

1 STEPHEN S. SAYAD (State Bar # 104866)
2 DANIEL BORNSTEIN (State Bar # 181711)
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4 PARAS LAW GROUP
5 655 Redwood Highway, Suite 216
6 Mill Valley, California 94941
7 Tel: (415) 380-9222
8 Fax: (415) 380-9233

9 Attorneys for Plaintiff
10 Whitney R. Leeman, Ph.D.

ENDORSED
FILED
San Francisco County Superior Court
MAY 16 2005
GORDON PARK-LI, Clerk
BY: GARTH SAYERS
Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 IN AND FOR THE COUNTY OF SAN FRANCISCO
13 UNLIMITED CIVIL JURSDICTION

14 WHITNEY R. LEEMAN, Ph.D, an individual)
15)
16 Plaintiff,)
17 v.)
18 ARC INTERNATIONAL NORTH AMERICA)
19 INC., et al.,)
20 Defendants.)

Case No. CGC-03-418025
(Consolidated Action)

**[PROPOSED] JUDGMENT
PURSUANT TO TERMS OF
CONSENT JUDGMENT**

Date: May 16, 2005
Time: 9:00 a.m.
Dept: 501
Judge: Hon. James J. McBride

21 WHITNEY R. LEEMAN, Ph.D., an individual)
22)
23 Plaintiff,)
24 v.)
25 ARTLAND, et al.,)
26 Defendants.)

Case No. CGC-03-418034

1 In the above-entitled action, Plaintiff WHITNEY R. LEEMAN Ph. D. and Defendant
2 ARTLAND, having agreed through their respective counsel that judgment be entered pursuant to
3 the terms of the Consent Judgment entered into by the parties, and after issuing an Order
4 Approving Proposition 65 Settlement Agreement and Consent Judgment on May 16, 2005.

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Code of Civil
6 Procedure section 664.5, judgment is entered in accordance with the terms of the Order Approving
7 Proposition 65 Settlement Agreement and Consent Judgment, between the parties.

8 **IT IS SO ORDERED.**

9 Dated: ~~MAY 16, 2005~~

JAMES J. McBRIDE

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11 _____
12 Hon. James J. McBride
13 JUDGE OF THE SUPERIOR COURT
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9 Attorneys for Plaintiff
10 Whitney R. Leeman, Ph.D.

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MAY 16 2005
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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 IN AND FOR THE COUNTY SAN FRANCISCO
13 UNLIMITED CIVIL JURSDICTION

14 WHITNEY R. LEEMAN, Ph.D, an individual)
15)
16 Plaintiff,)
17 v.)
18 ARC INTERNATIONAL NORTH AMERICA)
19 INC., et al.,)
20 Defendants.)

Case No. CGC-03-418025
(Consolidated Action)
**[PROPOSED] ORDER PURSUANT
TO TERMS OF CONSENT
JUDGMENT**

Date: May 16, 2005
Time: 9:00 a.m.
Dept: 501
Judge: Hon. James J. McBride

21 WHITNEY R. LEEMAN, Ph.D., an individual)
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23 Plaintiff,)
24 v.)
25 ARTLAND, et al.,)
26 Defendants.)

Case No. CGC-03-418034

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1 In the above-entitled action, Plaintiff DR. WHITNEY R. LEEMAN Ph. D. and Defendant ,
2 ARTLAND, et al. ("Settling Defendants"), having agreed through their respective counsel that
3 judgment be entered pursuant to the terms of the Consent Judgment entered into by the above-
4 referenced parties and attached hereto as **Exhibit A**; and after consideration of the papers
5 submitted and the arguments presented, the Court finds that the settlement agreement set out in the
6 attached Consent Judgment meets the criteria established by Senate Bill 471, in that:

- 7 1. The health hazard warning that is required by the Consent Judgment complies with
8 Health & Safety Code section 25249.7 (as amended by Senate Bill 471);
9 2. The reimbursement of fees and costs to be paid pursuant to the parties' Consent
10 Judgment is reasonable under California law; and
11 3. The civil penalty amount to be paid pursuant to the parties' Consent Judgment is
12 reasonable,

13 IT IS HEREBY ORDERED that judgment be entered in this case, in accordance with the
14 terms of the Consent Judgment, attached hereto as **Exhibit A**.

