys containing excessive amounts of lead. The State seeks an injunction prohibiting Defendants and persons acting in concert with them from committing unfair or deceptive acts or practices in the course of manufacturing children's products, and in the course of selling and/or offering to sell children's products in or into the State of Washington.

II. JURISDICTION AND VENUE

2.1 The State files this Complaint and institutes these proceedings under the provisions of RCW 19.86, the Consumer Protection Act.

VI. BACKGROUND

6.1 Plaintiff realleges the facts alleged in paragraphs 1.1 through 4.2 as if fully set out herein.

6.2 Lead is highly toxic, particularly to young children.

6.3 There is no safe level of lead in the body.

6.4 Even very small amounts of lead can cause serious neurological damage, including drops in IQ and, in the long term, behavioral problems.

6.5 Higher exposures to lead cause acute effects, including seizures, coma or death.

6.6 Lead exposure is cumulative such that multiple sources of exposure compound the negative health effects in children.

6.7 One of the sources of exposure to lead is products, or pieces of products, containing lead, which young children can mouth or swallow.

6.8 The amount of lead in a product is measured in parts per million (ppm) of total lead content, which can also be expressed as a percentage.

6.9 At the time the recalled products at issue in this Complaint were manufactured, distributed, and otherwise introduced into commerce in Washington, a federal standard for lead content in surface coatings of children's products set the maximum allowable lead level at 600 ppm.

6.10 Even the 600 ppm standard is high, given the fact that it was originally premised on outmoded assumptions about how much lead can be present in children's blood without significant health effects, and did not take into account the existence of multiple sources of exposure to lead, such as housing, soil, and children's products.

VII. FACTS

7.1 On August 2, 2007, Defendant Fisher-Price voluntarily recalled in the United States approximately 967,000 units of Fisher-Price children's toys manufactured in China between April 19, 2007, and July 6, 2007, for excessive levels of lead in surface paints.

1 7.2 On August 14, 2007, Defendant Mattel voluntarily recalled in the United States
2 approximately 253,000 units of children's toys manufactured in China for excessive levels of
3 lead on the product surface.

4 7.3 On September 4, 2007, Defendant Mattel voluntarily recalled in the United
5 States approximately 675,000 units of children's toys manufactured in China between
6 September 30, 2006, and August 20, 2007, for excessive levels of lead in surface paints.

7 7.4 Also on September 4, 2007, Defendant Fisher-Price voluntarily recalled in the
8 United States almost 100,000 units of children's toys manufactured in China for excessive
9 levels of lead in surface paints.

10 7.5 On October 25, 2007, the defendant Fisher-Price, voluntarily recalled in the
11 United States approximately 38,000 units of children's toys manufactured in China, for
12 excessive levels of lead in surface paint on children's toys.

13 7.6 Defendants manufactured and caused to be introduced into commerce in
14 Washington children's toys with surface coatings of lead-based/lead-containing paint that
15 posed an unreasonable risk of injury to children. Levels detected in samples of concern for this
16 case exceeded 600 ppm. Many samples were over 1000 ppm, several samples tested at over
17 10,000 ppm, and some over 50,000 ppm.

18 7.7 Defendants caused or allowed "Certificate[s] of Compliance" to be issued by
19 testing laboratories for the recalled toys by that were marked as valid for periods of time up to
20 12 months. In general, each certificate of compliance, indicating compliance with standards for
21 lead and other heavy metals as well as other safety requirements, appears to be based on a
22 single product testing event. The Certificates of Compliance were deceptive and/or misleading
23 in that they purported to be valid for a future period of time for which Defendants did not have
24 adequate auditing and process control of manufacturing facilities and/or testing of surface
25 coatings and/or finished products to assure compliance for that period.

1 **VIII. FIRST CAUSE OF ACTION**
2 **UNFAIR AND DECEPTIVE TRADE PRACTICES**

3 8.1 The State hereby realleges and incorporates herein paragraphs 1.1 through 7.7,
4 above.

5 8.2 RCW 19.86.020 prohibits unfair or deceptive acts or practices in trade or
6 commerce.

7 8.3 Defendants' manufacture, distribution, and/or introduction into commerce of
8 children's products containing excessive amounts of lead in or into Washington was an unfair
9 or deceptive practice in violation of RCW 19.86.020.

10 8.4 Defendants have further engaged in unfair or deceptive practices in violation of
11 RCW 19.86.020 by:

- 12 a. Introducing products it manufactured into commerce in Washington without
13 adequate safeguards and testing to ensure product safety;
- 14 b. Failing to adequately investigate circumstances indicating a lack of process
15 control in the manufacturing and testing of children's products; and
- 16 c. Causing or allowing compliance certificates to be issued concerning lead
17 levels in surface coatings of children's products without sufficient basis to
18 ensure compliance.

19 **PRAYER FOR RELIEF**

20 WHEREFORE the State requests that the Court grant the following relief:

21 1. An injunction prohibiting Defendants from selling in or into the State of
22 Washington children's products containing excessive lead.

23 2. Appropriate consumer relief.

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