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7 Attorneys for Plaintiff  
8 AMY CHAMBERLIN

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

JUN 11 2015

CLERK OF THE COURT

BY: SEAN KANE  
Deputy Clerk

9  
10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO

12  
13 AMY CHAMBERLIN, in the public interest, )

14 Plaintiff, )

15 v. )

16 WHOLE FOODS MARKET CALIFORNIA, )  
17 INC.; and DOES 1 through 500, inclusive, )

18 Defendants. )  
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CIVIL ACTION NO. CGC-13-529383

[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER

[Health & Safety Code § 25249.5, *et seq.*]

1 **1. INTRODUCTION**

2 **1.1** This Action arises out of the alleged violations of California's Safe Drinking Water  
3 and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq.  
4 (also known as and hereinafter referred to as "Proposition 65") regarding the following product  
5 (hereinafter collectively the "Covered Product": Whole Foods Glucosamine & Chondroitin  
6 Complex, Uniform Product Code number 99482 28259.

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8 **1.2** Plaintiff AMY CHAMBERLIN ("CHAMBERLIN") is a California resident acting  
9 as a private enforcer of Proposition 65. CHAMBERLIN brings this Action in the public interest  
10 pursuant to California Health and Safety Code Section 25249. CHAMBERLIN asserts that she is  
11 dedicated to, among other causes, helping safeguard the public from health hazards by reducing the  
12 use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and  
13 employees, and encouraging corporate responsibility.

14  
15 **1.3** Defendant WHOLE FOODS MARKET CALIFORNIA, INC. a California  
16 Corporation, is referred to hereinafter as "WHOLE FOODS."

17 **1.4** WHOLE FOODS distributes and sells the Covered Product.

18 **1.5** CHAMBERLIN and WHOLE FOODS are hereinafter sometimes referred to  
19 individually as a "Party" or collectively as the "Parties."

20  
21 **1.6** On or about December 26, 2012, pursuant to California Health and Safety Code  
22 Section 25249.7(d)(1), CHAMBERLIN served a 60-Day Notice of Violations of Proposition 65  
23 ("Notice of Violations") on the California Attorney General, other public enforcers, and WHOLE  
24 FOODS. A true and correct copy of the Notice of Violations is attached hereto as Exhibit A.

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1           1.7     After more than sixty (60) days passed since service of the Notice of Violations, and  
2 no designated governmental agency filed a complaint against WHOLE FOODS with regard to the  
3 Covered Product or the alleged violations, CHAMBERLIN filed the Complaint in this Action (the  
4 "Complaint") for injunctive relief and civil penalties. The Complaint is based on the allegations in  
5 the Notice of Violations.  
6

7           1.8     The Complaint and the Notice of Violations each allege that WHOLE FOODS  
8 manufactured, distributed, and/or sold in California the Covered Product, which contain lead, a  
9 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and exposed  
10 consumers at a level requiring a Proposition 65 warning. Further, the Complaint and Notice of  
11 Violations allege that use of the Covered Product exposes persons in California to lead without first  
12 providing clear and reasonable warnings, in violation of California Health and Safety Code Section  
13 25249.6. WHOLE FOODS denies all material and factual allegations of the Notice of Violation  
14 and the Complaint, filed an answer asserting various affirmative defenses, and specifically denies  
15 that the Covered Product requires a Proposition 65 warning or cause harm to any person. WHOLE  
16 FOODS and CHAMBERLIN each reserve all rights to allege additional facts, claims, and  
17 affirmative defenses if the Court does not approve this Consent Judgment.  
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19           1.9     The Parties enter into this Consent Judgment in order to settle, compromise and  
20 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent  
21 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any of  
22 the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent  
23 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,  
24 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,  
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1 wrongdoing, or liability, including without limitation, any admission concerning any alleged  
2 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment  
3 shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in  
4 any other or future legal proceeding. Provided, however, nothing in this Section shall affect the  
5 enforceability of this Consent Judgment.

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7 1.10 The "Effective Date" of this Consent Judgment shall be the date this Consent  
8 Judgment is entered as a Judgment.

9 **2. JURISDICTION AND VENUE**

10 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
11 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
12 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
13 pursuant to the terms set forth herein.

