

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

Rene C. Davidson Courthouse

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| Michael DiPirro<br>Plaintiff/Petitioner(s)<br>VS.<br>United Pacific Industries, Inc.<br>Defendant/Respondent(s) | No. 22CV019163<br>Date: 05/23/2023<br>Time: 4:36 PM<br>Dept: 25<br>Judge: James Reilly<br><br>ORDER re: Nunc Pro Tunc Order |
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The Court's Order issued 05/18/2023 is VACATED.

The Hearing on Motion to Confirm Settlement scheduled for 08/23/2023 is vacated.

**ORDER re: Ruling on Submitted Matter**

The Court, having taken the matter under submission on 05/17/2023, now rules as follows:

**BACKGROUND**

Plaintiff Michael DiPirro alleges that Defendant United Pacific Industries, Inc. sold arm rests and shift boots containing the Proposition 65-listed chemicals Diisononyl Phthalate ("DINP") and di(2-ethylhexyl) phthalate ("DEHP") without first providing the exposure health hazard warnings required by Proposition 65.

On March 15, 2023, Plaintiff filed this motion to approve settlement. Plaintiff submitted the requisite notice to the Office of the California Attorney General, pursuant to Health & Safety Code section 25249.7 (f)(1). (See Bush Affidavit of Compliance.)

On April 19, 2023, Plaintiff submitted a proposed Amended and Restated Consent Judgment to address concerns raised by the Attorney General. (See Amended Bush Declaration.)

**LEGAL STANDARD**

A party suing in the public interest for violations of Proposition 65 must submit a proposed settlement to the court for approval. (Health & Saf. Code § 25249.7(d)(4).) A court may approve a Proposition 65 settlement only if the court makes all of the following findings: “(A) The warning that is required by the settlement complies with this chapter. (B) The award of attorney’s fees is reasonable under California law. (C) The penalty amount is reasonable based on the criteria set forth in [the code].” (Health & Saf. Code, § 25249.7, subd. (f)(4).)

**DISCUSSION**

The Court finds that the required warnings comply with the statute, the award of fees is reasonable under California law, and the penalty amount is reasonable based on the criteria set forth in section 25249.7, subdivision (b)(2).

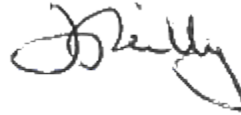
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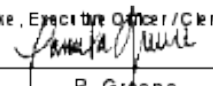
**ORDER**

Plaintiff's motion for order to approve settlement is GRANTED. Counsel is directed to submit the [Proposed] Amended and Restated Consent Judgment that was submitted as an attachment to the Bush Declaration filed on April 19, 2023 for signature.

Dated: 05/23/2023

A handwritten signature in black ink, appearing to read "Reilly", written in a cursive style.

**James Reilly / Judge**

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| <b>SUPERIOR COURT OF CALIFORNIA<br/>COUNTY OF ALAMEDA</b>                                   | Reserved for Clerk's File Stamp   |
| COURTHOUSE ADDRESS:<br>Rene C. Davidson Courthouse<br>1225 Fallon Street, Oakland, CA 94612 | <b>FILED</b><br>Superior Court of California<br>County of Alameda<br>05/23/2023   |
| PLAINTIFF/PETITIONER:<br>Michael DiPirro  | Chad Finke, Executive Officer / Clerk of the Court<br>By:  Deputy<br>P. Greene |
| DEFENDANT/RESPONDENT:<br>United Pacific Industries, Inc.                                    |   |
| <b>CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL<br/>PROCEDURE 1010.6</b>                 | CASE NUMBER:<br>22CV019163  |

I, the below named Executive Officer/Clerk of Court 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 one copy of the Order re: Nunc Pro Tunc Order entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Audrey L. Khoo  
Chang & Cote, LLP  
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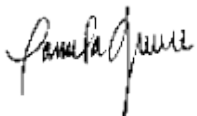
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Dated: 05/23/2023

Chad Finke, Executive Officer / Clerk of the Court

By:

  
P. Greene, Deputy Clerk