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FILED
 ALAMEDA COUNTY

JAN 07 2021

CLERK OF THE SUPERIOR COURT
 By  Deputy

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Attorneys for Plaintiffs
 Association of Flight Attendants-Communications Workers of America
 and Maresa Bache

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ALAMEDA**

ASSOCIATION OF FLIGHT ATTENDANTS-
 COMMUNICATIONS WORKERS OF
 AMERICA; AND MARESA BACHE,

Plaintiffs,

v.

TWIN HILL ACQUISITION COMPANY, INC.;
 ARAMARK UNIFORM & CAREER APPAREL
 GROUP, INC.; ARAMARK UNIFORM &
 CAREER APPAREL, LLC; PVH CORP.;
 AMERICAN AIRLINES, INC.; DOES 1-50,

Defendants.

Case No. RG18911165

ASSIGNED FOR ALL PURPOSES TO
 JUDGE Frank Roesch
 DEPARTMENT 17

**[PROPOSED] CONSENT JUDGMENT
 WITH ARAMARK UNIFORM & CAREER
 APPAREL GROUP, INC.; PVH CORP.;
 AND AMERICAN AIRLINES, INC.**

Hearing Date: January 7, 2021
Time: 3:30 pm
Reservation No.: R-2211012

1 **1. INTRODUCTION**

2 1.1. This Consent Judgment is entered into by and between Plaintiffs Association of
3 Flight Attendants-Communications Workers of America (“AFA-CWA”) and Maresa Bache
4 (collectively, the “Plaintiffs”) and Defendants Aramark Uniform & Career Apparel Group, Inc., and
5 Aramark Uniform & Career Apparel, LLC (“Aramark”); PVH Corp. (“PVH”); and American
6 Airlines, Inc. (collectively, the “Settling Defendants”), to settle claims asserted by Plaintiffs against
7 Settling Defendants as set forth in the operative complaint in this matter (the “Action”). Plaintiffs
8 and Settling Defendants are collectively referred to as the “Parties.”

9 1.2. On March 23, 2018, Plaintiffs served a 60-Day Notice of Violation on Defendants
10 Aramark Uniform & Career Apparel Group, Inc., and PVH and on June 20, 2018, Plaintiffs served
11 a 60-Day Notice of Violation on American Airlines, Inc. (“American”). Additional notices were
12 served on the Settling Defendants on October 30, 2018, and November 18, 2019. Collectively, these
13 four notices are referred to in this Consent Judgment as the “Notices.” Each of the Notices alleged
14 violations of the California Safe Drinking Water and Toxic Enforcement Act of 1986, California
15 Health & Safety Code, section 25249.5, et seq. (“Proposition 65”). Specifically, the Notices alleged
16 that each of the Settling Defendants through manufacture, distribution, and or sale of garments
17 listed in the Notices were responsible for consumer exposures to formaldehyde-treated garments. In
18 addition, Plaintiffs alleged that American also caused employee exposures to formaldehyde gas
19 through its actions requiring its employees to wear the allegedly formaldehyde-treated garments as
20 part of their uniforms.

21 1.3. Plaintiffs timely served the Notices on the California Attorney General, the District
22 Attorneys of every County in the State of California, and the City Attorneys for every City in the
23 State of California with a population greater than 750,000. To the best of the Parties’ knowledge, no
24 public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notices.

25 1.4. On June 29, 2018, Plaintiffs filed the complaint initiating this case. On January 27,
26 2020, Plaintiffs filed the operative Fourth Amended Complaint (“Complaint”).

27 1.5. Plaintiff AFA-CWA is a non-profit labor organization representing flight attendants
28 employed by airlines across the country. Plaintiff Maresa Bache is a flight attendant and member of

1 AFA-CWA. Plaintiffs brought the Action in the public interest as private attorneys general pursuant
2 to Health & Safety Code, section 25249.7, subdivision (d).

3 1.6. Settling Defendants are corporations that employ ten or more persons or have done
4 so in the past. Plaintiffs allege Settling Defendants are “persons” acting “in the course of doing
5 business” for purposes of Proposition 65.

