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7 *Attorneys for Plaintiff, Evelyn Wimberley*

**F I L E D**

Clerk of the Superior Court

MAY 21 2014

By: T. Johnson Deputy

MAY 19 2014 PM 1:46

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 **UNLIMITED CIVIL JURISDICTION**

11  
12  
13 **EVELYN WIMBERLEY,** )

14 )  
15 **Plaintiff,** )

16 **v.** )

17 **ACE HARDWARE CORPORATION,** )  
18 **HAMPTON PRODUCTS** )  
19 **INTERNATIONAL CORPORATION,** )  
20 **AND DOES 1-25 INCLUSIVE,** )

21 **Defendants.** )  
22 )

**CASE NO.:**

**37-2013-00068471-CU-PO-CTL**

**~~PROPOSED~~ ORDER APPROVING  
STIPULATION AND ORDER RE:  
CONSENT JUDGMENT**

**Date: May 9, 2014**

**Time: 09:00 AM**

**Dept. C-75**

**Hon. Richard E.L. Strauss**

**Action Filed: September 23, 2013**

**"IMAGED FILE"**

1 Plaintiff Evelyn Wimberley and Defendants, Ace Hardware Corporation and  
2 Hampton Products International Corporation having agreed through their respective counsel that  
3 judgment be entered pursuant to the terms of the Stipulation and Order Re: Consent Judgment  
4 entered into by the parties, and attached to the Judgment pursuant to the terms of the Stipulation  
5 and Order Re: Consent Judgment and First Amendment and Stipulation as Exhibit 1. After  
6 consideration of the papers submitted and arguments presented, the Court finds that the  
7 settlement agreement set out in the attached Consent Judgment meets the criteria established by  
8 Health & Safety Code §25249.7, in that:

- 9 a) the health hazard warning required by the Stipulation and Order Re: Consent  
10 Judgment complies with Health & Safety Code §25249.7;  
11 b) the reimbursement of fees and costs to be paid pursuant to the parties'  
12 Stipulation and Order Re: Consent Judgment and First Amendment to  
13 Stipulation is reasonable under California law; and  
14 c) the civil penalty amount to be paid pursuant to the parties' Stipulation and  
15 Order Re: Consent Judgment and First Amendment to Stipulation is  
16 reasonable .

17  
18 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that pursuant to Code of Civil  
19 Procedure §664.6, judgment is entered in accordance with the Consent Judgment and First  
20 Amendment to Stipulation attached hereto as Exhibit 1.

21  
22 **IT IS SO ORDERED.**

23  
24 Dated: 5-21-14

25   
26 \_\_\_\_\_  
27 **RICHARD E. L. STRAUSS**  
28 **JUDGE OF THE SAN DIEGO SUPERIOR COURT**

Exhibit No. 1



1 STEPHEN URE, ESQ.  
LAW OFFICES OF STEPHEN URE, PC  
2 1518 Sixth Avenue  
San Diego, CA 92101  
3 Telephone: 619-235-5400

4 Attorneys for Plaintiff, Evelyn Wimberley

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

COUNTY OF SAN DIEGO

10

EVELYN WIMBERLEY,

Case No.

11

Plaintiff,

UNLIMITED JURISDICTION

12

v.

13

HAMPTON PRODUCTS INTERNATIONAL  
CORPORATION;  
14 ACE HARDWARE CORPORATION  
DOES 1-25

**STIPULATION RE ENTRY OF  
CONSENT JUDGMENT AS TO  
HAMPTON PRODUCTS  
INTERNATIONAL  
CORPORATION AND TO ACE  
HARDWARE CORPORATION**

15

Defendants.

Complaint Filed: \_\_\_\_\_, 2013

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1     **1. INTRODUCTION**

2             **1.1 The Parties**

3             This Stipulation and [Proposed] Order Re Consent Judgment (“Consent Judgment”) is  
4 hereby entered into by and between Evelyn Wimberley acting on behalf of the public interest  
5 (“Wimberley”), Ace Hardware Corporation (“Ace”), and Hampton Products International  
6 Corporation (“Hampton”). Ace and Hampton shall be referred to hereafter individually as a  
7 “Defendant” and collectively as “Defendants,” with Wimberley, Ace and Hampton collectively  
8 referred to as the “Parties” and each of them as a “Party.” Wimberley is an individual residing in  
9 California who seeks to promote awareness of exposures to toxic chemicals and improve human  
10 health by reducing or eliminating hazardous substances contained in consumer products. Each  
11 Defendant employs ten or more persons and each is a person in the course of doing business for  
12 purposes of Proposition 65, Cal. Health & Safety Code § 25249.6 *et seq.*

