

1 Caspar Jivalagian, Esq., State Bar No.: 282818  
2 Vache Thomassian, Esq., State Bar No.: 289053  
3 **KJT LAW GROUP, LLP**  
4 230 N. Maryland Avenue, Suite 306  
5 Glendale, California 91206  
6 Telephone: 818-507-8525  
7 Facsimile: 818-507-8588

8 Attorneys for Plaintiff,  
9 **BERJ PARSEGHIAN**

10 David M. Metres, Esq., State Bar No.: 273081  
11 **BARG COFFIN LEWIS & TRAPP, LLP**  
12 600 Montgomery Street, Suite 525  
13 San Francisco, CA 94111  
14 Telephone: 1-415-228-5488  
15 Facsimile: 1-415-228-5450

16 Attorney for Defendant  
17 **ALLI & ROSE, LLC**

**FILED**  
Superior Court of California  
County of Los Angeles  
**09/15/2021**

Sherri R. Carter, Executive Officer / Clerk of Court  
By: A. Cisneros Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF LOS ANGELES**

18 **BERJ PARSEGHIAN**, in the public interest,  
19  
20 Plaintiff,

21 v.

22 **ALLI & ROSE, LLC**, and DOES 1 through 100,  
23 inclusive,  
24 Defendant.

Case No.: 21STCV09245

Dept. 16  
Hon. Lia Martin

**JUDGMENT ON PROPOSITION 65  
SETTLEMENT**

In the above-entitled action, Plaintiff Berj Parseghian and Defendant Alli & Rose LLC, having agreed that a judgment be entered pursuant to the terms of the Stipulated Consent Judgment entered into by the parties in resolution of this Proposition 65 action, and following the issuance of an order approving the Parties' Stipulation to Judgment on this day, **IT IS HEREBY ORDERED, ADJUGED AND DECREED** that pursuant to Code of Civil Procedure § 664.6, judgment is hereby entered in accordance with the terms of the Stipulated Consent Judgment attached hereto as Exhibit A. By stipulation of the parties, the Court will retain jurisdiction to enforce the settlement under Code of Civil Procedure § 664.6.

**IT IS SO ORDERED.**

Date: 07/01/2021



**Lia Martin**

Honorable Lia Martin  
Judge of the Superior Court  
Lia Martin / Judge

# **EXHIBIT A**

Caspar Jivalagian, Esq., State Bar No.: 282818  
Vache Thomassian, Esq., State Bar No.: 289053  
KJT LAW GROUP, LLP  
230 N. Maryland Avenue, Suite 306  
Glendale, California 91206  
Telephone: 1-818-507-8525  
Facsimile: 1-818-507-8588

Attorneys for Plaintiff  
BERJ PARSEGHIAN

David M. Metres, Esq., State Bar No.: 273081  
BARG COFFIN LEWIS & TRAPP, LLP  
600 Montgomery Street, Suite 525  
San Francisco, CA 94111  
Telephone: 1-415-228-5488  
Facsimile: 1-415-228-5450

Attorney for Defendant  
ALLI & ROSE, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

BERJ PARSEGHIAN, in the public interest,

Plaintiff,

v.

ALLI & ROSE, LLC,

Defendant.

Case No. 21STCV09245

**[PROPOSED] STIPULATED CONSENT  
JUDGMENT AS TO ALLI & ROSE, LLC**

(Health & Safety Code § 25249.6 *et. seq.* and  
Code Civ. Proc. § 664.6)

## 1. INTRODUCTION

### 1.1 The Parties

This [Proposed] Stipulated Consent Judgment is hereby entered into by and between BERJ PARSEGHIAN, acting on behalf of the public interest (hereinafter “Parseghian”) and ALLI & ROSE, LLC (hereinafter “Alli & Rose”) or “Defendant.” Collectively, Parseghian and Alli & Rose shall be referred to hereafter as the “Parties” and each of them as a “Party.” Parseghian is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

### 1.2 Allegations and Representations

Parseghian alleges that Defendant has offered for sale in the State of California and has sold in California, shitake mushrooms, which contain cadmium, and that such sales have not been accompanied by Proposition 65 warnings. Cadmium is listed under Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

### 1.3 Covered Products Description

The products that are covered by this Consent Judgment are Shiitake Mushrooms, which include “The Snak Yard – Shiitake Mushroom”; UPC #: 8 10019 60000 5. All such items shall be referred to herein as the “Covered Products.”