6 1.7. Defendants Aramark and PVH did each manufacture, distribute, and/or sell the
7 following uniform garment pieces in the state of California, except those branded “Twin Hill” on or
8 after one year prior to the filing of this lawsuit:

Identified Brand	Garment	Style No.
Twin Hill	Female LS blouse, blue check	460-0191-202
Twin Hill	Serving garment, charcoal	740-0080-204
Twin Hill	Female LS blouse, white	460-0200-202
Van Heusen/Aramark	Women’s LS pinpoint white shirt	6172
Eagle/Aramark	Women’s LS pinpoint white shirt	6173
Twin Hill	Female pant – slim, dark charcoal	320-0145-202
Twin Hill	Female pant – classic, dark charcoal	320-0144-202

14 (hereinafter, the uniform garment pieces identified in the above chart are referred to as the
15 “Garments”).

16 1.8. Defendant American did require that certain of its employees and certain of the
17 employees of other airlines flying for American wear uniforms, which uniforms could include the
18 Garments, and Plaintiffs allege that some employees in California did select or wear the Garments
19 as part of their uniform on or after one year prior to the filing of this lawsuit.

20 1.9. For purposes of this Consent Judgment only, the Parties stipulate that: (i) this Court
21 has jurisdiction over the allegations of violations contained in the Notices and Complaint and
22 personal jurisdiction over Settling Defendants as to the acts alleged in the Complaint; (ii) venue is
23 proper in the County of Alameda; and (iii) this Court has jurisdiction to enter this Consent
24 Judgment.

25 1.10. The Parties enter into this Consent Judgment as a full and final settlement of all
26 claims regarding violations of California’s Proposition 65 which were or could have been raised
27 against the Settling Defendants arising out of the facts or conduct related to Settling Defendants
28

1 alleged in this action and in the Notices. By execution of this Consent Judgment and agreeing to
2 comply with its terms, the Parties do not admit any fact, conclusion of law, or violation of law, nor
3 shall compliance with the Consent Judgment constitute or be construed as an admission by the
4 Parties of any fact, conclusion of law, or violation of law. Settling Defendants deny the material,
5 factual, and legal allegations in the Notices and Complaint and expressly deny any wrongdoing
6 whatsoever. Except as specifically provided herein, nothing in this Consent Judgment shall
7 prejudice, waive, or impair any right, remedy, argument, or defense any of the Parties may have in
8 this or any other pending or future legal proceedings.

9 **2. DEFINITIONS**

10 2.1. “American Airlines Group Carriers” means American and the other wholly-owned
11 airline subsidiaries of American Airlines Group Inc., now or during the three years following the
12 Entry Date of this Consent Judgment, including Envoy Air Inc., Piedmont Airlines Inc., and PSA
13 Airlines Inc., as well as the non-wholly-owned airlines that American contracts with, or may during
14 the three years following the Entry Date of this Consent Judgment contract with, to fly on behalf of
15 American under the American brand, including Compass, Mesa, Republic, and SkyWest. The
16 airlines listed in this paragraph represent all airlines covered under this Consent Judgment to the
17 best of the knowledge of the Parties at the time of the Consent Judgment’s signing. It is not the
18 intent of the Parties to include in the definition of American Airlines Group Carriers any airline that
19 is not listed in this paragraph, except to the extent that other airlines become wholly-owned by
20 American or enter into contracts to fly on behalf of American under the American brand subsequent
21 to the Consent Judgment’s signing and prior to three years following the Consent Judgment’s Entry
22 Date.

23 2.2. “Entry Date” is the date upon which the Court approves and enters this Consent
24 Judgment.

25 2.3. “Garments” shall mean those specific garments, identified by style number, listed in
26 paragraph 1.7.

27 2.4. “Listed Chemical” refers to formaldehyde in the gaseous phase, as listed on
28

1 California's "Proposition 65 List" as of the Effective Date of this Consent Judgment.¹

2 2.5. "Proposition 65" shall mean the Safe Drinking Water and Toxic Enforcement Act of
3 1986, Health and Safety Code sections 25249.5 to 25249.14 and its implementing regulations.

4 2.6. "Testing Standard" shall mean 75-ppm formaldehyde as determined by ISO 14184-1.