15 IT IS SO ORDERED.

16 Dated: MAY 16 2005, 2005

17 **JAMES J. McBRIDE**

18 Hon. James J. McBride
19 JUDGE OF THE SUPERIOR COURT
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EXHIBIT A

1 Stephen S. Sayad, State Bar No. 104866
David D. Stein, State Bar No. 112074
2 Clifford A. Chanler, State Bar No. 135534
Laralei C. Schmohl, State Bar No. 203319
3 CHANLER LAW GROUP
655 Redwood Hwy., Suite 216
4 Mill Valley, CA 94941
Tel.: (415) 380-9222
5 Fax: (415) 380-9223

6 Attorneys for Plaintiff
7 WHITNEY R. LEEMAN, Ph.D.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 IN AND FOR THE COUNTY OF SAN FRANCISCO
11 UNLIMITED CIVIL JURISDICTION

12 WHITNEY R. LEEMAN, Ph.D.,

13 Plaintiff,

14 vs.

15 ARC INTERNATIONAL NORTH
16 AMERICA, INC., et al.,

17 Defendants.

18 WHITNEY R. LEEMAN, Ph.D.,

19 Plaintiff,

20 vs.

21 ARTLAND, INC., et al.,

22 Defendants.

Consolidated Case No. CGC-03-418025

(Consolidated with Case Nos. 418027,
418030, 418031, 418033, 418034, 418036,
418037, 418039, 418040, 418041, 418042,
418044, 418045, 419705, 422636, 422691,
424682 and 429467)

**STIPULATION AND [PROPOSED]
ORDER RE: CONSENT JUDGMENT**

Case No. CGC-03-418034

1 This Stipulation and [Proposed] Order Re: Consent Judgment (“Agreement” or
2 “Consent Judgment”) is entered into by and between plaintiff, Whitney R. Leeman, Ph.D. (“Dr.
3 Leeman” or “Leeman”) and defendant Artland, Inc. (“Artland”) as of September 7, 2004 (the
4 “Effective Date”). Dr. Leeman and Artland are collectively referred to herein as the “Parties”
5 and hereby agree to the following terms and conditions:

6 **WHEREAS:**

7 A. Dr. Leeman is an individual residing in Sacramento, California, who
8 seeks to promote awareness of exposures to toxic chemicals and improve human health by
9 reducing or eliminating hazardous substances contained in consumer products;

10 B. Artland is alleged to have distributed and sold and/or licensed certain
11 patterns of glassware containing colored designs or decorations with materials that contain lead
12 (the “Listed Chemical”). Artland has described on Exhibit A the glassware products which are
13 covered by this Consent Judgment (with such products collectively referred to hereinafter as the
14 " Products");

15 C. On February 6, 2003, Dr. Leeman first served Artland and public
16 enforcement agencies with a document entitled "60-Day Notice of Violation" which provided
17 Artland and such public enforcers with notice that Artland was allegedly in violation of
18 Health & Safety Code § 25249.6 for allegedly failing to warn purchasers that certain products
19 it sells in California expose users to one or more Listed Chemical;

20 D. On or about March 6, 2003, Dr. Leeman filed a complaint for civil
21 penalties and injunctive relief entitled Whitney R. Leeman, Ph.D. v. Artland, et al. in the San
22 Francisco County Superior Court, naming Artland as a defendant and alleging violations of
23 Health & Safety Code § 25249.6 on behalf of individuals in California who allegedly have
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1 been exposed to lead contained in certain products manufactured and offered for sale by
2 Artland; and

3 E. Nothing in this Consent Judgment shall be construed as an admission
4 by Artland of any fact, finding, issue of law, or violation of law; nor shall compliance with
5 this Agreement constitute or be construed as an admission by Artland of any fact, finding,
6 conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or
7 otherwise affect the obligations, responsibilities, and duties of the Parties under this
8 Agreement.