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15 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

16 3.1 Beginning on the Effective Date, WHOLE FOODS shall be permanently enjoined  
17 from offering for sale to a consumer in California, directly selling to a consumer in California, or  
18 "Distributing into California" any of the Covered Product for which the daily dose recommended  
19 on the label contains more than 0.5 micrograms of lead unless the label of the Covered Product  
20 contains a Proposition 65 compliant warning. "Distributing into California" means to ship any of  
21 the Covered Product to California for sale or to sell any of the Covered Product to a distributor that  
22 WHOLE FOODS knows or has reason to know will sell the Covered Product in California.  
23 Provided, however, that WHOLE FOODS may manufacture or package and sell Covered Product  
24 for which the maximum daily dose recommended on the label contains more than 0.5 micrograms  
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1 of lead as long as such products are only for sale to consumers located outside of California and  
2 WHOLE FOODS does not Distribute them into California.

3       **3.2** For a period of five (5) years from the Effective Date, any batch or lot number of the  
4 Covered Product offered for sale to any consumer in California shall be tested for lead  
5 contamination utilizing inductively coupled plasma-mass spectrometry. All tests shall be  
6 conducted the expense of WHOLE FOODS. WHOLE FOODS shall provide the verified results of  
7 all tests to counsel for CHAMBERLIN, via regular U.S. Mail, within five (5) days of receipt of  
8 such results by WHOLE FOODS. For purposes of this Consent Judgment, daily lead exposure  
9 levels shall be measured in micrograms and shall be calculated using the following formula:  
10 Micrograms of lead per gram of product, multiplied by grams per serving of the product (using the  
11 largest serving size appearing on the product label), multiplied by servings of the product per day  
12 (using the largest number of servings in the recommended dosage appearing on the product label),  
13 which equals micrograms of lead exposure per day.

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16 **4. SETTLEMENT PAYMENT**

17       **4.1** WHOLE FOODS shall remit a total payment of \$102,500 within thirty days of the  
18 Effective Date, which shall be in full and final satisfaction of any and all civil penalties, payment in  
19 lieu of civil penalties, and attorney's fees and costs.

20       **4.2** The payment will be in the form of separate checks sent to counsel for  
21 CHAMBERLIN, Robert B. Hancock, Pacific Justice Center, 50 California Street, San Francisco,  
22 California 94111. The checks shall be payable to the following parties and the payment shall be  
23 apportioned as follows:  
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1           4.3     \$25,000 (twenty-five thousand dollars) as civil penalties pursuant to California  
2 Health and Safety Code Section 25249.7(b)(1). Of this amount, \$18,750.00 (eighteen thousand  
3 seven hundred fifty dollars) shall be payable to the Office of Environmental Health Hazard  
4 Assessment ("OEHHA"), and \$6,250.00 (six thousand two hundred fifty dollars) shall be payable  
5 to CHAMBERLIN. (Cal. Health & Safety Code § 25249.12(c)(1) & (d)). CHAMBERLIN's  
6 counsel will forward the civil penalty to OEHHA.  
7

8           4.4     \$77,500.00 (seventy-seven thousand five hundred dollars) payable to Pacific Justice  
9 Center as reimbursement of CHAMBERLIN's attorneys' fees and costs.

10          4.5     WHOLE FOODS' failure to remit payment before its due date shall be deemed a  
11 material breach of this Agreement.

12           **5.     MODIFICATION OF CONSENT JUDGMENT**

13           This Consent Judgment may be modified only by: (i) Written agreement and stipulation of  
14 the Parties and upon having such stipulation entered as a modified Consent Judgment by the Court;  
15 or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one of the Parties  
16 after exhausting the meet and confer process set forth as follows. If either Party requests or  
17 initiates a modification, then it shall meet and confer with the other Party in good faith before filing  
18 a motion with the Court seeking to modify it. CHAMBERLIN is entitled to reimbursement of all  
19 reasonable attorneys' fees and costs regarding the Parties' meet and confer efforts for any  
20 modification requested or initiated by WHOLE FOODS. Similarly, WHOLE FOODS is entitled to  
21 reimbursement of all reasonable attorney's fees and costs regarding the Parties' meet and confer  
22 efforts for any modification requested or initiated by CHAMBERLIN. If, despite their meet and  
23 confer efforts, the Parties are unable to reach agreement on any proposed modification the party  
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1 seeking the modification may file the appropriate motion and the prevailing party on such motion  
2 shall be entitled recover its reasonable fees and costs associated with such motion .

