

AUG 22 2012

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

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Clifford A. Chanler, State Bar No. 135534  
Stephen S. Sayad, State Bar No. 104866  
Josh Voorhees, State Bar No. 241436  
THE CHANLER GROUP  
Parker Plaza  
2560 Ninth Street, Suite 214  
Berkeley, CA 94710  
Telephone: (510) 848-8880  
Facsimile: (510) 848-8118

Attorneys for Plaintiff  
JOHN MOORE

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO  
UNLIMITED CIVIL JURISDICTION

JOHN MOORE,  
Plaintiff,

v.

CATHOLIC BOOK PUBLISHING CORP.;  
CATHOLIC BOOK PUBLISHING CORP. OF  
NEW JERSEY; *et al.*,  
Defendants.

Case No. CGC-11-513307

~~PROPOSED~~ <sup>X</sup> JUDGMENT PURSUANT  
TO TERMS OF PROPOSITION 65  
SETTLEMENT AND CONSENT  
JUDGMENT


Date: August 22, 2012  
Time: 9:00 a.m.  
Dept.: 608  
Judge: Hon. Curtis E.A. Karnow

1 In the above-entitled action, Plaintiff John Moore, and Defendants Catholic Book  
2 Publishing Corp. and Catholic Book Publishing Corp. of New Jersey, having agreed through their  
3 respective counsel that Judgment be entered pursuant to the terms of their settlement agreement in  
4 the form of a Consent Judgment, and following this Court's issuance of an Order approving this  
5 Proposition 65 settlement and Consent Judgment,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to California  
7 Health & Safety Code § 25249.7(f)(4) and California Code of Civil Procedure § 664.6, Judgment  
8 is entered in accordance with the terms of the Consent Judgment attached hereto as **Exhibit 1**. By  
9 stipulation of the parties, the Court will retain jurisdiction to enforce the settlement under Code of  
10 Civil Procedure § 664.6.

11  
12 **IT IS SO ORDERED.**

13  
14 Dated: 22 August 2012

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**CURTIS E.A. KARNOW**

## **Exhibit 1**

1 Stephen S. Sayad, State Bar No. 104866  
Laurence D. Haveson, State Bar No. 152631  
2 THE CHANLER GROUP  
81 Throckmorton Ave, Suite 203  
3 Mill Valley, CA 94941  
Telephone: (415) 388-1132  
4 Facsimile: (415) 388-1135

5 Attorneys for Plaintiff  
JOHN MOORE

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
UNLIMITED CIVIL JURISDICTION

JOHN MOORE,  
Plaintiff,  
v.  
CATHOLIC BOOK PUBLISHING CORP.;  
CATHOLIC BOOK PUBLISHING CORP. OF  
NEW JERSEY; and DOES 1-150, inclusive,  
Defendants.

Case No. CGC-11-513307

**[PROPOSED] CONSENT  
JUDGMENT**

Health & Safety Code § 25249.6 *et seq.*

1     **1. INTRODUCTION**

2             **1.1 Parties**

3             This Consent Judgment is entered into by and between John Moore (“Moore” or “Plaintiff”),  
4 Catholic Book Publishing Corp., and Catholic Book Publishing Corp. of New Jersey (together  
5 “Catholic Book” or “Defendant”), with Moore and Catholic Book collectively referred to as the  
6 “Parties.”

7             **1.2 Plaintiff**

8             Moore is an individual residing in California who seeks to promote awareness of exposures to  
9 toxic chemicals and improve human health by reducing or eliminating hazardous substances  
10 contained in consumer products.

11            **1.3 Defendant**

12            Catholic Book employs ten or more persons and is a person in the course of doing business  
13 for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &  
14 Safety Code § 25249.6 *et seq.* (“Proposition 65”).

15            **1.4 General Allegations**

16            Moore alleges that Catholic Book sold in the State of California coverings for books  
17 containing di(2-ethylhexyl)phthalate (“DEHP”). DEHP is listed pursuant to Proposition 65 as a  
18 chemical that is known to the State of California to cause birth defects or other reproductive harm.

19            **1.5 Product Description**

20            The products that are covered by this Consent Judgment are defined as follows: coverings for  
21 books containing DEHP, including, without limitation, *New St. Joseph Weekday Missal Complete*  
22 *Edition Volume 1, No. 920/09 (ISBN #9 780899 429311)*. Covering for books containing DEHP are  
23 referred to herein as “Products” and are limited to those items manufactured, sold, or distributed by  
24 Catholic Book in California.

