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FILED
Superior Court of California
County of Alameda

04/21/2022

Clerk of the Court, Executive Officer / Clerk of the Court

By: *A. Tumorong* Deputy
A. Tumorong

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

12 ANTHONY FERREIRO,

13 Plaintiff,

14 v.

15 BEST BUY CO., INC.,

16 Defendant.

Case No.: RG21088250

CONSENT JUDGMENT

Judge: Richard Seabolt

Dept.: 521

Hearing Date: March 9, 2022

Hearing Time: 2:30 P.M.

Reservation #: 603442460502

1 **1. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Anthony
3 Ferreiro acting on behalf of the public interest (hereinafter “Ferreiro”) and Best Buy Stores, L.P.,
4 the entity that operates the Best Buy retail stores (“Best Buy” or “Defendant”) which entity the
5 complaint is deemed amended to be added as a Doe defendant instead and in place of Best Buy
6 Co., Inc., and Best Buy Co., Inc. is dismissed with prejudice from this action, with Ferreiro and
7 Defendant collectively referred to as the “Parties” and each of them as a “Party.” Ferreiro is an
8 individual residing in California that seeks to promote awareness of exposures to toxic chemicals
9 and improve human health by reducing or eliminating hazardous substances contained in consumer
10 products. Best Buy is alleged to be a person in the course of doing business for purposes of
11 Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

12 **1.2 Allegations and Representations.** Ferreiro alleges that Defendant has exposed
13 individuals to Bisphenol A (BPA) from its sales of Sahara Crystal Series Cases for Samsung A20,
14 SB-CL-S-GNA20-CL, that are manufactured by or distributed by Sahara Case, LLC and sold
15 and/or offered for sale in California by Best Buy, without providing a clear and reasonable exposure
16 warning pursuant to Proposition 65. BPA is listed under Proposition 65 as a chemical known to the
17 State of California to cause reproductive toxicity.

18 **1.3 Notice of Violation/Complaint.** On or about October 22, 2020, Ferreiro served Best
19 Buy Co., Inc., Sahara Case, LLC, and various public enforcement agencies with documents entitled
20 “60-Day Notice of Violation” pursuant to Health & Safety Code §25249.7(d) (the “Notice”),
21 alleging that Best Buy violated Proposition 65 for failing to warn consumers and customers that
22 use of the Covered Products expose users in California to BPA. No public enforcer has brought and
23 is diligently prosecuting the claims alleged in the Notice. January 22, 2021, Ferreiro filed a
24 complaint (the “Complaint”) in the matter.

25 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has
26 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that
27 venue is proper in the County of Alameda, and that this Court has jurisdiction to approve, enter,
28

1 and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all
2 claims which were or could have been raised in the Complaint based on the facts alleged therein
3 and/or in the Notice.

4 1.5 Defendant denies the material allegations contained in Ferreiro's Notice and
5 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment
6 shall be construed as an admission by Defendant of any fact, finding, issue of law, or violation of
7 law; nor shall compliance with this Consent Judgment constitute or be construed as an admission
8 by Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being
9 specifically denied by Defendant. However, this section shall not diminish or otherwise affect the
10 obligations, responsibilities, and duties of Defendant under this Consent Judgment.

11 **2. DEFINITIONS**

12 2.1 **Covered Products.** The term "Covered Products" means Sahara Crystal Series
13 Cases for Samsung A20, SB-CL-S-GNA20-CL, that are manufactured by or distributed by Sahara
14 Case, LLC and sold and/or offered for sale in California by Best Buy, that expose users to BPA.

15 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
16 entered as a Judgment of the Court.

17 **3. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS**

18 3.1 **Reformulation of Products.** As of the date this Consent Judgment is signed by both
19 Parties, and continuing thereafter, Covered Products that Best Buy directly manufactures, imports,
20 distributes, sells, or offers for sale in California shall either: (a) be Reformulated Products pursuant
21 to § 3.2, below; or (b) be labeled with a clear and reasonable exposure warning pursuant to §§ 3.3
22 and 3.4, below. For purposes of this Consent Judgment, a "Reformulated Product" is a Covered
23 Product that is in compliance with the standard set forth in § 3.2 below. The warning requirement
24 set forth in §§ 3.3 and 3.4 shall not apply to any Reformulated Product.

