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10 CENTER FOR ENVIRONMENTAL HEALTH

**ENDORSED
FILED**
San Francisco County Superior Court

MAY 13 2010

CLERK OF THE COURT
BY: ERICK A. LARNAUTI
Deputy Clerk

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO

14 CENTER FOR ENVIRONMENTAL
15 HEALTH, a non-profit corporation,

16 Plaintiff,

17 v.

18 MAPA SPONTEX, INC.; VWR, INC.;
19 VWR INTERNATIONAL, INC.; VWR
20 INTERNATIONAL, LLC; Defendant
21 DOES 1 through 200, inclusive,

22 Defendants.

Case No. CGC-10-497670

**[PROPOSED] CONSENT JUDGMENT
RE: VWR INTERNATIONAL, LLC**

1 **1. INTRODUCTION**

2 **1.1** On March 10, 2009, plaintiff the Center for Environmental Health
3 (“CEH”), a non-profit corporation acting in the public interest, filed a complaint entitled *Center*
4 *for Environmental Health v. Mapa Spontex, Inc., et al.*, San Francisco County Superior Court
5 Case Number CGC-10-497670 (the “Complaint”), for civil penalties and injunctive relief
6 pursuant to the provisions of Cal. Health & Safety Code § 25249.5, *et seq.* (“Proposition 65”).
7 The Complaint names VWR International, LLC (“VWR” or “Defendant”) as a defendant.

8 **1.2** Defendant is a corporation that employs 10 or more persons and
9 manufactured, distributed and/or sold VWR branded vinyl gloves in the State of California. (As
10 used in this Consent Judgment, “Products” refers to VWR branded vinyl gloves manufactured,
11 distributed and/or sold by Defendant in the State of California.)

12 **1.3** On or about November 13, 2009, CEH served Defendant and the
13 appropriate public enforcement agencies with the requisite 60-day notice (the “Notice”) alleging
14 that Defendant was in violation of Proposition 65. CEH’s Notice and the Complaint in this
15 Action allege that Defendant exposes people who use or otherwise handle the Products to di(2-
16 ethylhexyl) phthalate (“DEHP”), a chemical known to the State of California to cause cancer,
17 birth defects and other reproductive harm, without first providing clear and reasonable warning to
18 such persons regarding the carcinogenicity and reproductive toxicity DEHP. The Notice and
19 Complaint allege that Defendant’s conduct violates Health & Safety Code § 25249.6, the warning
20 provision of Proposition 65. Defendant disputes such allegations and asserts that all of its
21 Products are safe and comply with all applicable laws. Defendant further asserts that it ceased
22 selling the Products in November 2009 prior to receiving the Notice.

23 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this
24 Court has jurisdiction over the subject matter of the violations alleged in CEH’s Complaint and
25 personal jurisdiction over Defendant as to the acts alleged in CEH’s Complaint, that venue is
26 proper in the County of San Francisco, and that this Court has jurisdiction to enter this Consent
27 Judgment as a full and final resolution of all claims which were or could have been raised in the
28 Complaint based on the facts alleged therein.

1 1.5 The Parties enter into this Consent Judgment pursuant to a settlement of
2 certain disputed claims between the Parties as alleged in the Complaint. By executing this
3 Consent Judgment, the Parties do not admit any facts or conclusions of law. It is the Parties'
4 intent that nothing in this Consent Judgment shall be construed as an admission by the Parties of
5 any fact, conclusion of law, issue of law or violation of law, nor shall compliance with the
6 Consent Judgment constitute or be construed as an admission by the Parties of any fact,
7 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
8 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or
9 any other or future legal proceedings.

10 **2. COMPLIANCE**

11 **2.1 Phase-Out of Products.** Upon entry of this Consent Judgment, Defendant
12 shall not sell or distribute for sale, in California, or cause to be manufactured, distributed, or sold,
13 in California, any Products. Notwithstanding the foregoing, in the event that in the future
14 Defendant sells or distributes for sale, in California, or causes to be manufactured, distributed, or
15 sold, in California, any Products, Defendant shall provide written notice to CEH, and any such
16 Products shall comply with 2.2 below.

17 **2.2 Warnings.** Should Defendant begin selling Products following entry of
18 this Consent Judgment, Defendant shall not distribute, ship, or sell, or cause to be distributed,
19 shipped or sold, any Product that contains any Listed Phthalate in excess of trace amounts unless
20 such Product bears a label containing the warning language set forth herein. "Listed Phthalate"
21 means DEHP, butyl benzyl phthalate ("BBP"), di-n-hexyl phthalate ("DnHP"), di-n-butyl
22 phthalate ("DBP") and di-isodecyl phthalate ("DIDP"). "In excess of trace amounts" means more
23 than 600 parts per million.

24 **"WARNING: These vinyl gloves contain a chemical known to the State of**
25 **California to cause cancer, birth defects and other reproductive**
26 **harm."**

26 The warning statement shall be prominently displayed in at least 14 point font on the front of the
27 outside of the packaging, and shall be displayed in a separate outlined box set apart from any
28 other print and that contains no other language. The warning must be displayed with such

1 conspicuousness, as compared with other words, statements, or designs as to render it likely to be
2 read and understood by an ordinary individual. The warning statement shall not be preceded,
3 followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or
4 that introduces, modifies, qualifies, or explains the required text, such as “legal notice required by
5 law.” Defendant shall not provide the warning described in this paragraph for Products that do
6 not contain Listed Phthalates in excess of trace amounts. Defendant shall maintain
7 documentation demonstrating its compliance with this Section 2.1, which shall be made available
8 to CEH upon request.