25            **1.6 Notices of Violation**

26            On or about May 4, 2011, Moore served Catholic Book and various public enforcement  
27 agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided Catholic  
28 Book and such public enforcers with notice that Catholic Book was allegedly in violation of Health &

1 Safety Code § 25249.6 for failing to warn its customers and consumers in California that its  
2 coverings for books exposed users to DEHP.

3 **1.7 Complaint**

4 On or about August 11, 2011, Moore, acting in the interest of the general public in California,  
5 filed the instant action (“Complaint”), against Catholic Book for the violations of Proposition 65  
6 alleged in the Notice.

7 **1.8 No Admission**

8 Catholic Book denies the material, factual, and legal allegations contained in the Notice and  
9 Complaint and maintains that all of the products that it has sold in California, including the Products,  
10 have been, and are, in compliance with all laws. Nothing in this Consent Judgment shall be  
11 construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law;  
12 nor shall compliance with this Consent Judgment constitute or be construed as an admission of any  
13 fact, finding, conclusion of law, issue of law, or violation of law, the same being specifically denied  
14 by Catholic Book. This section shall not, however, diminish or otherwise affect Catholic Book’s  
15 obligations, responsibilities, and duties under this Consent Judgment.

16 **1.9 Consent to Jurisdiction**

17 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
18 jurisdiction over Catholic Book as to the allegations contained in the Complaint, that venue is proper  
19 in this county, and that the Court has jurisdiction to enter and enforce the provisions of this Consent  
20 Judgment.

21 **1.10 Effective Date**

22 For purposes of this Consent Judgment, the term “Effective Date” shall mean December 30,  
23 2011.

24 **2. INJUNCTIVE RELIEF: REFORMULATION**

25 **2.1 Reformulation Standards**

26 Commencing on the Effective Date, Catholic Book shall only manufacture, distribute, sell, or  
27 offer to ship for sale in California “Reformulated Products.” For the purposes of this Consent  
28

1 Judgment, Reformulated Products are defined as coverings for books containing DEHP in a  
2 concentration equal to or less than 1,000 parts per million (ppm) (0.1%).

3 **2.2 Verification of Reformulated Products**

4 The method of analysis used to determine whether Catholic Book's coverings for books are  
5 Reformulated Products in compliance with this Section 2 shall be made pursuant to U.S.  
6 Environmental Protection Agency (EPA) testing methodologies 3580A and 8270C. For every  
7 Product ordered, caused to be ordered, manufactured or caused to be manufactured for distribution to  
8 or sale in California after the Effective Date, and for every Product distributed, caused to be  
9 distributed, sold or caused to be sold in California by Defendant, Defendant shall maintain copies of  
10 all testing of such products demonstrating compliance with this Section.

11 **3. MONETARY PAYMENTS**

12 **3.1 Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b)**

13 Catholic Book shall make a payment of \$3,000 to be apportioned in accordance with Health  
14 & Safety Code §§ 25249.12 (c)(1) & (d), with seventy-five percent (75%) of the penalty earmarked  
15 for the California Office of Environmental Health Hazard Assessment ("OEHHA") and the  
16 remaining twenty-five percent (25%) of the penalty earmarked for Moore.

17 **3.2 Reimbursement of Plaintiff's Fees and Costs**

18 The Parties acknowledge that Moore and his counsel offered to resolve this dispute without  
19 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the issue  
20 to be resolved after the material terms of the agreement had been settled. Catholic Book then  
21 expressed a desire to resolve the issue shortly after the other settlement terms had been finalized.  
22 The Parties then attempted to (and did) reach an accord on the compensation due to Moore and his  
23 counsel under general contract principles and the private attorney general doctrine codified at  
24 California Code of Civil Procedure § 1021.5 for all work performed in this matter, except fees that  
25 may be incurred on appeal. Under these legal principles, Catholic Book shall pay \$26,000 for the  
26 fees and costs incurred by Moore and Moore's counsel investigating, litigating and enforcing this  
27 matter, and negotiating a settlement, including the fees and costs incurred (and yet to be incurred)  
28 negotiating, drafting, and obtaining the Court's approval of this Consent Judgment.

1                   **3.3     Payment Procedures**

2                           **3.3.1   Funds Held in Trust**

3                   All payments required by Sections 3.1 and 3.2 shall delivered on or before the Effective Date  
4 to either The Chanler Group or the attorney of record for Defendant, and shall be held in trust  
5 pending the Court’s approval of this Consent Judgment.

6                   Payments delivered to The Chanler Group shall be made payable as follows:

- 7                           (a)     “The Chanler Group in Trust for OEHHA” in the amount of \$2,250;  
8                           (b)     “The Chanler Group in Trust for John Moore” in the amount of \$750; and  
9                           (c)     “The Chanler Group in Trust” in the amount of \$26,000.

