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ENDORSED
FILED
ALAMEDA COUNTY

AUG 08 2013

CLERK OF THE SUPERIOR COURT
By D. WILLIAMS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,)

Plaintiff,)

v.)

LULU NYC LLC, et al.,)

Defendants.)

AND CONSOLIDATED CASES.)
_____)

Lead Case No. RG 09-459448

(Consolidated with Case Nos. RG 10-494289, RG 10-494513, RG 10-494517, RG 11-598595, RG 11-598596, RG 11-603764 and RG 12-658652)

~~PROPOSED~~ AMENDED CONSENT JUDGMENT AS TO LERNER NEW YORK, INC.

This Amended Consent Judgment (the "Consent Judgment") supersedes in its entirety the Consent Judgment entered in these consolidated cases on January 21, 2010, as to Lerner New York, Inc. only. This Consent Judgment has no effect on any other Settling Defendants that are parties to the January 21, 2010 Consent Judgment.

1. DEFINITIONS

1.1 "Covered Products" means wallets, handbags, purses, clutches, totes¹, footwear and belts that are Manufactured, distributed, sold or offered for sale by Settling

¹ This term includes smart phone cases, tablet cases, and notebook and laptop cases.

1 Defendant (as hereinafter defined).

2 1.2 “Effective Date” means the date on which this Consent Judgment is entered by
3 the Court.

4 1.3 “Lead Limits” means the maximum concentrations of lead and lead
5 compounds (“Lead”) by weight specified in Section 3.2.

6 1.4 “Manufactured” and “Manufactures” means to manufacture, produce, or
7 assemble.

8 1.5 “Paint or other Surface Coatings” means a fluid, semi-fluid, or other material,
9 with or without a suspension of finely divided coloring matter, which changes to a solid film
10 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.
11 This term does not include printing inks or those materials which actually become a part of the
12 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to
13 the substrate, such as by electroplating or ceramic glazing.

14 1.6 “Vendor” means a person or entity that Manufactures, imports, distributes, or
15 supplies a Covered Product to Settling Defendant.

16 **2. INTRODUCTION**

17 2.1 The parties to this Consent Judgment (“Parties”) are the Center for
18 Environmental Health (“CEH”) and defendant Lerner New York, Inc. (“Settling Defendant”).

19 2.2 On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,
20 Case No. RG 09-459448, alleging Proposition 65 (as hereinafter defined) violations as to wallets,
21 handbags, purses, clutches and totes. The Court has consolidated the *Lulu* matter with a number
22 of other related Proposition 65 cases.

23 2.3 More than sixty (60) days prior to naming Settling Defendant as a defendant in
24 the applicable actions, CEH issued 60-Day Notices of Violation under Proposition 65 (The Safe
25 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§
26 25249.5, *et seq.*) to Settling Defendant alleging that it violated Proposition 65 by exposing
27 persons to Lead contained in wallets, handbags, purses, clutches, totes, footwear and belts without
28 first providing a clear and reasonable Proposition 65 warning. On November 16, 2009, CEH

1 named Settling Defendant as a defendant in the original Complaint in the *Lulu* action via Doe
2 Amendment.

3 2.4 Settling Defendant manufactures, distributes and/or offers for sale Covered
4 Products in the State of California or has done so in the past.

5 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this
6 Court has jurisdiction over the allegations of violations contained in the operative Complaint
7 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling
8 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,
9 that the operative First Amended Complaint in the *Lulu* action be deemed amended to include
10 allegations relating to all Covered Products as to Settling Defendant, and that this Court has
11 jurisdiction to enter this Consent Judgment as a full and final resolution of all claims against
12 Settling Defendant for any violations of Proposition 65 which were or could have been raised in
13 the Complaint based on the facts alleged therein.

14 2.6 Nothing in this Consent Judgment is or shall be construed as an admission by
15 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance
16 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
17 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
18 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or
19 any other legal proceeding. This Consent Judgment is the product of negotiation and compromise
20 and is accepted by the Parties for purposes of settling, compromising and resolving issues
21 disputed in this action.