13             **1.2 Allegations and Representations**

14             Wimberley alleges that Defendants have offered for sale in the State of California and  
15 have sold in California brass locks, hardware and accessories containing lead, and that such sales  
16 have not been accompanied by Proposition 65 warnings. Lead is listed under Proposition 65 as a  
17 chemical known to the State of California to cause cancer and birth defects or other reproductive  
18 harm. Wimberley has identified the “Ace Surface Bolt” UPC 082901145080 (hereafter “Brass  
19 Door and Window Decorative Hardware” or Category A), “Gate Hook and Eyes” UPC  
20 082901145615 (hereafter “Exterior Decorative Brass Hardware” or Category B), “Handrail  
21 Bracket” UPC 082901145424 (hereafter “Interior Decorative Brass Hardware” or Category C),  
22 and “Cup Hook” UPC 082901135234 (hereafter “Brass Threaded Wire Products” or Category D)  
23 as specific examples of the categories of brass products that are the subject of her allegations.

24             For purposes of this Consent Judgment only, Hampton represents that the above-listed  
25 products are manufactured for and distributed to Ace and others by Hampton and Defendants had  
26 no reason to believe that the items contained lead until receiving Wimberley’s 60-Day Notice on  
27 or about December 28, 2012 or its Supplemental 60-Day Notice on or before June 30, 2013.



1           **1.3 Product Description**

2           The products that are covered by this Consent Judgment include Brass Door and Window  
3 Decorative Hardware, Exterior Decorative Brass Hardware, Interior Decorative Brass Hardware,  
4 and Brass Threaded Wire Products, together with all product packaging and written instructions  
5 or information, if any, and which contain exposed brass or other metals containing lead that are  
6 distributed by Hampton to Ace and others and sold by Defendants in California. All such items  
7 shall be referred to herein as the “Covered Products.”

8           **1.4 Notices of Violation/Complaint**

9           a.       On or about December 28, 2012, Wimberley served Ace and various public  
10 enforcement agencies with a document entitled “60-Day Notice of Violation” pursuant to Health  
11 & Safety Code § 25249.7(d) (the “Notice”), alleging that Ace was in violation of Proposition 65  
12 for failing to warn consumers and customers that Ace Surface Bolt, and products in Category A  
13 referred to as “Door Hardware/Entry Bolt,” exposed users in California to lead. No public  
14 enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service  
15 time relative to the provision of the Notice to them by Wimberley.

16           b.       On or before June 30, 2013, Wimberley shall serve Ace, Hampton, and various  
17 public enforcement agencies with a document entitled “Supplemental 60-Day Notice of  
18 Violation” pursuant to Health & Safety Code § 25249.7(d) (the “Supplemental Notice”),  
19 clarifying the scope of Category A (as being more broad than was described in the original  
20 Notice) and further alleging that Defendants were in violation of Proposition 65 for failing to  
21 warn consumers and customers that the Covered Products in Categories B, C and D exposed users  
22 in California to lead.

23           c.       On a date that is at least forty-five (45) days after the issuance of the Supplemental  
24 Notice, Wimberley, acting in the interest of the general public in the State of California, shall file  
25 a complaint (“Complaint”) in the Superior Court of San Diego County alleging violations of  
26 Health & Safety Code § 25249.6 based on the alleged exposures to lead contained in the Covered  
27 Products manufactured, distributed, or sold by Ace and/or Hampton, as set forth in the Notice. In  
28 the event that no public enforcer undertakes the diligent enforcement of the allegations set forth

1 for the Covered Products in Categories B, C and D as specified in the Supplemental Notice prior  
2 to the expiration of the 60-day notice period, the Complaint shall be deemed amended to include  
3 said allegations.

4 d. Wimberley shall stipulate to a fifteen-day extension pursuant to California Rule of  
5 Court 3.110(d) for Defendants to file and serve their responsive pleadings, if any, and in no event  
6 shall Wimberley seek a default judgment against either or both Defendants for any failure to file  
7 and serve their responsive pleadings.

