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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
UNLIMITED CIVIL JURISDICTION

KEEP AMERICA SAFE AND BEAUTIFUL)	CASE NO.: 37-2022-00015495-CU-NP-CTL
)	
)	
Plaintiff)	[PROPOSED]
)	JUDGMENT APPROVING
)	PROP 65 STIPULATION AND
AND)	CONSENT JUDGMENT
)	<i>(Cal. Health & Safety Code § 25249.6 et seq.)</i>
PRO SPORTS INC. D/B/A CHAMPION)	
SPORTS,)	
)	
AND)	Date:
)	
DOES 1-25 INCLUSIVE)	Time:
)	Dept. C-65
)	Judge: Hon. Robert Longstreth
Defendants.)	Action Filed: April 26, 2022
)	

1 In the above entitled action, Plaintiff, Keep America Safe and Beautiful and
2 Defendants Pro Sports Inc. D/B/A Champion Sports., having agreed through their respective
3 counsel that judgment be entered pursuant to the terms of the Proposition 65 settlement
4 agreement in the form of a [Proposed] Consent Judgment entered into by the parties, and
5 following issuance of an order approving this Proposition 65 settlement agreement and entering
6 this Consent Judgment on May 27, 2022.

7 The terms of the consent judgment are as follows:
8

9 INTRODUCTION

10 **The Parties.** This Consent Judgment is entered into by and between Plaintiff
11 Keep America Safe and Beautiful (“KASAB”) acting on behalf of the public interest, and
12 Defendants Pro Sports Inc. d/b/a Champion Sports (“Defendant” or “Champion Sports”) with
13 KASAB, Champion Sports referred to as the “Parties” and each of them as a “Party.” KASAB
14 is a California resident seeking to promote awareness of exposures to toxic chemicals and
15 improve human health by reducing or eliminating hazardous substances produced by consumer
16 products. Champion Sports is a person in the course of doing business for purposes of
17 Proposition 65, Cal. Health & Safety Code §§ 25249.6 *et seq.*

18 **Allegations and Representations.** KASAB alleges that Defendants have offered
19 for sale in the State of California and has sold in California, the “Champion Sports Closed Reel
20 Measuring Tape” that when used as intended exposes consumers/users to DEHP (Di-[2-
21 Ethylhexyl] Phthalate) and that such sales have not been accompanied by Proposition 65
22 warnings. DEHP (Di-[2-Ethylhexyl] Phthalate) is listed under Proposition 65 as a chemical
23 known to the State of California to cause cancer and reproductive harm respectively.

24 **Notices of Violation/Complaint.** On or about May 21, 2021 KASAB served
25 Champion Sports, Champion Sports, Amazon.com, Inc, Amazon.com Services, Inc and various
26 public enforcement agencies with a document entitled "60-Day Notice of Violation" pursuant to
27 Health & Safety Code §25249.7(d) (the "Notice"), alleging that Champion Sports ,
28 Amazon.com, Inc, and Amazon.com Services, Inc were in violation of Proposition 65 for failing

1 to warn consumers and customers that the Champion Sports Closed Reel Measuring Tape
2 exposed users in California to DEHP (Di-[2-Ethylhexyl] Phthalate). No public enforcer
3 diligently prosecuted the claims threatened in the Notices within sixty days plus service time
4 relative to the provision of the Notice to them by KASAB.

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

11 Defendants deny the material allegations contained in KASAB’s Notice and
12 Complaint and maintain that they have not violated Proposition 65. Nothing in this Consent
13 Judgment shall be construed as an admission by Defendants of any fact, finding, issue of law, or
14 violation of law; nor shall compliance with this Consent Judgment constitute or be construed as
15 an admission by Defendants of any fact, finding, conclusion, issue of law, or violation of law,
16 such being specifically denied by Defendants. However, this section shall not diminish or
17 otherwise effect the obligations, responsibilities, and duties of Defendants under this Consent
18 Judgment.

19 **DEFINITIONS**

20 **Complaint.** The term “Complaint” shall have the meaning given in Section 1.3.

21 **Covered Product.** The term “Covered Product” means “Champion Sports Closed
22 Reel Measuring Tape” having the model numbers and UPC codes identified below, designed,
23 manufactured, sold, distributed or otherwise made available by or for Defendants.

- 24
- 25 F50: 710858003800
- 26 F100: 710858003763
- 27 F165: 710858003770
- 28 F200: 710858003787

1 F250: 710858003794

2
3 R100: 710858007570

4 R165: 710858007587

5 R200: 710858007594

6 R250: 710858007600

7 R300: 710858007617

8 R330: 710858007624

9 R400: 710858007631

10
11 **2.3 Effective Date.** The term “Effective Date” shall mean the date this Consent
12 Judgment is entered as a Judgment of the Court.

13 **Listed Chemicals:** The term “Listed Chemicals” shall mean DEHP (Di-[2-
14 Ethylhexyl] Phthalate).