3 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

4 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate this  
5 Consent Judgment.

6 **6.2** Subject to section 7, any Party may, by motion or application for an order to show  
7 cause filed with this Court, enforce the terms and conditions contained in this Consent Judgment.  
8 The prevailing party in any such motion or application may request that the Court award its  
9 reasonable attorneys' fees and costs associated with such motion or application.  
10

11 **6.3**

12  
13 **7. NOTICE AND CURE/MEET AND CONFER**

14  
15 **7.1** At any time more than 30 days after the Effective Date of this Consent  
16 Judgment, CHAMBERLIN may provide WHOLE FOODS with a Notice of Violation, alleging that  
17 the Covered Product does not comply with section 3.1 of this Consent Judgment. CHAMBERLIN  
18 shall provide with the Notice of Violation sent to WHOLE FOODS copies of documents and  
19 laboratory analysis that support the allegations of non-compliance.

20 **7.2** Within 30 days of receiving such a Notice of Violation, WHOLE FOODS  
21 shall provide to CHAMBERLIN its Notice of Election to contest or not to contest the Notice of  
22 Violation. If WHOLE FOODS elects not to contest the Notice of Violation, it shall, within 30 days  
23 after providing its Notice of Election, stop selling the identified Covered Product, and provide  
24 CHAMBERLIN with written notice of such discontinuation of sale of the alleged non-compliant  
25 product. If WHOLE FOODS elects not to contest and otherwise complies with this paragraph, it  
26

1 shall be deemed to be in compliance with this Consent Judgment and CHAMBERLIN may take no  
2 further action related to the alleged non-compliant product and the Notice of Violation and  
3 CHAMBERLIN may not hold WHOLE FOODS liable for any other remedies, including injunctive  
4 relief, penalties, sanctions, monetary award, attorney's fees, or costs associated with the  
5 investigation and prosecution of the alleged non-compliant products the Notice of Violation for  
6 which WHOLE FOODS elected – pursuant to this paragraph – to settle and not to contest.  
7

8           7.3     In the event WHOLE FOODS elects to contest the allegations contained in  
9 any Notice of Violation CHAMBERLIN sends pursuant to this Section, WHOLE FOODS may  
10 provide CHAMBERLIN along with its Notice of Election any evidence that, in WHOLE FOODS'  
11 judgment, supports its position. In the event CHAMBERLIN agrees with WHOLE FOODS'  
12 position, it shall within 30 days of receiving such Notice of Election and evidence notify WHOLE  
13 FOODS of its agreement and CHAMBERLIN shall take no further action regarding the alleged  
14 non-compliant product subject to the Notice and the evidence that WHOLE FOODS provided. If  
15 CHAMBERLIN disagrees with WHOLE FOODS' position, CHAMBERLIN shall, within 30 days,  
16 notify WHOLE FOODS of such and shall in writing provide WHOLE FOODS with the reasons for  
17 CHAMBERLIN'S disagreement. Thereafter, the Parties shall meet and confer to attempt to resolve  
18 their dispute or mutually acceptable terms.  
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20           7.4     If within 60 days of receipt of a Notice of Violation either a.) there is no  
21 resolution of the meet and confer process required under paragraph 7.3; b.) WHOLE FOODS fails  
22 to provide written Notice of Election not to contest the Notice of Violation; or c.) WHOLE  
23 FOODS fails to correct any uncontested violations identified in the Notice of Violation within 30  
24 days, then CHAMBERLIN may – at its election – seek to enforce the terms and conditions  
25 contained in this Consent Judgment in the Superior Court of the State of California, or may initiate  
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1 an enforcement action for new violations pursuant to Health & Safety Code § 25249.7(d). In any  
2 such proceeding, CHAMBERLIN may seek whatever fines, costs, penalties or remedies as may be  
3 provided by law for any violation of Proposition 65 or this Consent Judgment.

