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FILED

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BY LISA MITCHELL
DEPUTY, SANTA CRUZ COUNTY

6 Attorneys for Plaintiff PEOPLE
OF THE STATE OF CALIFORNIA
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8 SUPERIOR COURT OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SANTA CRUZ

10 PEOPLE OF THE STATE OF CALIFORNIA,) No. CV-153031
11 Plaintiffs) STIPULATED FINAL JUDGMENT
12 vs.)
13 SUN SHOPS, INC., and DOES 1)
through 20, inclusive,)
14 Defendant.)
15

16 PEOPLE OF THE STATE OF CALIFORNIA ("Plaintiff"), appearing
17 through its attorney, Bob Lee, District Attorney, by Morgan C.
18 Taylor, Asst. District Attorney, and SUN SHOPS, INC. ("Settling
19 Defendant"), appearing through its attorney, James C. Thompson,
20 Esq., hereby stipulate and agree, by their signatures set forth
21 herein, that without the taking of evidence, and without trial or
22 adjudication of any facts herein, the Court may enter this
23 Stipulated Final Judgment ("Judgment").

24 1. WHEREAS:

25 (a) Settling Defendant SUN SHOPS, INC. was and is a
26 California corporation doing business in Santa Cruz County,
27 California as a retailer of beach wear, gifts, and related
28 merchandise, and employing ten or more persons.

1 (b) Plaintiff alleges that Settling Defendant has sold
2 certain drinking glasses and other glassware intended for the
3 consumption of food or beverages with colored artwork designs,
4 containing lead (and/or lead compounds) and/or cadmium on the
5 exterior, including but not limited to "Drinking Glass, 'Santa
6 Cruz' #000003," which may be referred to herein as "Products."
7 The manner of exposure is and was through ingestion and/or dermal
8 contact. Lead and cadmium are listed pursuant to the Safe
9 Drinking Water and Toxic Enforcement Act of 1986, California
10 Health & Safety Code §25249.5 et seq., also known as Proposition
11 65, as known to cause birth defects or other reproductive harm.
12 Lead (and/or lead compounds) and cadmium may alternately be
13 referred to herein as "Listed Chemicals."

14 (c) On or about September 27, 2005, Russell Brimer, a
15 citizen of California, served Settling Defendant, and various
16 public enforcement agencies, with a document entitled "60-Day
17 Notice of Violation" ("Notice") that provided Settling Defendant
18 and such public enforcers with notice alleging that Settling
19 Defendant was in violation of Health & Safety Code §25249.6 for
20 failing to warn purchasers that the Products exposed consumers in
21 California to the Listed Chemicals.

22 (d) On November 22, 2005, BOB LEE, District Attorney of the
23 County of Santa Cruz, in the name of the People of the State of
24 California, filed the present action in the Superior Court for
25 the County of Santa Cruz against Settling Defendant, alleging
26 violations of Health & Safety Code §25249.6 and Business &
27 Professions Code §17200, based on the alleged exposures to the
28 Listed Chemicals contained in the Products sold by Settling

1 Defendant.

2 (e) Settling Defendant denies the material factual and legal
3 allegations contained in Plaintiff's Complaint and maintains that
4 all products that it has sold in California, including these
5 Products, have been and are in compliance with all laws, and/or
6 that said sales were without knowledge of their status as
7 containing Listed Chemicals and without intent to expose any
8 individual to such Listed Chemicals. Nothing in this Judgment
9 shall be construed as an admission by Settling Defendant of any
10 fact, finding, issue of law, or violation of law, nor shall
11 compliance with this Judgment constitute or be construed as an
12 admission by Settling Defendant of any fact, finding, conclusion,
13 issue of law or violation of law, such being specifically denied
14 by Settling Defendant. Nothing in this Judgment shall apply to,
15 or be used as evidence regarding compliance for any product sold,
16 other than those Products referred to specifically herein, by
17 Settling Defendant with Proposition 65 or any other statute or
18 regulation. However, this section shall not diminish or
19 otherwise affect the obligations, responsibilities and duties of
20 Settling Defendant under this Judgment.

21 (f) For purposes of this Judgment only, the parties
22 stipulate that this Court has jurisdiction over the allegations
23 of violations contained in the Complaint and personal
24 jurisdiction over Settling Defendant as to the acts alleged in
25 the Complaint, that venue is proper in the County of Santa Cruz,
26 and that this Court has jurisdiction to enter this Judgment and
27 to enforce the provisions thereof.

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1 2. THEREFORE:

2 The PEOPLE having filed their complaint, the parties having
3 stipulated to this final Judgment, and good cause appearing,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

5 (a) Settling Defendant shall not sell or offer for sale any
6 of the Products containing the Listed Chemicals in exterior
7 colored decorations unless such Products comply with the
8 provisions set forth herein.

9 (b) Settling Defendant shall not sell any of the Products
10 requiring warnings pursuant to §25249.6 in its retail stores
11 unless such warnings are provided in the following manner:

12 (1) Point of Sale warnings may be provided through one
13 or more signs posted at or near the point of sale or display of
14 the Products that state as follows:

15 "WARNING: The materials used as colored decoration on
16 this product contain chemicals, including lead and/or
17 cadmium, known to the State of California to cause birth
18 defects or other reproductive harm."

19 (2) Any Point of Sale warning provided pursuant to
20 this section shall be prominently placed with such
21 conspicuousness as compared with other words, statements, designs
22 or devices as to render it likely to be read and understood by an
23 ordinary individual under customary conditions of use or purchase
24 and shall be placed or written in a manner such that the consumer
25 understands to which Products the warnings apply.