5 **3. INJUNCTIVE RELIEF**

6 3.1. **Aramark and PVH:** From May 1, 2020, and continuing for a period of three years
7 after the Entry Date, Aramark and PVH shall refrain from selling or distributing garments to flight
8 attendants at American Airlines Group Carriers unless the garments meet the Testing Standard. If
9 Vartest Laboratories, Inc. (or another laboratory agreed upon by Plaintiffs and the potentially liable
10 Settling Defendant (i.e., either Aramark or PVH)) conducts testing showing that a reasonably
11 representative sample comprised of at least 10 samples of a specific garment style exceeds the
12 Testing Standard, Aramark or PVH shall offer to replace that garment free of charge. Aramark
13 and/or PVH shall make this offer to American Airlines Group Carriers' flight attendants residing or
14 working in California who received between May 1, 2020, and three years from the Entry Date, a
15 garment bearing the same style number as the garment that was the subject of testing. Aramark and
16 PVH are each responsible solely for their own compliance with this paragraph, except that they are
17 jointly and severally liable for any noncompliance where they are both in the supply chain for a
18 particular garment.

19 This injunctive relief provision does not encompass incidental purchases made by American
20 Airlines Group Carriers' flight attendants outside of American Airlines Group Carriers' official
21 uniform program(s). This injunctive relief provision is only intended to apply to purchases made by
22 American Airlines Group Carriers' flight attendants of garments that are specifically set out by
23 item number or description in written agreements between PVH or Aramark and American Airlines
24 Group Carriers, or items that PVH and Aramark distribute to fulfill any such written agreement
25 between PVH or Aramark and American Airlines Group Carriers, for their official flight attendant
26 uniform program(s) and is not intended to apply to any other garment purchases.

27
28 ¹ Available on September 18, 2020, at <https://oehha.ca.gov/proposition-65/proposition-65-list>.

1 3.2. **American:** From the Entry Date and continuing for a period of three years after the
2 Entry Date, uniform garments procured by American that are to be worn or purchased by flight
3 attendants working at any of the American Airlines Group Carriers will comply with the OEKO-
4 TEX 100 standard in effect at the time the garment is manufactured.

5 **4. MONETARY PAYMENTS**

6 4.1. *Civil Penalties pursuant to Health & Safety Code, section 25249.7, subdivision (b).*
7 PVH agrees and shall pay \$15,000.00 as a civil penalty, \$11,250.00 of which shall be paid directly
8 to the California Office of Environmental Health Hazard Assessment ("OEHHA") in accord with
9 California Health & Safety Code section 25249.12, subdivisions (c)(1) and (d), and \$3,750 of which
10 shall be paid to Plaintiffs--\$562.50 to Maresa Bache and the remainder to AFA-CWA.

11 4.2. *Additional Settlement Payment pursuant to Health & Safety Code, section 25249.7,*
12 *subdivision (b).* PVH shall remit an Additional Settlement Payment ("ASP") in lieu of civil penalty
13 in the amount of \$10,500 to Plaintiff AFA-CWA pursuant to Health & Safety Code, section
14 25249.7, subdivision (b) and California Code of Regulations, tit. 11, section 3204. AFA-CWA
15 intends to use ASP funds to educate its membership about uniform safety, and to cover the cost of
16 testing of garments for health and safety concerns, including to determine compliance with the
17 Testing Standard. AFA-CWA shall obtain and maintain adequate records to document that ASPs
18 are spent on these activities and AFA-CWA agrees to provide such documentation to the Attorney
19 General within 30 days of any request from the Attorney General.

20 4.3. *Attorneys' Fees & Costs.*

21 4.3.1. PVH shall pay AFA-CWA \$156,500.00 as a reimbursement for a portion of
22 Plaintiffs' reasonable attorneys' fees and costs.

23 4.3.2. American shall pay AFA-CWA \$35,000.00 as a reimbursement for a portion
24 of Plaintiffs' reasonable attorneys' fees and costs.

25 4.4. Aramark shall have no liability for the monetary terms of this agreement unless PVH
26 fails to timely pay any amount it owes under this agreement. Upon that occurrence, and only upon
27 that occurrence, Aramark agrees to pay Plaintiffs the balance owing from PVH.