8 **1.5 Stipulation as to Jurisdiction/No Admission**

9 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
10 jurisdiction over Defendants as to the allegations contained in the complaint filed in this matter,  
11 that venue is proper in the County of San Diego, and that this Court has jurisdiction to approve,  
12 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution  
13 of all claims which were or could have been raised in the Complaint based on the facts alleged  
14 therein and/or in the Notice or Supplemental Notice.

15 Wimberley and Defendants enter into this Consent Judgment as a full and final settlement  
16 of all claims that were raised in the Complaint, or which could have been raised in the Complaint,  
17 arising out of the facts or conduct related to Defendants alleged therein. Defendants deny the  
18 material allegations contained in Wimberley's Notice, Supplemental Notice and Complaint and  
19 maintain that they have not violated Proposition 65. Nothing in this Consent Judgment shall be  
20 construed as an admission by Defendants of any fact, finding, issue of law, or violation of law;  
21 nor shall compliance with this Consent Judgment constitute or be construed as an admission by  
22 Defendants of any fact, finding, conclusion, issue of law, or violation of law, such being  
23 specifically denied by Defendants. However, this section shall not diminish or otherwise affect  
24 the obligations, responsibilities, and duties of Defendants under this Consent Judgment. Nothing  
25 in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument or defense  
26 the Parties may have in this or any other pending or future legal proceedings. This Consent  
27 Judgment is the product of negotiation and compromise and is accepted by the Parties solely for  
28



1 purposes of settling, compromising, and resolving issues disputed in the Complaint. This  
2 Consent Judgment shall not be used for any other purpose or in any other manner.

3 **1.6 Effective Date**

4 For purposes of this Consent Judgment, the term "Effective Date" shall mean the date this  
5 Consent Judgment is entered as a judgment of the Court. For purposes of this Consent Judgment,  
6 the term "Execution Date" shall mean the date this Consent Judgment is signed by all Parties in  
7 Clause 14 below.

8 **2. INJUNCTIVE RELIEF: WARNINGS**

9 Commencing on the Effective Date, and except as set forth in Section 2.6, Defendants  
10 shall not ship, sell, or offer to sell in California any Covered Product that does not include a  
11 warning as provided in Section 2.1.

12 **2.1 Warnings**

13 Commencing on the Effective Date, Covered Products containing more than .01 percent  
14 lead by weight (100 ppm) using a method of sufficient sensitivity to establish a limit of  
15 quantification (as distinguished from detection) of more than 100 ppm, shall be accompanied by a  
16 warning as described in Section 2.2 below. Where warnings are utilized, Hampton shall date-  
17 stamp or otherwise identify on the product packaging when the Covered Products were packaged  
18 and shall provide production documentation to Wimberley upon request sufficient to demonstrate  
19 when the warning language was implemented.

20 **2.2 Warnings to Be Utilized**

21 Where required under Section 2.1 above, Hampton shall provide Proposition 65 warnings  
22 as follows:

23 **California Prop. 65 WARNING: This product contains lead, a chemical known to**  
24 **the State of California to cause birth defects or other reproductive harm.**

25 **OR**

26 **California Prop. 65 WARNING: This product contains one or more chemicals**  
27 **known to the State of California to cause cancer and birth defects or other**  
28 **reproductive harm.**



1           OR

2           **WARNING: This product contains one or more chemicals known to the State of**  
3           **California to cause cancer and birth defects or other reproductive harm. Wash**  
4           **hands after handling.**

5           **2.3    Placement of Product Warnings**

6           Where utilized to meet the criteria set forth in Section 2.1, Defendants shall provide the  
7           warning language set forth in Section 2.2 either:

8           a.       With the unit package of the Covered Products or affixed to the Covered Products.  
9           Such warning shall be prominently affixed to or printed on each Covered Product's label or  
10          package or the Covered Product itself. If printed on the label, the warning shall be contained in  
11          the same section that states other safety warnings, if any, concerning the use of the Covered  
12          Product; Defendants may continue to utilize, on an ongoing basis, unit packaging containing  
13          substantively the same Proposition 65 warnings as those set forth in Section 2.2 above, but only  
14          to the extent such packaging materials have already been printed within ninety days of the  
15          Effective Date, or

