

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1501  
(03/01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

**REPORT OF SETTLEMENT**

Please print or type required information

Original Filing     Supplemental Filing     Corrected Filing

<b>PARTIES TO THE ACTION</b>	PLAINTIFF(S) ENVIRONMENTAL LAW FOUNDATION, INDIVIDUALLY AND ON BEHALF OF THE GENERAL PUBLIC,		
	DEFENDANT(S) INVOLVED IN SETTLEMENT SUR LA TABLE, INC.		
<b>CASE INFO</b>	COURT DOCKET NUMBER CGC-03-421108		COURT NAME SAN FRANCISCO SUPERIOR COURT
	SHORT CASE NAME IN RE VINEGAR LITIGATION		
<b>REPORT INFO</b>	INJUNCTIVE RELIEF Proposition 65 Warnings, Shelf Warning and/or Product labeling		
	PAYMENT: CIVIL PENALTY -0-	PAYMENT: ATTORNEYS FEES \$18,750.00	PAYMENT: OTHER (Plaintiff's cost) \$6,250.00
	WILL SETTLEMENT BE SUBMITTED TO COURT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, AFTER ENTRY OF JUDGMENT BY COURT, REPORT OF ENTRY OF JUDGMENT MUST BE SUBMITTED TO ATTORNEY GENERAL	DATE SETTLEMENT SIGNED 11/08/2005
	COPY OF SETTLEMENT MUST BE ATTACHED		
<b>FILER INFO</b>	NAME OF CONTACT ALAN M. CAPLAN, ESQ.		
	ORGANIZATION BUSHNELL, CAPLAN & FIELDING, LLP		TELEPHONE NUMBER ((415)) 217-3800
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	CITY SAN FRANCISCO	STATE    ZIP CA    94104-2715	E-MAIL ADDRESS ACAPBCF@AOL.COM

**FILING INSTRUCTIONS:** This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the settlement to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

1 ALAN M. CAPLAN (SBN 49315)  
APRIL M. STRAUSS, Of Counsel (SBN 163327)  
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221 Pine Street, Suite 600  
3 San Francisco, CA 94104  
Telephone: 415.217.3800  
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5 Attorneys for Plaintiff ENVIRONMENTAL LAW FOUNDATION  
(Additional Attorneys on Signature Page)  
6  
7

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION  
10

11 ENVIRONMENTAL LAW FOUNDATION, ) CASE NO. CGC-03-421108 (Lead)  
12 Individually and On Behalf of the General Public, )  
13 Plaintiff, ) CONSENT JUDGMENT AS TO  
14 v. ) DEFENDANT SUR LA TABLE, INC.;  
15 ) ORDER

16 COST PLUS, INC., SAFEWAY, INC., TRADER )  
17 JOE'S COMPANY, WILLIAM-SONOMA, INC., )  
18 WHOLE FOODS, INC., and DOES 1 through )  
19 100, inclusive, )  
20 Defendants. )  
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28 )

AND CONSOLIDATED-ACTIONS ) Consolidated with 04-428945, 04-435440

1     **1. INTRODUCTION**

2           **1.1** On June 5, 2003, February 20, 2004 and October 13, 2004, the Environmental Law  
3 Foundation (“ELF”), individually and on behalf of the general public, filed complaints for civil  
4 penalties, restitution and injunctive relief in San Francisco County Superior Court (“Court”) in  
5 actions entitled *Environmental Law Foundation v. Cost Plus, Inc.*, et. al., Case No. CGC-03-  
6 421108, *Environmental Law Foundation v. Borges USA Inc.*, et. al., Case No. 04-428945 and  
7 *Environmental Law Foundation v. Albeco, Inc.*, Case No. 04-4235440. On March 1, 2005, the  
8 Court consolidated these three actions, with *ELF v. Cost Plus* serving as the lead case. For  
9 purposes of this Consent Judgment, the term “Action” shall reference the consolidated actions  
10 identified above.

11           **1.2** Sur La Table, Inc. (“Settling Defendant”) is a corporation that employs more than ten  
12 persons and sells Wine Vinegars to persons in the State of California and is one of the defendants  
13 named in the complaint (“Complaint”) filed in *Environmental Law Foundation v. Albeco, Inc.*,  
14 Case No. 04-4235440. For purposes of this Consent Judgment, the term “Wine Vinegar” shall  
15 mean any wine vinegar, including, but not limited to, balsamic vinegar, that contains wine as a  
16 constituent, while the term “Red Wine Vinegar” shall mean any vinegar, including, but not limited  
17 to balsamic vinegar, that contains red wine as a constituent.