9
10 **NOW THEREFORE, LEEMAN AND ARTLAND HEREBY STIPULATE AND
AGREE AS FOLLOWS:**

11 1.0 **Injunctive Relief: Reformulation** Artland shall comply with each of
12 the following terms of injunctive relief, including the reformulation commitments; according to
13 the deadlines set forth below:

14 1.1(a). **Interim Reformulation Requirements For Glassware**
15 **Products Manufactured Between the Effective Date and October 31, 2004** All Products
16 manufactured after the Effective Date, but before October 31, 2004, that are reasonably likely to
17 be sold in California shall either:

- 18
- 19 i. use decorating materials containing less than 0.06% lead by
20 weight as measured at Artland's option, either before or after
21 the material is fired onto (or otherwise affixed to) the
22 glassware, using a sample size of the materials in question
measuring approximately 50-100 mg and a test method of
sufficient sensitivity to establish a limit of quantitation (as
distinguished from detection) of less than 600 parts per
million ("ppm"); or
 - 23 ii. achieve a result of 1.75 ppm or less for lead when tested
24 under the protocol attached as Exhibit B.

25 For purposes of this Agreement, a Product is "manufactured" at the time that the exterior
26 decoration is fired onto (or otherwise affixed to) the Product. This subsection (1.1(a)) excludes

1 those Products covered by subsections 1.1(b) (children's products) and 1.1(d) (new designs).

2 **1.1(b). Final Reformulation Requirements for Products Intended For Use**

3 **By And Marketed And Sold To Children** All Products manufactured after the effective date
4 that are reasonably likely to be sold in California and that are intended or marketed primarily
5 for use by children, shall only use decorating materials containing less than 0.06% lead by
6 weight as measured, at the Artland's option, either before or after the material is fired onto (or
7 otherwise affixed to) the glassware, using a sample size of the materials in question measuring
8 approximately 50-100 mg and a test method of sufficient sensitivity to establish a limit of
9 quantitation of less than 600 ppm. As used in this Consent Judgment, "intended or marketed
10 primarily for use by children" shall be deemed to mean the Products and products analogous
11 thereto (including, but not limited to, small juice glasses, as well as Products decorated with
12 animated characters) which are typically used by children.

14 **1.1(c). Interim Reformulation Requirements For Glassware**

15 **Products Manufactured Between January 1, 2005 and December 31, 2005** All Products
16 manufactured between January 1, 2005 and December 31, 2005, that are reasonably likely to be
17 sold in California shall either:

- 18
- 19 i. use decorating materials containing less than 0.06% lead by
20 weight as measured at Artland's option, either before or after
21 the material is fired onto (or otherwise affixed to) the
22 glassware, using a sample size of the materials in question
23 measuring approximately 50-100 mg and a test method of
24 sufficient sensitivity to establish a limit of quantitation of less
25 than 600 ppm; or
 - 26 ii. achieve a result of 1.5 ppm or less for lead when tested under
the protocol attached as Exhibit B.

24 This subsection (1.1(c)) excludes those Products covered by subsections 1.1(b) (children's
25 products) and 1.1(d) (new designs).

1 **1.1(d) Final Reformulation Requirements For Newly-Designed Glassware**

2 **Products** All glassware Products manufactured after October 31, 2004, that are reasonably
3 likely to be sold in California and that contain *new* designs, shall use only decorating materials
4 containing less than 0.06% lead by weight as measured, at Artland’s option, either before or
5 after the material is fired onto (or otherwise affixed to) the glassware, using a sample size of the
6 materials in question measuring approximately 50-100 mg and a test method of sufficient
7 sensitivity to establish a limit of quantitation of less than 600 ppm. As used in this subsection
8 and subsection 1.1(d), “new designs” shall be deemed to mean Products involving any new
9 patterns, colors or designs for which 25% or more of the decoration of an existing pattern, color
10 or design, as measured by decorated surface area, has been modified. (However, if the new
11 color, which is added to an existing design contains a lower lead content than the color it is
12 replacing by at least 50%, then the Product shall not be considered a “new design” on the basis
13 of that change in color.)

