



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-16-550822

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TEXT JUDGMENT

CONSUMER ADVOCACY GROUP, INC., VS. WAL-MART STORES, INC. ET AL

001C06064579

Instructions:

Please place this sheet on top of the document to be scanned.

1 Reuben Yeroushalmi (SBN 193981)
2 Ben Yeroushalmi (SBN 232540)
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4 **YEROUSHALMI & YEROUSHALMI**
5 An Association of Independent Law Corporations
6 9100 Wilshire Boulevard, Suite 240W
7 Beverly Hills, 90212
8 Telephone: (310) 623-1926
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10 Attorneys for Plaintiff,
11 Consumer Advocacy Group, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF SAN FRANCISCO**

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 WAL-MART STORES, INC., a Delaware
19 corporation; JO-ANN STORES, LLC, a
20 Delaware limited liability company;
21 WILLIAM PRYM, INC., a Delaware
22 Corporation; and DOES 1-20

23 Defendants.

FILED
San Francisco County Superior Court

OCT 13 2017

CLERK OF THE COURT

BY: [Signature] Deputy Clerk *m*

CASE NO. CGC-16-550822

CONSENT JUDGMENT [PROPOSED] *zlb*

Health & Safety Code § 25249.5 *et seq.*

Dept.: 206

Judge: Hon. Teri L. Jackson

Complaint filed: March 4, 2016

Complaint in Intervention filed: April 3,
2017

24 **1. INTRODUCTION**

25 1.1 This Consent Judgment is entered into by and between plaintiff, Consumer
26 Advocacy Group, Inc., (referred to as "CAG") acting on behalf of itself and in the interest of the
27 public, and defendant Prym Consumer USA, Inc., ("Prym"), each a Party to the action and
28 collectively referred to as "Parties." This Consent Judgment is intended to fully resolve all claims,
demands, and allegations related to this action and the Notices of Violation referred to herein.

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///

CONSENT JUDGMENT [PROPOSED]

1 **1.2 Prym and Products**

2 1.2.1 Defendant Prym is a Delaware corporation which CAG alleges employs ten
3 or more persons. For purposes of this Consent Judgment only, Prym is deemed a person in the
4 course of doing business in California and is subject to the provisions of the Safe Drinking Water
5 and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq.
6 (“Proposition 65”).

7 1.2.2 CAG alleges that Prym manufactured, caused to be manufactured, sold,
8 and/or distributed Plier Kits including Grommet Plier Kits, and Heavy Duty Plier Kits, as defined
9 in the Notices.

10 **1.3 Chemical of Concern**

11 Di Isononyl Phthalate (“DINP”), also known as diisononyl phthalate is known to the State
12 of California to cause cancer.

13 **1.4 Notices of Violation.**

14 1.4.1 On May 5, 2015, CAG served Prym, and various public enforcement
15 agencies with a document entitled “60-Day Notice of Intent to Sue for Violation of the Safe
16 Drinking Water and Toxic Enforcement Act of 1986” (“May 5, 2015 Notice”) that provided the
17 recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn
18 individuals in California of alleged exposures to DINP alleged to be contained in Plier Kits. No
19 public enforcer has commenced or diligently prosecuted the allegations set forth in the May 5,
20 2015 Notice.

21 1.4.2 On September 18, 2015, CAG served Prym, and various public enforcement
22 agencies with a document entitled “60-Day Notice of Intent to Sue for Violation of the Safe
23 Drinking Water and Toxic Enforcement Act of 1986” (“September 18, 2015 Notice”) that provided
24 the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
25 warn individuals in California of alleged exposures to DINP alleged to be contained in plier kits.
26 No public enforcer has commenced or diligently prosecuted the allegations set forth in the
27 September 18, 2015 Notice.
28

1
2 1.4.3 On October 8, 2015, CAG served Prym, and various public enforcement
3 agencies with a document entitled “60-Day Notice of Intent to Sue for Violation of the Safe
4 Drinking Water and Toxic Enforcement Act of 1986” (“October 8, 2015 Notice”) that provided
5 the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
6 warn individuals in California of alleged exposures to DINP alleged to be contained in plier kits.
7 No public enforcer has commenced or diligently prosecuted the allegations set forth in the October
8 8, 2015 Notice.