22 **3. INJUNCTIVE RELIEF**

23 3.1 **Specification Compliance Date.** To the extent it has not already done so, no
24 more than thirty (30) days after the Effective Date, Settling Defendant shall provide the Lead
25 Limits to its Vendors of Covered Products and shall instruct each Vendor to use reasonable
26 efforts to provide Covered Products that comply with the Lead Limits on a nationwide basis.

27 3.2 **Lead Limits.**

28 Commencing on the Effective Date (except that as to footwear and belts only,

1 commencing on December 1, 2013), Settling Defendant shall not purchase, import, Manufacture,
2 or supply to an unaffiliated third party any Covered Product that will be sold or offered for sale to
3 consumers located in the state of California that contains a material or is made of a component
4 that exceeds the following Lead Limits:

5 3.2.1 Paint or other Surface Coatings: 90 parts per million (“ppm”).

6 3.2.2 Polyvinyl chloride (“PVC”): 200 ppm.

7 3.2.3 All other materials or components other than cubic zirconia (sometimes
8 called cubic zirconium, CZ), crystal, glass or rhinestones: 300 ppm.

9 3.3 **Final Retail Compliance Date.** Commencing on the Effective Date (except
10 that as to footwear and belts only, commencing on December 1, 2013), Settling Defendant shall
11 not sell or offer for sale to consumers located in the state of California any Covered Product that
12 exceeds the Lead Limits specified in Section 3.2. For purposes of this Section 3.3, when Settling
13 Defendant’s direct customer sells or offers for sale to consumers located in the state of California
14 a Covered Product after the Effective Date (or after December 1, 2013, as to footwear and belts),
15 Settling Defendant is deemed to “offer for sale in California” that Covered Product.

16 3.4 **Action Regarding Specific Products.**

17 3.4.1 On or before the Effective Date, Settling Defendant shall cease selling the
18 following specific products in California: (i) New York & Company Wallet in Orange,
19 SKU No. 84238461, Style No. 9079; (ii) New York & Company Wristlet in Red, SKU
20 No. 84241474, Style No. 9251; (iii) New York & Company Wallet and Smart Phone Case
21 in Red, SKU No. 84241610, Style No. 9259; and (iv) New York & Company Skinny Belt
22 in Red, SKU No. 83065965 (collectively, the “Section 3.4 Products”). On or before the
23 Effective Date, Settling Defendant shall also: (i) cease shipping the Section 3.4 Products
24 to any of its stores in California, and (ii) send instructions to its stores in California
25 instructing them either to: (a) return all of the Section 3.4 Products to Settling Defendant
26 for destruction; or (b) directly destroy the Section 3.4 Products.

27 3.4.2 Any destruction of the Section 3.4 Products shall be in compliance with all
28 applicable laws.

1 3.4.3 Within sixty (60) days of the Effective Date, Settling Defendant shall
2 provide CEH with written certification from Settling Defendant confirming compliance
3 with the requirements of this Section 3.4.

4 **4. ENFORCEMENT**

5 4.1 Any Party may, after meeting and conferring, by motion or application for an
6 order to show cause before this Court, enforce the terms and conditions contained in this Consent
7 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent
8 Judgment shall be brought exclusively pursuant to Sections 4.2 through 4.3.

9 4.2 **Notice of Violation.** CEH may seek to enforce the requirements of Sections
10 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.2.

11 4.2.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling
12 Defendant within forty-five (45) days of the date the alleged violation(s) was or were
13 observed, provided, however, that: (i) CEH may have up to an additional forty-five (45)
14 days to provide Settling Defendant with the test data required by Section 4.2.2(d) below if
15 it has not yet obtained it from its laboratory; and (ii) CEH may serve a Notice of Violation
16 to a supplier of a Covered Product so long as: (a) the identity of the supplier cannot be
17 discerned from the labeling of the Covered Product; and (b) the Notice of Violation to the
18 supplier is served within forty-five (45) days of the date the supplier is identified by CEH.