14 **1.1(e). Final Reformulation Requirements For All Glassware**

15 **Products Manufactured After December 31, 2005** All Products manufactured after
16 December 31, 2005, that are reasonably likely to be sold in California shall only use decorating
17 materials containing less than 0.06% lead by weight as measured, at Artland’s option, either
18 before or after the material is fired onto (or otherwise affixed to) the glassware, using a sample
19 size of the materials in question measuring approximately 50-100 mg and a test method of
20 sufficient sensitivity to establish a limit of quantitation of less than 600 ppm.

21 **1.1(f). Definition of Reformulated Products** Products that satisfy
22 subsections 1.1(a) through 1.1(e), as applicable, are deemed “Reformulated Products.”

23 **1.2 Warnings Obligations for Non-Reformulated Products**

24 **1.2(a). Required Warnings**

25 After October 31, 2004, Artland shall not sell or offer for sale in California any Products
26 containing lead, unless clear and reasonable warnings are given in accordance with one or more
provisions in section 1.3 below.

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1.2(b). Exceptions

The warning requirements set forth in subsection 1.2(a), above, and section 1.3, below, shall not apply to:

- i. any Products manufactured before the effective date; and
- ii. Reformulated Products.

1.3 Clear And Reasonable Warnings

A warning is affixed to the packaging, labeling or directly to or on a Product by the manufacturer, importer, or distributor of the Product that states:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

Warnings issued for Products pursuant to this subsection shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions of use or purchase. Any changes to the language or format of the warning required by this subsection shall only be made following: (1) approval of Plaintiff; or (2) approval from the California Attorney General's Office, provided that written notice of at least fifteen (15) days is given to Plaintiffs for the opportunity to comment.

2. Payment Pursuant To Health & Safety Code §25249.7(b). Pursuant to Health & Safety Code §25249.7(b), Artland shall pay \$10,000 in civil penalties within fifteen (15) calendar days of the Effective Date. The penalty payment shall be made payable to "Chanler Law Group In Trust For Dr. Whitney R. Leeman". Those penalty monies received shall be apportioned by Dr. Leeman in accordance with Health & Safety Code § 25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies retained by Plaintiff as provided by Health and Safety Code § 25249.12(d). The Parties agree that Artland's commitment to market Reformulated Products has been accounted for in establishing the amount of penalties to be

1 paid pursuant to this paragraph and that reformulation is not otherwise a remedy provided for
2 by law.

3 **3. Reimbursement of Attorneys' Fees And Costs.** The Parties have
4 reached an accord on the compensation due to Plaintiff and its counsel under the private
5 attorney general doctrine codified at Code of Civil Procedure § 1021.5 for all work performed
6 through the Effective Date of the Agreement. Under the private attorney general doctrine
7 codified at Code of Civil Procedure § 1021.5, Artland shall reimburse Plaintiff and its counsel
8 for fees and costs, incurred as a result of investigating, bringing this matter to Artland's
9 attention, litigating and negotiating a settlement in the public interest. Artland shall pay
10 Plaintiff and its counsel \$24,000 for all attorneys' fees, expert and investigation fees, and
11 litigation costs. The payment shall be delivered to Plaintiff's counsel at the address set forth in
12 Section 11, below, not later than fifteen (15) days following the Effective Date. Payment
13 should be made payable to the "Chanler Law Group."