9 1.4.4 Collectively, the 60-day notices described in paragraphs 1.4.1-1.4.3 above
10 are hereafter referred to as the “Notices.”

11 **1.5 Complaint and Answer.**

12 On March 4, 2016, CAG filed a Complaint for civil penalties and injunctive relief
13 (“Complaint”) in Superior Court of California County of Alameda, Case No. RG16806471, against
14 Walmart Stores, Inc. (“Walmart”) and Jo-Ann Stores, LLC (“Jo-Ann”) (collectively
15 “Defendants”). The Complaint alleges that the Defendants violated Proposition 65 by failing to
16 give clear and reasonable warnings of alleged exposure to DINP in certain Plier Kits sold and/or
17 distributed in California by Prym. On April 3, 2017, Prym filed its Complaint in Intervention and
18 became an Intervenor in the action (“CI”). In the CI Prym alleges that it is the supplier of the
19 product at issue, sold by the retailers. Prym joined with retailers in their denial, and specifically
20 denies all allegations that Prym violated Proposition 65.

21 **1.6 Consent to Jurisdiction**

22 For purposes of this Consent Judgment, the Parties stipulate that this Court has
23 jurisdiction over the allegations of violations contained in the Complaint and personal
24 jurisdiction over Prym as to the acts alleged in the Complaint, that venue is proper in the County
25 of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a full
26 settlement and resolution of the allegations contained in the Complaint and of all claims which
27 were, or could have been raised by any person or entity based in whole or in part, directly or
28

1 indirectly, on the facts alleged therein or arising therefrom or related thereto.

2 **1.7 No Admission**

3 This Consent Judgment resolves claims that are denied and disputed. The Parties enter
4 into this Consent Judgment pursuant to a full and final settlement of any and all claims between
5 the Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment
6 shall be construed as an admission by the Parties of any material allegation of the Complaint
7 (each and every allegation of which Prym denies), any fact, conclusion of law, issue of law or
8 violation of law, including without limitation, any admission concerning any violation of
9 Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or any
10 admission as to the meaning of the terms “knowingly and intentionally expose” or “clear and
11 reasonable warning” as used in Health and Safety Code section 25249.6. Nothing in this
12 Consent Judgment, nor compliance with its terms, shall constitute or be construed as an
13 admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, or of
14 fault, wrongdoing, or liability by Prym, its officers, directors, employees, or parent, subsidiary or
15 affiliated corporations, or be offered or admitted as evidence in any administrative or judicial
16 proceeding or litigation in any court, agency, or forum. Furthermore, nothing in this Consent
17 Judgment shall prejudice, waive or impair any right, remedy, argument, or defense the Parties
18 may have in any other or future legal proceeding, except as expressly provided in this Consent
19 Judgment.
20

21 **2. DEFINITIONS**

22 2.1 “Covered Products” means Plier Kits, including but not limited to: 1) ““Dritz
23 Pliers Kit”, ‘Estuche de Pinzas’, ‘11082’, ‘Pliers Kit Contains: Pliers, 1 yellow adapter, 2 rubber
24 rings, 4 snaps’, ‘Snaps-Size 15 & 16’, ‘Pearl Snaps- Size 16’, ‘Instructions for Snaps and Pearl
25 Snaps’, Diagram for Snaps/Pearl Snaps, SMALL PARTS. NOT FOR CHILDREN UNDER 3
26 YEARS, ‘Made in USA, Taiwan, China, & Mexico’, ‘Manufactured for ©2012 Prym Consumer
27 USA Inc., 950 Brisack Rd., Spartanburg, SC 29303’, www.dritz.com, UPC: 0 72879 25269 9””;
28 2) ““Dritz® Grommet Plier Kit”, ‘Applies 3/8 in (.95cm) Brass Grommets Made in USA &

1 China. Manufactured for Prym Consumer USA Inc. 950 Brisack Rd. Spartanburg, SC 29303.
2 www.dritz.com: UPC: 0 72879 10001 3”; and 3) ““Dritz® Heavy Plier Kit”, ‘Estuche de
3 Pinzas’, ‘24P’, ‘Applies Heavy Duty Snaps - #5 & #105’, Kit Includes: 4 Heavy Duty Snaps –
4 5/8 in (1.59cm). Made in USA & China. Manufactured for Prym Consumer USA Inc. 950
5 Brisack Rd. Spartanburg, SC 29303. www.dritz.com: UPC: 0 72879 10045 7” sold by or
6 purchased from Prym in California.

