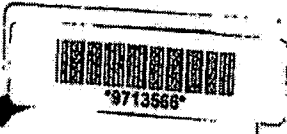


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THE CHANLER GROUP
3 2560 Ninth Street
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6 Attorneys for Plaintiff
LAURENCE VINO CUR

FILED
ALAMEDA COUNTY

NOV 26 2013

CLERK OF THE SUPERIOR COURT
By Ann Kanae Deputy

OCT 08 2013

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

LAURENCE VINO CUR,
Plaintiff,

v.

DIAMOND BASEBALL COMPANY, INC.; et
al.,
Defendants.

) Case No.: RG 13673611
)
) ~~PROPOSED~~ JUDGMENT
) PURSUANT TO TERMS OF
) PROPOSITION 65 SETTLEMENT
) AND CONSENT TO JUDGMENT
)
) Date: November 26, 2013
) Time: 3:45 p.m.
) Dept.: 24
) Judge: Hon. Frank Roesch
)
) RN: R-1444967

JUDGMENT PURSUANT TO TERMS OF PROP. 65 SETTLEMENT AND CONSENT TO JUDGMENT

1 In the above-entitled action, plaintiff Laurence Vinocur and defendant Diamond
2 Baseball Company, Inc., having agreed through their respective counsel that Judgment be
3 entered pursuant to the terms of their settlement agreement in the form of a Consent To
4 Judgment, and following this Court's issuance of an Order approving this Proposition 65
5 settlement and Consent To Judgment on November 26, 2013:

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

11
12 **IT IS SO ORDERED.**

13
14 Dated: 11/26/2013



JUDGE OF THE SUPERIOR COURT

EXHIBIT A

1 THE CHANLER GROUP
2 CLIFFORD A. CHANLER, State Bar No. 135534
3 JONATHAN BORNSTEIN, State Bar No. 196345
4 HARRIS A. WEINSTEIN, State Bar No. 282166
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6 Attorneys for Plaintiff
LAURENCE VINOUCUR

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8 LLP
9 ELIZABETH MCNULTY, State Bar No. 192445
10 4041 MacArthur Blvd., Suite 300
11 Newport Beach, Ca. 92660
12 949-783-5050 (main)
13 949-783-5051 (fax)

11 Attorneys for Defendant
12 DIAMOND BASEBALL COMPANY, INC.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA
16 UNLIMITED CIVIL JURISDICTION

18 LAURENCE VINOUCUR,
19 Plaintiff,

20 v.

21 DIAMOND BASEBALL COMPANY, INC.,
22 and DOES 1-150, inclusive,
23 Defendants.

Assigned for all purposes to the Honorable
Frank Roesch, Judge of the Superior Court

Case No. RG 13673611

**CONSENT TO JUDGMENT AS
TO DEFENDANT DIAMOND BASEBALL
COMPANY, INC.**

Date:
Time:
Dept: 24
Judge: Hon. Frank Roesch

1 **1. INTRODUCTION**

2 **1.1 Laurence Vinocur and Diamond Baseball Company, Inc.**

3 This Consent To Judgment is entered into by and between plaintiff Laurence Vinocur
4 (“Vinocur” or “Plaintiff”) and defendant Diamond Baseball Company, Inc. (“Diamond Baseball”
5 or “Defendant”), with Vinocur and Diamond Baseball collectively referred to as the “Parties”.

6 **1.2 Laurence Vinocur.**

7 Vinocur is an individual residing in the State of California who seeks to promote
8 awareness of exposure to toxic chemicals and improve human health by reducing or eliminating
9 hazardous substances contained in consumer and commercial products.

10 **1.3 Diamond Baseball Company, Inc.**

11 Diamond Baseball employs ten or more persons and is a person in the course of doing
12 business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California
13 Health & Safety Code §25249.5 et seq. (“Proposition 65”).

14 **1.4 General Allegations.**

15 Vinocur alleges that Diamond Baseball has manufactured, imported, distributed and/or
16 sold baseballs containing Di(2-ethylhexyl)phthalate (“DEHP”) for use in the State of California
17 without the requisite health hazard warnings. DEHP is listed pursuant to Proposition 65 as a
18 chemical known to the State of California to cause birth defects and other reproductive harm.

