



FILED
ALAMEDA COUNTY

OCT 20 2021

CLERK OF THE SUPERIOR COURT
By *[Signature]* Deputy

FAXED

1 Joseph D. Aglio (SBN 167292)
2 JOSEPH D. AGLIOZZO LAW CORPORATION
3 1601 N. Sepulveda Boulevard, #649
4 Manhattan Beach, CA 90266
5 Telephone: (424) 241-3614

6 Attorney for Plaintiff SARA HAMMOND

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF ALAMEDA**

9 SARA HAMMOND, an individual,
10 Plaintiff,

11 v.

12 ORLY SHOE CORP., a New York corporation,
13 Defendant.

Case No.: RG21103455

~~PROPOSED~~ STIPULATED
CONSENT JUDGMENT

JUL 29 2021

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1 **STIPULATED CONSENT JUDGMENT**

2 Plaintiff Sara Hammond (“Plaintiff”), and Defendant Orly Shoe Corp. (“Defendant”) hereby
3 enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

4 WHEREAS, on or about February 1, 2021, Plaintiff served a 60-Day Notice of Violation upon
5 TJX Companies, Inc., Marmaxx Operating Corp., and Marshalls (collectively “TJX”), the California
6 Attorney General, the District Attorneys of every County in the State of California, and the City
7 Attorneys for every City in the State of California with a population greater than 750,000 (collectively,
8 “Public Prosecutors”) alleging that TJX violated California’s Safe Drinking Water and Toxic
9 Enforcement Act of 1986, California Health and Safety Code § 25249.6, *et seq.*, and its implementing
10 regulations (collectively, “Proposition 65”) and that Plaintiff intended to file an enforcement action
11 against TJX in the public interest; and

12 WHEREAS, on or about February 17, 2021, Plaintiff served a Supplemental 60-Day Notice of
13 Violation specifically naming defendant Orly Shoe Corp. as the manufacturer and/or distributor of the
14 product at issue in the above February 1, 2021 60-Day Notice of Violation, alleging that Defendant
15 violated Proposition 65 and that Plaintiff intended to file an enforcement action against Defendant in
16 the public interest; and

17 WHEREAS, Plaintiff alleges that Defendant manufactured, imported, and/or distributed to the
18 TJX PVC reusable carrying cases for face mask kits, including but not limited to, the French
19 Connection travel kit, containing Di(2-ethylhexy)phthalate (“DEHP”) that were sold or distributed for
20 sale in California (collectively the “Covered Products”). A list of the Covered Products is attached as
21 Exhibit A; and

22 WHEREAS, Plaintiff further alleges that persons in the State of California were exposed to
23 DEHP in Covered Products without being provided the Proposition 65 warning set out at California
24 Health and Safety Code § 25249.6 and its implementing regulations (“Proposition 65 Warning”); and

25 WHEREAS, Defendant denies the allegations of the 60-Day Notice of Violation, denies that it
26 has violated Proposition 65, and denies that it has engaged in any wrongdoing whatsoever; and
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1 WHEREAS, Plaintiff seeks to provide the public with Proposition 65 warnings and believes
2 that this objective is achieved by the actions described in this Consent Judgment; and

3 WHEREAS, Plaintiff and Defendant wish to resolve their differences without the delay and
4 expense of litigation.

5 NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN PLAINTIFF
6 ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:

7 **1. Introduction**

8 1.1. On February 1, 2021, Plaintiff served the 60-Day Notice of Violation upon TJX and on
9 Public Prosecutors. No Public Prosecutor commenced an enforcement action.

10 1.2. On February 17, 2021, Plaintiff served the Supplemental 60-Day Notice of Violation
11 upon Defendant and Public Prosecutors, identifying Defendant as the manufacturer and/or distributor
12 of the products at issue in the February 1, 2021 60-Day Notice of Violation. No Public Prosecutor
13 having commenced an enforcement action, Plaintiff proceeded to file her Complaint against Defendant
14 in the present action.