#### 4 **8. APPLICATION OF CONSENT JUDGMENT**

5 This Consent Judgment shall apply to and be binding upon the Parties and their respective  
6 successors and assigns, and it shall benefit the Parties and their respective officers, directors,  
7 shareholders, employees, agents, parent companies, its sister company Mrs. Gooch's Natural Foods  
8 Market, Inc. , its subsidiaries, divisions, affiliates, franchisees, licensees, customers (including "Co-  
9 Brand" customers; excluding only "Private Labeler" customers), distributors, wholesalers, retailers,  
10 predecessors, successors, and assigns. "Private Labelers" excluded from the benefits of this  
11 Consent Judgment are companies who rebrand and offer WHOLE FOODS manufactured or  
12 distributed products under their own brand, not under the WHOLE FOODS brand. "Co-Brand"  
13 customers who shall benefit from this Consent Judgment are companies who offer WHOLE  
14 FOODS manufactured or distributed products with their own brand and the WHOLE FOODS  
15 brand both displayed on the product packaging.

#### 18 **9. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

19 9.1 This Consent Judgment is a full, final, and binding resolution between  
20 CHAMBERLIN, on behalf of herself and in the public interest, and WHOLE FOODS and its sister  
21 company Mrs. Gooch's Natural Foods Market, Inc. of all direct and derivative violations of  
22 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
23 exposure to lead from the handling, use, or consumption of the Covered Product and fully resolves  
24 all claims that have been or could have been asserted in this Action up to and including the  
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1 Effective Date for failure to provide Proposition 65 warnings for the Covered Product regarding  
2 lead. CHAMBERLIN, on behalf of herself and in the public interest, hereby forever releases and  
3 discharges, WHOLE FOODS and its past and present officers, directors, owners, shareholders,  
4 employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates, suppliers,  
5 franchisees, licensees, customers (including "Co-Brand" customers; excluding only "Private  
6 Labeler" customers), distributors, wholesalers, retailers, and all other upstream and downstream  
7 entities and persons in the distribution chain of any Covered Product, and the predecessors,  
8 successors and assigns of any of them, including but not limited to Mrs. Gooch's Natural Foods  
9 Market, Inc. (collectively, "Released Parties"), from all claims and causes of action and obligations  
10 to pay damages, restitution, fines, civil penalties, payment in lieu of civil penalties and expenses  
11 (including but not limited to expert analysis fees, expert fees, attorney's fees and costs)  
12 (collectively, "Claims") arising under or derived from Proposition 65 up through the Effective Date  
13 based on exposure to lead from the Covered Product as set forth in the Notice of Violations and the  
14 Complaint.  
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17       **9.2** Compliance with the terms of this Consent Judgment shall be deemed to constitute  
18 compliance by any Released Party with Proposition 65 regarding alleged exposures to lead from  
19 the Covered Product as set forth in the Notice of Violations and the Complaint.  
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21       **9.3** CHAMBERLIN, acting on her own behalf and in the public interest releases WHOLE  
22 FOODS and its sister company Mrs. Gooch's Natural Foods Market, Inc. from all claims for  
23 violations of Proposition 65 up through the Effective Date based on exposure to lead from the  
24 Covered Product as set forth in the Notice of Violation. Compliance with the terms of this Consent  
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1 Judgment constitutes compliance with Proposition 65 with respect to exposures to lead from the  
2 Covered Product as set forth in the Notice of Violations.

3 9.3 It is possible that other Claims not known to CHAMBERLIN arising out of the facts  
4 alleged in the Notice of Violations or the Complaint and relating to lead in the Covered Product  
5 that were manufactured, sold or Distributed into California before the Effective Date will develop  
6 or be discovered. CHAMBERLIN, on behalf of herself only, acknowledges that the Claims  
7 released herein include all known and unknown Claims and waives California Civil Code Section  
8 1542 as to any such unknown Claims. California Civil Code Section 1542 reads as follows:  
9

10 **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
11 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
12 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**  
13 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS**  
14 **OR HER SETTLEMENT WITH THE DEBTOR."**

15 CHAMBERLIN, on behalf of herself only, acknowledges and understands the significance and  
16 consequences of this specific waiver of California Civil Code section 1542.

17 9.4 CHAMBERLIN, on one hand, and WHOLE FOODS, on the other hand, each  
18 release and waive all Claims they may have against each other for any statements or actions made  
19 or undertaken by them in connection with the Notice of Violations or the Complaint. However,  
20 this shall not affect or limit any Party's right to seek to enforce the terms of this Consent  
21 Judgment.