19 **1.5 Notice of Violation.**

20 On November 21, 2012, Vinocur served Diamond Baseball and various public
21 enforcement agencies with a document entitled “60-Day Notice of Violation,” that alleged that
22 Diamond Baseball violated Proposition 65 by failing to warn consumers that baseballs including,
23 but not limited to, the *Thanks Coach Baseball, DSB-9, (#039403 100161)* exposed users in
24 California to DEHP.

25 **1.6 Complaint.**

26 On March 29, 2013, Vinocur, acting in the interests of the general public in California,
27 filed a Complaint in the instant action (“Complaint”) naming Diamond Baseball as a defendant
28 and alleging violations of Health & Safety Code §§ 25249.6, *et seq.* based on, *inter alia*, alleged

1 occupational and consumer exposures to DEHP contained in the Covered Products sold in
2 California without the clear and reasonable warning required by Proposition 65.

3 1.7 **No Admission.** The Parties enter into this Consent To Judgment as a full and final
4 settlement of all claims that were raised in the Complaint or that could have been raised in the
5 Complaint, arising out of the facts or conduct alleged therein. By execution of this Consent To
6 Judgment and agreeing to comply with its terms, Diamond Baseball does not admit any facts or
7 conclusions of law, including, but not limited to, any facts or conclusions of law suggesting or
8 demonstrating any violations of Proposition 65 or any other statutory, common law or equitable
9 requirements relating to DEHP in Covered Products. Nothing in this Consent To Judgment shall
10 be construed as an admission by Diamond Baseball of any fact, conclusion of law, issue of law or
11 violation of law, nor shall compliance with the Consent To Judgment constitute or be construed
12 as an admission by Diamond Baseball of any fact, conclusion of law, issue of law, or violation of
13 law. Nothing in this Consent To Judgment shall prejudice, waive or impair any right, remedy,
14 argument or defense Diamond Baseball may have in this or any other or future legal proceedings.
15 This Consent To Judgment is the product of negotiation and compromise and is accepted by
16 Diamond Baseball for purposes of settling, compromising, and resolving issues disputed in this
17 action. However, this section shall not diminish or otherwise affect the obligations,
18 responsibilities and duties of Diamond Baseball under this Consent To Judgment.

19 1.8 **Consent to Jurisdiction.** For purposes of this Consent To Judgment only,
20 Diamond Baseball stipulates that this Court has jurisdiction over Diamond Baseball as to the
21 allegations contained in the Complaint, that venue is proper in the County of Alameda and that
22 this Court has jurisdiction to enter and enforce the provisions of this Consent To Judgment.

23 **2. DEFINITIONS**

24 2.1 “Covered Product[s]” means *Thanks Coach Baseball, DSB-9, (#039403 100161),*
25 *Thanks Coach Softball DSB-12 (#039403 209185); MVP Baseball DSB-9 (#039403 197239); and*
26 *Team Mom Baseball DSB-9 (#039403 197246).*

27 2.2 “Effective Date” means the date this Consent To Judgment is approved by the
28 Court.

1 2.3 “DEHP Limits” means the maximum concentration of DEHP and DEHP
2 composites by weight specified in Section 3.2.

3 2.4 “Manufactured” and “Manufactures” have the meaning defined in Section 3(a)(10)
4 of the Consumer Product Safety Act (“CPSA”) [15 U.S.C. § 2052(a)(10)],¹ as amended from time
5 to time.

6 2.5 “Non-Suspect Materials” means natural materials other than sheeting that have
7 been determined not to exceed DEHP limits for children’s products by the final rule of the
8 Consumer Product Safety Commission set forth at 16 CFR § 1500.91(d) and (e), as it exists on
9 the Effective Date.

10 2.6 “Vendor” means a person or entity that manufactures, imports, distributes, or
11 supplies a product to Diamond Baseball.

12 **3. INJUNCTIVE RELIEF: REFORMULATION**

13 3.1 **Specification Compliance Date.** To the extent it has not already done so, no later
14 than the Effective Date, Diamond Baseball shall provide the DEHP Limits to its Vendors of
15 Covered Products that will be sold or offered for sale to California consumers and shall instruct
16 each Vendor to use reasonable efforts to provide Covered Products that comply with the DEHP
17 Limits on a nationwide basis. This Section 3.1 is not applicable with respect to Non-Suspect
18 Materials.