### 1.4 Notices of Violation/Complaint

1.4.1 On or about October 2, 2020, Parseghian served Alli & Rose and various public enforcement agencies with a document entitled “60-Day Notice of Violation pursuant to Health & Safety Code § 25249.7(d)” (the “Notice”), alleging that Alli & Rose was in violation of Proposition 65 for failing to warn consumers and customers that the Covered Products exposed users in California to cadmium. No public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service time relative to the provision of the Notice to them by Parseghian.

1.4.2 On March 9, 2021, Parseghian, acting in the interest of the general public in the State of California, filed a complaint in the Superior Court of Los Angeles alleging violations of

1 Health & Safety Code § 25249.6 (the “Complaint”) based on the alleged failure to warn of  
2 exposures to cadmium contained in Covered Products manufactured, distributed, or sold by  
3 Defendant.

#### 4 **1.5 Stipulation as to Jurisdiction/No Admission**

5 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
6 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter,  
7 that is proper in the County of Los Angeles, and that this Court has jurisdiction to approve, enter,  
8 and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all  
9 claims which were or could have been raised in the Complaint based on the facts alleged therein  
10 and/or in the Notice.

11 Nothing in this Consent Judgment shall be construed as an admission by Defendant of any  
12 fact, finding, issue of law, or violation of law; nor shall compliance with this Consent Judgment  
13 constitute or be construed as an admission by Defendant of any fact, finding, conclusion, issue of  
14 law, or violation of law, such being specifically denied by Defendant. Nothing in this Consent  
15 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties  
16 may have in any other pending or future legal proceedings. This Consent Judgment is the product  
17 of negotiation and compromise and is accepted by the Parties solely for purposes of settling,  
18 compromising, and resolving issues disputed in this action. However, this section shall not  
19 diminish or otherwise affect the obligations, responsibilities, and duties of Defendant under this  
20 Consent Judgment.

#### 21 **1.6 Effective Date**

22 For purposes of this Consent Judgment, the term “Effective Date” shall mean the date this  
23 Consent Judgment is entered as a judgment of the Court. All Covered Products already  
24 purchased, manufactured, distributed, shipped or sold on or before the “Effective Date” or within  
25 60 days thereafter are deemed to be covered by the waiver and release provisions of Paragraph  
26 5.1 of this Consent Judgment and shall not be subject to any future enforcement action by  
27 Parseghian hereunder. The reformulation and warning requirements of Paragraphs 2.1 and 2.2  
28 shall only apply to Covered Products manufactured later than 60 days after the Effective Date.

1 For purposes of this Consent Judgment, the term "Execution Date" shall mean the date  
2 this Consent Judgment is signed by all parties in Clause 14 below.

3 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

4 Commencing Sixty (60) days after the Effective Date, Defendant shall not ship, sell, or  
5 offer to sell in California a Covered Product(s) that is/are manufactured, distributed, or sold by  
6 Defendant for which the serving size suggested on the label results in an intake of more than 4.1  
7 micrograms of cadmium per day unless the label of the Covered Product contains a Proposition  
8 65-compliant warning as set forth in Section 2.3. Sixty (60) days after the Effective Date in  
9 California, Covered Products manufactured, distributed, or sold by Defendant shall either be (a)  
10 reformulated pursuant to Section 2.1 or (b) include a warning as provided in Section 2.3.

11 **2.1 Reformulation Option.** The Covered Products shall be deemed to comply with  
12 Proposition 65 with regard to cadmium and be exempt from any Proposition 65 warning  
13 requirements for cadmium if the product exposes a person to a "Daily Cadmium Exposure Level"  
14 equal to or less than 4.1 micrograms of cadmium per day.

15 For purposes of this Consent Judgment, the "Daily Cadmium Exposure Level" shall be  
16 measured in micrograms, and shall be calculated using the following formula: micrograms of  
17 cadmium per gram of product, multiplied by grams of product per serving of the product (using  
18 the largest serving size appearing on the product label), multiplied by servings of the product per  
19 day (using the largest number of recommended daily servings appearing on the label), which  
20 equals micrograms of cadmium exposure per day. If the label contains no recommended daily  
21 servings, then the number of recommended daily servings shall be one.

22 **2.2 Warning Alternative.** Commencing 60 days after the Effective Date, Covered  
23 Products that Defendant ships, sells, or offers for sale in California that do not meet the warning  
24 exemption standard set forth in Section 2.1 above shall be accompanied by a warning as  
25 described in Section 2.3 below. The warning requirements set forth in paragraph 2.3 below, apply  
26 only to Covered Products Defendant manufactures, distributes, markets, sells or ships for  
27 distribution 60 days after the Effective Date for sale or use inside the State of California.

