

VINEET DUBEY, STATE BAR NO. 243208  
CUSTODIO & DUBEY LLP  
445 S. Figueroa St., Suite 2520  
Los Angeles, CA 90071  
Telephone: (213) 593-9095  
Facsimile: (213) 785-2899

Attorneys for Plaintiff Ecological Alliance, LLC

**FILED**  
Superior Court of California  
County of Los Angeles

**JUL 15 2025**

David W. Slayton, Executive Officer/Clerk of Court

By: G. Vela, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

**(Unlimited Jurisdiction)**

ECOLOGICAL ALLIANCE, LLC, a California  
limited liability company,

**Plaintiff,**

**v.**

MODULAR THERMAL TECHNOLOGIES  
LLC, a corporation,

**Defendant.**

Case No.:25STCV11106

~~PROPOSED~~ **STIPULATED  
CONSENT JUDGMENT**

1  
2 Plaintiff Ecological Alliance, LLC ("Plaintiff"), and Modular Thermal Technologies LLC  
3 ("Defendant") hereby enter into this Stipulated Consent Judgment ("Consent Judgment") as  
4 follows:

5 WHEREAS: On or about December 3, 2024, Plaintiff, through Plaintiff's counsel, served  
6 a 60 Day Notice (the "Notice") on Defendant, the California Attorney General, the District  
7 Attorneys of every County in the State of California, and the City Attorneys for every City in the  
8 State of California with a population greater than 750,000 (collectively, "Public Prosecutor(s)")  
9 alleging that Defendant violated California's Safe Drinking Water and Toxic Enforcement Act of  
10 1986, California Health and Safety Code § 25249.6, et seq., and its implementing regulations  
11 (collectively, "Proposition 65") and that Plaintiff intended to file an enforcement action in the  
12 public interest; and

13 WHEREAS: Plaintiff alleges that Defendant manufactured and/or distributed tapes,  
14 bandages, and wraps containing Perfluorooctanoic Acid ["PFOA"], (collectively the "Covered  
15 Products") that were sold or distributed for sale in California and further alleges that those  
16 Covered Products expose consumers in the State of California to PFOA, which is listed by the  
17 State of California pursuant to California Health and Safety Code § 25249.8; and

18 WHEREAS: Plaintiff further alleges that persons in the State of California were exposed  
19 to PFOA in Covered Products without being provided the Proposition 65 warning set out at  
20 California Health and Safety Code § 25249.6 and its implementing regulations ("Proposition 65  
21 Warning");

22 WHEREAS: Defendant denies the allegations of the Notice, and denies that it has violated  
23 Proposition 65 and expressly denies that it has engaged in any wrongdoing whatsoever,

24 WHEREAS: Plaintiff seeks to provide the public with Proposition 65 warnings and  
25 believes that this objective is achieved by the actions described in this Consent Judgment; and

26 WHEREAS: Plaintiff and Defendant wish to resolve their differences without the delay  
27 and expense of litigation.

28 NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN

1  
2 **PLAINTIFF ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:**

3 **INTRODUCTION**

4 1.1. On December 3, 2024, Plaintiff served the Notice upon Defendant and on Public  
5 Prosecutors. No Public Prosecutors commenced an enforcement action. No Public  
6 Prosecutor having commenced an enforcement action, Plaintiff proceeded to file its  
7 Complaint against Defendant in the present action.

8 1.2. Defendant employs ten (10) or more persons.

9 1.3. For purposes of this Consent Judgment only, Plaintiff and Defendant (the  
10 "Parties") stipulate that: 1) this Court has jurisdiction over the allegations of violation  
11 contained in the Complaint, and personal jurisdiction over Defendant as to the acts  
12 alleged in the Complaint; 2) venue is proper in the County of Los Angeles; and 3) this  
13 Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all  
14 claims which were or could have been raised in the Complaint based on the facts alleged  
15 therein with respect to the Covered Products, and of all claims which were or could have  
16 been raised by any person or entity based in whole or in part, directly or indirectly, on the  
17 facts alleged in the Notice, in the present action, or arising therefrom or related thereto,  
18 with respect to Covered Products, including any Proposition 65 claim arising out of an  
19 exposure to Covered Products (collectively, "Proposition 65 Claims").

20 1.4. The Parties enter into this Consent Judgment as a full and final settlement of the  
21 Proposition 65 Claims, for the purpose of avoiding prolonged and costly litigation and of  
22 resolving the issues raised therein both as to past and future conduct. By execution of  
23 this Consent Judgment and agreeing to comply with its terms, the Parties do not admit  
24 any fact, conclusion of law, or violation of law, nor shall Defendant's compliance with  
25 the Consent Judgment constitute or be construed as an admission by Defendant of any  
26 fact, conclusion of law, or violation of law. Defendant denies the material, factual, and  
27 legal allegations in the Notice and the Complaint and expressly denies any wrongdoing  
28 whatsoever.