15 1.3. Defendant employs ten (10) or more persons.

16 1.4. For purposes of this Consent Judgment only, Plaintiff and Defendant (the "Parties")
17 stipulate that: 1) this Court has jurisdiction over the allegations of violation contained in the
18 Complaint, and personal jurisdiction over Defendant as to the acts alleged in the Complaint; 2) venue
19 is proper in the County of Alameda; and 3) this Court has jurisdiction to enter this Consent Judgment
20 as a full and final resolution of all claims which were or could have been raised in the Complaint based
21 on the facts alleged therein with respect to the Covered Products, and of all claims which were or
22 could have been raised by any person or entity based on or arising from the facts alleged in the 60-Day
23 Notice of Violation and/or the present action with respect to Covered Products, including any
24 Proposition 65 claim arising out of an exposure to Covered Products (collectively, "Proposition 65
25 Claims").

26 1.5. The Parties enter into this Consent Judgment as a full and final settlement of the
27 Proposition 65 Claims, for the purpose of avoiding prolonged and costly litigation, and resolving the
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1 issues raised therein. By executing and agreeing to the terms of this Consent Judgment, the Parties do
2 not admit any fact, conclusion of law, or violation of law, nor shall Defendant's compliance with the
3 Consent Judgment be construed as an admission by Defendant of any fact, conclusion of law, or
4 violation of law. Defendant denies the material, factual, and legal allegations in the 60-Day Notice of
5 Violation and the Complaint, and denies any wrongdoing whatsoever.

6 **2. Definitions**

7 2.1. "Effective Date" shall mean the date the Consent Judgment has been approved and
8 entered by the Court.

9 **3. Injunctive Relief**

10 3.1. Defendant agrees to cease the manufacture, import, and/or shipment of the Covered
11 Products in the state of California. Shall Defendant continue to manufacture, import, and/or shipment
12 of the Covered Products in the state of California, Defendant agrees to provide a warning as described
13 in Sections 3.2-3.3, below. Compliance with Section 3.1 will constitute compliance by Defendant
14 with all requirements of Proposition 65 relating to DEHP exposure in the Covered Products.

15 3.2. Warning Option

16 Should Defendant elect to provide a warning in lieu of ceasing the manufacture, import, and/or
17 shipment of the Covered Products in the state of California, Covered Products shall be accompanied
18 by a warning as described in Section 3.3, below. No Proposition 65 warning shall be required as to
19 any Covered Products that are already in the stream of commerce as of the Effective Date.

20 3.3. Warning Language

21 Where required to meet the criteria set forth in Section 3.2, Defendant shall provide one of the
22 following warning statements on, within, or affixed to the packaging of the Covered Products in a
23 reasonably conspicuous manner:

24 (1) **⚠WARNING:** This product can expose you to chemicals including DEHP,
25 which is known to the State of California to cause cancer and birth defects or other
26 reproductive harm. For more information go to www.P65Warnings.ca.gov.

27 (2) **⚠WARNING:** Cancer and Reproductive Harm –www.P65Warnings.ca.gov.

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1 **4. Monetary Relief**

2 4.1. Within ten (10) days of the Effective Date, Defendant shall pay the total sum of
3 \$24,500 which includes \$1,000 in civil penalties and \$23,500 in payment of Plaintiff's costs and
4 reasonable attorney's fees. The \$1,000 civil penalty shall be apportioned pursuant to Health and
5 Safety Code section 25249.12 (d), with 75%, or \$750, paid to the State of California's Office of
6 Environmental Health Hazard Assessment and 25%, or \$250, payable to Plaintiff.

7 4.2. The payments specified in Section 4.1 shall be made by check and sent via tracked
8 overnight mail to Plaintiff's counsel Joseph D. Agliozzo, Law Corporation as set forth below.
9 Plaintiff's counsel will remit the portions due to the State of California Office of Environmental
10 Health Hazard Assessment and to Plaintiff.