19 3.2 **DEHP Limits.**

20 As of thirty (30) days after the Effective Date, Diamond Baseball shall not issue a
21 purchase order or cause to be Manufactured, any Covered Product that will be sold or offered for
22 sale to California consumers that exceeds the following DEHP Limits:

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¹ As of the Effective Date, the term “Manufactured” and “Manufactures” means to manufacture, produce, or assemble.

1 DEHP in concentrations more than 0.1 percent
2 (1,000 parts per million) by weight in each accessible
3 component when analyzed pursuant to U.S. Environmental
4 Protection Agency testing methodologies 3580A and
5 8270C or any other methodology authorized by federal
or state agencies for the purpose of determining the DEHP
content in a solid substance.

6 **4. MONETARY PAYMENTS**

7 **4.1 Initial Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b).**

8 In settlement of all the claims referred to in this Consent To Judgment, Diamond Baseball
9 shall pay an initial civil penalty in the amount of \$3,000 on or before October 15, 2013. The civil
10 penalty shall be apportioned in accordance with California Health & Safety Code § 25249.12(c)
11 & (d), with 75% of these funds remitted to the State of California's Office of Environmental
12 Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to
13 Laurence Vinocur. Diamond Baseball shall issue two separate checks for the penalty payment:
14 (a) one check made payable to OEHHA in the amount of \$2,250 representing 75% of the total
15 penalty; and (b) one check to "The Chanler Group in Trust for Laurence Vinocur" in the amount
16 of \$750, representing 25% of the total penalty. Two separate 1099s shall be issued for the above
17 payments. The checks and 1099s shall be delivered to the addresses listed in Section 4.3 below.

18 **4.2 Final Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b).**

19 Pursuant to Health & Safety Code § 25249.7(b), on or before February 15, 2014, Diamond
20 Baseball shall pay a final civil penalty in the amount of \$12,000. The final civil penalty shall be
21 waived in its entirety, if, on or before February 1, 2014, an officer of Diamond Baseball certifies
22 to Vinocur's counsel, in writing, that as of the date of certification and continuing into the future,
23 all Covered Products manufactured, imported, distributed, sold or offered for sale by Diamond
24 Baseball in California are Reformulated Products.

25 Unless waived, the final civil penalty shall be allocated according to Health & Safety
26 Code § 25249.7(c)(1) and (d), with 75% of the penalty payment earmarked for OEHHA, and the
27 remaining 25% of the penalty earmarked for Vinocur. Diamond Baseball shall issue two separate
28 checks for the final penalty payment: (a) one check made payable to OEHHA in the amount of

1 \$9,000 representing 75% of the total penalty; and (b) one check to "The Chanler Group in Trust
2 for Laurence Vinocur" in the amount of \$3,000, representing 25% of the total penalty. Two
3 separate 1099s shall be issued for the above payments. The checks and 1099s shall be delivered
4 to the addresses listed in Section 3.3 below.

5 4.3 **Payment Procedures.**

6 4.3.1 **Issuance of Payments.** Payments shall be delivered as follows:

7 (a) All payments owed to Vinocur, pursuant to Sections 4.1 through 4.2,
8 shall be delivered to the following payment address:

9 The Chanler Group
10 Attn: Proposition 65 Controller
11 2560 Ninth Street
12 Parker Plaza, Suite 214
13 Berkeley, CA 94710

14 (b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to
15 Sections 4.1 through 4.2, shall be delivered directly to OEHHA
16 (Memo line "Prop 65 Penalties") at the following addresses:

17 For United States Postal Service Delivery:

18 Mike Gyurics
19 Fiscal Operations Branch Chief
20 Office of Environmental Health Hazard Assessment
21 P.O. Box 4010
22 Sacramento, CA 95812-4010

23 For Non-United States Postal Service Delivery:

24 Mike Gyurics
25 Fiscal Operations Branch Chief
26 Office of Environmental Health Hazard Assessment
27 1001 I Street
28 Sacramento, CA 95814

With a copy of the checks payable to OEHHA mailed to The Chanler
Group at the address set forth above in 4.3.1(a), as proof of payment to
OEHHA.