## 22 10. CONSTRUCTION AND SEVERABILITY

23 10.1 The terms and conditions of this Consent Judgment have been reviewed by the  
24 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully  
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1 discuss the terms and conditions with its counsel. In any subsequent interpretation or construction  
2 of this Consent Judgment, the terms and conditions shall not be construed against any Party.

3       10.2 In the event that any of the provisions of this Consent Judgment is held by a court to  
4 be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
5 affected.

6       10.3 The terms and conditions of this Consent Judgment shall be governed by and  
7 construed in accordance with the laws of the State of California.

8  
9 **11. PROVISION OF NOTICE**

10 All notices required to be given to either Party to this Consent Judgment by the other shall  
11 be in writing and sent to the following agents listed below by: (a) first-class, registered, (b) certified  
12 mail, (b) overnight courier, or (c) personal delivery to the following:

13       **For Pacific Justice Center:**

14       Melvin B. Pearlston  
15       Robert B. Hancock  
16       PACIFIC JUSTICE CENTER  
17       50 California Street, Suite 1500  
18       San Francisco, California 94111

19       **For Whole Foods Market California, Inc.:**

20       J.T. Wells Blaxter  
21       Blaxter Law, A Professional Corporation  
22       One Bush St., Ste. 650  
23       San Francisco, CA 94104  
24       wblaxter@blaxterlaw.com  
25       Phone: (415) 500-7700  
26       Fax: (415) 766-4255

      John H. Hemptling  
      Global Litigation Counsel  
      Whole Foods Market  
      550 Bowie Street  
      Austin, TX 78703

1 **12. COURT APPROVAL**

2 12.1 Upon execution of this Consent Judgment by the Parties, CHAMBERLIN shall  
3 notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
4 Consent Judgment.

5 12.2 If the California Attorney General objects to any term in this Consent Judgment, the  
6 Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to  
7 the hearing on the motion.

8 12.3 If the Court, despite the Parties' best efforts, does not approve this Stipulated  
9 Consent Judgment, it shall be null and void and have no force or effect.

10 **13. EXECUTION AND COUNTERPARTS**

11 This Stipulated Consent Judgment may be executed in counterparts, which taken together  
12 shall be deemed one document. A facsimile or .pdf signature shall be construed as valid and as the  
13 original signature.

14 **14. ENTIRE AGREEMENT, AUTHORIZATION**

15 14.1 This Consent Judgment contains the sole and entire agreement and understanding of  
16 the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
17 negotiations, commitments and understandings related hereto. No representations, oral or  
18 otherwise, express or implied, other than those contained herein have been made by any Party. No  
19 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist  
20 or to bind any Party.  
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1 14.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
2 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
3 provided herein, each Party shall bear its own fees and costs.

4 **15. REQUEST FOR FINDINGS AND FOR APPROVAL**

5 15.1 This Consent Judgment has come before the Court upon the request of the Parties.  
6 The parties request the Court to fully review this Consent Judgment and, being fully informed  
7 regarding the matters which are the subject of this action, to:  
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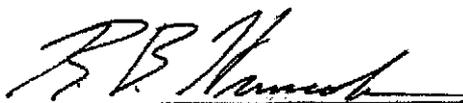
9 (a) Find that the terms and provisions of this Consent Judgment represent a good  
10 faith settlement of all matters raised by the allegations of the Complaint; that the matter has been  
11 diligently prosecuted, and that the public interest is served by such settlement; and

12 (b) Make the findings pursuant to California Health and Safety Code Section  
13 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.  
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15 **IT IS SO STIPULATED.**

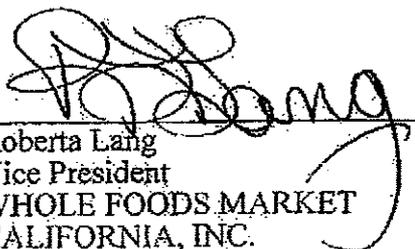
16  
17 Dated: 1/6, ~~2014~~

PACIFIC JUSTICE CENTER

18  
19 By:   
20 Robert B. Hancock  
21 Attorneys for Plaintiff  
22 AMY CHAMBERLIN

23  
24 Dated: Jan 5, <sup>2015</sup>~~2014~~

WHOLE FOODS MARKET CALIFORNIA, INC.