19 4.2.2 **Supporting Documentation.** The Notice of Violation shall, at a minimum,
20 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,
21 (b) the location at which the Covered Product was offered for sale, (c) a description of the
22 Covered Product giving rise to the alleged violation, and of each material or component
23 that is alleged not to comply with the Lead Limits, including a picture of the Covered
24 Product and all identifying information on tags and labels, and (d) all test data obtained by
25 CEH regarding the Covered Product and related supporting documentation, including all
26 laboratory reports, quality assurance reports and quality control reports associated with
27 testing of the Covered Products. Such Notice of Violation shall be based at least in part
28 upon total acid digest testing performed by an independent accredited laboratory. Wipe,

1 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a
2 Notice of Violation, although any such testing may be used as additional support for a
3 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A
4 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section
5 4.2.2.

6 4.2.3 **Additional Documentation.** CEH shall promptly make available for
7 inspection and/or copying upon request by and at the expense of Settling Defendant, all
8 supporting documentation related to the testing of the Covered Products and associated
9 quality control samples, including chain of custody records, all laboratory logbook entries
10 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts
11 from all analytical instruments relating to the testing of Covered Product samples and any
12 and all calibration, quality assurance, and quality control tests performed or relied upon in
13 conjunction with the testing of the Covered Products, obtained by or available to CEH that
14 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,
15 any exemplars of Covered Products tested.

16 4.2.4 **Multiple Notices.** If Settling Defendant has received more than four (4)
17 Notices of Violation from CEH under this Consent Judgment in any 12-month period that
18 result in a contribution to the Proposition 65 Fashion Accessory Testing Fund (either
19 because they were not contested or because the contest by Settling Defendant was
20 unsuccessful), then at CEH's option, CEH may seek whatever fines, costs, penalties, or
21 remedies are provided by law for failure to comply with the Consent Judgment. For
22 purposes of determining the number of Notices of Violation pursuant to this Section 4.2.4,
23 the following shall be excluded:

24 (a) Multiple notices identifying Covered Products Manufactured for or
25 sold to Settling Defendant from the same Vendor; and

26 (b) A Notice of Violation that meets one or more of the conditions of
27 Section 4.3.3(b).

28 4.3 **Notice of Election.** Within thirty (30) days of receiving a Notice of Violation

1 pursuant to Section 4.2, including the test data required pursuant to 4.2.2(d), Settling Defendant
2 shall provide written notice to CEH stating whether it elects to contest the allegations contained in
3 the Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election shall be
4 deemed an election to contest the Notice of Violation. Any contributions to the Fashion
5 Accessory Testing Fund required under this Section 4.3 shall be made payable to The Center for
6 Environmental Health and included with Settling Defendant’s Notice of Election.

7 **4.3.1 Contested Notices.** If the Notice of Violation is contested, the Notice of
8 Election shall include all then-available documentary evidence regarding the alleged
9 violation, including any test data. Within thirty (30) days the parties shall meet and confer
10 to attempt to resolve their dispute. Should such attempts at meeting and conferring fail,
11 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling
12 Defendant withdraws its Notice of Election to contest the Notice of Violation before any
13 motion concerning the violations alleged in the Notice of Violation is filed pursuant to
14 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion
15 Accessory Testing Fund in the amount of twelve thousand, five hundred dollars (\$12,500)
16 and shall comply with all of the non-monetary provisions of Section 4.3.2. If, at any time
17 prior to reaching an agreement or obtaining a decision from the Court, CEH or Settling
18 Defendant acquires additional test or other data regarding the alleged violation, it shall
19 promptly provide all such data or information to the other Party.

