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**FILED**  
Superior Court of California  
County of San Francisco  
MAY 10 2023  
CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 PRECILA BALABBO,

12 Plaintiff,

13 v.

14 THE ARISTER GROUP, INC. dba  
15 DESIGNSTYLES,

16 Defendant.

Case No.: CGC-22-602750

**[PROPOSED] CONSENT  
JUDGMENT**

Judge: Richard B. Ulmer

Dept.: 302

Hearing Date: May 1, 2023

Hearing Time: 9:30 AM

Complaint Filed: November 3, 2022

MAY 3 2023

1           **1. INTRODUCTION**

2  
3           **1.1 The Parties.** This Consent Judgment is entered into by and between Precila Balabbo  
4 acting on behalf of the public interest (hereinafter “Balabbo”) and The Arister Group, Inc. dba  
5 DesignStyles (“DesignStyles” or “Defendant”) with Balabbo and Defendant collectively referred  
6 to as the “Parties” and each of them as a “Party.” Balabbo is an individual residing in California  
7 who seeks to promote awareness of exposures to toxic chemicals and improve human health by  
8 reducing or eliminating hazardous substances contained in consumer products. DesignStyles is  
9 alleged to be a person in the course of doing business for purposes of Proposition 65, Cal. Health  
10 & Safety Code §§ 25249.6 et seq.

11           **1.2 Allegations and Representations.** Balabbo alleges that Defendant has exposed  
12 individuals to di(2-ethylhexyl) phthalate (DEHP) from its sales of certain home décor products  
13 without providing a clear and reasonable exposure warning pursuant to Proposition 65. DEHP is  
14 listed under Proposition 65 as a chemical known to the State of California to cause cancer and  
15 reproductive toxicity.

16           **1.3 Notice of Violation/Complaint.** On November 11, 2021, Balabbo served  
17 DesignStyles, CVB, Inc., HomeGoods, Inc., and various public enforcement agencies with  
18 documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code §25249.7(d)  
19 (the “Notice”), alleging that Defendant violated Proposition 65 for failing to warn consumers and  
20 customers that use of certain home décor products expose users in California to DEHP. No public  
21 enforcer has brought and is diligently prosecuting the claims alleged in the Notice. On November  
22 3, 2022, Balabbo filed a complaint (the “Complaint”) in the matter.

23           **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
24 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that  
25 venue is proper in the County of Alameda, and that this Court has jurisdiction to approve, enter,  
26 and enforce this Consent Judgment as a full and final binding resolution of all claims which were  
27 or could have been raised in the Complaint based on the facts alleged therein and/or in the Notice.

1           1.5 Defendant denies the material allegations contained in Balabbo's Notice and  
2 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment  
3 shall be construed as an admission by Defendant of any fact, finding, issue of law, or violation of  
4 law; nor shall compliance with this Consent Judgment constitute or be construed as an admission  
5 by Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being  
6 specifically denied by Defendant. However, this section shall not diminish or otherwise affect the  
7 obligations, responsibilities, and duties of Defendant under this Consent Judgment.

8 **2. DEFINITIONS**

9           2.1 **Covered Products.** The term "Covered Products" means small storage and  
10 organization products for the home, including Becki Owens magazine holders that are  
11 manufactured, distributed and/or offered for sale in California by DesignStyles.

12           2.2 **Effective Date.** The term "Effective Date" means the date Balabbo serves notice of  
13 entry of this Consent Judgment.

14           2.3 **Compliance Date.** The term "Compliance Date" means one hundred twenty (120)  
15 days after the Effective Date.

16 **3. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**

17           3.1 **Reformulation of Covered Products.** As of the Compliance Date and continuing  
18 thereafter, Covered Products that DesignStyles directly manufactures, imports, distributes, sells, or  
19 offers for sale in California shall either: (a) be Reformulated Products pursuant to § 3.2, below; or  
20 (b) be labeled with a clear and reasonable exposure warning pursuant to §§ 3.3 and 3.4, below.  
21 DesignStyles may rely on its supplier's test results for compliance with this Consent Judgment. The  
22 warning requirement set forth in §§ 3.3 and 3.4 shall not apply to any Reformulated Product.

23           3.2 **Reformulation Standard.** "Reformulated Products" shall mean Covered Products  
24 that contain concentrations less than or equal to 0.1% (1,000 parts per million (ppm)) of DEHP  
25 when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A  
26 and 8270C or other methodology utilized by federal or state government agencies for the purpose  
27 of determining the phthalate content in a solid substance.