25  
26 By:   
Roberta Lang  
Vice President  
WHOLE FOODS MARKET  
CALIFORNIA, INC.

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**ORDER AND JUDGMENT**

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: JUN 11 2015, ~~2014~~

ERNEST H. GOLDSMITH

Judge of the Superior Court



Melvin B. Pearliston  
Senior Counsel



*Of Counsel*  
Robert B. Hancock

December 26, 2012

**60- DAY NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET. SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Amy Chamberlin in this matter. Ms. Chamberlin has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et. seq.*, with respect to the product identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with the identified product. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Ms. Chamberlin intends to file a private enforcement action in the public interest 60 days after effective service of the is notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

**Whole Foods Market California, Inc.**

**Consumer Products and Listed Chemical.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

**Whole Foods Glucosamine & Chondroitin Complex – Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that Ms. Chamberlin may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least December 26, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide person using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Ms. Chamberlin is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. Chamberlin has retained me as legal counsel in connection with this matter. Her address is 29111 Matolle Road, Petrolia, California, 95558. Her telephone number is 707.499.6558. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,

  
Robert B. Hancock

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Whole Foods Market, Inc. only)
- Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Notice of Proposition 65 Violations by Whole Foods Market, Inc.**

Robert B. Hancock declares:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposures to the listed chemicals that are the subject of the action.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: December 26, 2012

  
\_\_\_\_\_  
Robert B. Hancock

ATTORNEY GENERAL COPY: CONTAINS  
OFFICIAL INFORMATION PURSUANT TO  
EVIDENCE CODE SECTION 1040

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action.

On December 26, 2012, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET. SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Whole Foods Market  
California, Inc.  
550 Bowie Street  
Austin, TX 78703

On December 26, 2012, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a Federal Express drop-off box for overnight delivery to:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On December 26, 2012, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Executed under penalty of perjury pursuant to the laws of the State of California this 26<sup>th</sup> day of December 2012.

  
Robert B. Hancock

Service List

District Attorney, Alameda County  
 1325 Fallon Street, Room 900  
 Oakland, CA 94612

District Attorney, Alpine County  
 P.O. Box 248  
 Markleeville, CA 96120

District Attorney, Amador County  
 708 Court Street, #202  
 Jackson, CA 95842

District Attorney, Butte County  
 25 County Center Drive  
 Oroville, CA 95965

District Attorney, Calaveras County  
 891 Mountain Ranch Road  
 Sun Andreas, CA 95249

District Attorney, Colusa County  
 547 Market Street  
 Colusa, CA 95932

District Attorney, Contra Costa County  
 900 Ward Street  
 Martinez, CA 94553

District Attorney, Del Norte County  
 420 H Street, Ste. 171  
 Crescent City, CA 95531

District Attorney, El Dorado County  
 515 Main Street  
 Placerville, CA 95667

District Attorney, Fresno County  
 2230 Tulare Street, #1000  
 Fresno, CA 93721

District Attorney, Glenn County  
 Post Office Box 470  
 Willow, CA 95988

District Attorney, Humboldt County  
 825 5th Street  
 Eureka, CA 95501

District Attorney, Imperial County  
 940 West Main Street, Ste 102  
 El Centro, CA 92243

District Attorney, Inyo County  
 150 W. Lize Street  
 Bishop, CA 93314

District Attorney, Kern County  
 1215 Truxtun Avenue  
 Bakersfield, CA 93301

District Attorney, Kings County  
 1400 West Lacey Boulevard  
 Hanford, CA 93230

District Attorney, Lake County  
 255 N. Farber Street  
 Lakeport, CA 95453

District Attorney, Lassen County  
 230 South Lassen Street, Ste. 8  
 Susanville, CA 96130

District Attorney, Los Angeles County  
 210 West Temple Street, Suite 18000  
 Los Angeles, CA 90012

District Attorney, Madera County  
 209 West Yosemite Avenue  
 Madera, CA 93637

District Attorney, Marin County  
 3301 Civic Center Drive, Room 130  
 San Rafael, CA 94903

