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Laralei Paras, State Bar No. 203319
THE CHANLER GROUP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565
Telephone: (510) 848-8880
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Attorneys for Plaintiff
LAURENCE VINO CUR

AUG 15 2018
FILED
Superior Court of California
County of San Francisco

AUG 15 2018
CLERK OF THE COURT
BY: Lauren Lee
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

LAURENCE VINO CUR,

Plaintiff,

v.

SIGVARIS, INC.,

Defendant.

Case No. CGC18567049

~~PROPOSED~~ JUDGMENT PURSUANT
TO TERMS OF PROPOSITION 65
SETTLEMENT AND CONSENT
JUDGMENT

Date: August 15, 2018
Time: 9:30 a.m.
Courtroom: 302
Judge: Hon. Harold E. Kahn

Reservation No.: 06250815-03

1 Plaintiff Laurence Vinocur and defendant Sigvaris, Inc., having agreed through
2 their respective counsel that judgment be entered pursuant to the terms of their settlement
3 agreement in the form of a consent judgment, and following this Court's issuance of an
4 order approving their Proposition 65 settlement and Consent Judgment,

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to
6 California Health & Safety Code § 25249.7(f)(4) and California Code of Civil Procedure
7 § 664.6, judgment is entered in accordance with the terms of the Consent Judgment
8 attached hereto as **Exhibit 1**. By stipulation of the parties, the Court will retain jurisdiction
9 to enforce the settlement pursuant to Code of Civil Procedure § 664.6.

10

11 **IT IS SO ORDERED.**

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Dated: _____

9/15/18

15



JUDGE OF THE SUPERIOR COURT

16

HAROLD KAHN

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EXHIBIT 1

1 Laralei Paras, State Bar No. 203319
THE CHANLER GROUP
2 2560 Ninth Street
Parker Plaza, Suite 214
3 Berkeley, CA 94710-2565
Telephone: (510) 848-8880
4 Facsimile: (510) 848-8118
Email: laralei@chanler.com

5 Attorneys for Plaintiff
6 LAURENCE VINOUCUR

7 Gregory G. Sperla, State Bar No. 278062
SCALI RASMUSSEN PC
8 980 9th Street, 16th Floor
Sacramento, CA 95814
9 Telephone: (916) 449-9534
Facsimile: (213) 239-5623
10 Email: gsperla@scalilaw.com

11 Attorneys for Defendant
12 SIGVARIS, INC.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 CITY AND COUNTY OF SAN FRANCISCO
15 UNLIMITED CIVIL JURISDICTION
16

17 LAURENCE VINOUCUR,
18 Plaintiff,
19
20 v.
21 SIGVARIS, INC.,
22 Defendant.

Case No. CGC18567049

[PROPOSED]
CONSENT JUDGMENT

Cal. Health & Safety Code § 25249.6 et seq.
and Cal. Code Civ. Proc. § 664.6

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Laurence Vinocur (“Vinocur”)
4 and defendant Sigvaris, Inc. (“Sigvaris”), with Vinocur and Sigvaris each individually referred to as a
5 “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

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

10 **1.3 Defendant**

11 Sigvaris employs ten or more persons and is a person in the course of doing business for
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety
13 Code § 25249.6 *et seq.* (“Proposition 65”).

14 **1.4 General Allegations**

15 Vinocur alleges that Sigvaris manufactures, imports, distributes, sells and/or offers for sale in
16 California gloves with vinyl/PVC components containing di(2-ethylhexyl)phthalate (“DEHP”). DEHP
17 is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive
18 harm. Vinocur alleges that Sigvaris failed to provide the health hazard warning allegedly required by
19 Proposition 65 for exposures to DEHP from gloves with vinyl/PVC components.

20 **1.5 Product Description**

21 For purposes of this Consent Judgment, “Products” are defined as gloves with vinyl/PVC
22 components containing DEHP including, but not limited to, *the Sigvaris Latex-Free Donning Gloves,*
23 *592RPRS, 05565, UPC #7 45129 19055 2*, that are manufactured, imported, or purchased for resale by
24 Sigvaris.

25 **1.6 Notice of Violation**

26 On January 17, 2018, Vinocur served Sigvaris, and certain requisite public enforcement
27 agencies with a 60-Day Notice of Violation (“Notice”), alleging that Sigvaris violated Proposition 65
28 by failing to warn its customers and consumers in California that its Products expose users to DEHP.

1 To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting
2 the allegations set forth in the Notice.

3 **1.7 Complaint**

4 On June 7, 2018, Vinocur filed the instant action ("Complaint"), naming Sigvaris as a
5 defendant for the alleged violations of Proposition 65 that are the subject of the Notice.