16          b.       In the owner's manual of another product in which the Covered Product is a  
17          component, but only if the other product: (i) may cause serious injury or bodily harm unless used  
18          as directed; (ii) is sophisticated, difficult to understand or install, set up, or assemble; or (iii) has  
19          one or more features a consumer must read about in order to know how to program or use the  
20          Covered Product. If the warning is given in the owner's manual pursuant to this subsection, it  
21          shall be located in one of the following places in the manual: the outside of the front cover; the  
22          inside of the front cover; the first page other than the cover; or the outside of the back cover. The  
23          warning shall be printed or stamped in the manual or contained in a durable label or sticker  
24          affixed to the manual in a font no smaller than the font used for other chemically related safety  
25          warnings in the manual. Alternatively, the warning may be included in a safety warning section  
26          of the owner's manual. Defendants continue to utilize, on an ongoing basis, owner's manuals  
27          containing substantively the same Proposition 65 warnings and without the additional  
28

1 admonitions as those set forth in Section 2.2 above, but only to the extent such manuals have  
2 already been printed within ninety days of the Effective Date. Owner's manual warnings may  
3 only be allowed if the owner's manual is sold in the same package and at the same time as the  
4 other product and not for Covered Products sold separately.

5 **2.4 Listed Warnings Are Not Exclusive**

6 The requirements for warnings, set forth in Sections 2.2 and 2.3 above, are imposed  
7 pursuant to the terms of this Consent Judgment. The Parties recognize that these are not the  
8 exclusive methods of providing a warning under Proposition 65 and its implementing regulations  
9 and that they may or may not be appropriate in other circumstances.

10 **2.5 Warnings No Longer Required**

11 If Proposition 65 warnings for lead or lead compounds or other specified chemicals should  
12 no longer be required, Defendants shall have no further warning obligations pursuant to this  
13 Consent Judgment. Except in the event that a change in the law requires modification or ceases  
14 to require such warnings, should Defendants cease to implement or modify the warnings required  
15 under this Settlement Agreement, Defendants shall provide written notice to Wimberley (through  
16 counsel) of its intent to do so, and of the basis for its intent, no fewer than thirty (30) days in  
17 advance.

18 **2.6 Covered Products in the Stream of Commerce**

19 Covered Products that have been manufactured, distributed, shipped or sold, or that are  
20 otherwise in the stream of commerce, prior to the Effective Date shall be released from any and  
21 all claims that were brought or that could have been brought by Wimberley in this action, as  
22 though they were covered claims within the meaning of Section 5 of this Consent Judgment.

23 **3. PAYMENTS PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)**

24 With regard to all claims that have been raised or which could be raised with respect to  
25 failure to warn pursuant to Proposition 65 with regard to lead in the Covered Products,  
26 Defendant(s) shall pay a civil penalty of \$1,000.00 pursuant to Health and Safety Code section  
27 25249.7(b), to be apportioned in accordance with California Health & Safety Code § 25192, with  
28 75% of these funds remitted to the State of California's Office of Environmental Health Hazard



1 Assessment and the remaining 25% of the penalty remitted to Wimberley, as provided by  
2 California Health & Safety Code § 25249.12(d) and the instructions directly below.

3 Defendant(s) shall issue two separate checks for the penalty payment: (a) one check made  
4 payable to "OEHHA" (tax identification number: 68-0284486) in an amount representing 75% of  
5 the total penalty (i.e., \$750.00); and (b) one check in an amount representing 25% of the total  
6 penalty (i.e., \$250.00) made payable directly to Wimberley. Defendant(s) shall mail these  
7 payments within one day following the Execution Date, to be held in trust by Wimberley's  
8 counsel, until the Effective Date, at which time such payments shall be mailed to the following  
9 addresses respectively:

10 Proposition 65 Settlement Coordinator  
11 California Department of Justice  
12 1515 Clay Street, 20th Floor  
Oakland, CA 94612-1413

13 Ms. Evelyn Wimberley  
14 c/o Law Offices of Stephen Ure, PC  
15 1518 Sixth Ave.  
San Diego, CA 92101

16 **4. REIMBURSEMENT OF FEES AND COSTS**

17 The Parties reached an accord on the compensation due to Wimberley and her counsel  
18 under the private attorney general doctrine and principles of contract law. Under these legal  
19 principles, Defendants shall reimburse Wimberley's counsel for fees and costs, incurred as a  
20 result of investigating, bringing this matter to Defendant(s)' attention, and negotiating a  
21 settlement in the public interest. Defendants shall pay Wimberley's counsel \$38,000.00 for all  
22 attorneys' fees, expert and investigation fees, and related costs associated with this matter.  
23 Defendant(s) shall wire said monies to the "Law Offices of Stephen Ure, PC" (tax identification  
24 number 42-1641673) within one day following the Execution Date. The Law Offices of Stephen  
25 Ure, PC will provide Defendants with wire instructions and tax identification information on or  
26 before the Execution Date. Other than the payment required hereunder, each side is to bear its  
27 own attorneys' fees and costs.  
28