25 3.2 **Reformulation Standard.** "Reformulated Products" shall mean any Covered
26 Products intended for retail sale in California that do not expose consumers to BPA on any
27
28

1 accessible component in excess of 3 micrograms per day of dermal exposure to BPA from solid
2 materials.

3 **3.3 Clear and Reasonable Warning.** As of the Effective Date, Best Buy agrees to
4 manufacture, import, or purchase for sale in California only Covered Products that are accompanied
5 by either of the following warnings:

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

7 ⚠ **WARNING:** This product can expose you to chemicals including Bisphenol A
8 (BPA), which is known to the State of California to cause [cancer and] birth defects
9 or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

10 (b) **Alternative Warning:** Best Buy may, but is not required to, use the alternative
11 short-form warning as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

12 ⚠ **WARNING:** Reproductive Harm - www.P65Warnings.ca.gov.

13 The bracketed text may, but is not required to be used. Best Buy and its downstream retailers
14 shall have no obligation to label Covered Products that entered the stream of commerce prior to the
15 Effective Date.

16 **3.4 A Warning or Alternative Warning** provided pursuant to § 3.3 must print the word
17 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to
18 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral
19 triangle with a black outline, except that if the sign or label for the Covered Product does not use
20 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
21 than the height of the word “**WARNING:**”. The warning shall be affixed to or printed on the
22 Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or electronic device or
23 automatic process, providing that the warning is displayed with such conspicuousness, as compared
24 with other words, statements, or designs as to render it likely to be read and understood by an
25 ordinary individual under customary conditions of purchase or use. A warning may be contained
26 in the same section of the packaging, labeling, or instruction booklet that states other safety
27 warnings, if any, concerning the use of the Covered Product and shall be at least the same size as
28 those other safety warnings.

If Best Buy sells Covered Products via an internet website to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Covered Product is displayed and/or described; (b) on the same page as the price for the Covered Product; or (c) on one or more web pages displayed to a purchaser prior to purchase during the checkout process. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Covered Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

3.5 Compliance with Warning Regulations. Defendant shall be deemed to be in compliance with this Consent Judgment by (1) adhering to §§ 3.3 and 3.4 of this Consent Judgment; and (2) complying with warning requirements adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") after the Effective Date.

4. MONETARY TERMS

4.1 Civil Penalty. Best Buy shall cause to be paid \$1,000.00 as a Civil Penalty 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 OEHHA and the remaining 25% of the Civil Penalty remitted to Ferreiro, as provided by California Health & Safety Code § 25249.12(d).

4.1.1 Within ten (10) days of the Effective Date, Best Buy shall cause to be issued two separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$750.00; and to (b) "Brodsky Smith in Trust for Ferreiro" in the amount of \$250.00. Payment owed to Ferreiro pursuant to this Section shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

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

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth above as proof of payment to OEHHA.

4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Best Buy shall cause to be paid \$16,500.00 to Brodsky Smith ("Brodsky Smith") as complete reimbursement for Ferreiro's attorneys' fees and costs incurred as a result of investigating, bringing this matter to Best Buy attention, litigating and negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code of Civil Procedure § 1021.5.

5. RELEASE OF ALL CLAIMS

5.1 This Consent Judgment is a full, final, and binding resolution between Ferreiro acting on his own behalf, and on behalf of the public interest, and Best Buy, and its parents, shareholders, members, directors, officers, managers, employees, representatives, agents, attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their predecessors, successors and assigns ("Defendant Releasees"), and all entities from whom they obtain and to whom they directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees retailers, franchisees, and cooperative members ("Downstream Releasees"), of all claims for violations of Proposition 65 based on exposure to BPA from Covered Products as set forth in the Notice, with respect to any Covered Products manufactured, distributed, or sold by Best Buy prior to the Effective Date. It is the Parties' intention that this Consent Judgment shall have preclusive

1 effect such that no other actions by private enforcers, whether purporting to act in his, her, or its
2 interests or the public interest shall be permitted to pursue and/or take any action with respect to
3 any violation of Proposition 65 that was alleged in the Complaint, or that could have been brought
4 pursuant to the Notice against Best Buy and/or the Downstream Releasees of the Covered Products
5 (“Proposition 65 Claims”). Compliance with the terms of this Consent Judgment constitutes
6 compliance with Proposition 65 with regard to the Covered Products.