14 **4. Post-Execution Activities.** The Parties acknowledge that, pursuant to
15 Health & Safety Code §25249.7, a noticed motion is required to obtain judicial approval of this
16 Agreement. Accordingly, the Parties agree to use their best efforts to file a *Joint Motion to*
17 *Approve the Agreement* ("Joint Motion"), the first draft of which Artland shall prepare, within a
18 reasonable period of time after execution of this Agreement (i.e., not to exceed fifteen (15) days
19 of the Effective date, unless otherwise agreed to by Leeman's counsel based on unanticipated
20 circumstances). Leeman's counsel shall prepare a declaration in support of the Joint Motion
21 which shall, *inter alia*, set forth support for the fees and costs to be reimbursed pursuant to
22 Paragraph 3. Artland shall have no additional responsibility to Leeman or Leeman's counsel
23 pursuant to C.C.P. §1021.5 or otherwise with regard to reimbursement of any fees and costs
24 incurred with respect to the preparation and filing of the Joint Motion and its supporting
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1 declaration or with regard to Leeman's counsel appearing for a hearing or related proceedings
2 thereon.

3 **5. Dr. Leeman's Release Of Artland.** Dr. Leeman, by this Agreement,
4 on behalf of herself, her agents, representatives, attorneys, assigns and in the interest of the
5 general public, waives all rights to institute or participate in, directly or indirectly, any form
6 of legal action, and releases all claims, liabilities, obligations, losses, costs, expenses, fines
7 and damages, against Artland and its respective distributors, customers, retailers, directors,
8 officers, employees, parents, corporate affiliates (such as sister companies within the same
9 corporate family), successors and assigns, whether under Proposition 65 based on the alleged
10 failure to warn about exposure to lead (or lead compounds) contained in any of the Products.

11 Dr. Leeman, by this Agreement, on behalf of herself, her agents, representatives, attorneys,
12 and assigns, also waives all rights to institute or participate in, directly or indirectly, any form
13 of legal action, and releases all claims, liabilities, obligations, losses, costs, expenses, fines
14 and damages, against Artland and its respective distributors, customers, retailers, directors,
15 officers, employees, parents, corporate affiliates (such as sister companies within the same
16 corporate family), successors and assigns, under Proposition 65 based on the alleged failure
17 to warn about exposure to Listed Chemical in association with the Products.
18

19 **6. Artland's Release Of Dr. Leeman.** Artland, by this Agreement, waives
20 all rights to institute any form of legal action against Dr. Leeman and her attorneys or
21 representatives, for all actions or statements made by Dr. Leeman, and her attorneys or
22 representatives, in the course of seeking enforcement of Proposition 65 against Artland in this
23 Action.
24

25 **7. Sales Data.** Artland understands that the sales data provided to counsel
26 for Dr. Leeman by Artland was a material factor upon which Dr. Leeman has relied to

1 determine the amount of payments made pursuant to Health & Safety Code §25249.7(b) in this
2 Agreement. To the best of Artland's knowledge, the sales data provided is true and accurate.
3 In the event that Dr. Leeman discovers facts that demonstrate to a reasonable degree of certainty
4 that the sales data is materially inaccurate, the parties shall meet in a good faith attempt to
5 resolve the matter within ten (10) days of Artland's receipt of notice from Dr. Leeman of his
6 intent to challenge the accuracy of the sales data. If this good faith attempt fails to resolve Dr.
7 Leeman's concerns, Dr. Leeman shall have the right to re-institute an enforcement action
8 against Artland, for those additional Products, based upon any existing 60-Day Notices of
9 violation served on Artland. In such case, all applicable statutes of limitation shall be deemed
10 tolled for the period between the date Dr. Leeman filed the instant action and the date Dr.
11 Leeman notifies Artland that he is re-instituting the action for the additional Products.
12 Provided, however, that Artland shall have no additional liability, and Dr. Leeman waives any
13 claims that might otherwise be asserted, from the Effective Date until the date that Dr. Leeman
14 provides notice under this Section 7, so long as Artland has complied with the requirements of
15 Paragraph 1.0 for all of the Products, including those numbers of Products additionally
16 discovered.
17

18 **8. Court Approval.** The Parties shall mutually employ their best efforts to
19 support the entry of this Agreement as a Consent Judgment and obtain approval of the Joint
20 Motion by the Court in a timely manner. If, for any reason, any part of this Consent Judgment
21 is not ultimately approved by the Court within twelve (12) months following the Effective Date,
22 the entire Agreement shall, unless otherwise agreed in writing by the Parties, be deemed null
23 and void, and all monies provided to Dr. Leeman or her counsel shall be refunded to Artland
24 within fifteen (15) days after receipt of written notice to Leeman's counsel from Artland
25 pursuant to this Paragraph.
26

1 **9. Severability.** In the event that any of the provisions of this Agreement
2 are held by a court to be unenforceable, the validity of the enforceable provisions shall not be
3 adversely affected.