1           **5.       RELEASE OF ALL CLAIMS**

2           **5.1      Release of Defendant(s) and Downstream Customers**

3           Wimberley, on behalf of herself *and in the public interest* pursuant to Health & Safety  
4 Code § 25249.7(d), releases, waives, and forever discharges any and all claims against  
5 Defendants and each of their downstream distributors, wholesalers, licensors, licensees,  
6 auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users, parent  
7 companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys,  
8 representatives, shareholders, agents, and employees, and sister and parent entities (collectively  
9 “Releasees”) from all claims that have been or could have been asserted in the public interest  
10 against Defendants for violations of Proposition 65 in connection with Covered Products  
11 manufactured, distributed, or sold by Defendants prior to the Effective Date. Compliance with  
12 the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to  
13 exposures to lead from the Covered Products.

14           The Parties further understand and agree that this release shall not extend upstream to any  
15 entities that manufactured the Covered Products for Hampton or any component parts thereof or  
16 to any distributors or suppliers who sold Covered Products or any component parts thereof to  
17 Hampton (“Upstream Entities”).

18           In addition to the foregoing, Wimberley, on behalf of herself, her past and current agents,  
19 representatives, attorneys, and successors and/or assignees, and *not* in her representative capacity,  
20 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal  
21 action and releases any other claims that she could make against Defendants or their Releasees  
22 arising up to the Effective Date with respect to violations of Proposition 65 based upon the  
23 Covered Products. With respect to the foregoing waivers and releases in this paragraph,  
24 Wimberley hereby specifically waives any and all rights and benefits which she now has, or in the  
25 future may have, conferred by virtue of the provisions of Section 1542 of the California Civil  
26 Code, which provides as follows:



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

6 **5.2 Defendant's Release of Wimberley**

7 Defendants waive any and all claims against Wimberley, her attorneys and other  
8 representatives, for any and all actions taken or statements made (or those that could have been  
9 taken or made) by Wimberley and her attorneys and other representatives, whether in the course  
10 of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this  
11 matter, and/or with respect to the Covered Products.

12 **6. SEVERABILITY AND MERGER**

13 If, subsequent to the execution of this Consent Judgment, any of the provisions of this  
14 document are held by a court to be unenforceable, the validity of the enforceable provisions  
15 remaining shall not be adversely affected.

16 This Consent Judgment contains the sole and entire agreement of the Parties, and any and  
17 all prior negotiations and understandings related hereto shall be deemed to have been merged  
18 within it. No representations or terms of agreement other than those contained herein exist or  
19 have been made by any Party with respect to the other Party or the subject matter hereof.

20 **7. GOVERNING LAW**

21 The terms of this Consent Judgment shall be governed by the laws of the State of  
22 California and apply within the State of California. Compliance with the terms of this Consent  
23 Judgment resolves any issue, now or in the future, with the requirements of Proposition 65 with  
24 respect to alleged exposures to lead arising from the Covered Products. In the event that  
25 Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as  
26 to the Covered Products, then Defendant(s) shall provide written notice to Wimberley of any  
27 asserted change in the law, and shall have no further obligations pursuant to this Consent  
28 Judgment with respect to the Covered Products and to the extent that the Covered Products are so  
affected.

1           **8.     NOTICES**

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

5           For Hampton :

6           Robert S. Nicksin, Esq.  
7           O'Melveny & Myers LLP  
8           400 South Hope Street  
9           Los Angeles, California 90071

10          For Ace:

11          Lee N. Smith  
12          Weintraub Tobin Chediak Coleman Grodin Law Corporation  
13          400 Capitol Mall, 11th Floor  
14          Sacramento, California 95814

15          For Wimberley:

16          Stephen Ure, Esq.  
17          Law Offices of Stephen Ure, PC  
18          1518 Sixth Avenue  
19          San Diego, California 92101

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

22           **9.     COUNTERPARTS; FACSIMILE SIGNATURES**

23           This Consent Judgment may be executed in counterparts and by facsimile, each of which  
24 shall be deemed an original, and all of which, when taken together, shall constitute one and the  
25 same document.