6 **1.8 No Admission**

7 Sigvaris denies all factual and legal allegations contained in the Notice and Complaint. It
8 maintains that all products that it has sold and/or offered for sale in California, including the Products,
9 have been and are in compliance with all federal, state, or local laws. Nothing in this Consent
10 Judgment shall be construed as, nor shall compliance with this Consent Judgment constitute or be
11 construed as, an admission by Sigvaris of any fact, finding, conclusion of law, issue of law or violation
12 of law. However, this Section shall not diminish or otherwise affect Sigvaris' obligations,
13 responsibilities and duties under this Consent Judgment.

14 **1.8 Consent to Jurisdiction**

15 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
16 jurisdiction over Sigvaris as to the allegations contained in the Complaint, that venue is proper in the
17 City and County of San Francisco, and that this Court has jurisdiction to enter and enforce the
18 provisions of this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure § 664.6.

19 **1.9 Effective Date**

20 For purposes of this Consent Judgment, the term "Effective Date" means the date on which
21 Notice of Entry of [Consent] Judgment is served. The Parties consent to service of Notice of Entry via
22 email.

23 **2. INJUNCTIVE RELIEF: REFORMULATION**

24 **2.1 Reformulation Commitment**

25 Commencing on December 31, 2018, and continuing thereafter, Sigvaris shall only
26 manufacture, import, distribute, sell or offer for sale in or into California, "Reformulated Products".
27 For purposes of this Consent Judgment, "Reformulated Products" are Products containing DEHP,
28 butyl benzyl phthalate ("BBP"), di-n-butyl ("DBP"), di-isodecyl phthalate ("DIDP"), diisononyl

1 phthalate ("DINP"), and di-n-hexyl phthalate ("DnHP") each in concentrations of less than 0.1 percent
2 (1,000 parts per million) in all accessible components when analyzed by a laboratory accredited by the
3 State of California, a federal agency, or a nationally recognized accrediting organization.

4 **2.2 Methodology**

5 For purposes of compliance with the standard for Reformulated Products set forth in Section
6 2.1, above, testing samples shall be prepared and extracted using Consumer Product Safety
7 Commission ("CPSC") methodology CPSC-CH-C1001.09.3 and analyzed using U.S. Environmental
8 Protection Agency ("EPA") methodology 8270C or other methodologies utilized by federal or state
9 government agencies to determine phthalate content in a solid substance.

10 **3. MONETARY SETTLEMENT TERMS**

11 **3.1 Civil Penalty Payments**

12 Pursuant to Health and Safety Code §25249.7(b)(2), and in settlement of all claims alleged in
13 the Notice, Sigvaris agrees to pay a total of \$2,500 in civil penalties. The penalty payment will be
14 allocated in accordance with Health and Safety Code §25249.12(c)(1) & (d), with 75% of the penalty
15 amount remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA")
16 and the remaining 25% of the penalty amount retained by Vinocur. Within 5 business days of the
17 Effective Date, Sigvaris shall provide its payment as follows: (i) a check in the amount of \$1,875
18 payable to "OEHHA" and (ii) a check in the amount of \$625 payable to "Laurence Vinocur Client
19 Trust Account." Vinocur's counsel shall be responsible for delivering OEHHA's portion of the
20 penalty payments made under this Consent Judgment.

21 **3.2 Reimbursement of Attorney's Fees and Costs**

22 The Parties reached an accord on the compensation due to Vinocur and his counsel under
23 general contract principles and the private attorney general doctrine codified at Code of Civil
24 Procedure §1021.5 for all work performed in this matter. Under these legal principles, within 5
25 business days of the Effective Date, Sigvaris agrees to pay \$25,500 to Vinocur and his counsel for all
26 fees and costs incurred investigating, bringing this matter to the attention of Sigvaris' management,
27 and negotiating a settlement in the public interest. Sigvaris' payment shall be in the form of a check
28 payable to "The Chanler Group."

1 **3.3 Payment Procedures**

2 All payments pursuant to Sections 3.1 and 3.2 shall be delivered to:

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

8 **4. CLAIMS COVERED AND RELEASED**

9 **4.1 Vinocur's Public Release of Proposition 65 Claims**

10 Vinocur, acting on his own behalf and in his representative capacity as an enforcer in the
11 public interest on behalf of the people of California, releases Sigvaris and its parents, subsidiaries,
12 affiliated entities under common ownership, directors, officers, employees, and attorneys
13 ("Releasees") and each entity to whom it directly or indirectly distributes or sells the Products
14 including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisers,
15 resellers, cooperative members, licensors and licensees ("Downstream Releasees") for any actions,
16 causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities,
17 demands, or violations of any nature, character or kind, whether known or unknown, suspected or
18 unsuspected, arising under Proposition 65 for alleged or actual exposures to DEHP from Products sold
19 by Sigvaris prior to the Effective Date, as set forth in the Notice.