20 **4.3.2 Non-Contested Notices.** If the Notice of Violation is not contested,
21 Settling Defendant shall include in its Notice of Election a detailed description of
22 corrective action that it has undertaken or proposes to undertake to address the alleged
23 violation. Any such correction shall, at a minimum, provide reasonable assurance that the
24 Covered Product will no longer be offered by Settling Defendant or its customers for sale
25 in California. If there is a dispute over the sufficiency of the proposed corrective action or
26 its implementation, CEH shall promptly notify Settling Defendant and the Parties shall
27 meet and confer before seeking the intervention of the Court to resolve the dispute. In
28 addition to the corrective action, Settling Defendant shall make a contribution to the

1 Fashion Accessory Testing Fund in the amount of ten thousand dollars (\$10,000), unless
2 one of the provisions of Section 4.3.3 applies.

3 **4.3.3 Limitations in Non-Contested Matters.**

4 (a) If Settling Defendant elects not to contest a Notice of Violation
5 before any motion concerning the violation(s) at issue has been filed, the monetary
6 liability of Settling Defendant shall be limited to the contributions required by Section
7 4.3.2 and this Section 4.3.3, if any.

8 (b) The contribution to the Fashion Accessory Testing Fund shall be:

9 (i) One thousand, seven hundred fifty dollars (\$1,750) if Settling
10 Defendant, prior to receiving and accepting for distribution or sale the
11 Covered Product identified in the Notice of Violation, obtained test results
12 demonstrating that all of the materials or components in the Covered
13 Product identified in the Notice of Violation complied with the applicable
14 Lead Limits, and further provided that such test results meet the same
15 quality criteria to support a Notice of Violation as set forth in Section 4.2.2
16 and that the testing was performed within two (2) years prior to the date of
17 the sales transaction on which the Notice of Violation is based. Settling
18 Defendant shall provide copies of such test results and supporting
19 documentation to CEH with its Notice of Election; or

20 (ii) One thousand, five hundred dollars (\$1,500) if Settling
21 Defendant is in violation of Section 3.3 only insofar as that Section deems
22 Settling Defendant to have “offered for sale” a product sold at retail by
23 Settling Defendant’s customer, provided however, that no contribution is
24 required or payable if Settling Defendant has already been required to pay
25 a total of ten thousand dollars (\$10,000) pursuant to this subsection. This
26 subsection shall apply only to Covered Products that Settling Defendant
27 demonstrates were shipped prior to the Effective Date; or
28

1 (iii) Not required or payable, if the Notice of Violation identifies
2 the same Covered Product or Covered Products, differing only in size or
3 color, that have been the subject of another Notice of Violation within the
4 preceding twelve (12) months.

5 **5. PAYMENTS**

6 **5.1 Payments by Settling Defendant.** In addition to the settlement payments
7 previously made by Settling Defendant pursuant to the original January 21, 2010 Consent
8 Judgment, within five (5) business days of the Effective Date, Settling Defendant shall pay the
9 total sum of eighty thousand dollars (\$80,000) as a settlement payment. The total settlement
10 amount for Settling Defendant shall be paid in three (3) separate checks and delivered to the
11 offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San Francisco,
12 California 94117-2212, and made payable and allocated as follows:

13 5.1.1 Settling Defendant shall pay the sum of ten thousand, six hundred dollars
14 (\$10,600) as a civil penalty pursuant to Health & Safety Code § 25249.7(b). CEH shall apportion
15 this payment in accordance with Health & Safety Code § 25249.12 (25% to CEH and 75% to the
16 State of California's Office of Environmental Health Hazard Assessment). The civil penalty
17 check shall be made payable to the Center For Environmental Health.

18 5.1.2 Settling Defendant shall pay the sum of fifteen thousand, nine hundred
19 dollars (\$15,900) as a payment in lieu of civil penalty to CEH pursuant to Health & Safety Code §
20 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH shall use such funds to
21 continue its work educating and protecting people from exposures to toxic chemicals, including
22 heavy metals. In addition, as part of its Community Environmental Action and Justice Fund,
23 CEH will use four percent (4%) of such funds to award grants to grassroots environmental justice
24 groups working to educate and protect people from exposures to toxic chemicals. The method of
25 selection of such groups can be found at the CEH web site at www.ceh.org/justicefund. The
26 payment pursuant to this Section shall be made payable to the Center For Environmental Health.