26           **10.    COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**  
27           **APPROVAL**

28           Wimberley agrees to comply with the requirements set forth in California Health & Safety  
Code § 25249.7(f) and to bring a Motion for Approval of this Consent Judgment no later than  
seventy (70) days after issuance of the Supplemental Notice, and Defendants shall support  
approval of such Motion.



1 This Consent Judgment shall not be effective until it is approved and entered by the Court  
2 and shall be null and void if, for any reason, it is not approved and entered by the Court within  
3 twelve months after it has been fully executed by the Parties, in which case all penalties and  
4 attorneys' fees paid by each Defendant shall be returned to each Defendant immediately. If this  
5 Consent Judgment is not entered by the Court, it shall be not be introduced into evidence or  
6 otherwise used in any proceeding for any purpose.

7 **11. MODIFICATION**

8 This Consent Judgment may be modified only by further stipulation of the Parties and the  
9 approval of the Court or upon the granting of a motion brought to the Court by any Party. Any  
10 Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer  
11 with the other Party prior to filing a motion to modify the Consent Judgment.

12 **12. ATTORNEY'S FEES**

13 12.1 A party who unsuccessfully brings or contests an action arising out of this Consent  
14 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs  
15 unless the unsuccessful party has acted with substantial justification. For purposes of this  
16 Consent Judgment, the term substantial justification shall carry the same meaning as used in the  
17 Civil Discovery Act of 1986, Code of Civil Procedure Section 2016, et seq.

18 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions  
19 pursuant to law.

20 **13. RETENTION OF JURISDICTION**

21 This Court shall retain jurisdiction of this matter to implement or modify the Consent  
22 Judgment.

23 **14. ENFORCEMENT AND CURE PROCEDURES**

24 Prior to bringing any motion or order to show cause to enforce the terms of this Consent  
25 Judgment, a Party seeking to enforce shall provide the non-complying party forty-five (45) days'  
26 advance written notice of the alleged noncompliance. The Parties shall meet and confer during  
27 such forty-five (45) day period in an effort to try to reach agreement on an appropriate cure for  
28 the alleged noncompliance. After such forty-five (45) day period, the Party seeking to enforce

1 may, by new action, motion or order to show cause before the Superior Court of San Diego  
2 County, seek to enforce the terms and conditions contained in this Consent Judgment. Any  
3 enforcement by Wimberley of the terms of this Consent Judgment will be limited to the Covered  
4 Products.

5 **15. AUTHORIZATION**

6 The undersigned are authorized to execute this Consent Judgment on behalf of their  
7 respective Parties and have read, understood and agree to all of the terms and conditions of this  
8 document and certify that he or she is fully authorized by the Party he or she represents to execute  
9 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as  
10 explicitly provided herein, each Party is to bear its own fees and costs.

11 **APPROVED AS TO FORM:**

12 Dated: June 4, 2013

O'MELVENY & MYERS LLP

13 By: 

Robert S. Nicksin

Attorneys for Defendant

HAMPTON PRODUCTS

INTERNATIONAL CORPORATION

14 Dated: June 4, 2013

LAW OFFICES OF STEPHEN URE, PC

15 By: 

Stephen Ure, Esq.

Attorneys for Plaintiff

EVELYN WIMBERLEY

16 Dated: June \_\_\_\_\_, 2013

WEINTRAUB, TOBIN, CHEDIAK,

COLEMAN, GRODIN LAW

CORPORATION

17 By: \_\_\_\_\_

Lee N. Smith

Attorneys for Defendant

ACE HARDWARE CORPORATION



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2 County, seek to enforce the terms and conditions contained in this Consent Judgment. Any  
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10 explicitly provided herein, each Party is to bear its own fees and costs.