7 2.2 “Effective Date” means the date that the Court approves this Consent Judgment.

8 2.3 “DINP” means Di Isononyl Phthalate, also known as diisononyl phthalate

9 2.4 “Notices” refers to Plaintiff’s May 5, 2015 Notice, September 18, 2015 Notice, and
10 October 8, 2015 Notice.

11 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**
12 **WARNINGS ON EXISTING INVENTORY**

13 3.1 After the Effective Date, Prym shall not sell, offer for sale, or distribute for sale
14 the Covered Products in California unless they are reformulated to contain less than 0.1% by
15 weight (1,000 parts per million) of DINP.

16 3.2 For any Covered Products still existing in Prym’s inventory as of the Effective
17 Date, Prym shall place a Proposition 65 compliant warning on them. Any warning provided
18 pursuant to this section shall be affixed to the packaging of, or directly on, the Covered Products,
19 and be prominently placed with such conspicuousness as compared with other words, statements,
20 designs, or devices as to render it likely to be read and understood by an ordinary individual under
21 customary conditions before purchase or use. The warning shall state:

22 **WARNING:** This product contains DINP, a chemical known to the
23 State of California to cause cancer.

24 **4. SETTLEMENT PAYMENT**

25 4.1 **Payment:** Prym shall pay a total of one-hundred and two thousand dollars and
26 zero cents (\$102,000), in full and complete settlement of any and all monetary claims by CAG
27 related to the Notices in this action, and shall be divided as follows:
28

1 4.1.1 **Civil Penalty:** Prym shall issue two separate checks totaling five-thousand
2 seven-hundred and twenty dollars (\$5720.00) as penalties pursuant to Health & Safety Code §
3 25249.12:

4 (a) Prym will issue one check made payable to the State of California's Office of
5 Environmental Health Hazard Assessment ("OEHHA") in the amount of four thousand two-
6 hundred and ninety dollars (\$4,290.00) representing 75% of the total penalty and Prym will issue
7 a second check to CAG in the amount of one thousand four-hundred and thirty dollars (\$1,430.00)
8 representing 25% of the total penalty. Separate 1099s shall be issued as follows: Prym will issue
9 a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of
10 \$4,290.00. Prym will also issue a 1099 to CAG in the amount of \$1,430.00 and deliver it to CAG
11 c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California
12 90212.

13 4.1.2 **Additional Settlement Payments:** Prym shall pay four thousand two-
14 hundred and eighty dollars (\$4,280.00) as an additional settlement payment to "Consumer
15 Advocacy Group, Inc.," pursuant to Health & Safety Code § 25249.7(b), and California Code of
16 Regulations, Title 11 § 3202(d). CAG will use this total payment as follows, seventy percent
17 (70%) for fees of investigation, purchasing and testing for Proposition 65 listed chemicals in
18 various products, and for expert fees for evaluating exposures through various mediums, including
19 but not limited to consumer product, occupational, and environmental exposures to Proposition
20 65 listed chemicals, and the cost of hiring consulting and retained experts who assist with the
21 extensive scientific analysis necessary for those files in litigation; twenty percent (20%) for
22 administrative costs incurred during the investigation and litigation to reduce the public's exposure
23 to Proposition 65 listed chemicals by notifying those persons and/or entities believed to be
24 responsible for such exposures and attempting to persuade those persons and/or entities to
25 reformulate their products or the source of exposure to completely eliminate or lower the level of
26 Proposition 65 listed chemicals including but not limited to costs of documentation and tracking
27 of products investigated, storage of products, website enhancement and maintenance, computer
28

1 and software maintenance, investigative equipment, CAG's member's time for work done on
2 investigations, office supplies, mailing supplies and postage; and ten percent (10%) to offset the
3 costs of future litigation enforcing Proposition 65 but excluding attorney fees, thereby addressing
4 the same public harm as allegedly in the instant Action. Within 30 days of a request from the
5 Attorney General, CAG shall provide to the Attorney General copies of documentation
6 demonstrating how the above funds have been spent.