11 Joseph D. Agliozzo, Law Corporation
12 1601 N. Sepulveda Boulevard, # 649
13 Manhattan Beach, CA 90266

13 **5. Claims Covered and Release**

14 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on
15 behalf of herself, and acting in the public interest, and Defendant, and all of Defendant's parent
16 companies, as well as all of Defendant's officers, directors, members, shareholders, employees,
17 attorneys, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees,
18 and retailers, their parent and all subsidiaries, and affiliates, thereof, their respective employees, agents
19 and assigns, as well as all other upstream and downstream entities in the distribution chain for any of
20 the Covered Products, and the predecessors, successors, and assigns of any of them, including TJX
21 Companies, Inc., Marmaxx Operating Corp., Marshalls, T.J, Maxx of CA, LLC, Ross Stores, Inc.,
22 French Connection Group, Inc., and House of Basics, LLC (collectively, the "Released Parties"), for
23 any alleged violation of Proposition 65, and its implementing regulations, for failure to provide
24 Proposition 65 warnings for the Covered Products with respect to DEHP, and fully resolves all claims
25 that have been brought, or which could have been brought in this action up to and including the
26 Effective Date. Plaintiff on behalf of herself, and in the public interest, hereby discharges the
27 Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities,
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1 damages, penalties, fees, costs and expenses asserted, or that could have been asserted, with respect to
2 any alleged violation of Proposition 65 arising from the failure to provide Proposition 65 warnings
3 about exposures to DEHP for the Covered Products, through and including the Effective Date.

4 5.2. It is possible that other claims not known to the Parties arising out of the facts
5 contained in the 60-Day Notice of Violation or alleged in the Complaint relating to the Covered
6 Products will hereafter be discovered. Plaintiff, on behalf of herself only, on the one hand, and
7 Defendant, on the other hand, acknowledge that this Consent Judgment is expressly intended to cover
8 and include all such claims through and including the Effective Date, including all rights of action
9 thereon. Plaintiff and Defendant acknowledge that the claims released in Sections 5.1 and 5.2 may
10 include unknown claims, and nevertheless intend to release such claims, and in doing so waive
11 California Civil Code § 1542 which reads as follows:

12 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
13 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
14 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
15 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
16 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
17 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

18 5.3. Plaintiff understands and acknowledges that the significance and consequence of this
19 waiver of California Civil Code § 1542 is that even if Plaintiff suffers future damages arising out of,
20 resulting from, or related to the Covered Products, Plaintiff will not be able to make any claim for
21 those damages against any of the Released Parties.

22 5.4. Compliance by Defendant with the terms of this Consent Judgment shall constitute
23 compliance with Proposition 65 with respect to exposure to DEHP in the Covered Products as set forth
24 in the 60-Day Notice of Violation and/or the Complaint.

25 **6. Compliance with Health and Safety Code Section 25249.7(f)**

26 6.1. Plaintiff and its attorneys agree to comply with the reporting form requirements
27 referenced in California Health and Safety Code § 25249.7(f).

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1 **7. Provision of Notice**

2 7.1. When any Party is entitled to receive any notice or writing under this Consent
3 Judgment, the notice or writing shall be sent by first class certified mail with return receipt requested,
4 or by electronic mail, as follows:

5 To Defendant:
6 Carol R. Brophy, Esq.
7 Steptoe & Johnson LLP
8 1 Market Street, Spear Tower, Suite 3900
9 San Francisco, CA 94105
10 cbrophy@steptoe.com

11 To Plaintiff:
12 Joseph D. Aglio, Esq.
13 Joseph D. Aglio, Law Corporation
14 1601 N. Sepulveda Boulevard, # 649
15 Manhattan Beach, CA 90266
16 joe@aglio.com

17 7.2. Any party may modify the person and address to whom the notice is to be sent by
18 sending the other Party notice that is transmitted in the manner set forth in section 7.1.

