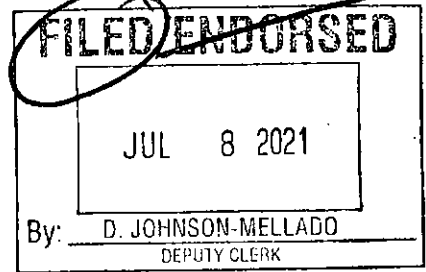


1 Richard Morin (SBN 285275)  
2 Bryce Fick (SBN 322951)  
3 Law Office of Rick Morin, PC  
4 555 Capitol Mall Suite 750  
5 Sacramento, CA 95814-4508  
6 Phone: (916) 333-2222  
7 Email: legal@rickmorin.net



8 Attorneys for Plaintiff

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SACRAMENTO**

11 Kimberly Ann Harrison,

Case No. 34-2020-00278063

12 Plaintiff,

13 v.

14 Amazon.com, Inc., 8697132 Canada  
15 Corporation, and Does 1-20,

16 Defendants.

17  
18 **[PROPOSED] JUDGMENT PURSUANT**  
19 **TO TERMS OF PROPOSITION 65**  
20 **SETTLEMENT AND CONSENT**  
21 **JUDGMENT**

LAW OFFICE OF  
RICK MORIN



1 In the above-entitled action, Plaintiff Kimberly Ann Harrison and Defendant 8697132 Canada  
2 Corporation, having agreed 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 order  
4 approving this Proposition 65 settlement and Consent Judgment on 7/7, 2021:

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

10 **IT IS SO ORDERED.**

11 Dated: JUL - 8 2021

12   
13 Judge **SHAMA H. MESIWALA**  
14 Sacramento Superior Court

# ***Exhibit A***

1 Richard Morin (SBN 285275)  
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8 Attorneys for Plaintiff

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SACRAMENTO**

11 Kimberly Ann Harrison,

12 Plaintiff,

13 v.

14 Amazon.com, Inc., 8697132 Canada  
15 Corporation, and Does 1-20,

16 Defendants.

Case No. 34-2020-00278063

**[PROPOSED] CONSENT JUDGMENT**

Date:

Time:

Dept.: 53

Judge:

Reservation No.

17 **1. INTRODUCTION**

18 **1.1 The Parties.** This Consent Judgment is entered into by and between Kimberly Ann Harrison  
19 acting on behalf of the public interest (hereinafter "Plaintiff") and 8697132 Canada Corporation  
20 ("Defendant" or "Defendant 8697132 Canada Corporation") with Plaintiff and Defendant collectively  
21 referred to as the "Parties" and each of them as a "Party." Plaintiff is an individual residing in California  
22 that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing  
23 or eliminating hazardous substances contained in consumer products or, at the very least, help ensure  
24 consumers are aware of the hazardous substances they will be exposed to in the products they are  
25 considering purchasing. Defendant is alleged to be a person in the course of doing business for purposes  
26 of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

1           **1.2 Allegations and Representations.** Plaintiff alleges that Defendant has exposed individuals  
2 to lead from its sales of a brass spinning top without providing a clear and reasonable exposure warning  
3 pursuant to Proposition 65. Lead is listed under Proposition 65 as a chemical known to the State of  
4 California to cause cancer and birth defects or other reproductive harm.

5           **1.3 Notice of Violation/Complaint.** On or about February 19, 2020, Plaintiff served Defendant  
6 and various public enforcement agencies with documents entitled "60-Day Notice of Violation"  
7 pursuant to Health & Safety Code §25249.7(d) ("Notice"), alleging that Defendant violated Proposition  
8 65 for failing to warn consumers and customers that use of the brass spinning top exposes users in  
9 California to lead and for failure to warn that lead is known to cause cancer and birth defects or other  
10 reproductive harm. No public enforcer has brought nor is diligently prosecuting the claims alleged in  
11 the Notice. On May 6, 2020, Plaintiff filed the complaint ("Complaint") in the matter.

12           **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
13 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that  
14 venue is proper in the County of Sacramento, and that this Court has jurisdiction to approve, enter, and  
15 oversee the enforcement of this Consent Judgment as a full and final binding resolution of all claims  
16 which were or could have been raised in the Complaint based on the facts alleged therein and/or in the  
17 Notice.

