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Attorney for Plaintiff  
 Center for Environmental Health

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

**CENTER FOR ENVIRONMENTAL HEALTH**  
 a California non-profit corporation,

**CASE NO. C 08-03250 WHA**

**Plaintiff,**

**STIPULATION OF PARTIES  
 IN SUPPORT OF REMAND;  
 ORDER (~~Proposed~~)**

v.

**EASTERN AMERICA TRIO PRODUCTS, INC.**  
 and **DOES I-X,**

**Trial: November 30, 2009**

**Defendants.**

The parties through their respective counsel hereby stipulate that plaintiff Center for Environmental Health does not have standing to bring a Proposition 65 case in federal court and therefore this court does not have jurisdiction over this case. The parties stipulate that the federal court does not have jurisdiction in cases seeking to enforce the warning provisions of Proposition 65. Toxic Injuries Corporation v. Safety-Kleen Corporation, 57 F. Supp. 2d 947 (C.D. Cal. 1999).

Counsel for Defendant, Eastern America Trio Products, Inc. ("Defendant"), removed this case in good faith, being unaware of the above-cited case and rule, and notes that the Ninth Circuit Court of Appeals, in a case involving both the citizen-suit provision of the federal Clean

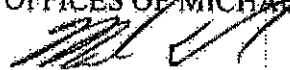
Water Act and California's Proposition 65, Ecological Rights Foundation and Mateel Environmental Justice Foundation, 230 F.3d 1141 (9th Cir. 2000), found standing, but did so in an opinion that only mentioned the Clean Water Act and not Proposition 65. Defendant accordingly agrees with Plaintiff that this Court lacks jurisdiction because Plaintiff lacks the required standing.

Each party will bear its own costs attorney's fees incurred during the time this case was pending in this Court.

Accordingly, the parties respectfully request that this Court remand the case to the Superior Court of the State of California for Alameda County where the case was initially filed.

Dated: August 6, 2009

LAW OFFICES OF MICHAEL FREUND



Michael Freund  
Attorney for Plaintiff  
Center for Environmental Health

Dated: July 31, 2009

LIU & SHIELDS LLP



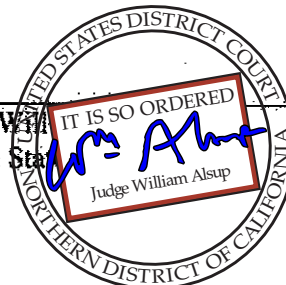
Carolyn Shields  
Attorney for Defendant  
Eastern America Trio Products, Inc.

**ORDER**

GOOD CAUSE APPEARING, this case is remanded to the Alameda County Superior Court.

DATED: August 31, 2009.

Judge William  
United States



Case No 08-03250 WHA