## 2. DEFINITIONS

- 2.1. "Effective Date" shall mean, with respect to this Consent Judgment, the date the Consent Judgment has been approved and entered by the Court.

## 3. INJUNCTIVE RELIEF


- 3.1. Within 30 days of the Effective Date, Defendant shall not manufacture or cause to be manufactured any Product that will be sold or offered for sale to California consumers that contains any intentionally added PFOA. For purposes of this agreement PFOA refers both to PFOA itself and any intentionally added fluorinated ingredient that causes PFOA to be in a Product, including but not limited to C9-15 fluoroalcohol phosphate ("PFOA precursors"), unless the Product has a Proposition 65 warning, as described in Sections 3.2 and 3.3 below. To support that there is no intentionally added PFOA or PFOA precursors, Defendant shall retain in its files attestations from its manufacturers that PFOA and PFOA precursors are not intentionally used in its products, as well as testing to confirm the absence of intentionally added PFOA or PFOA precursors.

3.2. Warning Option

If PFOA is intentionally added, Covered Products shall be accompanied by a warning as described in Section 3.3 below, except that Defendant shall not be obligated to provide a warning for Products that were manufactured prior to 30 days before the Effective Date or that were already in the stream of commerce as of the Effective Date.


3.3. Warning Language

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


- (1)  **WARNING:** This product can expose you to Perfluorooctanoic Acid [PFOA], which is known to the State of

California to cause cancer and birth defects or other reproductive harm. For more info go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

-or-

- (2)  **WARNING:** Risk of cancer and reproductive harm from exposure to Perfluorooctanoic Acid [PFOA]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

-or-

- (3)  **WARNING:** Can expose you to Perfluorooctanoic Acid [PFOA], a carcinogen and reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word "WARNING". The term "WARNING" can be replaced with "CA WARNING" or "CALIFORNIA WARNING" in bold text.

In addition, for any Covered Product sold over the internet by Defendant, the Warning shall appear prior to checkout on the primary product page, or as a pop-up when a California address is input into the shipping instructions, or on the checkout page when a California delivery address is indicated for any purchase of any Covered Product. The Warning may be provided with a conspicuous hyperlink stating "WARNING" (or one of the alternatives listed above) in all capital and bold letters so long as the hyperlink goes directly to a page prominently displaying the Warning without content that detracts from the Warning. Given Defendant's lack of control over third-party websites, the online warning

1  
2 requirements expressed in this Section apply only to Covered Products sold  
3 through Defendant's website. However, Defendant will instruct any third-party  
4 website sellers to provide Warnings as a condition of selling the Covered Product.  
5 If the consumer information on the product is in a foreign language, the required  
6 Warning Label will also be included in that same foreign language.  
7

#### 8 **4. MONETARY RELIEF**

9 4.1. Within ten (10) days of the Effective Date, Defendant shall pay the total sum of  
10 \$50,000 which includes \$12,000 in civil penalties and \$38,000 in payment of Plaintiff's  
11 costs and reasonable attorney's fees. The \$12,000 civil penalty shall be apportioned  
12 pursuant to Health and Safety Code section 25249.12 (d), with 75%, or \$9,000, paid to  
13 the State of California's Office of Environmental Health Hazard Assessment and 25%, or  
14 \$3,000, payable to Plaintiff.

15 4.2. The payments specified in Section 4.1. shall be made by wire transfer to Plaintiff's  
16 counsel Custodio & Dubey LLP as set forth below. Plaintiffs' counsel will remit the  
17 portions due to the State of California Office of Environmental Health Hazard  
18 Assessment and to Plaintiff.

19 Bank: Bank of America, N.A.

20 Routing Transit No.: 026009593

21 Account No.: 325149324377

22 Beneficiary: Custodio & Dubey LLP

#### 23 **5. CLAIMS COVERED AND RELEASED**

24 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on  
25 behalf of itself, and acting on behalf of the public interest, and Defendant, and all of  
26 Defendant's officers, directors, members, shareholders, employees, representatives,  
27 attorneys, agents, parent companies, subsidiaries, divisions, affiliates, and the  
28 predecessors, successors, and assigns of any of them (collectively the "Defendant  
Releasees"), as well as all other upstream and downstream entities in the distribution