28 **2.3 Warnings.** Where required under Section 2.2 above, Defendant shall provide one

of the following of the Proposition 65 warnings:

**WARNING: Consuming this product can expose you to chemicals including cadmium, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).**

**OR**

**WARNING: [Cancer and] Reproductive Harm - [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).**

**2.4** Where utilized as an alternative to meeting the reformulation criteria set forth in Section 2.1, Defendant shall provide the warning language set forth in Section 2.3:

(a) With the unit package of the Covered Products or affixed to the Covered Products. Such warning shall be prominently affixed to or printed on each Covered Product's label or package. If printed on the label, the warning shall be contained in the same section that states other safety warnings, if any, concerning the use of the Covered Product; Defendant may continue to utilize, on an ongoing basis, unit packaging containing substantively the same Proposition 65 warnings as those set forth in Section 2.3 above, but only to the extent such packaging materials have already been printed within sixty days of the Effective Date.

**2.5** The requirements for warnings, set forth in Section 2.3 above are imposed pursuant to the terms of this Consent Judgment. If subsequently enacted changes to Proposition 65 or its implementing regulations require the use of additional or different information on any warning, the Parties agree that the new safe harbor warning may be utilized in place of the warnings set forth in this Section.

### **3. PAYMENTS PURSUANT TO HEALTH & SAFETY CODE §25249.7fb)**

With regard to all claims that have been raised or which could be raised with respect to failure to warn pursuant to Proposition 65 with regard to cadmium in the Covered Products, Defendant shall pay a civil penalty of \$7,500.00 pursuant to Health and Safety Code section 25249.7(b), to be apportioned in accordance with California Health & Safety Code § 25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of the penalty remitted to Parseghian, as provided by



1 California Health & Safety Code § 25249.12(d) and the instructions directly below.

2 Defendant shall issue two separate checks for the penalty payment (a) one check made  
3 payable to "OEHHA" (tax identification number: 68-0284486) in an amount representing 75% of  
4 the total penalty (i.e., \$5,625.00 and (b) one check in an amount representing 25% of the total  
5 penalty (i.e., \$1,875.00 made payable directly to Parseghian. Defendant shall mail these  
6 payments within thirty (30) business days following the Effective Date, to the following  
7 addresses respectively:

8 For United States Postal Delivery:

9 Mike Gyurics

10 Senior Accounting Officer -- MS 19-B

11 Office of Environmental Health Hazard Assessment

P.O. Box 4010

12 Sacramento, CA. 95812-0410

13 For Non-United States Postal Service Delivery:

14 Mike Gyurics

15 Fiscal Operations Branch Chief

16 Office of Environmental Health Hazard Assessment

17 1001 I Street

18 Sacramento, CA 95814

19 Berj Parseghian

20 c/o Tro Krikorian

21 KJT LAW GROUP, LLP

22 230 N. Maryland Ave. Suite 306

23 Glendale, CA 91206

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

25 The parties reached an accord on the compensation due to Parseghian and his counsel  
26 under the private attorney general doctrine and principles of contract law. Under these legal  
27 principles, Defendant shall reimburse Parseghian's counsel for fees and costs, incurred as a result  
28 of investigating, bringing this matter to Defendant attention, and negotiating a settlement in the  
public interest. Defendant shall pay Parseghian's counsel \$60,000.00 for all attorneys' fees,  
expert and investigation fees and related costs associated with this matter and the Notice.  
Defendant shall mail a check payable to "KJT Law Group," via certified mail to the address for  
Parseghian's counsel referenced above within thirty (30) business days following the Effective

1 Date. Other than the payment required hereunder, each side is to bear its own attorneys' fees and  
2 costs.

3 **5. RELEASE OF ALL CLAIMS**

4 **5.1 Parseghian's Release of Defendant Releasees, and Downstream Releasees**

5 As to those matters raised in the Complaint and in the Notice of Violation, Parseghian, on  
6 behalf of himself, and on behalf of the public interest, hereby waives and releases any and all  
7 claims against Defendant, its parent companies, corporate affiliates, subsidiaries, predecessors,  
8 successors and assigns (collectively "Releasees") and each of its distributors, wholesalers,  
9 licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners, purchasers,  
10 users, including Costco Wholesale Corporation (collectively "Downstream Releasees"), and their  
11 respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and  
12 sister and parent entities for injunctive relief or damages, penalties, fines, sanctions, mitigation,  
13 fees (including fees of attorneys, experts, and others), costs, expenses, or any other sum incurred  
14 or claimed, for the alleged failure of Defendant, Releasees or Downstream Releasees to provide  
15 clear, accurate and reasonable warnings under Proposition 65 about exposure to cadmium arising  
16 from the sale, distribution, or use of any Covered Products sold, manufactured or distributed by  
17 Defendant, Releasees or Downstream Releasees in California prior to Sixty (60) days after the  
18 Effective Date. Compliance with the Consent Judgment by Defendant or a Releasee shall  
19 constitute compliance with Proposition 65 by that Defendant, Releasee, or Downstream Releasee  
20 with respect to the presence of cadmium in the Covered Products. Plaintiff agrees that any and all  
21 claims in the Complaint are resolved with prejudice by this Consent Judgment.