18           **1.3** In its Complaint, ELF alleges that the Settling Defendant manufactured, distributed  
19 and/or sold Wine Vinegar containing lead in an amount that resulted in an exposure to consumers  
20 in violation of the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
21 Health and Safety Code §§ 25249.5, et seq. (Proposition 65), and Business & Professions Code  
22 §§ 17200, et seq. (“Unfair Competition Law”), by knowingly and intentionally exposing persons  
23 to a chemical known to the State of California to cause reproductive toxicity, namely lead, without  
24 first providing a clear and reasonable warning to such individuals.

25           **1.4** For purposes of this Consent Judgment only, ELF and Settling Defendant (hereafter  
26 referred to as the “Parties”), stipulate that this Court has jurisdiction over allegations of violations  
27 contained in the Complaint and personal jurisdiction over the Settling Defendant as to the acts  
28 alleged in the Complaint, that venue is proper in the County of San Francisco and that this Court

1 has jurisdiction to enter this Consent Judgment as a resolution of all claims which could have been  
2 raised in the Complaint based on the facts alleged therein.

3 1.5 On or about February 14, 2005, Settling Defendant filed its Answer to the Complaint,  
4 denying the allegations set forth in the Complaint.

5 1.6 For the purpose of avoiding prolonged litigation, the Parties enter into this Consent  
6 Judgment as a full settlement of all claims that were raised in the Complaint based on the facts  
7 alleged therein, or which could have been raised in the Complaint arising out of the facts alleged  
8 therein. By execution of this Consent Judgment, Settling Defendant does not admit any violations  
9 of Proposition 65 or the Unfair Competition Law or any other law and specifically denies that it  
10 has committed any such violations and maintains that all Wine Vinegar products that it has sold  
11 and distributed in California have been and are in compliance with all laws. Nothing in this  
12 Consent Judgment shall be construed as an admission by Settling Defendant of any fact, finding,  
13 conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or affect  
14 the responsibilities and duties of the parties under this Consent Judgment.

15  
16 2. **CLEAR AND REASONABLE WARNINGS**

17 2.1 The only Wine Vinegars for which warnings are required under Proposition 65 are  
18 those Red Wine Vinegars that contain lead in excess of the level set forth in Section 2.2 of this  
19 Consent Judgment, with other Wine Vinegars not generating exposures to lead, if any at all, that  
20 necessitate warnings under Proposition 65.

21 2.2 **Warning Standard For Red Wine Vinegars.** No later than sixty (60) days after  
22 entry of this Consent Judgment, Settling Defendant shall not sell or offer for sale in its California  
23 stores any Red Wine Vinegars that contain lead at levels that exceed thirty four (34) parts per billion  
24 (“ppb”) unless warnings are given in accordance with Sections 2.2(a) or 2.2(b) of this Consent  
25 Judgment.

26 a. **Shelf Warning.** Settling Defendant may provide a warning by placing a  
27 notice on the top shelf of any rack of shelves in Settling Defendant’s stores in California where Red  
28 Wine Vinegars are sold. The warning shall state:

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“CALIFORNIA PROPOSITION 65 WARNING:

The Red Wine Vinegars and Balsamic Vinegars on this shelf contain lead, a chemical known to the State of California to cause birth defects and other reproductive harm.”

or

“CALIFORNIA PROPOSITION 65 WARNING:

The Red Wine Vinegars and Balsamic Vinegars on these shelves contain lead, a chemical known to the State of California to cause birth defects and other reproductive harm.”

Each sign shall be no smaller than 4 inches x 6 inches, and the form and type shall be substantially similar to that which is attached hereto as Exhibit A.

b. **Product Labeling.** A warning may be placed on the packaging, labeling or directly to or on Red Wine Vinegar products by the Settling Defendant (or someone on the Settling Defendant’s behalf, including its agents, or the manufacturers, importers or distributors of the Red Wine Vinegars) that state:

“**WARNING:** This product contains lead, a chemical known to the State of California to cause birth defects and other reproductive harm.”

Product label warnings shall be placed with such conspicuousness as compared with other words, statements, designs and/or devices as to render it likely to be read and understood by an ordinary individual under customary conditions of use or purchase.