11 **APPROVED AS TO FORM:**

12 Dated: June 4, 2013

O'MELVENY & MYERS LLP

13 By: 

14 Robert S. Nicksin  
15 Attorneys for Defendant  
16 HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

17 Dated: June \_\_\_\_\_, 2013

LAW OFFICES OF STEPHEN URE, PC

18 By: \_\_\_\_\_

19 Stephen Ure, Esq.  
20 Attorneys for Plaintiff  
EVELYN WIMBERLEY

21 Dated: June 6, 2013

22 WEINTRAUB, TOBIN, CHEDIAK,  
23 COLEMAN, GRODIN LAW  
CORPORATION

24 By: 

25 Lee N. Smith  
26 Attorneys for Defendant  
27 ACE HARDWARE CORPORATION  
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Date: 6/4/13

By:   
EVELYN WIMBERLEY

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

By: \_\_\_\_\_  
On Behalf of  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

**AGREED TO:**

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

By: \_\_\_\_\_  
On Behalf of  
ACE HARDWARE CORPORATION



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**IT IS HEREBY SO STIPULATED:**

**AGREED TO:**

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

By: \_\_\_\_\_  
EVELYN WIMBERLEY

**AGREED TO:**

Date: MAY 4, 2013

By: *[Signature]*  
On Behalf of:  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

**AGREED TO:**

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

By: \_\_\_\_\_  
On Behalf of:  
ACE HARDWARE CORPORATION

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IT IS HEREBY SO STIPULATED:

AGREED TO:

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

By: \_\_\_\_\_

EVELYN WIMBERLEY

AGREED TO:

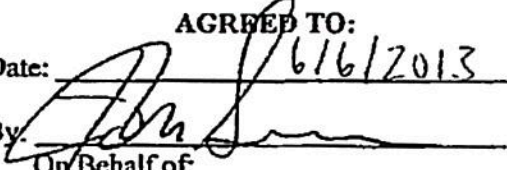
Date: \_\_\_\_\_

By: \_\_\_\_\_

On Behalf of:  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

AGREED TO:

Date: 6/6/2013

By: 

On Behalf of:  
ACE HARDWARE CORPORATION



1 STEPHEN URE, ESQ.  
2 LAW OFFICES OF STEPHEN URE, PC  
3 1518 Sixth Avenue  
4 San Diego, CA 92101  
5 Telephone: 619-235-5400  
6  
7 Attorneys for Plaintiff, Evelyn Wimberley

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO

10 EVELYN WIMBERLEY,  
11 Plaintiff,

12 v.

13 HAMPTON PRODUCTS INTERNATIONAL  
14 CORPORATION;  
15 ACE HARDWARE CORPORATION  
16 DOES 1-25  
17 Defendants.

Case No.

UNLIMITED JURISDICTION

FIRST AMENDMENT TO  
STIPULATION RE ENTRY OF  
CONSENT JUDGMENT AS TO  
HAMPTON PRODUCTS  
INTERNATIONAL  
CORPORATION AND TO ACE  
HARDWARE CORPORATION

Complaint Filed: \_\_\_\_\_, 2013

18  
19 The Parties, as defined in the Stipulation Re: Entry of Consent Judgment, hereby agree  
20 that the sections 1.2 Allegations and Representations and 1.4 Notices of Violation/Complaint are  
21 amended as set forth below. All other provisions of the Stipulation Re: Entry of Consent  
22 Judgment remain in full force and effect, and are incorporated by reference as if set forth herein.

23 **1.2 Allegations and Representations**

24 Wimberley alleges that Defendants have offered for sale in the State of California and  
25 have sold in California brass locks, hardware and accessories containing lead, and that such sales  
26 have not been accompanied by Proposition 65 warnings. Lead is listed under Proposition 65 as a  
27 chemical known to the State of California to cause cancer and birth defects or other reproductive  
28

1 harm. Wimberley has identified the "Ace Surface Bolt" UPC 082901145080 (hereafter "Brass  
2 Door and Window Decorative Hardware" or "Category A"), "Flush Ring Pull" UPC  
3 082901144892 and "Broad Hinge" UPC 082901144441 (hereafter "Exterior Decorative Brass  
4 Hardware" or "Category B"), "Handrail Bracket" UPC 082901145424 (hereafter "Interior  
5 Decorative Brass Hardware" or "Category C"), and "Hinge Pin Ball Tip Kit" UPC 082901146476  
6 (hereafter "Brass Threaded Wire Products" or "Category D") as specific examples of the  
7 categories of brass products that are the subject of her allegations.

8 For purposes of this Consent Judgment only, Hampton represents that the above-listed  
9 products are manufactured for and distributed to Ace and others by Hampton and Defendants had  
10 no reason to believe that the items contained lead until receiving Wimberley's 60-Day Notice on  
11 or about December 28, 2012.