4.3.2 **Issuance of 1099 Forms.** After each penalty payment, Diamond Baseball
shall issue separate 1099 forms for each payment to Vinocur, whose

1 address and tax identification number shall be furnished upon request after
2 this Settlement Agreement has been fully executed by the Parties, and
3 OEHHA at the addresses listed in Section 4.3.1 above.

4 **4.4 Reimbursement of Plaintiff's Fees and Costs.**

5 The Parties acknowledge that Vinocur and his counsel offered to resolve this dispute
6 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby
7 leaving this fee issue to be resolved after the material terms of the agreement had been settled.
8 Diamond Baseball then expressed a desire to resolve the fee and cost issue shortly after the other
9 settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on
10 the compensation due to Vinocur and his counsel under general contract principles and the
11 private attorney general doctrine codified at California Code of Civil Procedure section 1021.5,
12 for all work performed in this matter, and those fees that may be incurred on appeal. Under
13 these legal principles, Diamond Baseball shall pay the amount of \$36,000 for fees and costs
14 incurred investigating, litigating and enforcing this matter, including the fees and costs incurred
15 (and yet to be incurred) negotiating, drafting, and obtaining the Court's approval of this Consent
16 To Judgment in the public interest.

17 This payment shall be delivered and made payable to The Chanler Group no later than
18 five (5) days after entry of judgment.

19 **4.5 Issuance of 1099 Forms.** After the Consent To Judgment has been approved and
20 the settlement funds have been transmitted to plaintiff's counsel, Diamond Baseball shall issue
21 three separate 1099 forms, as follows:

22 4.5.1 The first 1099 shall be issued to the Office of Environmental Health Hazard
23 Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of
24 \$2,250;

25 4.5.2 The second 1099 shall be issued to Vinocur in the amount of \$750, whose
26 address and tax identification number shall be furnished upon request; and

27 4.5.3 The third 1099 shall be issued to The Chanler Group (EIN: 94-3171522) in
28 the amount of \$36,000.

1 4.6 **Payment Address.** All payments to the Chanler Group shall be delivered to the
2 following payment address:

3 The Chanler Group
4 Attn: Proposition 65 Controller
5 2560 Ninth Street
6 Parker Plaza, Suite 214
7 Berkeley, CA 94710

8 **5. CLAIMS COVERED AND RELEASED**

9 5.1 **Vinocur’s Public Release of Proposition 65 Claims.**

10 This Consent To Judgment is a full, final, and binding resolution between Vinocur and
11 Diamond Baseball and its parents, shareholders, divisions, subdivisions, subsidiaries, partners,
12 officers, affiliates, and sister companies and their successors and assigns (“Defendant
13 Releasees”), and their downstream distributors, wholesalers, customers, retailers, franchisees,
14 cooperative members, licensors, and licensees, and any other person or entity to whom they
15 directly or indirectly distribute or sell Covered Products, (“Downstream Defendant Releasees”),
16 of any violation of Proposition 65 that has been asserted by Vinocur in the public interest, through
17 a Proposition 65 60-Day Notice of Violation against Diamond Baseball, Defendant Releasees,
18 and Downstream Defendant Releasees regarding the failure to warn about exposure to DEHP in
19 Covered Products. Defendant Releasees’ compliance with this Consent To Judgment shall
20 constitute compliance with Proposition 65 with respect to DEHP in Covered Products after the
21 Effective Date.

22 5.2 **Vinocur’s Individual Release of Claims.**

23 Vinocur, on behalf of himself, his past and current agents, representatives, attorneys,
24 successors, and/or assignees, and in the interest of the general public, hereby waives all rights to
25 institute or participate in, directly or indirectly, any form of legal action and releases all claims,
26 including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities,
27 demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not
28 limited to, investigation fees, expert fees, and attorneys' fees) of any nature whatsoever, whether
known or unknown, fixed or contingent (collectively “Claims”), against Diamond Baseball,

1 Defendant Releasees, and Downstream Defendant Releasees arising from any violation of
2 Proposition 65 regarding the failure to warn about exposure to DEHP in Covered Products.

3 Vinocur further acknowledges that he has read California Civil Code Section 1542, and
4 waives all rights thereunder, which Section provides:

5 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
6 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
7 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
8 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
9 HER SETTLEMENT WITH THE DEBTOR.