22 In addition to the foregoing, Parseghian, on behalf of himself, his past and current agents,  
23 representatives, attorneys, and successors and/or assignees, and not in his representative capacity,  
24 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal  
25 action and releases any other Claims (that he could make against Defendant, Releasees or  
26 Downstream Releasees arising up to Sixty (60) days after the Effective Date with respect to  
27 violations of Proposition 65 based upon the Covered Products. With respect to the foregoing  
28 waivers and releases in this paragraph, Parseghian hereby specifically waives any and all rights

1 and benefits which he now has, or in the future may have, conferred by virtue of the provisions of  
2 Section 1542 of the California Civil Code, which provides as follows:

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

## 8 **5.2 Defendant's Release of Parseghian**

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

## 14 **6. SEVERABILITY AND MERGER**

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

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

## 22 **7. GOVERNING LAW**

23 The terms of this Consent Judgment shall be governed by the laws of the State of  
24 California and apply within the State of California. Compliance with the terms of this Consent  
25 Judgment resolves any issue, now or in the future, as to the requirements of Proposition 65 with  
26 respect to alleged exposures to cadmium arising from the Covered Products. In the event that  
27 Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as  
28 to the Covered Products, the Defendant shall provide written notice to Parseghian of any asserted

change in the law, and shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, Covered Products are so affected.

**8. NOTICES**

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

For ALLI & ROSE, LLC.:

David M. Metres  
Barg Coffin Lewis & Trapp, LLP  
600 Montgomery St., Suite 525  
San Francisco, CA 94111  
Phone: (415) 228-5488

For BERJ PARSEGHIAN:

Tro Krikorian  
KJT LAW GROUP, LLP  
230 N. Maryland Ave. Suite 306  
Glendale, CA 91206  
Phone: 818-507-8528

Any 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.

**9. COUNTERPARTS: EMAIL OR FACSIMILE SIGNATURES**

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

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

Parseghian agrees to comply with the requirements set forth in California Health & Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment and Defendants shall support approval of such Motion. This Consent Judgment shall not be effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not,

1 approved and entered by the Court within twelve months after it has been fully executed by the  
2 Parties.

3 **11. MODIFICATION**

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

6 **12. ATTORNEYS' FEES**

7 12.1 A party who unsuccessfully brings or contests an action arising out of this Consent  
8 Judgment shall be required to pay the prevailing party's reasonable attorneys' fees and costs  
9 unless the unsuccessful party has acted with substantial justification. For purposes of this Consent  
10 Judgment, the term substantial justification shall carry the same meaning as used in the Civil  
11 Discovery Act of 1986, Code of Civil Procedure Section 2016, et seq.

12 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions  
13 pursuant to law.

14 **13. RETENTION OF JURISDICTION**

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

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 document and certifies that he or she is fully authorized by the Party he or she represents to  
21 execute the Consent Judgment on behalf of the Party represented and legally bind that Party.  
22 Except as explicitly provided herein each Party is to bear its own fees and costs.

23 //

24 //

25 //

26 //

27 //

28

IT IS HEREBY SO STIPULATED:

AGREED TO:

6/8/2021

Date:

By:

DocuSigned by:  
BERJ PARSEGHIAN  
BERJ PARSEGHIAN

AGREED TO:

Date:

5/28/2021

By:

ALLI & ROSE, LLC

APPROVED AS TO FORM:

Dated: May 29, 2021

BARG COFFIN LEWIS & TRAPP, LLP

By:

David M. Metres

Attorneys for Defendant Alli & Rose, LLC

APPROVED AS TO FORM:

Dated: 6/8/2021

KJT LAW GROUP, LLP

By:

DocuSigned by:  
Tro Krikorian  
D911CF9328F0472...

Attorneys for Plaintiff Berj Parseghian

IT IS SO ORDERED, ADJUDGED, AND DECREED:

Dated:

By:

Judge of the Superior Court