18           **1.5** Defendant denies the material allegations contained in Plaintiff's Notice and Complaint and  
19 maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be construed  
20 as an admission by any Defendant of any fact finding, issue of law, or violation of law; nor shall  
21 compliance with this Consent Judgment constitute or be construed as an admission by any Defendant  
22 of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by  
23 Defendant. However, this section shall not diminish or otherwise affect the obligations, responsibilities,  
24 and duties of Defendant under this Consent Judgment

25           **1.6** Defendant alleges that it began providing a written warning to California consumers on  
26 August 24, 2020. This change in Defendant's conduct was caused by this action, including the action  
27 providing the catalyst for this change.

1     **2.     DEFINITIONS**

2                 **2.1 Covered Products.** The term “Covered Products” means the brass spinning tops that  
3 defendant 8697132 Canada Corporation or Amazon.com, Inc. sold, distributed and/or offered for sale  
4 in California.

5                 **2.2 Effective Date.** The term “Effective Date” means the date this Consent Judgment is  
6 entered as a Judgment of the Court.

7     **3.     INJUNCTIVE RELIEF: WARNINGS**

8                 **3.1 Clear and Reasonable Warning.** As of the date this Consent Judgment is signed by both  
9 Parties, and continuing thereafter, a clear and reasonable exposure warning as set forth in this  
10 agreement must be provided for all Covered Products that Defendant distributes, sells or offers for sale  
11 in California. There shall be no obligation for Defendant to provide a warning for Covered Products  
12 that enter the stream of commerce prior to the date this Consent Judgment is signed by both Parties.  
13 The warning shall consist of either the Warning or Alternative Warning described in §§ 3.1(a) or (b),  
14 respectively:

15                 **(a) Warning.** The “Warning” shall consist of the statement:

16                 **WARNING:** This product can expose you to chemicals including lead, which is known to the  
17 State of California to cause cancer and birth defects or other reproductive harm. For more information  
18 go to <https://www.p65warnings.ca.gov/>.

19                 **(b) Alternative Warning:** Defendant may, but is not required to, use the alternative short- form  
20 warning as set forth in this § 3.1(b) (“Alternative Warning”) as follows:

21                 **WARNING:** Cancer and Reproductive Harm - <https://www.p65warnings.ca.gov/>

22                 **3.2** A Warning or Alternative Warning provided pursuant to § 3.1 must print the word  
23 “WARNING” in all capital letters and in bold font, followed by a colon. The warning symbol to the  
24 left of the word “WARNING” must be a black exclamation point in a yellow equilateral triangle with  
25 a black outline, except that if the sign or label for the Covered Product does not use the color yellow,  
26 the symbol may be in black and white. The symbol must be in a size no smaller than the height of the  
27 word “WARNING”. The warning shall be affixed to or printed on the Covered Product’s packaging or  
28

1 labeling, or on a placard, shelf tag, sign or electronic device or automatic process. The warning is to be  
2 displayed with such conspicuousness, as compared with other words, statements, or designs as to render  
3 it likely to be read and understood by an ordinary individual under customary conditions of purchase  
4 or use. A warning may be contained in the same section of the packaging, labeling, or instruction  
5 booklet that states other safety warnings, if any, concerning the use of the Covered Product and shall  
6 be at least the same size as those other safety warnings

7 If Defendant sells Covered Products via an internet website to customers located in California,  
8 the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a)  
9 on the same web page on which a Covered Product is displayed and/or described; (b) on the same page  
10 as the price for the Covered Product; or (c) on one or more web pages displayed to a purchaser prior to  
11 purchase during the checkout process. Alternatively, a symbol consisting of a black exclamation point  
12 in a yellow or white equilateral triangle may appear adjacent to or immediately following the display,  
13 description, price, or checkout listing of the Covered Product, if the warning statement appears  
14 elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the  
15 warning applies. If Defendant sells through any third-party website, it will notify the third-party of the  
16 presence of lead in its product and the need for a warning by whatever means the third-party accepts  
17 communications or notices of such information.

18 **3.3 Compliance with Warning Regulations.** Defendant shall be deemed to be in  
19 compliance with this Consent Judgment by either adhering to §§ 3.1 and 3.2 of this Consent Judgment  
20 or by complying with warning regulations adopted by the State of California's Office of Environmental  
21 Health Hazard Assessment ("OEHHA"), or by the federal Government or California State Government.