12 1.4 Notices of Violation/Complaint

13 b. On or before July 15, 2013, Wimberley shall serve Ace, Hampton, and various  
14 public enforcement agencies with a document entitled "Supplemental 60-Day Notice of  
15 Violation" pursuant to Health & Safety Code § 25249.7(d) (the "Supplemental Notice"),  
16 clarifying the scope of Category A (as being more broad than was described in the original  
17 Notice) and further alleging that Defendants were in violation of Proposition 65 for failing to  
18 warn consumers and customers that the Covered Products in Categories B, C and D exposed users  
19 in California to lead.

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23 APPROVED AS TO FORM:

24 Dated: June 12, 2013

25 July

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28

O'MELVENY & MYERS, LLP

By: 

Robert S. Nicksin

Attorneys for Defendant

HAMPTON PRODUCTS

INTERNATIONAL CORPORATION



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Dated: June \_\_\_\_\_, 2013

LAW OFFICES OF STEPHEN URE, PC

By: \_\_\_\_\_

Stephen Ure, Esq.  
Attorneys for Plaintiff  
EVELYN WIMBERLEY

Dated: June \_\_\_\_\_, 2013

WEINTRAUB, TOBIN, CHEDIAK,  
COLEMAN, GRODIN LAW  
CORPORATION

By: \_\_\_\_\_

Lee N. Smith  
Attorneys for Defendant  
ACE HARDWARE CORPORATION

**IT IS HEREBY SO STIPULATED:**

**AGREED TO:**

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

By: \_\_\_\_\_  
EVELYN WIMBERLEY

**AGREED TO:**

Date: July 11, 2013

By: *[Signature]*

On Behalf of:  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

**AGREED TO:**

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

By: \_\_\_\_\_

On Behalf of:  
ACE HARDWARE CORPORATION

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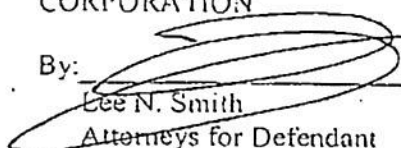
Dated: June \_\_\_\_\_, 2013

LAW OFFICES OF STEPHEN URE, PC

By: \_\_\_\_\_  
Stephen Ure, Esq.  
Attorneys for Plaintiff  
EVELYN WIMBERLEY

Dated: ~~June~~ July 12, 2013

WEINTRAUB, TOBIN, CHEDIK,  
COLEMAN, GRODIN LAW  
CORPORATION

By:  \_\_\_\_\_  
Lee N. Smith  
Attorneys for Defendant  
ACE HARDWARE CORPORATION

IT IS HEREBY SO STIPULATED:

AGREED TO:

AGREED TO:

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

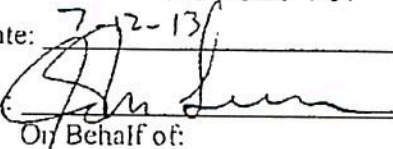
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By: \_\_\_\_\_  
EVELYN WIMBERLEY

By: \_\_\_\_\_  
On Behalf of:  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

AGREED TO:

Date: 7-12-13

By:  \_\_\_\_\_  
On Behalf of:  
ACE HARDWARE CORPORATION

APPROVED AS TO FORM:

Dated: June \_\_\_\_\_, 2013

O'MELVENY & MYERS LLP

By: \_\_\_\_\_  
Robert S. Nicklin  
Attorneys for Defendant  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

Dated: June <sup>11</sup>\_\_\_\_\_, 2013

LAW OFFICES OF STEPHEN URE, PC

By: \_\_\_\_\_  
Stephen Ure, Esq.  
Attorneys for Plaintiff  
EVELYN WIMBERLEY

Dated: June \_\_\_\_\_, 2013

WEINTRAUB, TOBIN, CHEDIAK,  
COLEMAN, GRODIN LAW CORPORATION

By: \_\_\_\_\_  
Lee N. Smith  
Attorneys for Defendant  
ACE HARDWARE CORPORATION

IT IS HEREBY SO STIPULATED:

AGREED TO:

Date: 7/3/13

By: \_\_\_\_\_  
EVELYN WIMBERLEY

AGREED TO:

Date:

By: \_\_\_\_\_  
On Behalf of:  
HAMPTON PRODUCTS  
INTERNATIONAL CORPORATION

AGREED TO:

Date:

By: \_\_\_\_\_  
On Behalf of:  
ACE HARDWARE CORPORATION