

1 proving that the exposure of methylmercury in the Tuna Canners' food products is below the
2 MADL, therefore exempting the defendants from Proposition 65's warning requirements.

3 After hearing extensive expert testimony from both sides and evaluating the
4 persuasiveness and credibility of several peer-reviewed scientific studies, this Court finds
5 that the Tuna Canners have met their burden of proving that the appropriate MADL for
6 methylmercury under Proposition 65 is 0.3 micrograms per day based on the 1980
7 Bornhausen study involving methylmercury in rats. Furthermore, this Court finds that the
8 Tuna Canners' exposure model shows that the level of methylmercury exposure in the Tuna
9 Canners' food products is between 0.26-0.28 micrograms of methylmercury per day, which
10 is below the approved MADL. Therefore, the Tuna Canners' products are exempt from
11 Proposition 65's warning requirements.

12
13 NATURALLY OCCURRING

14 Lastly, this Court is asked to determine whether methylmercury in tuna is "naturally
15 occurring" within the meaning of 22 CCR §12501. This Court is persuaded on balance that
16 virtually all of the methylmercury in tuna originates from natural sources, while a small
17 amount may be attributable to human activity. After undergoing traditional statutory
18 construction analysis, this Court concludes that methylmercury in tuna fits within the
19 "naturally occurring" exception to Proposition 65, in large part because the Tuna Canners
20 have no way to control the level of methylmercury in their canned tuna products.

21
22
23
24
25
26
27
28