

1 REUBEN YEROUSHALMI (SBN 193981)
2 DANIEL D. CHO (SBN 105490)
3 BEN YEROUSHALMI (SBN 232540)
4 **YEROUSHALMI & ASSOCIATES**
5 9100 Wilshire Blvd., Suite 240W
6 Beverly Hills, CA 90212
7 Telephone: 310.623.1926
8 Facsimile: 310.623.1930

9 *Attorneys for Plaintiff*
10 Consumer Advocacy Group, Inc.

**ELECTRONICALLY
FILED**

*Superior Court of California,
County of San Francisco*

05/05/2015
Clerk of the Court

BY:ANNA TORRES

Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN FRANCISCO**

13 CONSUMER ADVOCACY GROUP, INC.,
14 in the interest of the Public,

15 Plaintiff,

16 v.

17 FITNESS EM, LLC, a Nevada Limited
18 Liability Company; FITNESS EQUIPMENT
19 MANUFACTURING, LLC, a Nevada Limited
20 Liability Company; ROSS STORES, INC.
21 DBA DD'S DISCOUNTS, a Delaware
22 Corporation; and DOES 1-20,

23 Defendants.

Case No. CGC-13-536374

**NOTICE OF RULING RE: MOTIONS TO
APPROVE AND ENTER CONSENT
JUDGMENT BETWEEN CONSUMER
ADVOCACY GROUP, INC. AND FITNESS
EM, LLC**

Dept.: 302
Judge: Hon. Ernest H. Goldsmith

Complaint Filed: December 23, 2013

24 //
25 //
26 //

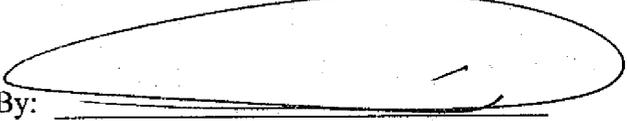
1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE THAT the Plaintiff, CONSUMER ADVOCACY GROUP, INC.'S
3 ("CAG") Motions To Approve And Enter The Proposed Consent Judgments Between Consumer Advocacy
4 Group, Inc. and Fitness EM, LLC ("Motion") came on regularly for hearing on May 1, 2015 at 9:30 a.m. in
5 Department 610 of the above entitled Court. The court having considering all the evidence, both oral and
6 written, and all moving papers GRANTED the Motion:

- 7 1. Attached as Exhibit A hereto and incorporated herein by reference are true and correct copies
8 of the conformed court's orders granting Plaintiff, Consumer Advocacy Group, Inc.'s Motions
9 to approve and enter consent judgments.

10 YEROUSHALMI & ASSOCIATES

11
12 Dated: 5/4/2015

13 By: 

14 Reuben Yeroushalmi
15 Peter T. Sato
16 Jason R. Gianvecchio
17 Attorneys for Plaintiff
18 Consumer Advocacy Group, Inc.
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

At the time of service, I was 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 9100 Wilshire Boulevard, Suite 240W, Los Angeles, CA 90212.

On May 4, 2015, I served the following document(s):

1. NOTICE OF ENTRY OF ORDER

on the interested parties by placing () the original (√) a true and correct copy thereof in a sealed envelope(s) addressed as follows:

Elizabeth McNulty, Esq.
Archer Norris PLC
4695 MacArthur Court, Suite 350
Newport Beach, CA 92660

X BY MAIL: I enclosed the documents(s) in a sealed envelope addressed to the person(s) at the address(es) listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, the envelope was deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X BY EMAIL: On the date written above, I emailed a copy of the attached documents to the addressee, as shown on the service list.

 BY PERSONAL SERVICE: I caused the sealed envelope(s) to be delivered to the person(s) listed above and/or on the attached service list.

 BY FACSIMILE: by transmitting a true copy by facsimile to the person(s) and facsimile number(s) listed above and/or on the attached service list :

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of May, 2015, at Los Angeles, California.