7 **4.1.3 Reimbursement of Attorney's Fees and Costs:** Prym shall pay a total
8 amount of ninety-two thousand dollars (\$92,000), to "Yeroushalmi & Yeroushalmi" as
9 reimbursement for reasonable investigation fees and costs, attorneys' fees, and any other costs
10 incurred as a result of investigating, bringing this matter to Prym's attention, litigating, and
11 negotiating a settlement in the public interest.

12 **4.2 Delivery of Payments:**

13 **4.2.1** All payments to OEHHA shall be delivered to: Office of Environmental
14 Health Hazard Assessment, Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento,
15 California 95812. Prym shall provide written confirmation to CAG upon payment to OEHHA.

16 **4.2.2** All payments to CAG and Yeroushalmi & Yeroushalmi, shall be delivered
17 to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly
18 Hills, CA 90212.

19
20 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

21 **5.1** This Consent Judgment is a full, final, and binding resolution between CAG, on
22 behalf of itself and in the public interest, and Prym and its officers, directors, insurers, employees,
23 parents, owners, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister
24 companies, agents, and their successors and assigns ("Prym's Releasees"), and all entities to
25 whom Prym directly or indirectly distributes or sells Covered Products, including, but not limited
26 to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members,
27 licensees, and the successors and assigns of any of them, who may use, maintain, distribute or sell
28 Covered Products, ("Downstream Releasees"), for all claims for violations of Proposition 65

1 through the Effective Date based on alleged exposure to DINP, from Covered Products, as set forth
2 in the Notices. In addition, the "Downstream Releasees" shall include Wal-Mart Stores, Inc., Jo-
3 Ann Stores, LLC, and their respective affiliates, successors, and assigns. Prym and Prym's
4 Releasees' compliance with this Consent Judgment shall constitute compliance with Proposition
5 65 for the Covered Products with respect to exposure to DINP from Covered Products. Nothing
6 in this Section affects CAG's right to commence or prosecute an action under Proposition 65
7 against any person other than Prym, Prym Releasees, Wal-Mart Stores, Inc. and Jo-Ann Stores,
8 LLC, or other Prym Downstream Releasees. Prym, Prym Releasees, Wal-Mart Stores, Inc. and
9 Jo-Ann Stores, LLC, and Prym Downstream Releasees are hereafter collectively referred to as the
10 "Released Parties."

11 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,
12 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or
13 indirectly, any form of legal action and releases all claims, including, without limitation, all
14 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages,
15 costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert
16 fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or
17 contingent (collectively "Claims"), against the Released Parties arising from any violation of
18 Proposition 65 or any other statutory or common law regarding the failure to warn about exposure
19 to DINP from the Covered Products. In furtherance of the foregoing, as to alleged exposures to
20 DINP from the Covered Products, CAG on behalf of itself only, hereby waives any and all rights
21 and benefits which it now has, or in the future may have, conferred upon it with respect to Claims
22 arising from any violation of Proposition 65 or any other statutory or common law regarding the
23 failure to warn about alleged exposure to DINP from the Covered Products by virtue of the
24 provisions of section 1542 of the California Civil Code, which provides as follows:
25

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
27 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
28 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.

1 CAG understands and acknowledges that the significance and consequence of this waiver of
2 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or
3 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any
4 violation of Proposition 65 or any other statutory or common law regarding the failure to warn
5 about alleged exposure to DINP from the Covered Products, including but not limited to any
6 exposure to, or failure to warn with respect to exposure to DINP from the Covered Products, CAG
7 will not be able to make any claim for those damages or injunctive relief against the Released
8 Parties. Furthermore, CAG acknowledges that it intends these consequences for any such Claims
9 arising from any violation of Proposition 65 or any other statutory or common law regarding the
10 failure to warn about alleged exposure to DINP from Covered Products as may exist as of the date
11 of this release but which CAG does not know exist, and which, if known, would materially affect
12 their decision to enter into this Consent Judgment, regardless of whether their lack of knowledge
13 is the result of ignorance, oversight, error, negligence, or any other cause.
14

15 **6. ENFORCEMENT OF JUDGMENT**

16 6.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
17 hereto. The Parties may, by noticed motion or order to show cause before the Superior Court of
18 California, County of Alameda, giving the notice required by law, enforce the terms and conditions
19 contained herein. A Party may enforce any of the terms and conditions of this Consent Judgment
20 only after that Party first provides 60 days' notice to the Party allegedly failing to comply with the
21 terms and conditions of this Consent Judgment and attempts to resolve such Party's failure to
22 comply in an open and good faith manner.