15 **Notice.** The term “Notice” shall have the meaning given in Section 1.3.

16 **Releasees.** The terms “Defendant Releasees” and “Downstream Defendant
17 Releasees” shall have the meanings given in Section 5.1.

18 **Execution Date.** The term “Execution Date” shall mean the date this Consent
19 Judgment is signed by the parties

20 **INJUNCTIVE RELIEF: WARNINGS**

21 Commencing on the Effective Date, Defendants shall not sell, offer for sale, or
22 ship for sale into California any Covered Product, unless the Covered Product is accompanied
23 by the following on-product warning or other warning authorized under Prop 65:



25 **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.
26 **Or**



28 **WARNING:** The use of this product can expose you to DEHP (Di-[2-
Ethylhexyl] Phthalate), which is a chemical known to the State of California to cause cancer and

1 birth defects or other reproductive harm. For more information go to
2 www.P65Warnings.ca.gov.

3
4 The warning provided pursuant to Section 3.1 shall be affixed to or printed on the
5 Covered Product's packaging or labeling. The warning shall be prominently affixed to or
6 printed on the packaging or labeling, and displayed with such conspicuousness, as compared
7 with other words, statements, or designs as to render it likely to be read and understood by an
8 ordinary individual under customary conditions of purchase or use. A warning may be
9 contained in the same section of the packaging or labeling that states other safety warnings, if
10 any, concerning the use of the product and shall be at least the same size as those other safety
11 warnings, but no less than 6 point font.

12 **MONETARY TERMS**

13 **Penalty.** Defendants shall pay a civil penalty of \$100.00 pursuant to Health and
14 Safety Code section 25249.7(b), to be apportioned in accordance with California Health &
15 Safety Code § 25192, with 75% of these funds remitted to the State of California's Office of
16 Environmental Health Hazard Assessment and the remaining 25% of the penalty remitted to
17 KASAB, as provided by California Health & Safety Code § 25249.12(d). Such payment shall
18 be made to KASAB's Counsel within 20 days of the Effective Date. KASAB's Counsel shall
19 provide Defendants' counsel with a copy of the check it sends to OEHHA within 20 days of
20 receiving the penalty funds from Defendants.

21 **Attorney's Fees.** Defendants agrees to pay reasonable attorney fees, inclusive of
22 all expenses and costs incurred as a result of investigating, bringing this matter to Defendant's
23 attention, litigating and negotiating and obtaining judicial approval of a settlement in the public
24 interest, pursuant to Code of Civil Procedure section 1021.5, in an amount of \$15,400.00
25 Defendants shall transmit via bank wire the total sum of \$15,500 representing the civil penalty
26 and attorney fees within 20 days of the Effective Date to KASAB's Counsel.

27 **RELEASE OF ALL CLAIMS**

1 This consent judgment is a full, final, and binding resolution between KASAB
2 acting in the public interest, and Defendant, its owners, investors employees, directors, officers,
3 managers, attorneys, parents, shareholders, divisions, subdivisions, subsidiaries, partners,
4 licensors, sister companies, and affiliates, and their successors and assigns (“Defendant
5 Releasees”), and all entities from whom they obtain and to whom they directly or indirectly
6 distribute or sell Covered Products, including but not limited to manufacturers, suppliers,
7 distributors, wholesalers, customers, licensors, licensees, retailers, franchisees, and cooperative
8 members, and their successors and assigns (“Downstream Defendant Releasees”).

9 Upon full execution and approval by the Court of this Consent Judgment, KASAB,
10 on behalf of herself, her agents, successors, heirs, assigns, and in the public interest, hereby
11 fully and irrevocably releases and discharges Defendants, the Defendant Releasees, and the
12 Downstream Defendant Releasees from all claims for violations of Proposition 65 that were, or
13 which could have been, asserted in the Complaint based on exposure to and/or failure to warn
14 about Listed Chemicals, including DEHP (Di-[2-Ethylhexyl] Phthalate), from Covered Products,
15 including Champion Sports Closed Reel Measuring Tape”, as set forth in the Notice, with
16 respect to any Covered Products, including Champion Sports Closed Reel Measuring Tape”,
17 manufactured, distributed, or sold by Defendants, the Defendant Releasees, and/or the
18 Downstream Defendant Releasees in or into California prior to the Effective Date. Compliance
19 with the terms of this Consent Judgment constitutes compliance with Proposition 65 with regard
20 to the Covered Products as set forth in the Notice.