19 **8. Court Approval**

20 8.1. Upon execution of his Consent Judgment by all Parties, the Parties shall prepare and
21 file a Motion for Approval of this Consent Judgment. This Consent Judgment shall not become
22 effective until approved and entered by the Court. If this Consent Judgment is not entered by the
23 Court, it shall be of no force or effect, and shall not be introduced into evidence or otherwise used in
24 any proceeding for any purpose.

25 **9. Governing Law and Construction**

26 9.1. The terms of this Consent Judgment shall be governed by the laws of the State of
27 California.

28 **10. Entire Agreement**

10.1. This Consent Judgment contains the sole and entire agreement and understanding of the
Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
commitments, or understandings related thereto, if any, are hereby incorporated into this Consent
Judgment.

1 10.2. There are no warranties, representations, or other agreements between the Parties
2 except as expressly set forth herein. No representations, oral or otherwise, express or implied, other
3 than those specifically referred to in this Consent Judgment have been made by the Parties.

4 10.3. No other agreements not specifically contained or referenced herein, oral or otherwise,
5 shall be deemed to exist or to bind any of the Parties. Any agreements specifically contained or
6 referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties only to the
7 extent that they are expressly incorporated herein.

8 10.4. No supplementation, modification, waiver, or termination of this Consent Judgment
9 shall be binding unless executed in writing by the Party to be bound, and approved and ordered by the
10 Court.

11 10.5. No waiver of any of the provisions of this Consent Judgment shall be deemed to
12 constitute a waiver of any of the other provisions of this Consent Judgment whether or not similar,
13 nor shall such waiver constitute a continuing waiver.

14 **11. Retention of Jurisdiction**

15 11.1. This Court shall retain jurisdiction of this matter to implement or modify the Consent
16 Judgment.

17 **12. No Effect on Other Settlements**

18 12.1. Nothing in this Consent Judgment shall preclude Plaintiff from resolving any claim
19 against another entity on terms that are different from those contained in this Consent Judgment.

20 **13. Execution in Counterparts**

21 13.1. This Consent Judgment may be executed in counterparts, each of which shall be
22 deemed to be an original, and all of which, taken together, shall constitute the same document.
23 Execution of the Consent Judgment by e-mail, facsimile, or other electronic means, shall constitute
24 legal and binding execution and delivery. Any photocopy of the executed Consent Judgment shall
25 have the same force and effect as the original.

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1 **14. Authorization**

2 14.1. The undersigned are authorized to stipulate to, enter into, and execute this Consent
3 Judgment on behalf of their respective parties, and have read, understood, and agree to all of the terms
4 and conditions of this Consent Judgment.

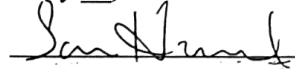
5 **15. Severability**

6 15.1. If subsequent to Court approval of this Consent Judgment, any part or provision is
7 declared by a Court to be invalid, void, or unenforceable, the remaining portions or
8 provisions shall continue in full force and effect.

9 **AGREED TO:**

10 **Sara Hammond**

11 Date: July 9, 2021

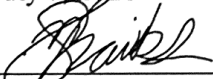
12 By: 

13 Sara Hammond

14 **AGREED TO:**

15 **Orly Shoe Corporation**

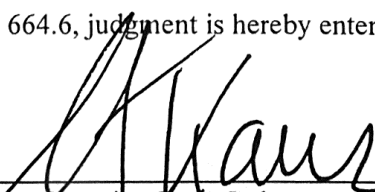
16 Date: July 7, 2021

17 By: 

18 Nabeel Shaikh, COO

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health & Safety
20 Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered.

21
22 Dated: 10-20-2021

23 By: 
24 Hon. Superior Court Judge

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EXHIBIT A

COVERED PRODUCTS

It is the intent of this Consent Judgment to cover all PVC reusable carrying cases for face mask kits that are composed of plastic components.

This Consent Judgment shall cover and release all Covered Products manufactured by Orly Shoe Corp. on or before the Compliance Date, including but not limited to Covered Products that are in third party inventory. If challenged by a private enforcer, a declaration by the Defendant explaining the procedures used to determine the specific product's manufacturing date shall be deemed dispositive.