4 **10. Attorney's Fees.** In the event that a dispute arises with respect to any
5 provision(s) of this Agreement (including, but not limited to, disputes arising from the
6 provisions in Paragraphs 2 and 3), the prevailing party shall be entitled to recover costs and
7 reasonable attorneys' fees.

8 **11. Governing Law.** The terms of this Agreement shall be governed by the
9 laws of the State of California and shall apply within the State of California.

10 **12. Notices.** All correspondence to Dr. Leeman shall be mailed to:

11
12 Laralei C. Schmohl, Esq.
13 CHANLER LAW GROUP
14 655 Redwood Hwy., Suite 216
15 Mill Valley, CA 94941
16 Tel.: (415) 380-9222

17 All correspondence to Artland shall be sent to:

18 Peter W. McGaw, Esq.
19 ARCHER NORRIS LLP
20 2033 North Main Street, Suite 8000
21 Walnut Creek, CA 94596
22 Tel: (925) 930-6620

23 **13. Compliance With Reporting Requirements (Health & Safety Code**
24 **§25249.7(f)).** Dr. Leeman agrees to comply with the reporting form requirements referenced in
25 Health & Safety Code §25249.7(f). Pursuant to the regulations promulgated under 11 Cal.
26 Code Regs §3003, Dr. Leeman shall present this Consent Judgment to the California Attorney
General's Office within two (2) days of time after receiving all necessary signatures. Unless
otherwise permitted on shortened time, a noticed motion to enter the Consent Judgment will

1 then be served on the Attorney General's office at least forty-five (45) days prior to the date a
2 hearing is scheduled on such a motion in the San Francisco Superior Court.

3 **14. Counterparts and Facsimile.** This Agreement may be executed in
4 counterparts and facsimile, each of which shall be deemed an original, and all of which, when
5 taken together, shall constitute one and the same document.

6 **15. Authorization.** The undersigned are authorized to execute this
7 Agreement on behalf of their respective parties and have read, understood and agree to all of the
8 terms and conditions of this Agreement.

9
10 DATED: September ____, 2004

ARTLAND

11 By: _____
12 William Flaherty, Vice President

13 DATED: September ____, 2004


DR. WHITNEY LEEMAN

14 By: _____
15 Dr. Whitney R. Leeman

16 **APPROVED AS TO FORM:**

17 DATED: September 24, 2004

CHANLER LAW GROUP

18 By: 
19 Clifford A. Chanler
20 Laralei C. Schmohl
21 Attorneys for Plaintiff
22 DR. WHITNEY R. LEEMAN

23 DATED: September ____, 2004

ARCHER NORRIS LLP

24 By: _____
25 Peter McGaw
26 Attorneys for Defendant
ARTLAND

1 then be served on the Attorney General's office at least forty-five (45) days prior to the date a
2 hearing is scheduled on such a motion in the San Francisco Superior Court.

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8 terms and conditions of this Agreement.

9
10 DATED: September ____, 2004

ARTLAND

11 By: _____
12 William Flaherty, Vice President

13 DATED: September 11/4, 2004

DR. WHITNEY LEEMAN

14 By: Whitney Leeman
15 Dr. Whitney R. Leeman

16 **APPROVED AS TO FORM:**

17 DATED: September ____, 2004

CHANLER LAW GROUP

18 By: _____
19 Clifford A. Chanler
20 Laralei C. Schmohl
21 Attorneys for Plaintiff
22 DR. WHITNEY R. LEEMAN

23 DATED: September ____, 2004

ARCHER NORRIS LLP

24 By: _____
25 Peter McGaw
26 Attorneys for Defendant
ARTLAND

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2 hearing is scheduled on such a motion in the San Francisco Superior Court.