21 In addition to the foregoing, KASAB, on behalf of itself, its past and current agents,
22 representatives, attorneys, and successors and/or assignees, and *not* in its representative capacity,
23 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal
24 action and releases Defendants, Defendant Releasees, and Downstream Defendant Releasees
25 from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations,
26 debts, contracts, agreements, promises, liabilities, damages, charges, losses, costs, expenses, and
27 attorneys’ fees, of any nature whatsoever, known or unknown, in law or equity, fixed or
28 contingent, now or in the future, with respect to any alleged violations of Proposition 65 related

1 to or arising from Covered Products manufactured distributed or sold by Defendants or
2 Defendant Releasees in or into California prior to the effective date. With respect to the
3 foregoing waivers and releases in this paragraph, KASAB hereby specifically waives any and
4 all rights and benefits which she now has, or in the future may have, conferred by virtue of the
5 provisions of Section 1542 of the California Civil Code, which provides as follows:
6

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

12 Defendants waive any and all claims against KASAB, its attorneys and other
13 representatives, for any and all actions taken or statements made (or those that could have been
14 taken or made) by KASAB and her attorneys and other representatives, whether in the course of
15 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
16 and/or with respect to Covered Products.

17 **INTEGRATION**

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

22 **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. In the event that Proposition 65 is repealed
25 or is otherwise rendered inapplicable by reason of law generally, or as to Covered Products,
26 then Defendants shall provide written notice to KASAB of any asserted change in the law, and
27 shall have no further obligations pursuant to this Consent Judgment with respect to, and to the
28 extent that, Covered Products are so affected.

1 **ENFORCEMENT**

2 KASAB may, by motion or application for an order to show cause before the
3 Superior Court of San Diego County, enforce the terms and conditions contained in this
4 Consent Judgment. Prior to bringing any motion or application to enforce the requirements of
5 this Consent Judgment, KASAB shall provide Defendants with a proposed Notice of Violation,
6 and a copy of any documentary evidence which purportedly supports KASAB’s Notice of
7 Violation. The Parties shall then meet and confer in good faith for a period of at least thirty (30)
8 days regarding the basis for KASAB’s anticipated motion or application in an attempt to resolve
9 it informally. Should such attempts at informal resolution fail, KASAB may file her
10 enforcement motion or application. This Consent Judgment may only be enforced by the
11 Parties.

12 **NOTICES**

13 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)
15 first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any
16 party by the other party at the following addresses:

17
18 For Defendant:
19 Scott E. Charney, Esq.
20 Charney IP Law LLC
21 233 Mount Airy Road, Suite 100
22 Basking Ridge, New Jersey 07920

23 And

24 For KASAB:
25 Stephanie Sy, Esq.
26 Law Office of Stephanie Sy
27 11622 El Camino Real, Suite 100
28 San Diego, CA 92130

1
2 Any party, from time to time, may specify in writing to the other party a change of
3 address to which all notices and other communications shall be sent.

4 **COUNTERPARTS; FACSIMILE SIGNATURES**

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

8 **COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
9 **APPROVAL**

10 KASAB agrees to comply with the requirements set forth in California Health &
11 Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent
12 Judgment and Defendants agrees it shall support approval of such Motion.

13 This Consent Judgment shall not be effective until it is approved and entered by
14 the Court and shall be null and void if, for any reason, it is not approved and entered by the
15 Court within eighteen months after it has been fully executed by the Parties. In such a scenario,
16 the Parties agree to meet and confer on how to proceed and if such agreement is not reached
17 within 30-days, any monies that may have been paid pursuant to Section 4 shall be refunded and
18 the case shall proceed on its normal course.

19 If the Court approves this Consent Judgment and is reversed or vacated by an
20 appellate court, the Parties shall meet and confer as to whether to modify the terms of this
21 Consent Judgment. If the Parties do not jointly agree on a course of action to take, any monies
22 that have been paid pursuant to Section 4 shall be refunded within 15 days after remittitur to the
23 trial court, and the case shall proceed on its normal course on the trial court's calendar.

24 **MODIFICATION**

25 This Consent Judgment may be modified only by express written agreement of the
26 Parties and the approval of the Court or upon the granting of a motion brought to the Court by
27 either Party.

1 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
2 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

3 **ATTORNEY'S FEES**

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

9 Except as otherwise provided in this Consent Judgment, each Party shall bear its
10 own attorneys' fees and costs.

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

13 **RETENTION OF JURISDICTION**

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

16 **AUTHORIZATION**

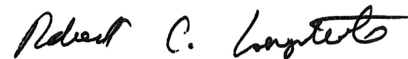
17 The undersigned are authorized to execute this Consent Judgment on behalf of
18 their respective Parties and have read, understood and agree to all of the terms and conditions of
19 this document and certifies that he or she is fully authorized by the Party he or she represents to
20 execute the Consent Judgment on behalf of the Party represented and legally bind that Party.

21 Except as explicitly provided herein each Party is to bear its own fees and costs.

22 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that pursuant to Code of Civil
23 Procedure §664.6, judgment is entered.

24 **IT IS SO ORDERED.**

25 **DATE: 02/02/2024**



26 _____
27 JUDGE OF THE SUPERIOR COURT
28 Robert C. Longstreth