1 **5. PAYMENT PROCEDURES**

2 5.1. Each payment due under the terms of this Consent Judgment shall be made within 15
3 business days of the Entry Date.

4 5.1.1. All payments to AFA-CWA shall be made out to "Association of Flight
5 Attendants-CWA" and shall be delivered by ACH wire transfer or by mail or
6 delivery to the following payment address:

7 Association of Flight Attendants-CWA
8 Attn: Kevin Creighan
9 International Secretary Treasurer
10 501 3rd St. NW
Washington, DC 20001

11 5.1.2. All payments to Maresa Bache shall be made out to "Maresa Bache" and
12 shall be delivered by ACH wire transfer or by mail or delivery to an address
13 which shall be provided upon request after the Entry Date.

14 5.1.3. All payment to OEHHHA (EIN: 68-0284486) shall be delivered directly to
15 OEHHHA (Memo line "Prop 65 Penalties") at the following address:

16 OEHHHA
17 Attn: Proposition 65 Penalties
18 P.O. Box 4010
Sacramento, CA 95814

19 5.2. *Proof of Payment to OEHHHA.* A copy of each check payable to OEHHHA shall be
20 mailed, simultaneous with payment, to Greenfire Law, PC at the address set forth above, as proof of
21 payment to OEHHHA.

22 5.3. *Tax Documentation.* Setting Defendants shall issue a separate 1099 form for each
23 payment required by this Consent Judgment to: (a) Plaintiffs, whose address (in the case of Ms.
24 Bache) and tax identification number shall be furnished upon request after this Consent Judgment
25 has been fully executed by the Parties; (b) OEHHHA, who shall be identified as "California Office of
26 Environmental Health Hazard Assessment" (EIN: 68-0284486), to be delivered directly to OEHHHA.

27 **6. ENFORCEMENT OF CONSENT JUDGMENT**

28 6.1. Any party to this Consent Judgment may, by motion or application for an order to

1 parts thereof, or any distributors or suppliers who sold the Garments or any component parts thereof
2 to the Settling Defendants. Nothing in this Consent Judgment shall be read to provide a release of
3 liability of any kind whatsoever to the remaining defendant in this case, Twin Hill Acquisition
4 Company, Inc., or any party owing an obligation to indemnify Twin Hill Acquisition Company, Inc.
5 Parties agree that this release shall not extend to any claims other than Proposition 65 claims and
6 specifically does not extend to any claims by AFA-CWA or airline employees, past, present, or
7 future, regarding uniforms in any way whatsoever other than Proposition 65 liability for the
8 Garments.

9 7.3. Each of the Settling Defendants, on behalf of itself, its past and current agents,
10 representatives, attorneys, successors, and assignees, hereby waives any and all claims against
11 Plaintiffs and their attorneys and other representatives, for any and all actions taken or statements
12 made (or those that could have been taken or made) by Plaintiffs and their attorneys and other
13 representatives, in the course of investigating the claims in this case or otherwise seeking to enforce
14 Proposition 65 against it in this matter with respect to the Garments.

15 **8. COURT APPROVAL**

16 This Consent Judgment is not effective until it is approved and entered by the Court and
17 shall be null and void if, for any reason, it is not approved and entered by the Court within one year
18 after it has been fully executed by all Parties. If the Court does not approve the Consent Judgment,
19 the Parties shall meet and confer about whether to modify the language or appeal the ruling. If the
20 Parties do not jointly agree on a course of action to take, then the case shall proceed in its normal
21 course on the Court's trial calendar. If the Court's approval is ultimately overturned by an appellate
22 court, the Parties shall meet and confer about whether to modify the terms of this Consent
23 Judgment. If the Parties do not jointly agree on a course of action to take, then the case shall
24 proceed in its normal course on the Court's trial calendar. In the event that this Consent Judgment is
25 entered by the Court and subsequently overturned by any appellate court, any monies that have been
26 provided to OEHHHA, Plaintiffs, or Plaintiffs' counsel shall be refunded within fifteen days of the
27 appellate decision becoming final. If the Court does not approve and enter the Consent Judgment
28 within one year of the date on which Plaintiffs' move for approval of the Consent Judgment, any

monies that have been provided to OEHHA or held in trust for Plaintiffs or their counsel pursuant to the terms of this Consent Judgment, shall be refunded to the Settling Defendants within fifteen days of Plaintiffs' receipt of a joint demand for repayment from all Settling Defendants.

9. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and sent by: (i) personal delivery, (ii) first-class registered or certified mail, return receipt requested; or (iii) overnight courier to a party by another party at the following addresses:

To Aramark:

Edward Friedler, Esq.
Vice President & Associate General Counsel
Aramark
115 North First Street
Burbank, CA 91502

To PVH:

Mark Fischer, Esq.
Executive Vice President, General Counsel and
Secretary
PVH Corp.
200 Madison Avenue
New York, NY 10016

To American:

Mark W. Robertson
O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036

To Plaintiffs:

Rachel S. Doughty
Greenfire Law, PC
2550 Ninth Street, Suite 204B
Berkeley, CA 94710

Ed Gilmartin, Esq.
Association of Flight Attendants-CWA
501 3rd Street, NW
Washington, DC 20001

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

10. COUNTERPARTS, FACSIMILE AND PDF SIGNATURES

This Consent Judgment may be executed in counterparts and by facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. A facsimile or pdf signature shall be as valid as the original.

1 **11. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)**

2 Plaintiffs and their attorneys agree to comply with the reporting form requirements
3 referenced in California Health & Safety Code section 25249.7, subdivision (f).

4 **12. POST EXECUTION ACTIVITIES**

5 Plaintiffs and the Settling Defendants agree to support the entry of this agreement as a
6 Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner.
7 The Parties acknowledge that, pursuant to California Health & Safety Code, section 25249.7, a
8 noticed motion is required to obtain judicial approval of this Consent Judgment, which Plaintiffs
9 shall draft and file at their own expense. If any third-party objection to the noticed motion is filed,
10 Plaintiffs and the Settling Defendants shall work together to file a reply and appear at any hearing
11 before the Court. This provision is a material component of the Consent Judgment and shall be
12 treated as such in the event of a breach.

13 **13. MODIFICATION**

14 This Consent Judgment may be modified only: (1) by written agreement of the Parties and
15 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
16 of any party and entry of a modified Consent Judgment by the Court.

17 **14. AUTHORIZATION**

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

21 **AGREED TO:**

22
23 Dated: 11/23/2020

ARAMARK UNIFORM & CAREER APPAREL GROUP,
INC.

24
25 By: 

26 Edward Friedler
27 Vice President & Associate General Counsel
28

1 Dated: 11/23/2020

ARAMARK UNIFORM & CAREER APPAREL, LLC

2 By: 

3 Edward Friedler
4 Vice President & Associate General Counsel

5 Dated: _____

AMERICAN AIRLINES, INC.

6 By: _____

7
8
9 Dated: 11/12/2020

ASSOCIATION OF FLIGHT ATTENDANTS-
10 COMMUNICATIONS WORKERS OF AMERICA

11 By: 

12 Ed Gilmartin
13 General Counsel

14 Dated: _____

MARESA BACHE

15 By: _____

16 November 24, 2020

17 Dated: _____

PVH CORP.

18 By: 

19 Mark Fischer, Esq.
20 Executive Vice President, General Counsel, Secretary

21
22 IT IS SO ORDERED:

23 Dated: _____

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25 _____
26 JUDGE OF THE SUPERIOR COURT
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Dated: 11/23/2020

ARAMARK UNIFORM & CAREER APPAREL, LLC

By: 

Edward Friedler
Vice President & Associate General Counsel

Dated: 11/25/20

AMERICAN AIRLINES, INC.

By: 

LORETTA D. GULA
DEPUTY GENERAL COUNSEL

Dated: 11/12/2020

ASSOCIATION OF FLIGHT ATTENDANTS-
COMMUNICATIONS WORKERS OF AMERICA

By: 

Ed Gilmartin
General Counsel

Dated: 11/23/2020

MARESA BACHE

By: 

Dated: _____

PVH CORP.

By: _____

Mark Fischer, Esq.
Executive Vice President, General Counsel, Secretary

IT IS SO ORDERED:

Dated: 1/7/2021


JUDGE OF THE SUPERIOR COURT