8 Vinocur, in his individual capacity only and *not* in his representative capacity, expressly waives
9 and relinquishes any and all rights and benefits which he may have under, or which may be
10 conferred on him by the provisions of Section 1542 of the California Civil Code as well as under
11 any other state or federal statute or common law principle of similar effect, to the fullest extent
12 that he may lawfully waive such rights or benefits pertaining to the released matters. In
13 furtherance of such intention, the release hereby given shall be and remain in effect as a full and
14 complete release notwithstanding the discovery or existence of any such additional or different
15 claims or facts arising out of the released matters.

16 This release is expressly limited to those claims that arise under Proposition 65, as such
17 claims relate to Defendant's alleged failure to warn about exposures to or identification of the
18 DEHP contained in the Covered Products, as such claims are identified in the Proposition 65 60-
19 Day Notice to Defendant and to the extent that any alleged violations occur prior to thirty (30)
20 days after the Effective Date.

21 **5.3 Diamond Baseball's Release of Vinocur.**

22 Diamond Baseball waives any and all Claims against Vinocur, his attorneys, and other
23 representatives for any and all actions taken or statements made (or those that could have been
24 taken or made) by Vinocur and his attorneys and other representatives, whether in the course of
25 investigating claims or otherwise seeking enforcement of Proposition 65 against them in this
26 matter, and/or with respect to the Covered Products.

27 Diamond Baseball further acknowledges that it has read California Civil Code Section
28 1542, and waives all rights thereunder, which Section provides:

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
2 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
3 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR.

4 Diamond Baseball expressly waives and relinquishes any and all rights and benefits which it may
5 have under, or which may be conferred on it by the provisions of Section 1542 of the California
6 Civil Code as well as under any other state or federal statute or common law principle of similar
7 effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the
8 released matters. In furtherance of such intention, the release hereby given shall be and remain in
9 effect as a full and complete release notwithstanding the discovery or existence of any such
10 additional or different claims or facts arising out of the released matters.

11 **6. COURT APPROVAL**

12 6.1 By this Consent To Judgment and upon its approval, the Parties waive their right
13 to trial on the merits, and waive rights to seek appellate review of any and all interim rulings,
14 including all pleadings, procedural and discovery orders.

15 6.2 The parties acknowledge that, pursuant to California Health & Safety Code §
16 25249.7, a noticed motion is required to obtain judicial approval of this Consent To Judgment,
17 which Vinocur shall file, and Diamond Baseball shall join.

18 6.3 If this Consent To Judgment is not approved by the Court, (a) this Consent To
19 Judgment and any and all prior agreements between the Parties merged herein shall terminate and
20 become null and void, and the action shall revert to the status that existed prior to the execution
21 date of this Consent To Judgment; (b) no term of this Consent To Judgment or any draft thereof,
22 or of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions,
23 shall have any effect, nor shall any such matter be admissible in evidence for any purpose in this
24 action, or in any other proceeding; and (c) the Parties agree to meet and confer to determine
25 whether to modify the terms of the Consent To Judgment and to resubmit it for approval.

26 **7. ATTORNEYS' FEES**

27 7.1 Should Plaintiff prevail on any motion, application for an order to show cause or
28 other proceeding to enforce a violation of this Consent To Judgment, Plaintiff shall be entitled to

1 his reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
2 Diamond Baseball prevail on any motion, application for an order to show cause or other
3 proceeding, Diamond Baseball may be awarded its reasonable attorneys' fees and costs as a result
4 of such motion or application upon a finding by the court that Plaintiff's prosecution of the
5 motion or application lacked substantial justification. For purposes of this Consent To Judgment,
6 the term substantial justification shall carry the same meaning as used in the Civil Discovery Act
7 of 1986, Code of Civil Procedure Section 2016, *et seq.*

8 7.2 Except as otherwise provided in this Consent To Judgment, each Party shall bear
9 its own attorneys' fees and costs.

10 7.3 Nothing in this Section 7 shall preclude a Party from seeking an award of
11 sanctions pursuant to law.