District Attorney, Mariposa County  
 Post Office Box 730  
 Mariposa, CA 95338

District Attorney, Merced County  
 Post Office Box 1800  
 Ukiah, CA 95482

District Attorney, Merced County  
 1222 M Street  
 Merced, CA 95340

District Attorney, Mendocino County  
 204 S Court Street, Room 202  
 Altura, CA 96101-4020

District Attorney, Mono County  
 Post Office Box 617  
 Bridgeport, CA 95317

District Attorney, Monterey County  
 Post Office Box 1331  
 Salinas, CA 95302

District Attorney, Napa County  
 931 Parkway Mall  
 Napa, CA 94559

District Attorney, Nevada County  
 110 Union Street  
 Nevada City, CA 95959

District Attorney, Orange County  
 401 Civic Center Drive West  
 Santa Ana, CA 92701

District Attorney, Placer County  
 10810 Justice Center Drive, Ste 240  
 Roseville, CA 95678

District Attorney, Plumas County  
 520 Main Street, Room 401  
 Quincy, CA 95971

District Attorney, Riverside County  
 3960 Orange Street  
 Riverside, CA 92502

District Attorney, Sacramento County  
 901 "G" Street  
 Sacramento, CA 95814

District Attorney, San Benito County  
 419 Fourth Street, 2nd Floor  
 Hollister, CA 95023

District Attorney, San Bernardino County  
 316 N. Mountain View Avenue  
 San Bernardino, CA 92415-0704

District Attorney, San Diego County  
 530 West Broadway, Room 1360  
 San Diego, CA 92101

District Attorney, San Francisco County  
 850 Bayan Street, Room 322  
 San Francisco, CA 94103

District Attorney, San Joaquin County  
 Post Office Box 900  
 Stockton, CA 95201

District Attorney, San Luis Obispo County  
 1035 Palm St. Room 430  
 San Luis Obispo, CA 93408

District Attorney, San Mateo County  
 400 County Cr., 3rd Floor  
 Redwood City, CA 94063

District Attorney, Santa Barbara County  
 1112 Santa Barbara Street  
 Santa Barbara, CA 93101

District Attorney, Santa Clara County  
 70 West Hacking Street  
 San Jose, CA 95110

District Attorney, Santa Cruz County  
 701 Ocean Street, Room 260  
 Santa Cruz, CA 95060

District Attorney, Shasta County  
 1355 West Street  
 Redding, CA 96001

District Attorney, Sierra County  
 PO Box 457  
 Downsville, CA 95936

District Attorney, Siskiyou County  
 Post Office Box 586  
 Yreka, CA 96097

District Attorney, Solano County  
 673 Texas Street, Ste 4500  
 Fairfield, CA 94533

District Attorney, Sonoma County  
 600 Administration Drive,  
 Room 212J  
 Santa Rosa, CA 95403

District Attorney, Stanislaus County  
 832 17th Street, Ste 700  
 Modesto, CA 95351

District Attorney, Sutter County  
 446 Second Street  
 Yuba City, CA 95991

District Attorney, Tehama County  
 Post Office Box 519  
 Red Bluff, CA 96080

District Attorney, Trinity County  
 Post Office Box 310  
 Weaverville, CA 96093

District Attorney, Tulare County  
 121 S. Mooney Avenue, Room 224  
 Visalia, CA 93291

District Attorney, Tuolumne County  
 423 N. Washington Street  
 Sonora, CA 95370

District Attorney, Ventura County  
 800 South Victoria Avenue  
 Ventura, CA 93009

District Attorney, Yolo County  
 301 2nd Street  
 Woodland, CA 95695

District Attorney, Yuba County  
 215 Fifth Street, Suite 152  
 Marysville, CA 95901

Los Angeles City Attorney's Office  
 City Hall East  
 200 N. Main Street, Rm 800  
 Los Angeles, CA 90012

San Diego City Attorney's Office  
 1200 3rd Avenue, Ste 1630  
 San Diego, CA 92101

San Francisco City Attorney's Office  
 City Hall, Room 234  
 1 Drive Carlton B Goodlett Plaza  
 San Francisco, CA 94102

San Jose City Attorney's Office  
 200 East Santa Clara Street,  
 16th Floor  
 San Jose, CA 95113