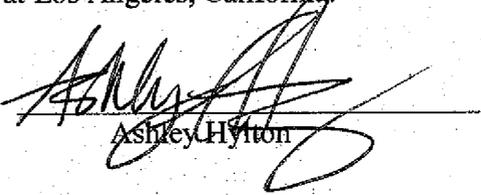

Ashley Hylton

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

F I L E D

Superior Court of California
County of San Francisco

MAY 01 2015

CLERK OF THE COURT

BY: *Alan Han*
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CONSUMER ADVOCACY GROUP, INC.,
in the interest of the Public,

Plaintiff,

v.

FITNESS EM, LLC, a Nevada Limited
Liability Company; FITNESS
EQUIPMENT MANUFACTURING, LLC,
a Nevada Limited Liability Company;
ROSS STORES, INC. DBA DD'S
DISCOUNTS, a Delaware Corporation; and
DOES 1-20,

Defendants.

CASE NO. CGC-13-536374

**[PROPOSED] ORDER GRANTING
MOTION TO APPROVE AND ENTER
CONSENT JUDGMENT BETWEEN
CONSUMER ADVOCACY GROUP, INC,
FITNESS EM, LLC**

May
Date: ~~April~~ 1, 2015
Time: 9:30 am
Dept: 302
Judge: Hon. Ernest H. Goldsmith

Complaint Filed: December 23, 2013

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

On *May* ~~April~~ 1, 2015 at 9:30 a.m., the Court heard the Motion to Approve and Enter Consent Judgment Between Consumer Advocacy Group, Inc. ("Plaintiff") and Defendant FITNESS EM, LLC ("Defendant"). The Court, having considered the documents filed in connection with this matter, and no opposition being filed, has arrived at the following conclusions and SO ORDERS:

**[PROPOSED] ORDER GRANTING MOTION TO APPROVE AND ENTER CONSENT JUDGMENT
BETWEEN CONSUMER ADVOCACY GROUP, INC., AND FITNESS EM, LLC**

1 1. The Court grants the Motion to Approve and Enter Consent Judgment Between Plaintiff
2 and Defendants, in its entirety pursuant to California Health and Safety Code section 25249.7,
3 subdivision (f)(4).

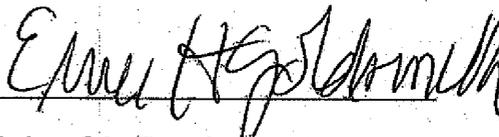
4 2. The Court approves the [Proposed] Consent Judgment, which Plaintiff and Defendants
5 have submitted to this Court for approval pursuant to Proposition 65 (*Cal. Health & Safety Code*
6 *§§25249.5, et seq.*) after making the following findings:

7 i. The Court finds that the [Proposed] Consent Judgment complies with the
8 requirements of Health and Safety Code § 25249.7 et seq. Defendants have agreed that
9 (i) Defendant shall not sell or offer for sale in California any Covered Products unless
10 they are reformulated to contain less than 0.1 % DEHP by weight (ii) Defendants will
11 pay \$42,000.00 to Yeroushalmi & Associates, as CAG's attorneys, for reasonable
12 attorney fees and costs, which is less than the actual lodestar figure of \$53,702.50;
13 (iii) Defendant will pay \$6,000.00 to CAG, an entity, in lieu of a civil penalty
14 pursuant to California Code of Regulations, title 11, section 3203, subdivision (b);
15 and (iv) Defendant will pay \$12,000.00 to the State of California's Office of
16 Environmental Health Hazard Assessment ("OEHHA") and CAG as civil penalties.
17 Further, the proposed settlement terms are presumed to confer a public benefit.

18 ii. A public benefit is presumed, because the [Proposed] Consent Judgment requires
19 Defendant to cease sale in California of the Covered Products unless the Covered
20 Products are reformulated to contain less than 0.1% of DEHP by weight.

21 3. The Court shall sign and hereby directs the Clerk to file and enter the [Proposed] Consent
22 Judgment.

23
24 Dated: MAY 01 2015


25
26 Judge of the Superior Court

27 ERNEST H. GOLDSMITH