26 (c) The Products shall be deemed to comply with Proposition
27 65 and be exempt from any Proposition 65 warning requirements if
28 all of the following standards are met:

1 (1) All designs applied to the exterior surface of the
2 Products that are sold by Settling Defendant contain less than
3 0.06% lead by weight in the decoration either before or after the
4 decoration is applied to the Product, using a test method of
5 sufficient sensitivity to establish a quantity limit of less than
6 600 parts per million (ppm).

7 (2) All designs applied to the exterior surface of the
8 Products that are sold by Settling Defendant contain less than
9 0.42% cadmium by weight in the decoration either before or after
10 the decoration is applied to the Product, using a test method of
11 sufficient sensitivity to establish a quantity limit of less than
12 2400 parts per million (ppm).

13 (3) There are no decorations within 20 millimeters of
14 the rim, or any decorations within 20 millimeters of the rim
15 result in a wipe test result of no more than 0.5 micrograms of
16 lead and no more than 4.1 micrograms of cadmium on a Ghost Wipe,
17 using the NIOSH 9100 wipe test method.

18 (d) Should any court of this state enter an order in a case
19 brought by the People of the State of California that sets forth
20 the standards defining when Proposition 65 warnings will or will
21 not be required for products substantially similar to the type
22 and function of Products at issue here ("Alternative Standards"),
23 or if the California Attorney General's Office or Office of
24 Environmental Health Hazard Assessment otherwise provide written
25 endorsement (i.e. a writing that is circulated by the Attorney
26 General that is not intended for the purposes of soliciting
27 further input or comments) of Alternative Standards applicable to
28 products that are of the same type and function as the Products,

1 Settling Defendant shall be entitled to seek a modification of
2 this Judgment so as to enable it to utilize and rely on such
3 Alternative Standards in lieu of those set forth above.
4 Plaintiff shall not unreasonably withhold consent to any proposed
5 stipulation to effectuate such a modification.

6 (e) This Judgment is a full, final, and binding resolution
7 between the Plaintiff and Settling Defendant, of any violation of
8 Proposition 65, Business & Professions Code sections 17200 et
9 seq., or any other statutory or common law claims that have been
10 or could have been asserted in the complaint against Settling
11 Defendant, arising from the failure to provide clear and
12 reasonable warnings required by Proposition 65 for exposure to
13 lead and/or cadmium from the use of the Products, whether based
14 on actions committed by Settling Defendant, or by any entity to
15 whom it distributes or sells the Products, and covers no other
16 claims. As to the Products, compliance with the terms of this
17 Judgment resolves any issue now, in the past, and in the future
18 concerning compliance by Settling Defendant, their parents,
19 shareholders, divisions, subdivisions, subsidiaries, sister
20 companies, affiliates, franchisees, cooperative members, and
21 licensees; their distributors, wholesalers, and retailers who
22 sell the Products; and the predecessors, successors, and assigns
23 of any of them; with the requirements of Proposition 65 with
24 respect to Listed Chemicals in the Products.

25 (f) The terms of this Judgment shall be governed by the laws
26 of the State of California and apply within the State of
27 California. In the event that Proposition 65 is repealed or is
28 otherwise rendered inapplicable by reason of law generally, or as

1 to the Products specifically, then Settling Defendant shall have
2 no further obligations pursuant to this Judgment with respect to,
3 and to the extent that, those Products are so affected.

4 (g) This Judgment may be modified only by (1) written
5 agreement of the Parties and upon entry of a modified Judgment by
6 the Court thereon, or (2) motion of any Party as provided by law
7 and upon entry of a modified Judgment by the Court. The Attorney
8 General shall be served with Notice of any proposed modification
9 to this Judgment at least fifteen (15) days in advance of its
10 consideration by the Court.

11 (h) The undersigned are authorized to execute this
12 Stipulation on behalf of their respective Parties and have read,
13 understood and agree to all of the terms and conditions of this
14 Judgment.

15 (i) The Court retains jurisdiction for the purpose of
16 entertaining applications at any time for such further orders as
17 may be necessary or appropriate for the construction or carrying
18 out of this Judgment, for the modification or termination of any
19 of its provisions, and the enforcement thereof, including the
20 punishment of any violations or contempts.

21 (j) All causes of action alleged against DOES 1 through 20,
22 inclusive, are hereby dismissed.

23 (k) Defendant shall pay to the Clerk of the Superior Court
24 of the County of Santa Cruz the sum of \$320.00 pursuant to
25 Government Code §6103.5.

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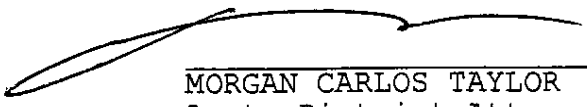
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SO STIPULATED.

DATED: 9/1/06

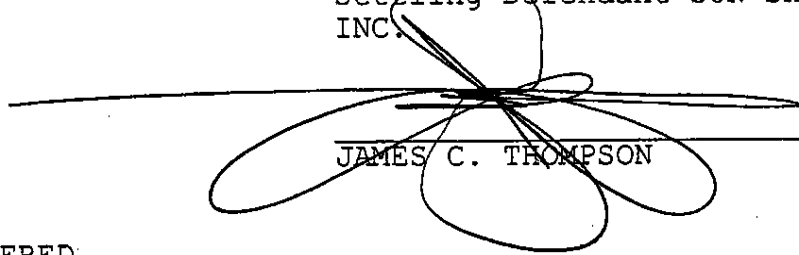
BOB LEE
District Attorney



MORGAN CARLOS TAYLOR
Asst. District Attorney

DATED: 8/31/06

COMSTOCK, THOMPSON, KONTZ
& BRENNER, Attorneys for
Settling Defendant SUN SHOPS,
INC.



JAMES C. THOMPSON

IT IS SO ORDERED.

DATED: SEP 11 2006

ROBERT B. ATACK
JUDGE OF THE SUPERIOR COURT