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7 Agreement on behalf of their respective parties and have read, understood and agree to all of the
8 terms and conditions of this Agreement.

9
10 DATED: September 20, 2004

ARTLAND

11 By: William Flaherty
12 William Flaherty, Vice President

13 DATED: September __, 2004

DR. WHITNEY LEEMAN

14 By: _____
15 Dr. Whitney R. Leeman

16 APPROVED AS TO FORM:

17 DATED: September __, 2004

CHANLER LAW GROUP

18 By: _____
19 Clifford A. Chanler
20 Laralei C. Schmohl
21 Attorneys for Plaintiff
DR. WHITNEY R. LEEMAN

22
23 DATED: September __, 2004

ARCHER NORRIS LLP

24 By: Peter McGaw
25 Peter McGaw
26 Attorneys for Defendant
ARTLAND

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14. Counterparts and Facsimile. This Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

15. Authorization. The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

DATED: September ____, 2004

ARTLAND

By: _____
William Flaherty, Vice President

DATED: September ____, 2004

DR. WHITNEY LEEMAN

By: _____
Dr. Whitney R. Leeman

APPROVED AS TO FORM:

DATED: September ____, 2004

CHANLER LAW GROUP

By: _____
Clifford A. Chanler
Laralei C. Schmohl
Attorneys for Plaintiff
DR. WHITNEY R. LEEMAN

DATED: September 17, 2004

ARCHER NORRIS LLP

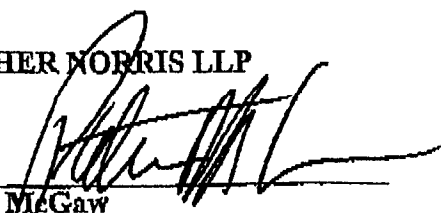
By: 
Peter McGaw
Attorneys for Defendant
ARTLAND

EXHIBIT A

Goblets and Other Glassware products decorated on exterior portions with materials that contains lead (or lead compounds) limited to: Megan's Garden Collection, Love Bird Collection, Purple Passion Collection, St. Croix Collection, Flamingo and Monkey Business Collection, Helios Collection, Loire Collection, Oliver Martini and Compote, 7 Pcs Large Hand painted Rose Champagne Set, S/4 Hand Painted Asst. Balloon including insects, flowers, snowmen, palm trees and grapes motifs.

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EXHIBIT B
Testing Protocol

TEST PROTOCOL FOR LEAD RELEASE

Externally Decorated Glassware
Externally Decorated Ceramic Mugs

Decorated Glassware:

1. Wash glass and dry.
2. Totally immerse glass in beaker of acetic acid for 24 hours.
3. Measure ppm lead in acid, compare to internal volume of glass.
4. This procedure is attached.

Ceramic Mugs: Use the ASTM C 738-81 test modified for total immersion and comparison to internal volume.

Lip and Rim Testing: Not done as such. Since all drinking vessels are totally immersed, the lip and rim area is tested as a part of the whole.

Samples:

Six samples of each article, i.e., six randomly selected samples of each type decorated sample article. If a manufacturer wishes to distribute multiple different designs, six sample articles of each design should be submitted for testing. Six sample articles of each type design will be subjected to total immersion in acetic acid only.

Reagents:

1. Deionized or distilled deionized water.
2. Acetic acid 4% solution by volume; 1 volume of glacial acetic acid to 24 volumes of distilled deionized water.

Sample Preparation:

Thoroughly cleanse each sample to be tested by immersing in a detergent rinse of a suitable household alkaline detergent. Rinse several times with deionized water followed by several rinses with distilled deionized water. Place the sample articles in a clean aluminum basket, (covered with clean paper towels), or suitable clean rack and allow to air dry. Reduce contamination to a Minimum at all times.