23 6.2 **Notice of Violation.** Prior to bringing any motion, order to show cause, or other
24 proceeding to enforce the terms of this Consent Judgment, the Party alleging a violation shall
25 provide written notice ("NOV") to the other Party. The NOV shall include information sufficient
26 for the Party alleged to be in violation to be able to understand and correct the violation. With
27 respect to NOVs from CAG relating to the Covered Products, for each of the Covered Products:
28

1 Any notice to Prym must contain (a) the name of the product, (b) specific dates when the product
2 was sold in California, (c) the store or other place at which the product was available for sale to
3 consumers, and (d) any other evidence or other support for the allegations in the notice, including
4 all test data obtained by CAG regarding the Covered Products.

5 6.2.1 **Non-Contested NOV.** For NOVs from CAG relating to the Covered Products,
6 CAG shall take no further action regarding the alleged violation if, within 60 days of receiving
7 such NOV, Prym serves a Notice of Election (“NOE”) that meets one of the following conditions:

8 (a) The Covered Products were shipped by Prym for sale in California before the
9 Effective Date, or

10 (b) Since receiving the NOV Prym has taken corrective action by either (i) taking all
11 steps necessary to bring the sale of the product into compliance under the terms of this Consent
12 Judgment, or (ii) requesting that its customers or stores in California, as applicable, remove the
13 Covered Products identified in the NOV from sale in California and destroy or return the Covered
14 Products to Prym or vendors, as applicable, or (iii) refute the information provided in paragraph
15 6.2.

16 6.2.2 **Contested NOV.** For NOVs from CAG relating to the Covered Products, Prym
17 may serve a Notice of Election (“NOE”) informing CAG of its election to contest the NOV within
18 30 days of receiving the NOV.

19 (a) In its election, Prym may request that the sample(s) of Covered Products tested by
20 CAG be subject to confirmatory testing at an EPA-accredited laboratory.

21 (b) If the confirmatory testing establishes that the Covered Products do not contain
22 DINP in excess of the levels allowed in Section 3.1, above, CAG shall take no further action
23 regarding the alleged violation. If the testing does not establish compliance with Section 3.1,
24 above, Prym may withdraw its NOE to contest the violation and may serve a new NOE pursuant
25 to Section 6.2.1.
26
27
28

1 (c) If Prym does not withdraw an NOE to contest the NOV or take action under Section
2 6.2.1, above, the Parties shall meet and confer for a period of no less than 30 days before CAG
3 may seek an order enforcing the terms of this Consent Judgment.

4 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, the
5 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

6 **7. ENTRY OF CONSENT JUDGMENT**

7 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to
8 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG, and
9 Prym waive their respective rights to a hearing or trial on the allegations of the Complaint.

10 7.2 If this Consent Judgment is not approved in full by the Court, (a) this Consent
11 Judgment and any and all prior agreements between the parties merged herein shall terminate and
12 become null and void, and the actions shall revert to the status that existed prior to the execution
13 date of this Consent Judgment; (b) no term of this Consent Judgment or any draft thereof, or of the
14 negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall
15 have any effect, nor shall any such matter be admissible in evidence for any purpose in this Action,
16 or in any other proceeding; and (c) the Parties agree to meet and confer to determine whether to
17 modify the terms of the Consent Judgment and to resubmit it for approval.

18 **8. MODIFICATION OF JUDGMENT**

19 8.1 This Consent Judgment may be modified only upon written agreement of the
20 Parties and, if the modification affects a substantive provision of this Consent Judgment, upon
21 entry of a modified Consent Judgment by the Court thereon, or otherwise upon motion of any party
22 as provided by law and upon entry of a modified Consent Judgment by the Court.