9 **3. SETTLEMENT PAYMENTS**

10 **3.1 Penalty.** Defendant shall pay \$500 as a civil penalty pursuant to Health
11 and Safety Code § 25249.7(b). The penalty shall be made payable to CEH, which will apportion
12 the penalty in accordance with Health and Safety Code § 25249.12.

13 **3.2 Monetary Payment in Lieu of Penalty.** Defendant shall pay to CEH
14 \$5,500 in lieu of any additional penalty pursuant to Health and Safety Code § 25249.7(b). CEH
15 shall use such funds to continue its work protecting people from exposures to toxic chemicals. As
16 part of this work, CEH intends to conduct periodic testing of the Products as set forth in Section
17 2.1.3. The payment required under this section shall be made payable to CEH.

18 **3.3 Attorneys’ Fees and Costs.** Defendant shall pay \$11,500 to reimburse
19 CEH and its attorneys for their reasonable investigation fees and costs, attorneys’ fees, and any
20 other costs incurred as a result of investigating, bringing this matter to Defendant’s attention,
21 litigating and negotiating a settlement in the public interest. The payment required under this
22 section shall be made payable to Lexington Law Group, LLP.

23 **3.4 Delivery of Payments.** The payments required under this Section 3 shall
24 be delivered to the Lexington Law Group, LLP at the address set forth in Section 11.1 within 10
25 days of entry of this Consent Judgment.

26 **4. MODIFICATION OF CONSENT JUDGMENT**

27 **4.1** This Consent Judgment may be modified by written agreement of CEH and
28 Defendant, or upon motion of CEH or Defendant as provided by law.

1 **5. ENFORCEMENT OF CONSENT JUDGMENT**

2 **5.1** CEH may, by motion or application for an order to show cause, enforce the
3 terms and conditions contained in this Consent Judgment. Should CEH prevail on any such
4 motion, it shall be entitled to recover its reasonable attorneys' fees and costs associated with
5 enforcing the Consent Judgment.

6 **6. APPLICATION OF CONSENT JUDGMENT**

7 **6.1** This Consent Judgment shall apply to and be binding upon the Parties
8 hereto, their divisions, subdivisions and subsidiaries, and the successors or assigns of any of
9 them.

10 **7. CLAIMS COVERED AND RELEASE OF CLAIMS**

11 **7.1** This Consent Judgment is a full, final and binding resolution between CEH
12 and Defendant of any violation of Proposition 65 that was or could have been asserted in the
13 Complaint against Defendant (including any claims that could be asserted in connection with any
14 of the Products covered by this Consent Judgment) or its parents, subsidiaries, affiliates, directors,
15 officers, employees, agents, attorneys, distributors, or customers (collectively, "Defendant
16 Releasees") based on failure to warn about alleged exposures to DEHP resulting from any
17 Products manufactured, distributed or sold by Defendant ("Covered Claims") on or prior to the
18 date of entry of this Consent Judgment. CEH, its directors, officers, employees and attorneys
19 hereby release all Covered Claims against Defendant Releasees. Compliance with the terms of
20 this Consent Judgment constitutes compliance with Proposition 65 for purposes of exposures to
21 Listed Phthalates from the Products.

22 **8. SEVERABILITY**

23 **8.1** In the event that any of the provisions of this Consent Judgment are held by
24 a court to be unenforceable, the validity of the enforceable provisions shall not be adversely
25 affected.

26 **9. GOVERNING LAW**

27 **9.1** The terms of this Consent Judgment shall be governed by the laws of the
28 State of California.

1 **10. RETENTION OF JURISDICTION**

2 **10.1** This Court shall retain jurisdiction of this matter to implement and enforce
3 the terms this Consent Judgment.

4 **11. PROVISION OF NOTICE**

5 **11.1** All notices required pursuant to this Consent Judgment and correspondence
6 shall be sent to the following:

7 For CEH:

8 Mark N. Todzo
9 Lexington Law Group, LLP
10 1627 Irving Street
 San Francisco, CA 94122

11 For Defendant:

12 Michael W. McTigue Jr.
13 Drinker, Biddle & Reath LLP
14 One Logan Square, Ste. 2000
 Philadelphia, PA 19103

15 **12. COURT APPROVAL**

16 **12.1** CEH will comply with the settlement notice provisions of Health and
17 Safety Code § 25249.7(f) and Title 11 of the California Code of Regulations § 3003. If this
18 Consent Judgment is not approved by the Court, it shall be of no further force or effect.

19 **13. EXECUTION AND COUNTERPARTS**

20 **13.1** The stipulations to this Consent Judgment may be executed in counterparts
21 and by means of facsimile, which taken together shall be deemed to constitute one document.

22 **14. AUTHORIZATION**

23 **14.1** Each signatory to this Consent Judgment certifies that he or she is fully
24 authorized by the party he or she represents to stipulate to this Consent Judgment and to enter into
25 and execute the Consent Judgment on behalf of the party represented and legally bind that party.
26 The undersigned have read, understand and agree to all of the terms and conditions of this
27 Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
28 costs.

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AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH



Charlie Pizarro, Assistant Director
Center for Environmental Health

Dated: _____

3/18/10

VWR INTERNATIONAL, LLC

Dated: _____

[Name]

[Title]

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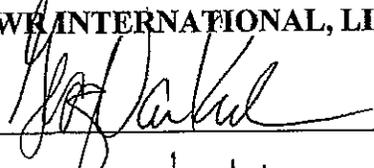
AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH

Charlie Pizarro, Assistant Director
Center for Environmental Health

Dated: _____

VWR INTERNATIONAL, LLC



Dated: 3/16/10

George Van Kula
[Name]

SVP General Counsel + Secretary
[Title]

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ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between CEH and VWR International, LLC, the settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.

Dated: MAY 13 2010

ERNEST H. GOLDSMITH
Judge, Superior Court of the State of California