1  
2 chain for the Covered Products, including but not limited to manufacturers, retailers,  
3 suppliers, distributors, marketplace hosts, wholesalers, customers, private label  
4 customers, franchisees, licensees, licensors, and cooperative members, and all of their  
5 officers, directors, members, shareholders, employees, representatives, attorneys, agents,  
6 parent companies, subsidiaries, divisions, affiliates, predecessors, successors, and assigns  
7 (collectively, the "Released Parties"), for any alleged violation of Proposition 65, and its  
8 implementing regulations, for failure to provide Proposition 65 warnings for the Covered  
9 Products with respect to PFOA, and fully resolves all claims that have been brought, or  
10 which could have been brought in this action up to and including the Effective Date.  
11 Plaintiff on behalf of itself, and in the public interest, hereby discharges the Defendant  
12 Releasees and Released Parties from any and all claims, actions, causes of action, suits,  
13 demands, liabilities, damages, civil penalties, obligations, debts, losses, fees, costs and  
14 expenses asserted with respect to any alleged violation of Proposition 65 arising from the  
15 failure to provide Proposition 65 warnings about exposures to PFOA for any or all of the  
16 Covered Products sold through ninety (90) days after the Effective Date of the Consent  
17 Judgment. Compliance with the terms of this Consent Judgment constitutes compliance  
18 with Proposition 65 by Defendant with respect to any alleged failure to warn about PFOA  
19 in Covered Products sold or distributed by Defendant after the Effective Date.

20 5.2. Plaintiff, acting in its individual capacity only, and in consideration of the  
21 promises and monetary payments contained herein, hereby releases Defendant Releasees  
22 and Released Parties from any alleged claim, cause of action, action, suit, demand,  
23 liabilities, damages, civil penalties, obligations, debts, losses, fees, costs and expenses for  
24 alleged failure to provide Proposition 65 warnings for the Covered Products that  
25 Defendant has sold or caused to be sold in California up to and including the Effective  
26 Date.

27 5.3. It is possible that other claims not known to the Parties arising out of the facts contained  
28 in the Notice, or alleged in the Complaint, relating to the Covered Products, will

1  
2 hereafter be discovered or developed. Plaintiff, on behalf of itself only, on the one hand,  
3 and Defendant, on the other hand, acknowledge that this Consent Judgment is expressly  
4 intended to cover and include all such claims through and including the Effective Date,  
5 including all rights of action thereon. Plaintiff and Defendant acknowledge that the  
6 claims released in Sections 5.1 and 5.2 may include unknown claims, and nevertheless  
7 intend to release such claims, and in doing so waive California Civil Code § 1542 which  
8 reads as follows:

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

15 5.4. Plaintiff understands and acknowledges that the significance and consequence of  
16 this waiver of California Civil Code § 1542 is that even if Plaintiff suffers future damages  
17 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the  
18 Covered Products, including but not limited to any exposure to, or failure to warn with  
19 respect to exposure to, chemicals in or from the Covered Products, Plaintiff will not be  
20 able to make any claim for those damages against any of the Defendant Releasees or the  
21 Released Parties.

22 5.5. Compliance by Defendant with the terms of this Consent Judgment shall constitute  
23 compliance with Proposition 65 with respect to exposure to PFOA in the Covered  
24 Products as set forth in the Notice and/or the Complaint. If, after the Effective Date, the  
25 California Office of Environmental Health Hazard Assessment promulgates regulations  
26 affecting the warning provisions set forth in Section 3 herein, Defendant may comply  
27 with those regulations without being deemed in breach of this Consent Judgment.

28 **6. COMPLIANCE WITH HEALTH AND SAFETY CODE SECTION 25249.7(F)**



1  
2 6.1. Plaintiff and its attorneys agree to comply with the reporting form requirements  
3 referenced in California Health and Safety Code § 25249.7(f).

4 **7. PROVISION OF NOTICE**

5 7.1. When any Party is entitled to receive any notice or writing under this Consent  
6 Judgment, the notice or writing shall be sent by first class certified mail with return  
7 receipt requested, or by electronic mail, as follows:

8 To Defendant:  
9 Alfredo Poncio  
10 President & CEO  
11 Life Wear Technologies, LLC  
12 1520 SW 5<sup>th</sup> Court  
13 Pompano Beach, FL 33069

14 With a copy to:  
15 Natalie E. Rainer, Esq.  
16 K&L Gates LLP  
17 Four Embarcadero Center  
18 Suite 1200  
19 San Francisco, CA 94111  
20 [Natalie.rainer@klgates.com](mailto:Natalie.rainer@klgates.com)

21 To Plaintiff:  
22 Vineet Dubey, Esq.  
23 Custodio & Dubey LLP  
24 445 S. Figueroa St., Ste 2520  
25 Los Angeles, CA 90071  
26 [dubey@cd-lawyers.com](mailto:dubey@cd-lawyers.com)

27 7.2. Any party may modify the person and address to whom the notice is to be sent by  
28 sending the other Party notice that is transmitted in the manner set forth in section 7.1.