7 5.2 In addition to the foregoing, Ferreiro, on behalf of himself, his past and current
8 agents, representatives, attorneys, and successors and/or assignees, and not in his representative
9 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
10 legal action and releases Best Buy, Defendant Releasees, and Downstream Releasees from any and
11 all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts,
12 agreements, promises, liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees, of
13 any nature whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the
14 future, with respect to any alleged violations of Proposition 65 related to or arising from Covered
15 Products manufactured, distributed, or sold by Best Buy, Defendant Releasees or Downstream
16 Releasees. With respect to the foregoing waivers and releases in this paragraph, Ferreiro hereby
17 specifically waives any and all rights and benefits which he now has, or in the future may have,
18 conferred by virtue of the provisions of § 1542 of the California Civil Code, which provides as
19 follows:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
21 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
22 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
23 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
24 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
25 DEBTOR OR RELEASED PARTY.

26 5.3 Best Buy waives any and all claims against Ferreiro, his attorneys and other
27 representatives, for any and all actions taken or statements made (or those that could have been
28 taken or made) by Ferreiro and his attorneys and other representatives, whether in the course of
investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
and/or with respect to Covered Products.

1 **6. INTEGRATION**

2 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
3 any and all prior negotiations and understandings related hereto shall be deemed to have been
4 merged within it. No representations or terms of agreement other than those contained herein exist
5 or have been made by any Party with respect to the other Party or the subject matter hereof.

6 **7. GOVERNING LAW**

7 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of
8 California and apply within the State of California. In the event that Proposition 65 is repealed or
9 is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then
10 Defendant shall have no further obligations pursuant to this Consent Judgment with respect to, and
11 to the extent that, Covered Products are so affected.

12 **8. NOTICES**

13 8.1 Unless specified herein, all correspondence and notices required to be provided
14 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
15 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
16 by the other party at the following addresses:

17 For Defendant:

18 Michael A. Geibelson
19 Robins Kaplan LLP
20 2049 Century Park East, Suite 3400
 Los Angeles, CA 90067

21 And

22 For Ferreiro:

23 Evan J. Smith, Esquire
24 Brodsky Smith
 Two Bala Plaza, Suite 805
25 Bala Cynwyd, PA 19004

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

1 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

2 9.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
3 which shall be deemed an original, and all of which, when taken together, shall constitute one and
4 the same document.

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

7 10.1 Ferreiro agrees to comply with the requirements set forth in California Health &
8 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
9 Defendant agrees it shall support approval of such Motion.

10 10.2 This Consent Judgment shall not be effective until it is approved and entered by the
11 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
12 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
13 days, the case shall proceed on its normal course.

14 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an
15 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
16 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
17 its normal course on the trial court's calendar.

18 **11. MODIFICATION**

19 11.1 This Consent Judgment may be modified only by further stipulation of the Parties
20 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

21 **12. ATTORNEY'S FEES**

22 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
23 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

24 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
25 pursuant to law.

13. RETENTION OF JURISDICTION

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

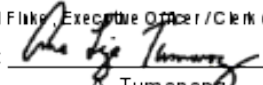
14. AUTHORIZATION

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

AGREED TO:**AGREED TO:**Date: 1/6/22Date: 11/4/2021 | 1:25 CDTBy: Anthony Ferreiro
ANTHONY FERREIROBy: DocuSigned by:
Ashley Pierson
90F2411C714C4A2
BEST BUY STORES, L.P.**IT IS SO ORDERED, ADJUDGED AND DECREED:**Dated: 10 FEB 2022

Richard E. Seabolt
Judge of Superior Court

Richard Seabolt / Judge

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>	<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>	<p align="center">FILED Superior Court of California County of Alameda 04/22/2022</p>
<p>PLAINTIFF/PETITIONER: Anthony Ferreiro</p>	<p>Chad Finke, Executive Officer / Clerk of the Court By:  Deputy</p>
<p>DEFENDANT/RESPONDENT: Best Buy Co., Inc.</p>	
<p align="center">CERTIFICATE OF MAILING</p>	<p>CASE NUMBER: RG21088250</p>

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Evan J. Smith
Brodsky & Smith, LLC
9595 Wilshire Boulevard
Suite 900
Beverly Hills, CA 90212-

Michael A. Geibelson
Robins Kaplan LLP
2049 Century Park East, Suite 3400
Los Angeles, CA 90067

Chad Finke, Executive Officer / Clerk of the Court

Dated: 04/22/2022

By:



A. Tumonong, Deputy Clerk

CERTIFICATE OF MAILING