

STATE OF VERMONT
WASHINGTON COUNTY, SS.

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STATE OF VERMONT,)
Plaintiff)
v.)
MATTEL, INC., and)
FISHER-PRICE, INC.,)
Defendants)

SUPERIOR COURT
WASHINGTON COUNTY

Washington Superior Court
Docket No. 837-12-08Wncv

CONSUMER FRAUD COMPLAINT

I. INTRODUCTION

1. This is an action brought in the public interest by Plaintiff State of Vermont, through its Attorney General, William H. Sorrell, under the Vermont Consumer Fraud Act, 9 V.S.A. § 2451 *et seq.*, against Defendants for selling in or into the State of Vermont 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 Vermont.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to the Consumer Fraud Act, 9 V.S.A. § 2458(a).

3. Venue is proper in this Court in light of the fact that Defendants sold the toys at issue, directly or through retailers, in and/or into Washington County.

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III. PARTIES

4. Defendant Mattel, Inc. ("Mattel") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 333 Continental Boulevard, El Segundo, California 90245-5012.

5. Defendant Fisher-Price, Inc. ("Fisher-Price") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 636 Girard Avenue, East Aurora, NY 14052-1824. Fisher-Price, Inc. is a subsidiary of Mattel, Inc.

6. The Vermont Attorney General is authorized under the Vermont Consumer Fraud Act, 9 V.S.A. § 2458(b), to sue to enforce the Act's prohibitions on unfair and deceptive acts and practices in commerce.

IV. BACKGROUND

7. Lead is highly toxic, particularly to young children.

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

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

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

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

12. 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.

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

14. Even the 600-ppm standard does not constitute a safe level for exposure, 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 does not take into account the existence of multiple sources of exposure to lead, such as housing, soil, and children's products.

V. FACTS

15. 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.

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

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

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

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

20. On information and belief, Defendants manufactured and caused to be introduced into commerce in the United States various children's toys with surface paint in excess of the 600 parts per million and several toy models at over 10,000 parts per million.

VI. CAUSE OF ACTION: UNFAIR AND DECEPTIVE TRADE PRACTICES

21. The State of Vermont hereby realleges and incorporates herein paragraphs 1 through 20, above.

22. The Vermont Consumer Fraud Act, 9 V.S.A. § 2453(a), prohibits unfair or deceptive acts or practices in trade or commerce.

23. Defendants' sale of children's products containing excessive amounts of lead in or into the State of Vermont was an unfair and deceptive practice in violation of the Consumer Fraud Act.

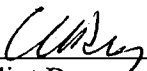
WHEREFORE the State of Vermont requests that the Court grant:

1. An injunction prohibiting Defendants from selling in or into the State of Vermont children's products containing excessive lead.
2. Appropriate consumer relief.
3. Payment to the State of appropriate civil penalties, and reimbursement of the State's reasonable costs of investigating and litigating this matter, including attorney's fees.
4. Such other relief as the Court deems appropriate.

Dated: 12/15/08

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by: 
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