22 **4. MONETARY TERMS**

23 **4.1 Civil Penalty.** Defendant 8697132 Canada Corporation shall pay \$5,000.00 as a Civil  
24 Penalty pursuant to Health and Safety Code section 25249.7(b), to be apportioned in accordance with  
25 California Health & Safety Code§ 25192, with 75% of these funds remitted to OEHHA and the  
26 remaining 25% of the Civil Penalty remitted to Plaintiff, as provided by California Health & Safety  
27 Code§ 25249. 12(d).

1           4.1.1 Within ten (10) days of the Effective Date, Defendant 8697132 Canada Corporation shall  
2 issue two separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$3,750.00;  
3 and to (b) "Law Office of Rick Morin, PC Trust" in the amount of \$1,250.00. Payment owed to Plaintiff  
4 pursuant to this Section shall be delivered to the following payment address:

5           Law Office of Rick Morin, PC

6           555 Capitol Mall, Suite 750

7           Sacramento, CA 95814

8           Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered  
9 directly to OEHHA (Memo Line "Prop 65 Penalties") at one of the following address(es):

10          For United States Postal Service Delivery:

11          Mike Gyurics

12          Fiscal Operations Branch Chief

13          Office of Environmental Health Hazard Assessment

14          P.O. Box 4010

15          Sacramento, CA 95812-4010

16          For Non-United States Postal Service Delivery:

17          Mike Gyurics

18          Fiscal Operations Branch Chief

19          Office of Environmental Health Hazard Assessment

20          1001 I Street

21          Sacramento, CA 95814

22          A copy of the check payable to OEHHA shall be mailed to the Law Office of Rick Morin, PC  
23 at the address set forth above as proof of payment to OEHHA.

24          **4.2 Attorneys' Fees.** Within ten (10) days of the Effective Date, Defendant 8697132 Canada  
25 Corporation shall pay \$9,000.00 to the Law Office of Rick Morin, PC as complete reimbursement for  
26 Plaintiff's attorney's fees and costs incurred as a result of investigation, bringing this matter to  
27



1 Defendant's attention, litigating and negotiating, and obtaining judicial approval of a settlement in the  
2 public interest, pursuant to Code of Civil Procedure § 1021.5.

3 **5. RELEASE OF ALL CLAIMS**

4 5.1 This Consent Judgment is a full, final, and binding resolution between Plaintiff acting on  
5 her own behalf, and on behalf of the public interest, and Defendant, and its parents, shareholders,  
6 members, directors, officers, managers, employees, representatives, agents, attorneys, divisions,  
7 subdivisions, subsidiaries, partners, sister companies, and affiliates, and their predecessors, successors  
8 and assigns ("Defendant Releasees"), and all entities from whom they obtain and to whom they directly  
9 or indirectly distribute or sell Covered Products, including but not limited to manufacturers, suppliers,  
10 distributors, wholesalers, customers, licensors, licensees retailers, franchisees, and cooperative  
11 members, Amazon.com, Inc., and its parents, shareholders, members, directors, officers, managers,  
12 employees, representatives, agents, attorneys, divisions, subdivisions, subsidiaries, partners, sister  
13 companies, and affiliates, and their predecessors, successors and assigns, and all entities from whom  
14 ("Releasees"), of all claims for violations of Proposition 65 based on exposure to lead from Covered  
15 Products as set forth in the Notice, with respect to any Covered Products distributed, or sold by 8697132  
16 Canada Corporation prior to the Effective Date. Compliance with the terms of this Consent Judgment  
17 constitutes compliance with Proposition 65 with regard to the Covered Products.

18 5.2 In addition to the foregoing, Plaintiff, 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 action and  
21 releases Defendant and Releasees from any and all manner of actions, causes of action, claims,  
22 demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages,  
23 charges, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in  
24 law or equity, fixed or contingent, now or in the future, with respect to any alleged violations of  
25 Proposition 65 related to or arising from Covered Products distributed or sold by 8697132 Canada  
26 Corporation or Releasees. With respect to the foregoing waivers and releases in this paragraph, Plaintiff  
27  
28

1 hereby specifically waives any and all rights and benefits which she now has, or in the future may have.  
2 conferred by virtue of the provisions of § 1542 of the California Civil Code, which provides as follows:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR  
4 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT  
5 THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER,  
6 WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR  
7 OR RELEASED PARTY.