Procedure for Leaching Lead, (4% Acetic Acid Solution):

Once all the samples have been properly immersed in a suitable household alkaline detergent, subjected to proper rinses and air dried, place each sample individually into an appropriately sized acid cleaned, (lead free), glass beaker or clean Nalgene plastic beaker. Using prenumbered labels, label the outside of each beaker containing a sample and record this number on the worksheet. Add 4% acetic acid to each beaker containing a sample, filling the sample and the space between the sample and the beaker while covering the rim of the sample with the acetic acid solution. Record the volume of leaching solution used in milliliters next to the sample number on the worksheet. (Cover each beaker completely with aluminum foil to shield the contents from light.) Record the time and allow the beakers to remain undisturbed for a period of 24 hours at 20 to 24° C (68 to 75° F). At the end of the 24 hour period mix the contents of each beaker well. To avoid contamination, wear disposable gloves and working with

one beaker at a time, lift up the sample and pour the contents of the sample into the respective beaker. Using a clean disposable plastic pipet, swirl the contents of the beaker to properly mix the contents, drain the pipet into the solution and draw off an aliquot of sample and place it into corresponding specifically numbered clean plastic snap cap test tube. The number on the outside of the beaker and the number on the test tube should correspond. Once the aliquot of sample has been drawn off, rinse the sample under running water, dry the bottom of the sample with a paper towel and transfer the prenumbered label from the outside of the respective beaker to the bottom of the sample.

Testing:

Perform testing for lead using atomic absorption spectrophotometry as prescribed in ASTM methodology C 738-81 or C 927-80. Run each sample in duplicate along with appropriate standards as well as aliquots of 4% acetic acid solution and distilled deionized water in plastic test tubes. Correct for the blank if necessary. If a sample of unknown goes off scale make necessary dilutions using 4% acetic acid from the same batch prepared for leaching. Record results in ppm using the following calculations:

$\text{ug/dl} \times \text{dilution} = \text{ug/dl} \div 100 = \text{ug/ml Pb} \times \text{volume of leaching solution used (ml)} =$

$\text{Total ug/Pb} \div \text{Internal volume of the article to 7 mm(ml)} = \text{ppm leachable lead}$

relative to the internal volume.

See attached laboratory report forms.

To Determine The Internal Volume:

Mark each unit 7 mm (1/4") below the rim on the outside of the sample. Fill each unit from a graduated cylinder to approximately 1/4" (6 to 7 mm) of overflowing. Measure and record the internal volume of each unit in milliliters.

When Reporting Final Results Include The Following:

1. The amount of leachable lead in ppm relative to the internal volume of the sample, average of six if possible.
2. The distance of decoration below the rim in mm.

Materials Used In Testing Procedure:

Beakers - Nalgene, polypropylene, graduated 2000 ml.

Test tubes - Polystyrene with friction fit snap cap, sterile, 17x100m

Pipets - Kimble, serological, polystyrene, sterile, 10 ml.x 1/10.

Carboys - Nalgene, 20 liter, for mixing acetic acid solution.

Aluminum Baskets

Utility bath - 18-8 stainless steel, deep drawn, seamless construction with cover; holds 31 quarts. Overall dimensions length 21 3/4", width 13 3/4", depth 8".

Utility bath - same as above, holds 20 quarts.

Gloves - vinyl, disposable.

Hot plate - VWR Scientific, Thermolyne, Type 2200, length 24", width 12"

Aluminum foil - to cover samples during the 24 hour period.

References:

1982 Annual Book Of ASTM Standards, Part 17, Refractories, Glass, Ceramic Materials, Carbon and Graphite Products:

pg. 757-759 ASTM Designation: C 738-81

pg. 999-1002 ASTM Designation: C 927-80

pg. 682 ASTM Designation: C 676-74 (reapproved 1980)

Lead and Cadmium in Decorated Glass Tumblers - Interagency Task Force Report, November 13, 1978.