12 **8. GOVERNING LAW**

13 8.1 The terms of this Consent To Judgment shall be governed by the laws of the State
14 of California, and shall apply only to Covered Products offered for sale in the State of California.
15 In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law
16 generally, or as to the Covered Products, then Diamond Baseball may provide written notice to
17 Vinocur of any asserted change in the law, and shall have no further obligations pursuant to this
18 Consent To Judgment with respect to, and to the extent that, the Covered Products are so affected.

19 8.2 The Parties, including their counsel, have participated in the preparation of this
20 Consent To Judgment and this Consent To Judgment is the result of the joint efforts of the
21 Parties. This Consent To Judgment was subject to revision and modification by the Parties and
22 has been accepted and approved as to its final form by all Parties and their counsel. Accordingly,
23 any uncertainty or ambiguity existing in this Consent To Judgment shall not be interpreted against
24 any Party as a result of the manner of the preparation of this Consent To Judgment. Each Party to
25 this Consent To Judgment agrees that any statute or rule of construction providing that
26 ambiguities are to be resolved against the drafting Party should not be employed in the
27 interpretation of this Consent To Judgment and, in this regard, the Parties hereby waive California
28 Civil Code § 1654.

1 **9. NOTICES**

2 9.1 Unless specified herein, all correspondence and notices required to be provided
3 pursuant to this Consent To Judgment shall be in writing and personally delivered or sent by: (i)
4 first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any
5 Party by the other Party at the following addresses:

6 To Diamond Baseball:
7 Elizabeth V. McNulty
8 Hewitt Wolensky McNulty & Hickson LLP
9 4041 MacArthur Blvd., Suite 300
10 Newport Beach, Ca. 92660
11 949-783-5050 (main)
12 949-783-5051 (fax)

13 To Vinocur:
14 Proposition 65 Coordinator
15 The Chanler Group
16 2560 Ninth Street
17 Parker Plaza, Suite 214
18 Berkeley, CA 94710-2565

19 9.2 Any Party, from time to time, may specify in writing to the other Party a change of
20 address to which all notices and other communications shall be sent.

21 **10. MODIFICATION**

22 10.1 **Modification.** This Consent To Judgment may be modified by written agreement
23 of the Parties and upon entry of a modified Consent To Judgment by the court, or by motion of
24 any Party and entry of a modified Consent To Judgment by the court.

25 10.2 **Subsequent Legislation.** If, subsequent to the Effective Date, legislation or
26 regulation is adopted that addresses the DEHP content of Covered Products sold in California,
27 any Party shall be entitled to request that the Court modify the reformulation standard of Section
28 3.1 of this Consent To Judgment for good cause shown.

 10.3 **Notice; Meet and Confer.** Any Party seeking to modify this Consent To
Judgment shall attempt in good faith to meet and confer with the other Party prior to filing a
motion to modify the Consent To Judgment.

1 **11. ENTIRE AGREEMENT**

2 11.1 This Consent To Judgment contains the sole and entire agreement and
3 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
4 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
5 merged herein and therein. No supplementation, modification, waiver, or termination of this
6 Consent To Judgment shall be binding unless executed in writing by the Party to be bound
7 thereby. No waiver of any of the provisions of this Consent To Judgment shall be deemed or
8 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall
9 such waiver constitute a continuing waiver.

10 **12. RETENTION OF JURISDICTION**

11 12.1 This Court shall retain jurisdiction of this matter to implement or modify the
12 Consent To Judgment and shall retain jurisdiction to enforce this Consent To Judgment, or any
13 provision thereof, under C.C.P §664.6.

14 **13. COUNTERPARTS; FACSIMILE SIGNATURES**



15 13.1 This Consent To Judgment may be executed in counterparts and by facsimile or
16 portable document format (pdf), each of which shall be deemed an original, and all of which,
17 when taken together, shall constitute one and the same document.

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1 **14. AUTHORIZATION**

2 14.1 The undersigned are authorized to execute this Consent To Judgment on behalf of
3 their respective Parties and have read, understood, and agree to all of the terms and conditions of
4 this Consent To Judgment.

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AGREED TO:	AGREED TO:
Date: <u>September 26, 2013</u>	Date: <u>SEPTEMBER 25, 2013</u>
By: <u></u> Plaintiff LAURENCE VINO CUR	By: <u> PRESIDENT</u> Defendant DIAMOND BASEBALL COMPANY, INC.