8 5.3 Defendant waives any and all claims against Plaintiff, her attorneys and other  
9 representatives, for any and all actions taken or statements made (or those that could have been taken  
10 or made) by Plaintiff and her attorneys and other representatives, whether in the course of investigating  
11 claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect  
12 to Covered Products.

13 **6. INTEGRATION**

14 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and any and  
15 all prior negotiations and understandings related hereto shall be deemed to have been merged within it.  
16 No representations or terms of agreement other than those contained herein exist or have been made  
17 by any Party with respect to the other Party or the subject matter hereof.

18 **7. GOVERNING LAW**

19 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of California  
20 and apply within the State of California. In the event that Proposition 65 *is* repealed or is otherwise  
21 rendered inapplicable by reason of law generally, or as to Covered Products, then Defendant shall have  
22 no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, Covered  
23 Products are so affected.

24 **8. NOTICES**

25 8.1 Unless specified herein, all correspondence and notices required to be provided pursuant to  
26 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first- class, (registered  
27 or certified mail) return receipt requested; (ii) overnight courier on any party by the other party; or (iii)

1 express international shipping with tracking, which may include United States Postal Service Priority  
2 Mail Express International or Global Express Guaranteed, or another carrier that provides reliable  
3 comparable service with guaranteed shipping of 1-5 business days to the following addresses:

4 For Defendant:

5 Ruben Lopez

6 8697132 Canada Corporation

7 260 Carlaw Ave. Unit 203

8 Toronto, ON, M4M3L1

9 and

10 For Plaintiff:

11 Richard Morin

12 Law Office of Rick Morin, PC

13 555 Capitol Mall, Suite 750

14 Sacramento, CA 95814

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

17 **9. COUNTERPARTS; FACSIMILE OR ELECTRONIC SIGNATURES**

18 9.1 This Consent Judgment may be executed in counterparts and by facsimile or electronic  
19 transmission/delivery, each of which shall be deemed an original, and all of which, when taken  
20 together, shall constitute one and the same document.

21 **10. COMPLIANCE WITH HEALTH & SAFETY CODE §. 25249.7(f)**

22 10.1. Plaintiff agrees to comply with the requirements set forth in California Health & Safety  
23 Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment. Defendant  
24 agree it shall support approval of such Motion.

25 10.2 This Consent Judgment shall not be effective until it is approved and entered by the Court  
26 and shall be null and void if, for any reason, it is not approved by the Court. In such case, the Parties  
27  
28

1 agree to meet and confer on how to proceed and if such agreement is not reached within 30 days, the  
2 case shall proceed on its normal course.

3 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an appellate  
4 court, the Parties shall meet and confer as to whether to modify the terms of this Consent Judgment. If  
5 the Parties do not jointly agree on a course of action to take, the case shall proceed on its normal course  
6 on the trial court's calendar.

7 **11. MODIFICATION**

8 11.1 This Consent Judgment may be modified only by further stipulation of the Parties and  
9 the approval of the Court or upon the granting of a motion brought to the Court by either Party.

10 **12. ATTORNEY'S FEES**

11 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent  
12 Judgment shall be required to, pay the prevailing party's reasonable attorney's fees and costs.

13 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions pursuant  
14 to law.

15 **13. RETENTION OF JURISDICTION**

16 13.1 This Court shall retain jurisdiction over the parties to enforce the settlement until  
17 performance in full of the terms of the settlement.

18 **14. AUTHORIZATION**

19 14.1 The undersigned are authorized to execute this Consent Judgment on behalf of the  
20 respective Parties and have read, understood and agree to all of the terms and conditions of the  
21 document and certify that he or she is fully authorized by the Party he or she represents to execute the  
22 Consent Judgment on behalf of the Party represented and legally bind that Party. Except a explicitly  
23 provided herein, each Party is to bear its own fees and costs.

24 //

25 //

26 //

27 //

1  
2 AGREED TO:

3 Date: Jun 16, 2021

4  
5 By: Kim Harrison

6 Kimberly Ann Harrison

AGREED TO:

Date: Jun 9, 2021

By: Ruben Gonzalez Lopez

Title: Director

8697132 Canada Corporation

RECEIVED  
LAW AND MOTION DROP BOX

2021 JUN 24 PM 12:34

GDSSC COURTHOUSE  
SUPERIOR COURT  
OF CALIFORNIA  
SACRAMENTO COUNTY