20 **4.2 Vinocur's Individual Release of Claims**

21 Vinocur, in his individual capacity only and *not* in his representative capacity, also provides a
22 release to Sigvaris, Releasees, and Downstream Releasees which shall be effective as a full and final
23 accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys'
24 fees, damages, losses, claims, liabilities and demands of Vinocur of any nature, character or kind,
25 whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to
26 DEHP, BBP, DBP, DIDP, DINP and DnHP from Products sold by Sigvaris prior to the Effective Date.

27 **4.3 Sigvaris's Release of Vinocur**

28 Sigvaris, on its own behalf, and on behalf of its past and current agents, representatives,
 attorneys, successors, and assignees, releases any and all claims against Vinocur and his attorneys and
 other representatives, for any and all actions taken or statements made by Vinocur and his attorneys

1 and other representatives, whether in the course of investigating claims, otherwise seeking to enforce
2 Proposition 65 against it in this matter or with respect to Products.

3 **5. COURT APPROVAL**

4 This Consent Judgment is not effective until it is approved and entered by the Court and shall
5 be null and void if, for any reason, it is not approved and entered by the Court within one year after it
6 has been fully executed by the Parties.

7 **6. SEVERABILITY**

8 If, subsequent to the Court's approval and entry of this Consent Judgment as a judgment, any
9 provision of this Consent Judgment is held by a court to be unenforceable, the validity of the
10 remaining provisions shall not be adversely affected.

11 **7. GOVERNING LAW**

12 The terms of this Consent Judgment shall be governed by the laws of the State of California
13 and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise
14 rendered inapplicable by reason of law generally, or as to the Products or as to DEHP, BBP, DBP,
15 DIDP, DINP, DnHP, then Sigvaris may provide written notice to Vinocur of any asserted change in
16 the law, or its applicability to Sigvaris or the Products, and shall have no further obligations pursuant
17 to this Consent Judgment with respect to, and to the extent that, the Products are so affected.

18 **8. NOTICES**

19 Unless specified herein, all correspondence and notices required to be provided pursuant to this
20 Consent Judgment shall be sent by: (i) first-class, registered or certified mail, return receipt requested;
21 or (ii) overnight courier on any party by the other party at the following addresses:

22 **Sigvaris:** Scot J. Dubé, President
23 Sigvaris Inc.
24 1119 Highway 74 S
Peachtree City, GA 30269

Vinocur: Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

25 on behalf of **Sigvaris:** Gregory G. Sperla, Esq.
26 Scali Rasmussen PC
980 9th Street, 16th Floor
Sacramento, CA 95814

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

1 **9. COUNTERPARTS; FACSIMILE/PDF SIGNATURES**

2 This Consent Judgment may be executed in counterparts and by facsimile or portable
3 document format (PDF) signature, each of which shall be deemed an original, and all of which, when
4 taken together, shall constitute one and the same document.

5 **10. POST EXECUTION ACTIVITIES**

6 Vinocur agrees to comply with the reporting form requirements referenced in California Health
7 & Safety Code § 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety
8 Code § 25249.7(f), a noticed motion is required to obtain judicial approval of this Consent Judgment.
9 Vinocur and Sigvaris agree to support the entry of judgment pursuant to terms of this Consent
10 Judgment, and to obtain judicial approval of this Consent Judgment in a timely manner.

11 **11. MODIFICATION**

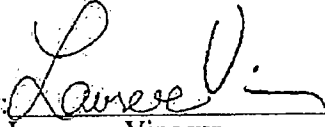
12 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and
13 entry of a modified consent judgment thereon by the Court; or (ii) a successful motion or application
14 of any Party, and the entry of a modified consent judgment thereon by the Court.

15 **12. AUTHORIZATION**

16 The undersigned are authorized to execute this Consent Judgment on behalf of their respective
17 Parties and have read, understood and agree to all of the terms and conditions of this Consent
18 Judgment.

19 **AGREED TO:**

20 Date: 6/15/2018 _____

21
22 By:  _____
23 Laurence Vinocur

AGREED TO:

Date: _____

By: _____
Scot J. Dubé, President
Sigvaris Inc.

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19 **AGREED TO:**

20 Date: _____

21

22 By: _____
23 Laurence Vinocur

AGREED TO:

20 Date: June 13, 2018

22 By: Scott J. Dube
23 Scott J. Dube, President
24 Sigvaris Inc.

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