2.3 In the event that some, but not all, Red Wine Vinegars sold by Settling Defendant contain lead in excess of 34 ppb, Settling Defendant may utilize the shelf warnings with the language as described in Section 2.2(a) of this Consent Judgment.

2.4 Any changes to the language or format of the warning required under Section 2.2 shall be made only after: (1) obtaining ELF’s approval; or (2) Court approval.

2.5 Settling Defendant may comply with Section 2.2 by, among other things, reasonably relying on written Verifications by the producers, manufacturers, distributors and/or suppliers of the Red Wine Vinegars that it sells in its California stores, where: (1) the Verification states that the lead

1 content in such Red Wine Vinegar does not exceed 34 ppb; (2) the Verification represents that the  
2 lead content in the Red Wine Vinegar was determined by testing that was carried out in accordance  
3 with the testing protocol attached hereto as Exhibit B and (3) the test results are attached to the  
4 Verification.

5       **2.6** No later than thirty (30) days before commencing its initial sale of any Red Wine  
6 Vinegar in its California stores without the Proposition 65 warnings set forth in Section 2.2 of this  
7 Consent Judgment, Settling Defendant shall provide ELF with the Verification referenced in Section  
8 2.5. ELF agrees to not divulge to third parties the test results and information except as is necessary  
9 to contest the exemption from warning for that particular Red Wine Vinegar under Section 2.2.

10       **2.7** Settling Defendant's compliance with Sections 2.1 - 2.3 of this Consent Judgment  
11 shall fully and completely satisfy Settling Defendant's obligations to provide warnings for all Wine  
12 Vinegars with respect to the presence of lead under Proposition 65, the California Business and  
13 Professions Code, and all federal, state or local laws, regulations, or ordinances.

14       **2.8** Settling Defendant shall not have any warning obligations under Section 2.2 of this  
15 Consent Judgment for Red Wine Vinegars which are manufactured or supplied by others and which  
16 are subject to final judgments addressing Proposition 65 warning obligations arising from alleged  
17 exposures to lead from Red Wine Vinegars.

18       **2.9** Should any court enter a final judgment in a case brought by ELF or someone on  
19 behalf of or in the interest of the people or general public of the State of California involving Wine  
20 Vinegars that allegedly contain lead which sets forth standards defining when Proposition 65  
21 warnings will or will not be required ("Alternative Standards"), Settling Defendant shall be entitled  
22 to seek modification of this Consent Judgment so as to be able to utilize and rely on such Alternative  
23 Standards in lieu of those set forth in Section 2.2 of this Consent Judgment.

24       **2.10** Should ELF reach a settlement in any of its lawsuits involving claims of Proposition  
25 65 violations and Wine Vinegars that permit retailers to provide warnings that are different in  
26 content, method or appearance than is specified under Section 2.2 of this Consent Judgment, then  
27 Settling Defendant shall, at its discretion, have the option to warn in the manner alleged in Section  
28 2.2 of this Consent Judgment, or in the manner specified in the settlements in the other lawsuits.

1           2.11 Settling Defendant agrees not to seek the issuance of a Safe Use Determination  
2 (“SUD”) pursuant to Section 12104 et. seq. of Title 22 of the California Code of Regulations to  
3 address when Proposition 65 warnings will or will not be required for Wine Vinegars that contain  
4 lead or whether Proposition 65 warnings are required for particular Wine Vinegars. However,  
5 should others seek such a SUD and a SUD is issued that addresses when Proposition 65 warnings  
6 will or will not be required for Wine Vinegars that contain lead or whether Proposition 65 warnings  
7 are required for particular Wine Vinegars, then Settling Defendant shall be entitled to seek  
8 modification of this Consent Judgment so as to be able to utilize and rely on such SUD.

9  
10 **3.       MONETARY RELIEF**

11           3.1 Within fifteen (15) days after entry of this Consent Judgment, Settling Defendant  
12 shall pay ELF a total of twenty five thousand dollars (\$25,000) as settlement proceeds (“Settlement  
13 Proceeds”) to be applied towards its costs, attorney’s fees and a cy pres donation. The distribution  
14 of these Settlement Proceeds shall be determined by ELF. The Settlement Proceeds shall be made  
15 payable to Bushnell, Caplan & Fielding, LLP and delivered to Alan M. Caplan at Bushnell, Caplan  
16 & Fielding, LLP, 221 Pine Street, Suite 600, San Francisco, California 94104. ELF shall bear all  
17 responsibility for apportioning and paying to the State of California any portion of the Settlement  
18 Proceeds as required by California Health & Safety Code Section 25249.12(d) and Settling  
19 Defendant shall have no liability if payments to the State of California are not made by ELF.