27 5.1.3 Settling Defendant shall also separately pay the sum of fifty-three
28 thousand, five hundred dollars (\$53,500) to the Lexington Law Group as reimbursement of a

1 portion of CEH's reasonable attorneys' fees and costs. The attorneys' fees and cost
2 reimbursement check shall be made payable to the Lexington Law Group.

3 **6. MODIFICATION**

4 6.1 **Written Consent.** This Consent Judgment may be modified from time to
5 time by express written agreement of the Parties, with the approval of the Court, or by an order of
6 this Court upon motion and in accordance with law.

7 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
8 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
9 modify the Consent Judgment.

10 **7. CLAIMS COVERED AND RELEASED**

11 7.1 This Consent Judgment is a full, final and binding resolution between CEH on
12 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,
13 affiliated entities that are under common ownership, directors, officers, employees, and attorneys
14 ("Defendant Releasees"), and each entity to whom they directly or indirectly distribute or sell
15 Covered Products, including but not limited to distributors, wholesalers, customers, retailers,
16 franchisees, cooperative members, licensors, and licensees ("Downstream Defendant Releasees")
17 of any violation of Proposition 65 that was or could have been asserted in the Complaint against
18 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees, based on failure
19 to warn about alleged exposure to Lead contained in Covered Products that were sold by Settling
20 Defendant prior to the Effective Date.

21 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant
22 constitutes compliance with Proposition 65 with respect to Lead in Settling Defendant's Covered
23 Products.

24 7.3 Nothing in this Section 7 affects CEH's right to commence or prosecute an
25 action under Proposition 65 against any person other than Settling Defendant, Defendant
26 Releasee, or Downstream Defendant Releasee.

27 7.4 Nothing in Section 7 affects CEH's right to commence or prosecute an action
28 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer

1 of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to
2 California consumers that does not comply with the Lead Limits after the applicable Final Retail
3 Compliance Date set forth in Section 3.3.

4 **8. NOTICE**

5 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the
6 notice shall be sent by first class and electronic mail to:

7 Eric S. Somers
8 Lexington Law Group
9 503 Divisadero Street
10 San Francisco, CA 94117
11 esomers@lexlawgroup.com

12 8.2 When Settling Defendant is entitled to receive any notice under this Consent
13 Judgment, the notice shall be sent by first class and electronic mail to:

14 Ryan A. Schreiber
15 Vice President & General Counsel
16 New York & Company
17 450 West 33rd Street
18 New York, NY 10001
19 rschreiber@nyandcompany.com

20 Donna L. Wilson
21 John W. McGuinness
22 BuckleySandler LLP
23 100 Wilshire Blvd., Suite 1000
24 Santa Monica, CA 90401
25 dwilson@bucklesandler.com
26 jmcguinness@bucklesandler.com

27 8.3 Any Party may modify the person and address to whom the notice is to be sent
28 by sending each other Party notice by first class and electronic mail.

9. **COURT APPROVAL**

9.1 This Consent Judgment shall become effective upon entry by the Court. CEH
shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant
shall support entry of this Consent Judgment.

9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or
effect and shall never be introduced into evidence or otherwise used in any proceeding for any

1 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

2 **10. ATTORNEYS' FEES**

3 10.1 Should CEH prevail on any motion, application for an order to show cause or
4 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its
5 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
6 Settling Defendant prevail on any motion application for an order to show cause or other
7 proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result
8 of such motion or application upon a finding by the Court that CEH's prosecution of the motion
9 or application lacked substantial justification. For purposes of this Consent Judgment, the term
10 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,
11 Code of Civil Procedure §§ 2016, *et seq.*

12 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear
13 its own attorneys' fees and costs.

14 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of
15 sanctions pursuant to law.