1           **3.3 Clear and Reasonable Warning.** As of the Compliance Date and continuing  
2 thereafter, the warnings as set forth in this §§ 3.3 and 3.4 must be provided for any Covered Product  
3 that Defendant manufacturers, imports, distributes, sells, or offers for sale in California that is not  
4 a Reformulated Product. There shall be no obligation for Defendant to provide a warning for  
5 Covered Products that enter the stream of commerce prior to the Compliance Date For purposes of  
6 this Consent Judgment, “enter the stream of commerce” means that the Covered Product is no  
7 longer in the custody of DesignStyles.

8           The warning shall consist of either the **Warning** or **Alternative Warning** described in §§  
9 3.3(a) or (b), respectively:

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

11           ⚠ **WARNING:** This product can expose you to chemicals including di(2-  
12 ethylhexyl) phthalate (DEHP), which is known to the State of California to cause  
13 cancer and birth defects or other reproductive harm. For more information go to  
[www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

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

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

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

3 In addition to affixing the **Warning or Alternative Warning** to the Covered Product's  
4 packaging or labeling, the **Warning or Alternative Warning** shall be posted on websites where  
5 DesignStyles sells Covered Products to consumers in California and the consumer is able to  
6 complete the purchase on the website. The requirements of this Section shall be satisfied if the  
7 **Warning or Alternative Warning**, or a clearly marked hyperlink using the word "**WARNING,**"  
8 appears on the product display page, or by otherwise prominently displaying the warning to the  
9 purchaser prior to completing the purchase. To comply with this Section, DesignStyles shall (a)  
10 post the **Warning or Alternative Warning** on its own website, if the website allows for the  
11 California consumer to complete the purchase on the website, and (b) if it has the ability to do so,  
12 on the websites of its third-party internet sellers where DesignStyles controls the content of the  
13 product display page. If DesignStyles does not have the ability to post the **Warning or Alternative**  
14 **Warning** on the websites of third-party distributors or retail sellers with whom has written  
15 agreements to sell the Covered Products on the internet, DesignStyles shall provide such third-party  
16 distributors or retail sellers with written notice in accordance with Title 27, California Code of  
17 Regulations, Section 25600.2.

18 3.5 **Compliance with Warning Regulations.** Defendant shall be deemed to be in  
19 compliance with this Consent Judgment by either adhering to §§ 3.3 and 3.4 of this Consent  
20 Judgment or by complying with warning requirements adopted by the State of California's Office  
21 of Environmental Health Hazard Assessment ("OEHHA") applicable to the Covered Product and  
22 the exposures at issue after the Effective Date.

23 **4. MONETARY TERMS**

24 4.1 **Civil Penalty.** DesignStyles shall pay \$2,000.00 as a Civil Penalty pursuant to  
25 Health and Safety Code section 25249.7(b), to be apportioned in accordance with California Health  
26 & Safety Code § 25249.12(c)(1) and (d), with 75% of these funds remitted to OEHHA and the  
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1 remaining 25% of the Civil Penalty remitted to Balabbo, as provided by California Health & Safety  
2 Code § 25249.12(d).

3 4.1.1 Within ten (10) business days of the Effective Date, DesignStyles shall  
4 issue two separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of  
5 \$1,500.00; and to (b) "Precila Balabbo" in the amount of \$500.00. Payment owed to Balabbo  
6 pursuant to this Section shall be delivered to the following payment address:

7 Evan J. Smith, Esquire  
8 Brodsky & Smith  
9 Two Bala Plaza, Suite 805  
Bala Cynwyd, PA 19004

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

12 For United States Postal Service Delivery:

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

17 For Non-United States Postal Service Delivery:

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

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

24 4.2 **Attorneys' Fees.** Within ten (10) business days of the Effective Date, DesignStyles  
25 shall pay \$20,000.00 to Brodsky & Smith ("Brodsky & Smith") as complete reimbursement for  
26 Balabbo's attorneys' fees and costs incurred as a result of investigating, bringing this matter to  
27 DesignStyles attention, litigating and negotiating and obtaining judicial approval of a settlement in  
28 the public interest, pursuant to Code of Civil Procedure § 1021.5.