20           3.2 The payment made pursuant to Section 3.1 shall be the only monetary obligation of  
21 the Settling Defendant with respect to this Consent Judgment.

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23 **4.       COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(F)**

24           4.1 ELF agrees to comply with the reporting requirements referenced in California Health  
25 & Safety Code § 25249.7(f). Pursuant to the regulations promulgated under that section, ELF shall  
26 present this Consent Judgment to the California Attorney General’s Office within two (2) days after  
27 receipt of all necessary signatures. The Parties acknowledge that, pursuant to Health & Safety Code  
28 § 25249.7, a noticed motion must be filed to obtain judicial approval of the Consent Judgment.

1 Accordingly, the Parties agree to file a joint motion for approval of the settlement, which shall be  
2 prepared by ELF within a reasonable period of time after the date this agreement is signed by all  
3 parties. ELF agrees to serve a copy of the noticed motion to approve and enter the Consent  
4 Judgment on the Attorney General's Office at least forty-five (45) days prior to the date set for  
5 hearing of the motion in the Superior Court of the City and County of San Francisco.

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7 **5. MODIFICATION OF CONSENT JUDGMENT**

8 **5.1** This Consent Judgment may be modified by: (1) written agreement between the  
9 Parties and upon entry of a modified Consent Judgment by the Court thereon, or (2) motion of ELF  
10 or the Settling Defendant as provided by law and upon entry of a modified Consent Judgment by the  
11 Court. The California Attorney General's Office shall be served with notice of any proposed  
12 modification to this Consent Judgment at least fifteen (15) days in advance of its consideration by  
13 the Court.

14  
15 **6. APPLICATION OF CONSENT JUDGMENT**

16 **6.1** Each signatory to this Consent Judgment certifies that he or she is fully authorized by  
17 the party that he or she represents to enter into and execute the Consent Judgment on behalf of the  
18 party represented and legally bind that party.

19  
20 **7. CLAIMS COVERED**

21 **7.1** This Consent Judgment is a final and binding resolution between ELF and the  
22 Settling Defendant, of any violation of Proposition 65 and Business and Professions Code section  
23 17200, et seq., or any other statutory or common law claim that could have been asserted against the  
24 Settling Defendant for failure to provide clear, reasonable and lawful warnings of exposures to lead  
25 that result from the ingestion of Wine Vinegar.

26 **7.2 ELF Release of Settling Defendant.** In further consideration of the promises and  
27 agreements herein contained, and for the payment to be made pursuant to Section 3.1, ELF, on  
28 behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees,

1 and in the interest of the general public, hereby waives all rights to institute or participate in, directly  
2 or indirectly, any form of legal action and releases all claims, including, without limitation, all  
3 actions, causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs,  
4 fines penalties, losses or expenses, including, but not limited to, investigation fees, expert fees and  
5 attorneys' fees of any nature whatsoever, whether known or unknown, fixed or contingent against  
6 the Settling Defendant and each of its customers, owners, parent companies, corporate affiliates,  
7 subsidiaries and its respective officers, directors, attorneys, representatives, shareholders, agents, and  
8 employees arising under Proposition 65, Business and & Professions Code § 17200, et seq and  
9 Business & Professions Code § 17500, et seq., related to the Settling Defendant's alleged failure to  
10 warn about exposures to or identification of lead contained in Wine Vinegars.

11 ELF and the Settling Defendant further agree and acknowledge that this Consent Judgment is  
12 a full, final, and binding, resolution of any violations of Proposition 65, Business & Professions  
13 Code § 17200, et seq. and Business & Professions Code § 17500, et seq., that have been or could  
14 have been asserted in the Complaint against the Settling Defendant for its alleged failure to provide  
15 clear and reasonable warnings of exposure to or identification of lead contained in Wine Vinegars.

16 In addition, ELF, on behalf of its, itself, attorneys and its agents, waives all rights to institute  
17 or participate in, directly or indirectly, any form of legal action and releases all claims against the  
18 Settling Defendant arising under Proposition 65, Business & Professions Code § 17200, et seq and  
19 Business & Professions Code § 17500, et seq., related to the Settling Defendant's alleged failures to  
20 warn about exposures to or identification of lead contained in the Wine Vinegars and for all actions  
21 or statements regarding the alleged failures to warn about exposures to or identification of lead  
22 contained in the Wine Vinegars made by Settling Defendants or its attorneys or representatives, in  
23 the course of responding to those alleged violations of Proposition 65, Business & Professions Code  
24 § 17200, or Business & Professions Code § 17500, as alleged in the Complaint.