23 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
24 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

25 **9. RETENTION OF JURISDICTION**

26 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms
27 of this Consent Judgment under Code of Civil Procedure § 664.6.
28

1 **10. DUTIES LIMITED TO CALIFORNIA**

2 10.1 This Consent Judgment shall have no effect on Covered Products sold or distributed
3 by Prym outside the State of California.

4 **11. SERVICE ON THE ATTORNEY GENERAL**

5 11.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the
6 California Attorney General so that the Attorney General may review this Consent Judgment prior
7 to its submittal to the Court for approval. No sooner than forty-five (45) days after the Attorney
8 General has received the aforementioned copy of this Consent Judgment, and in the absence of
9 any written objection by the Attorney General to the terms of this Consent Judgment, the parties
10 may then submit it to the Court for approval.

11 **12. ATTORNEY FEES**

12 12.1 Except as specifically provided in Sections 4.1.3 and 6.3, each Party shall bear its
13 own attorneys' fees and costs in connection with this action.

14 **13. ENTIRE AGREEMENT**

15 13.1 This Consent Judgment contains the sole and entire agreement and understanding
16 of the Parties with respect to the entire subject matter hereof 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
19 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed
20 to exist or to bind any of the Parties.

21 **14. GOVERNING LAW**

22 14.1 The validity, construction and performance of this Consent Judgment shall be
23 governed by the laws of the State of California, without reference to any conflicts of law provisions
24 of California law.

25 14.2 The terms of this Consent Judgment shall be governed by the laws of the State of
26 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered
27 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are
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1 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or
2 rendered inapplicable by reason of law generally as to the Covered Products, then subject to this
3 Consent Judgment Prym may provide written notice to CAG of any asserted change in the law,
4 and shall have no further obligations pursuant to this Consent Judgment with respect to, and to the
5 extent that, the Covered Products are so affected. Nothing in this Consent Judgment shall be
6 interpreted to relieve Prym from any obligation to comply with any pertinent state or federal law
7 or regulation.

8 14.3 The Parties, including their counsel, have participated in the preparation of this
9 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This
10 Consent Judgment was subject to revision and modification by the Parties and has been accepted
11 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or
12 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result
13 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment
14 agrees that any statute or rule of construction providing that ambiguities are to be resolved against
15 the drafting Party should not be employed in the interpretation of this Consent Judgment and, in
16 this regard, the Parties hereby waive California Civil Code § 1654.

17 **15. EXECUTION AND COUNTERPARTS**

18 15.1 This Consent Judgment may be executed in counterparts and by means of facsimile
19 or portable document format (pdf), which taken together shall be deemed to constitute one
20 document and have the same force and effect as original signatures.

21 **16. NOTICES**

22 16.1 Any notices under this Consent Judgment shall be by First Class Mail (with a
23 courtesy copy by email).

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AGREED TO:

Date: July 24, 2017

Michael Marcus

Name: Michael Marcus

Title: Director
CONSUMER ADVOCACY
GROUP, INC.

AGREED TO:

Date: July 24, 2017

Steve Mills

Name: Steve Mills

Title: CEO
PRYM CONSUMER USA, INC.

IT IS SO ORDERED.

Date: _____, 2017

Hon. Teri L. Jackson
JUDGE OF THE SUPERIOR COURT

70813599v.1

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If to CAG:

Yeroushalmi & Yeroushalmi
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212
(310) 623-1926;
Email: lawfirm@yeroushalmi.com

If to Prym:

Daniel Joseph Herling, Esq.
Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.
44 Montgomery, 36th Floor
San Francisco, CA 94104
Email: DJHerling@mintz.com

17. AUTHORITY TO STIPULATE

17.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of the party represented and legally to bind that party.

AGREED TO:

AGREED TO:

Date: _____, 2017

Date: _____, 2017

Name: _____


Name: _____

Title: _____
CONSUMER ADVOCACY
GROUP, INC.

Title: _____
PRYM CONSUMER USA, INC.

IT IS SO ORDERED.

Date: 10/3/17



Hon. ~~Ferris L. Jackson~~ Harold Kolm
JUDGE OF THE SUPERIOR COURT