**8. COURT APPROVAL**

8.1. Upon execution of his Consent Judgment by all Parties, Plaintiff shall prepare and  
file, at its sole cost and expense, a Motion for Approval of this Consent Judgment that  
Defendant shall not oppose. This Consent Judgment shall not become effective until  
approved and entered by the Court. If this Consent Judgment is not entered by the Court,  
it shall be of no force or effect, and shall not be introduced into evidence or otherwise

1  
2 used in any proceeding for any purpose.  
3

4  
5 **9. GOVERNING LAW AND CONSTRUCTION**

6 9.1. The terms of this Consent Judgment shall be governed by the laws of the State of  
7 California, and shall apply only to Covered Products sold in California.

8 **10. ENTIRE AGREEMENT**

9 10.1. This Consent Judgment contains the sole and entire agreement and understanding  
10 of the Parties with respect to the entire subject matter hereof, and any and all prior  
11 discussions, negotiations, commitments, or understandings related thereto, if any, are  
12 hereby merged herein and therein.

13 10.2. There are no warranties, representations, or other agreements between the Parties  
14 except as expressly set forth herein. No representations, oral or otherwise, express or  
15 implied, other than those specifically referred to in this Consent Judgment have been  
16 made by any Party hereto.

17 10.3. No other agreements not specifically contained or referenced herein, oral or  
18 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements  
19 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or  
20 to bind any of the Parties hereto only to the extent that they are expressly incorporated  
21 herein.

22 10.4. No supplementation, modification, waiver, or termination of this Consent  
23 Judgment shall be binding unless executed in writing by the Party to be bound thereby,  
24 and approved and ordered by the Court.

25 10.5. No waiver of any of the provisions of this Consent Judgment shall be deemed or  
26 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor  
27 shall such waiver constitute a continuing waiver.

28 **11. RETENTION OF JURISDICTION**

11.1. This Court shall retain jurisdiction of this matter to implement or modify the

1  
2 Consent Judgment.  
3

4 **12. NO EFFECT ON OTHER SETTLEMENTS**

5 12.1. Nothing in this Consent Judgment shall preclude Plaintiff from resolving any  
6 claim against another entity on terms that are different from those contained in this  
7 Consent Judgment.  
8

9 **13. EXECUTION IN COUNTERPARTS**

10 13.1. This Consent Judgment may be executed in counterparts, each of which shall be  
11 deemed to be an original, and all of which, taken together, shall constitute the same  
12 document. Execution of the Consent Judgment by e-mail, facsimile, or other electronic  
13 means, shall constitute legal and binding execution and delivery. Any photocopy of the  
14 executed Consent Judgment shall have the same force and effect as the original.

15 **14. AUTHORIZATION**

16 14.1. The undersigned are authorized to stipulate to, enter into, and execute this Consent  
17 Judgment on behalf of their respective parties, and have read, understood, and agree to all  
18 of the terms and conditions of this Consent Judgment.  
19

20 **15. SEVERABILITY**

21 15.1. If subsequent to Court approval of this Consent Judgment, any part or provision is  
22 declared by a Court to be invalid, void, or unenforceable, the remaining portions or  
23 provisions shall continue in full force and effect to the extent they implement the Parties'  
24 intent.  
25

26 **AGREED TO:**

27 **Ecological Alliance LLC**

28 Date 4/14/25 2025

1  
2 By:



3 Harmony Welsh, Managing Member  
4

5 **AGREED TO:**

6 **Modular Thermal Technologies LLC**

7 Date: April 8, 2025

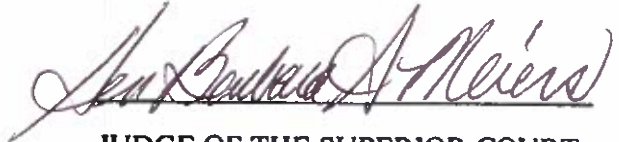
8  
9 By:

10 Alfredo Poncio, CEO  
11

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health &  
13 Safety Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered.  
14

15 Dated:

16 7/15/25  
17



18 JUDGE OF THE SUPERIOR COURT  
19 Hon. Barbara A. Meiers  
20  
21  
22  
23  
24  
25  
26  
27  
28