10                  Payments delivered to counsel for Defendant shall be made payable as follows:

- 11                           (a)     “Fox Rothschild LLP in Trust for OEHHA” in the amount of \$2,250;  
12                           (b)     “Fox Rothschild LLP in Trust for John Moore” in the amount of \$750; and  
13                           (c)     “Fox Rothschild LLP in Trust for The Chanler Group” in the amount of  
14   \$26,000.

15                  If Defendant elects to deliver payments to its attorney of record, the attorney of record shall  
16 confirm in writing within five days of deposit that the funds have been deposited in its trust account.

17                  Within two days of the date of the hearing of the motion for judicial approval of the Consent  
18 Judgment, the payments held in trust by the attorney of record for Defendant shall be delivered to  
19 The Chanler Group in three checks for the following amounts, made payable as follows:

- 20                           (a)     “The Chanler Group in Trust for OEHHA” in the amount of \$2,250;  
21                           (b)     “The Chanler Group in Trust for John Moore” in the amount of \$750; and  
22                           (c)     “The Chanler Group” in the amount of \$26,000.

23                           **3.3.2   Issuance of 1099 Forms**

24                  After the Consent Judgment has been approved and the settlement funds have been  
25 transmitted to plaintiff’s counsel, Catholic Book shall issue three separate 1099 forms, as follows:

- 26                           (a)     The first 1099 shall be issued to the Office of Environmental Health Hazard  
27 Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of \$2,250;  
28                           (b)     The second 1099 shall be issued to John Moore in the amount of \$750, whose



1 address and tax identification number shall be furnished upon request; and

2 (c) The third 1099 shall be issued to The Chanler Group (EIN: 94-3171522) in  
3 the amount of \$26,000.

### 4 **3.3.3 Payment Address**

5 All payments made pursuant to this Section shall be delivered to Moore's counsel at the  
6 following address:

7 The Chanler Group  
8 Attn: Proposition 65 Controller  
9 2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

## 10 **4. CLAIMS COVERED AND RELEASED**

### 11 **4.1 Full, Final and Binding Resolution of Proposition 65 Allegations**

12 This Consent Judgment is a full, final and binding resolution between Plaintiff, on behalf of  
13 himself and the public, and Defendant, of any violation of Proposition 65 that was or could have  
14 been asserted by Plaintiff against Defendant, its parents, subsidiaries, affiliated entities under  
15 common ownership, Defendant's directors, officers, employees, attorneys, and each entity to whom  
16 Defendant directly or indirectly distributes or sells Products, including but not limited to  
17 downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members,  
18 licensors, and licensees ("Releasees"), based on their alleged unwarned exposures to the respective  
19 Listed Chemical(s) contained in Products sold by Defendant, as alleged in the Notices, before the  
20 Effective Date.

### 21 **4.2 Plaintiff's Public Release of Proposition 65 Claims**

22 In further consideration of the promises and agreements herein contained, Plaintiff on behalf  
23 of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and  
24 in the interest of the general public, hereby waives all rights to institute or participate in, directly or  
25 indirectly, any form of legal action and releases all claims, including, without limitation, all actions,  
26 and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs,  
27 fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert fees,  
28 and attorneys' fees – but exclusive of fees and costs on appeal – against Catholic Book and the

1 Releasees arising under Proposition 65 (collectively "Claims"). This release is limited to those  
2 claims were brought or could have been brought against Catholic Book for actual or alleged  
3 exposures to the respective Listed Chemical(s) found in the Products sold by Catholic Book, as  
4 alleged in Notices, before the Effective Date.

#### 5 **4.3 Plaintiff's Individual Release of Claims**

6 Plaintiff also, in his individual capacity only and *not* in his representative capacity, provides  
7 a release to Catholic Book and the Releasees which shall be effective as a full and final accord and  
8 satisfaction, as a bar to all Claims, liabilities, and demands of any nature, character or kind, whether  
9 known or unknown, suspected or unsuspected against Catholic Book and Releasees, arising out of a  
10 exposures to the respected Listed Chemical(s) contained in the Products, as alleged in the Notices.

#### 11 **4.4 Defendant's Release of Plaintiff**

12 Defendant on behalf of itself, its past and current agents, representatives, attorneys,  
13 successors, and/or assignees, hereby waives any and all claims against Plaintiff and his attorneys  
14 and other representatives, for any and all actions taken or statements made (or those that could have  
15 been taken or made) by Plaintiff and his attorneys and other representatives, whether in the course  
16 of investigating claims, otherwise seeking to enforce Proposition 65 against it, or with respect to the  
17 Products.