1           **5. RELEASE OF ALL CLAIMS**

2           5.1     This Consent Judgment is a full, final, and binding resolution between Balabbo  
3 acting on her own behalf, and on behalf of the public interest, and DesignStyles, and its parents,  
4 shareholders, members, directors, officers, managers, employees, representatives, agents,  
5 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their  
6 predecessors, successors and assigns (“Defendant Releasees”), and all entities from whom they  
7 obtain and to whom they directly or indirectly distribute or sell Covered Products, including but  
8 not limited to manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees  
9 retailers (including Home Goods, Inc., franchisees, and cooperative members (“Downstream  
10 Releasees”), of all claims for violations of Proposition 65 based on exposure to DEHP from  
11 Covered Products as set forth in the Notice and Complaint, with respect to any Covered Products  
12 manufactured, distributed, or sold by DesignStyles prior to the Compliance Date. It is the Parties’  
13 intention that this Consent Judgment shall have preclusive effect such that no other actions by  
14 private enforcers, whether purporting to act in his, her, or its interests or the public interest shall be  
15 permitted to pursue and/or take any action with respect to any violation of Proposition 65 that was  
16 alleged in the Complaint, or that could have been brought pursuant to the Notice against  
17 DesignStyles, Defendant Releasees and/or the Downstream Releasees of the Covered Products  
18 (“Proposition 65 Claims”). Compliance with the terms of this Consent Judgment constitutes  
19 compliance with Proposition 65 with regard to exposure to DEHP from use of the Covered  
20 Products.

21           5.2     In addition to the foregoing, Balabbo, on behalf of herself, her past and current  
22 agents, representatives, attorneys, and successors and/or assignees, and *not* in her representative  
23 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of  
24 legal action and releases DesignStyles, Defendant Releasees, and Downstream Releasees from any  
25 and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts,  
26 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 contingent,  
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1 now or in the future, with respect to any alleged violations of Proposition 65 related to or arising  
2 from exposure to DEHP from Covered Products manufactured, distributed, or sold by  
3 DesignStyles, Defendant Releasees or Downstream Releasees. With respect to the foregoing  
4 waivers and releases in this paragraph, Balabbo hereby specifically waives any and all rights and  
5 benefits which she now has, or in the future may have, conferred by virtue of the provisions of §  
6 1542 of the California Civil Code, which provides as follows:

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

14 5.3 DesignStyles waives any and all claims against Balabbo, her attorneys and other  
15 representatives, for any and all actions taken or statements made by Balabbo and her attorneys and  
16 other representatives, whether in the course of investigating claims or otherwise seeking  
17 enforcement of Proposition 65 against it in this matter, and/or with respect to exposure to DEHP  
18 from Covered Products.

19 5.4 Balabbo represents and warrants that she is not aware of any other violation or  
20 alleged violation of Proposition 65 by DesignStyles.

## 21 6. INTEGRATION

22 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and  
23 any and all prior negotiations and understandings related hereto shall be deemed to have been  
24 merged within it. No representations or terms of agreement other than those contained herein exist  
25 or have been made by any Party with respect to the other Party or the subject matter hereof.

## 26 7. GOVERNING LAW

27 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of  
28 California and apply within the State of California. In the event that Proposition 65 is repealed or  
is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then  
Defendant shall have no further obligations pursuant to this Consent Judgment with respect to, and  
to the extent that, Covered Products are so affected.



1       **8.     NOTICES**

2           8.1     Unless specified herein, all correspondence and notices required to be provided  
3 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-  
4 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party  
5 by the other party at the following addresses:

6     For Defendant:

7           Peg Carew Toledo  
8           David Barnes  
9           Arnold & Porter Kaye Scholer LLP  
            Three Embarcadero Center, 10th Floor  
            San Francisco, CA 94111-4024

10    For Balabbo:

11           Evan Smith  
12           Brodsky & Smith  
13           9595 Wilshire Blvd., Ste. 900  
            Beverly Hills, CA 90212

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

16       **9.     COUNTERPARTS; FACSIMILE SIGNATURES**

17           9.1     This Consent Judgment may be executed in counterparts and by facsimile, each of  
18 which shall be deemed an original, and all of which, when taken together, shall constitute one and  
19 the same document.

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

21       **APPROVAL**

22           10.1    Balabbo agrees to comply with the requirements set forth in California Health &  
23 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.  
24 Defendant agrees 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  
26 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the  
27 Parties agree to meet and confer on how to proceed and if such agreement is not reached within  
28 thirty (30) days, the case shall proceed on its normal course.

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**11. MODIFICATION**

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

**12. ATTORNEY'S FEES**

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

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

**13. RETENTION OF JURISDICTION**

13.1 This Court shall retain jurisdiction of this matter to implement, modify, and/or enforce 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: 3/15/23  
By: *Precila Balabbo*  
PRECILA BALABBO

Date: 12/27/2022  
By: *Shelby Wall*  
THE CRISTER GROUP, INC. DBA  
DESIGNSTYLES

**IT IS SO ORDERED, ADJUDGED AND DECREED:**

Dated: 5/4/23

*cel*  
Judge of Superior Court  
**RICHARD ULMER**