16 **11. OTHER TERMS**

17 11.1 The three (3) Notices of Violation issued to Settling Defendant (one on July
18 12, 2012 and two on January 9, 2013) are deemed withdrawn. The Parties agree that the
19 resolution of any issues raised by these Notices of Violation is confined to the terms of this
20 Consent Judgment.

21 11.2 The terms of this Consent Judgment shall be governed by the laws of the State
22 of California.

23 11.3 This Consent Judgment shall apply to and be binding upon CEH and Settling
24 Defendant, and the successors or assigns of any of them.

25 11.4 This Consent Judgment contains the sole and entire agreement and
26 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
27 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
28 merged herein and therein. There are no warranties, representations, or other agreements between

1 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
2 implied, other than those specifically referred to in this Consent Judgment have been made by any
3 Party hereto. No other agreements not specifically contained or referenced herein, oral or
4 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,
5 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in
6 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent
7 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
8 whether or not similar, nor shall such waiver constitute a continuing waiver.

9 11.5 Nothing in this Consent Judgment shall release, or in any way affect any rights
10 that Settling Defendant might have against any other party, whether or not that party is a Settling
11 Defendant.

12 11.6 This Court shall retain jurisdiction of this matter to implement or modify the
13 Consent Judgment.

14 11.7 The stipulations to this Consent Judgment may be executed in counterparts
15 and by means of facsimile or portable document format (pdf), which taken together shall be
16 deemed to constitute one document.

17 11.8 Each signatory to this Consent Judgment certifies that he or she is fully
18 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into
19 and execute the Consent Judgment on behalf of the Party represented and legally to bind that
20 Party.

21 11.9 The Parties, including their counsel, have participated in the preparation of
22 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.
23 This Consent Judgment was subject to revision and modification by the Parties and has been
24 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any
25 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any
26 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this
27 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to
28 be resolved against the drafting Party should not be employed in the interpretation of this Consent

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Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

IT IS SO ORDERED:

Dated: AUG 08 2013

 Wynne Carr
The Honorable
Judge of the Superior Court

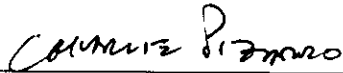
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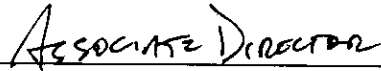
CENTER FOR ENVIRONMENTAL HEALTH



Signature



Printed Name



Title

LERNER NEW YORK, INC.

Signature

Printed Name

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IT IS SO STIPULATED:


CENTER FOR ENVIRONMENTAL HEALTH

Signature

Printed Name

Title

LERNER NEW YORK, INC.



Signature

Ryan A. Schreiber
Vice President and
General Counsel

Printed Name

Title

Exhibit A



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ORANGE

365 North Canyons Parkway, Suite 201
Tech Center: 2441 Constitution Drive
Livermore CA 94551



925-828-1440
www.TheNFL.com

Analytical Report

August 03, 2011

Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

Analytical Report No.: CL3573-33
Analysis Dates: 07/26/11 - 08/03/11

Listed below are the results of our analyses for sample(s) received on July 26, 2011.

CEH ID#AB789L, [REDACTED] Wallet (Orange Surface Material On Main Part Of W
NFL ID AF02363

Analyte	Result	Units	Method Ref.
Lead	67500	ppm	NIOSH 7082

A portion of the sample was digested in a microwave oven with concentrated nitric acid and analyzed by ICP-MS.

Sample(s) were received in good condition unless and results are reported based on the sample(s) as received, unless otherwise noted. Please note that these results apply only to the sample(s) submitted for this report. Samples from a different portion of the same lot may produce different results.

The National Food Lab services are provided subject to our standard terms and conditions, which can be found on our website, www.TheNFL.com. Should you have any questions concerning these results, please do not hesitate to contact us. Thank you for using the services of the National Food Lab.

Sincerely,

Grace Bandong, Division Manager, Food Contaminants -Chemistry

cc: The NFL's Accounts Receivable