### 18 **5. COURT APPROVAL**

19 This Consent Judgment is not effective until it is approved and entered by the Court and shall  
20 be null and void if, for any reason, it is not approved and entered within one year after it has been  
21 fully executed by the Parties. In the event the Consent Judgment is not entered in this period, any  
22 monies that have been provided to Moore or his counsel pursuant to Section 3 of this Consent  
23 Judgment shall be refunded within fifteen (15) days of receiving written notice from Catholic Book  
24 that the one-year period has expired and the Consent Judgment has not been approved and entered by  
25 the Court.

### 26 **6. SEVERABILITY**

27 If, subsequent to the execution of this Consent Judgment, any of its provisions are held to be  
28 unenforceable, the validity of the remaining provisions shall not be adversely affected.

1       **7. GOVERNING LAW**

2           The terms of this Consent Judgment shall be governed by the laws of the State of California  
3 and apply within the State of California. In the event that Proposition 65 is repealed, preempted, or is  
4 otherwise rendered inapplicable by reason of law generally, or as to the Products, then Catholic Book  
5 may provide written notice to Moore of any asserted change in the law, and shall have no further  
6 obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Products are  
7 so affected. Nothing in this Consent Judgment shall be interpreted to relieve Catholic Book from any  
8 obligation to comply with any pertinent state or federal toxics control laws.

9       **8. NOTICES**

10          Unless specified herein, all correspondence and notices required to be provided pursuant to  
11 this Consent Judgment shall be sent by: (i) personal delivery; (ii) first-class, registered or  
12 certified mail, return receipt requested; or (iii) overnight courier at the following addresses:

13       For Catholic Book:

14           Robert Cavalero, President  
15           Catholic Book Publishing Corp.  
16           Catholic Book Publishing Corp. of New Jersey  
17           77 West End Road  
18           Totowa, NJ 07512

17           and

18           David F. Faustman, Esq.  
19           Fox Rothschild LLP  
20           235 Pine Street, Suite 1500  
21           S.F. CA 94104

21       For Moore:

22           Proposition 65 Coordinator  
23           The Chanler Group  
24           2560 Ninth Street  
25           Parker Plaza, Suite 214  
26           Berkeley, CA 94710

26       Any party, from time to time, may specify in writing to the other party a change of address to which  
27 all notices and other communications shall be sent.

28

1 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

2 This Consent Judgment may be executed in counterparts and by facsimile or portable  
3 document format (PDF) signature, each of which shall be deemed an original, and all of which, when  
4 taken together, shall constitute one and the same document.

5 **10. ADDITIONAL POST EXECUTION ACTIVITIES**

6 Moore agrees to comply with the reporting form requirements referenced in California Health  
7 & Safety Code § 25249.7(f). The Parties also acknowledge that, pursuant to California Health &  
8 Safety Code § 25249.7(f)(4), a noticed motion is required to obtain judicial approval of their  
9 settlement. In furtherance of obtaining such approval, Moore and Catholic Book and their respective  
10 counsel agree to mutually employ their "best efforts" to support the entry of this agreement as a  
11 Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner.  
12 For purposes of this section, "best efforts" shall include, at a minimum, cooperating on the drafting  
13 and filing of any papers in support of the required motion for judicial approval.

14 **11. MODIFICATION**

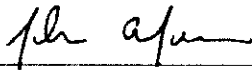
15 This Consent Judgment may be modified only by: (1) a written agreement of the Parties and  
16 upon entry of a modified consent judgment by the Court thereon; or (2) upon a successful motion or  
17 application of any party and the entry of a modified consent judgment by the Court.

18 **12. AUTHORIZATION**

19 The undersigned are authorized to execute this Consent Judgment and have read, understood,  
20 and agree to all of the terms and conditions hereof.

21 **AGREED TO:**

22 Date: JANUARY 12, 2012

23  
24 By:   
25 John Moore

**AGREED TO:**

Date: \_\_\_\_\_

26 By: \_\_\_\_\_  
27 Robert Cavalero, President  
28 Catholic Book Publishing Corp.; and  
Catholic Book Publishing Corp.  
of New Jersey

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13 and filing of any papers in support of the required motion for judicial approval.

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17 application of any party and the entry of a modified consent judgment by the Court.

18 **12. AUTHORIZATION**

19 The undersigned are authorized to execute this Consent Judgment and have read, understood,  
20 and agree to all of the terms and conditions hereof.

21 **AGREED TO:**

22 Date: \_\_\_\_\_

24 By: \_\_\_\_\_  
25 John Moore

21 **AGREED TO:**

22 Date: 1/6/2012

24 By: Robert Cavaleiro  
25 Robert Cavaleiro, President  
26 Catholic Book Publishing Corp.; and  
27 Catholic Book Publishing Corp.  
28 of New Jersey