25 It is specifically understood and agreed that ELF and the Settling Defendant intend that  
26 Settling Defendant's compliance with the terms of this Consent Judgment will resolve all issues and  
27 liability, now and in the future, concerning the Settling Defendant's compliance with the  
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1 requirements of Proposition 65, Business & Professions Code § 17200, et seq. and Business &  
2 Professions Code § 17500, et seq., as to lead in Wine Vinegars.

3       **7.3    Release of ELF.** Settling Defendant waives all rights to institute any form of legal  
4 action against ELF or its attorneys or representatives, for all actions taken or statements made by  
5 ELF and its attorneys or representatives, in the course of seeking enforcement of Proposition 65,  
6 Business & Professions Code § 17200, et seq. or Business & Professions Code § 17500, et seq., in  
7 this Action.

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9       **8.       RETENTION OF JURISDICTION**

10       **8.1**    This Court shall retain jurisdiction of this matter to implement this Consent  
11 Judgment.

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13       **9.       COURT APPROVAL**

14       **9.1**    If this Consent Judgment is not approved by the Court, it shall be of no force or effect  
15 and cannot be used in any proceeding for any purpose.

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17       **10.      ENFORCEMENT OF CONSENT JUDGMENT WITH REGARD TO RETAIL**  
18       **STORES IN CALIFORNIA**

19       **10.1**    Before moving to enforce the terms and conditions of this Consent Judgment against  
20 the Settling Defendant with respect to an alleged violation occurring at a retail store located in  
21 California, ELF must follow the procedures set forth in Sections 10.2 through 10.5.

22       **10.2**    In the event that ELF and/or its attorneys, agents or assigns, or any other person  
23 acting in the public interest under Health & Safety Code § 25249.7(d) identify one or more retail  
24 stores in California owned and operated by Settling Defendant at which Red Wine Vinegars are sold  
25 (hereinafter "retail outlet") for which the warnings required under Section 2.2 of this Consent  
26 Judgment are not being given, ELF or such person shall notify, in writing, Settling Defendant of  
27 such alleged failure to warn (the "Probationary Notice of Default"). The Probationary Notice of  
28 Default shall be sent to the person(s) identified in Section 13 herein, and must be served within

1 fifteen (15) days of the date the alleged violation(s) was or were observed. The Probationary Notice  
2 of Default shall, at a minimum, set forth the date(s) the alleged violation(s) was observed, the retail  
3 outlet(s) in question, and shall identify the Red Wine Vinegars giving rise to the alleged violation(s)  
4 and describe the alleged violation(s) with sufficient detail to allow Settling Defendant to determine  
5 the basis of the claim being asserted and the identities of the Red Wine Vinegars to which those  
6 assertions apply. The Probationary Notice of Default shall allege all violations that could have been  
7 raised with respect to each retail outlet in question as of the date of the Probationary Notice of  
8 Default.

9 **10.3** In the event Settling Defendant corrects the alleged default(s) within sixty (60) days  
10 of receiving the Probationary Notice of Default, ELF or the notifying person shall take no further  
11 enforcement action with respect to such violation(s). In the event Settling Defendant fails to correct  
12 such alleged default(s) within sixty (60) days following the Probationary Notice of Default from  
13 ELF or the notifying person, and subject to the provisions of Section 10.5, Settling Defendant shall  
14 pay, pursuant to Health & Safety Code § 25249.7(b) to ELF or the notifying person, as a stipulated  
15 penalty for failure to remedy the alleged default(s), the collective amount of One Thousand Six  
16 Hundred (\$1,600) for each retail outlet which was the subject of the Probationary Notice of Default,  
17 and where the alleged default(s) has not been remedied by the time such stipulated payment is due.