A non-exhaustive list of the Style and UPC codes are listed below. The list is intended to supplement, not eliminate, the right of Defendant to show that a specific PVC reusable carrying case is a covered product by the more inclusive method, a declaration, set forth in the above paragraph.

Style	UPC Number
HB-SURVIVEKIT	691466213716
HB-SURVIVEKIT-C	691466213815
HB-SURVIVEKIT-D	691466198211
HB-SURVIVEKIT-L	691466213877
HB-SURVIVEKIT-S	691466213914
HB-SURVIVEKIT-U	691466214102
HB-SURVKITADT-D	691466058348
HB-SURVKITADT-D	691466058423
HB-SURVKITADT-D	691466058478
HB-SURVKITADT-D	691466252593
HB-SURVKITADT-D	691466252654
HB-SURVKITKID-D	691466058393
HB-SURVKITKID-D	691466252753
HB-SURVKITKID-D	691466252760
HB-SURVKITKID-D	691466252814
HB-SURVKITKID-D	691466253026

1 PROOF OF SERVICE

2 I am over the age of 18 years, and not a party to the within action; my business address is 1601
3 S. Sepulveda Blvd, #649, Manhattan Beach CA 90266. On July 28, 2021, I served the following
4 documents: [PROPOSED] STIPULATED CONSENT JUDGMENT on the interested
5 parties in this action: Attorneys for Defendant Orly Shoe Corp.:

6
7 Carol R. Brophy
8 cbrophy@steptoe.com
9 STEPTOE & JOHNSON LLP
10 One Market Plaza
11 Spear Tower, Suite 3900
12 San Francisco, California 94105
13 Telephone: (415) 365-6700

Remi T. Salter
rsalter@steptoe.com
STEPTOE & JOHNSON LLP
633 West 5th Street, Suite 1900
Los Angeles, CA 90071
Telephone: (213) 439-9400

14 BY FIRST CLASS MAIL WITH PREPAID POSTAGE:

15 I enclosed the document(s) in a sealed envelope or package addressed to the persons at the
16 addresses listed above and placed the envelope for collection and mailing, following our ordinary
17 business practices. I am readily familiar with the practice of my firm for collecting and
18 processing correspondence for mailing. On the same day that correspondence is placed for
19 collection and mailing, it is deposited in the ordinary course of business with the United States
20 Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in
21 the county where the mailing occurred. The envelope was placed in the mail at Los Angeles,
22 California

23 BY E-MAIL OR ELECTRONIC TRANSMISSION:

24 I caused the document(s) to be sent from e-mail address joe@agliozzo to the person or persons at
25 the e-mail addresses listed above. I did not receive, within a reasonable time after the
26 transmission, any electronic message or other indication that the transmission was unsuccessful.

27 I declare under penalty of perjury under the laws of the State of California that the above
28 is true and correct.

Executed on July 28, 2021 at Manhattan Beach, California

29 
30 _____
31 Joseph D. Agliozzo

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 10/20/2021 Chad Finke, Executive Officer / Clerk of the Court
PLAINTIFF/PETITIONER: Sara Hammond	By: <u><i>Chad Finke</i></u> Deputy
DEFENDANT/RESPONDENT: Orly Shoe CCorp.	A. Mendola
CERTIFICATE OF MAILING	CASE NUMBER: RG21103455

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 Judgment Pursuant to Stipulation 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.

Carol Rene Brophy
 STEPTOE & JOHNSON LLP
 1 Market Street
 Spear Tower, 39th floor
 San Francisco, CA 94105-

Joseph D. Aglio
 Joseph D. Aglio Law Corporation
 1601 N. Sepulveda Boulevard, #649
 Manhattan Beach, CA 90266-

Chad Finke, Executive Officer / Clerk of the Court

Dated: 10/28/2021

By:

Chad Finke, Executive Officer / Clerk of the Court

Chad Finke

A. Mendola, Deputy Clerk

CERTIFICATE OF MAILING