18 **10.4** In the event that Settling Defendant wishes to contest the allegations contained in any  
19 Probationary Notice of Default served pursuant to Section 10.2, it shall notify ELF or the notifying  
20 person of such in writing within thirty (30) days of its receipt of the Notice of Default. Settling  
21 Defendant may provide any evidence to ELF or the notifying person in support of its position. In the  
22 event that, upon a good faith review of the evidence, ELF or the notifying person agree with Settling  
23 Defendant's position, he or she shall take no further action hereunder. In the event that Settling  
24 Defendant provides documentary evidence, and ELF or the notifying person disagrees with Settling  
25 Defendant's position, it shall, within thirty (30) days notify Settling Defendant of such and provide  
26 Settling Defendant, in writing, with the reasons for its disagreement. Thereafter, the Parties shall  
27 meet and confer to attempt to resolve their dispute on mutually acceptable terms; if no such  
28 resolution results, (a) ELF may by motion or order to show cause before the Superior Court of San

1 Francisco, seek to enforce the terms and conditions contained in this Consent Judgment, or (b) ELF  
2 or the notifying person may initiate an enforcement action for new violations pursuant to Health &  
3 Safety Code § 25249.7(d) without regard to the stipulated penalties provided for by Section 10.3.

4       **10.5** In the event that ELF and/or any other person acting in the public interest agree to  
5 settle an actual or potential claim concerning the alleged failure of one or more of Settling  
6 Defendant's California retail outlets to provide Proposition 65 warnings concerning its sale of Red  
7 Wine Vinegars, and the amount of any stipulated penalty specified for future violations is less than  
8 that specified in Sections 10.3 and 10.4 above, the stipulated penalties specified in Sections 10.3 and  
9 10.4 above shall automatically be deemed to have been reduced to the amount provided in such  
10 settlement.

11  
12 **11. GOVERNING LAW**

13       **11.1** The terms of this Consent Judgment shall be governed by the laws of the State of  
14 California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by  
15 reason of law generally, or as to Wine Vinegars specifically, then the Settling Defendant shall have  
16 no further obligations pursuant to this Consent Judgment with respect to, and to the extent those  
17 Wine Vinegars are so affected.

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19 **12. EXCHANGE IN COUNTERPARTS**

20       **12.1** Stipulations to this Consent Judgment may be executed in counterparts and by  
21 facsimile, each of which shall be deemed an original, and all of which, when taken together, shall be  
22 deemed to constitute one document.

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24 **13. NOTICES**

25       **13.1** All correspondence and notices required to be provided pursuant to this Consent  
26 Judgment shall be in writing and personally delivered or sent by: (1) first-class, registered, certified  
27 mail, return receipt requested, or (2) overnight courier on ELF or Settling Defendant by the others at  
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1 the addresses listed in Exhibit B. Either ELF or Settling Defendant may specify in writing to the  
2 other party a change of address to which all notices and other communications shall be sent.

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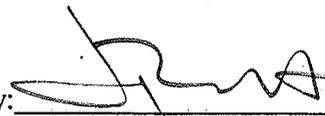
14. **SEVERABILITY**

If, subsequent to court approval of this Consent Judgment, any of the provisions of this Consent Judgment are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

IT IS SO STIPULATED:

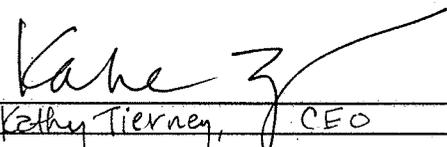
DATED: 11/8/05

ENVIRONMENTAL LAW FOUNDATION

By:   
\_\_\_\_\_  
JAMES WHEATON

DATED: 5.4.05

SUR LA TABLE, INC.

By:   
\_\_\_\_\_  
Kathy Tierney, CEO

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**EXHIBIT A**

---

**CALIFORNIA  
PROPOSITION 65  
WARNING**

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The Red Wine Vinegars  
and Balsamic Vinegars on  
these shelves contain lead,  
a chemical known to  
the State of California  
to cause birth defects and  
other reproductive harm.

*Sur La Table*

**EXHIBIT B**

1 For Environmental Law Foundation  
2 James R. Wheaton, Esq.  
3 ENVIRONMENTAL LAW FOUNDATION  
4 1736 Franklin Street, Ninth Floor  
5 Oakland, CA 94612  
6 Tel: (510) 208-4555  
7 Fax: (510) 208-4562

8 For Sur La Table, Inc.  
9 L. Susan Faw  
10 General Counsel  
11 Sur La Table, Inc.  
12 5701 6<sup>th</sup> Avenue South  
13 Suite 486  
14 Seattle, WA 98108  
15 Tel: (606) 613-6046  
16 Fax: (606) 613-6064

17 John E. Dittoe, Esq.  
18 REED SMITH LLP  
19 1999 Harrison Street, Ste. 2400  
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21 Tel: (510) 466-6712  
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