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18 Attorneys for Defendant
19 FINGERHUT DIRECT MARKETING, INC.

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
22 UNLIMITED CIVIL JURISDICTION

23 RUSSELL BRIMER)
24)
25 Plaintiff,)
26)
27 v.)
28)
29 FINGERHUT DIRECT MARKETING, INC.;)
30 and DOES 1 through 150, inclusive,)
31)
32 Defendants.)
33)
34)

CASE NO. CGC-06-449026

STIPULATION AND [PROPOSED]
ORDER RE: CONSENT JUDGMENT

1
2 **1. INTRODUCTION**

3 **1.1 Russell Brimer And Fingerhut Direct Marketing, Inc.**

4 This Consent Judgment is entered into by and between plaintiff Russell Brimer (hereafter
5 "Brimer" or "Plaintiff") and defendant Fingerhut Direct Marketing, Inc., (hereafter "Fingerhut" or
6 "Defendant"), with Brimer and Fingerhut collectively referred to as the "Parties."

7 **1.2 Plaintiff**

8 Brimer is an individual residing in California who seeks to promote awareness of
9 exposures to toxic chemicals and improve human health by reducing or eliminating hazardous
10 substances contained in consumer products.

11 **1.3 Defendant**

12 Fingerhut employs ten or more persons and is a person in the course of doing business for
13 purposes of Proposition 65.

14 **1.4 General Allegations**

15 Brimer alleges that Fingerhut has manufactured, distributed and/or sold in the State of
16 California certain glass and metal products that contain lead. Lead is listed pursuant to the Safe
17 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5
18 et seq. ("Proposition 65"), as a chemical known to the State of California to cause birth defects
19 and other reproductive harm. Lead shall be referred to herein as the "Listed Chemical."

20 **1.5 Product Description**

21 The products that are covered by this Consent Judgment are defined as follows:
22 ceramicware intended for the consumption of food or beverage with exterior decoration
23 (containing lead) as well as glass and metal (containing lead) products identified in Exhibit A to
24 this Consent Judgment. All such products shall be referred to herein as the "Products."

25 **1.6 Notices of Violation**

26 On or about November 23, 2005, Brimer served Fingerhut and various public enforcement
27 agencies with a document entitled "60 Day Notice of Violation" (the "Notice") that provided

1 Fingerhut and such public enforcers with notice that alleged that Fingerhut was in violation of
2 California Health & Safety Code §25249.6 for failing to warn consumers and customers that the
3 glass and metal lamp Products that Fingerhut sold exposed users in California to the Listed
4 Chemical. On or about September 15, 2006, Brimer served Defendant and various public
5 enforcement agencies with documents, entitled "Supplemental Notice of Violation"
6 ("Supplemental Notice") that provided Defendant and the public enforcers with notice that
7 Defendant was allegedly in violation of Health & Safety Code §25249.6 for failing to warn
8 individuals that the Products Defendant sold which were not within the categories identified in
9 the original Notices expose individuals in California to one or more of the Listed Chemicals

10 **1.7 Complaint**

11 On January 31, 2006, Brimer, who is acting in the interest of the general public in
12 California, filed a complaint (hereafter referred to as the "Complaint" or the "Action") in the
13 Superior Court in and for the City and County of San Francisco against Fingerhut Direct
14 Marketing, Inc. and Does 1 through 150, (*Brimer v. Fingerhut Direct Marketing, Inc. et. al.*,
15 *CGC-06-449026*) alleging violations of Health & Safety Code §25249.6 based on the alleged
16 exposures to the Listed Chemical contained in the Products sold by Fingerhut. The Complaint
17 shall be deemed amended to allege exposure to lead contained in the solder or came from the
18 suncatchers as described in the Supplemental Notice, as of the sixty-sixth (66th) day following
19 the date of the Supplemental Notice, provided that no public enforcement authority designated
20 under Health & Safety Code §25249.7 has filed a complaint against Defendant on behalf of the
21 public interest with respect to those new allegations set forth in the Supplemental Notice.

22 **1.8 No Admission**

23 Fingerhut denies the material factual and legal allegations contained in Brimer's Notice,
24 Supplemental Notice, Complaint and Amended Complaint and maintains that all products that it
25 has sold and distributed in California, including the Products, have been and are in compliance
26 with all laws. Nothing in this Consent Judgment shall be construed as an admission by Fingerhut
27 of any fact, finding, issue of law, or violation of law, nor shall compliance with this Consent
28

1 Judgment constitute or be construed as an admission by Fingerhut of any fact, finding,
2 conclusion, issue of law or violation of law, such being specifically denied by Fingerhut.
3 However, this Section shall not diminish or otherwise affect the obligations, responsibilities and
4 duties of Fingerhut under this Consent Judgment.

5 **1.9 Consent to Jurisdiction**

6 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
7 jurisdiction over Fingerhut as to the allegations of violations contained in the Complaint, that
8 venue is proper in the County of San Francisco and that this Court has jurisdiction to enter and
9 enforce the provisions of this Consent Judgment.

10 **1.10 Effective Date**

11 For purposes of this Consent Judgment, the term "Effective Date" shall mean the date the
12 Consent Judgment has been executed by all parties.

13 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

14 **2.1** After the Effective Date, Fingerhut shall not sell, ship or offer to be shipped for sale
15 in California Products containing the Listed Chemical unless such Products are sold or shipped
16 with the clear and reasonable warnings set out in Section 2.2 or comply with the Reformulation
17 Standards set forth in Section 2.3.

18 Any warning issued for Products pursuant to this Section 2.2 below shall be prominently
19 placed with such conspicuousness as compared with other words, statements, designs, or devices
20 as to render it likely to be read and understood by an ordinary individual under customary
21 conditions before purchase or, for Products shipped to an individual in California, before use.

22 **2.2 Product Warnings**

23 **2.2.1 Clear and Reasonable Warnings.** This Section describes Fingerhut's
24 options for satisfying the warning obligations required by Section 2.1, depending, in part, on the
25 manner of sale:

26 (a) **Mail Order Catalog and Internet Sales.** Defendant shall satisfy its
27 warning obligations for Products that are sold by mail order catalog or from the Internet to

1 California residents, by providing a warning: (i) in the mail order catalog and/or (ii) on the
2 website; or (iii) with the Product when it is shipped to an address in California. Warnings given in
3 the mail order catalog or on the website shall identify the specific Product to which the warning
4 applies as further specified in Sections 2.2.1(b)(i), (ii) and/or (iii) as applicable:

5 (i) **Mail Order Catalog.** Any warning provided in a mail order
6 catalog must be in the same type size or larger as the product description text within the catalog.
7 The following warning shall be provided on the same page and in the same location as the display
8 and/or description of the Product:

9
10 **WARNING: This product contains lead a chemical**
11 **known to the State of California to cause**
12 **birth defects or other reproductive harm.**

13 Where it is impracticable to provide the warning on the same page and in the same location
14 as the display and/or description of the Product, Fingerhut may utilize a designated symbol to
15 cross reference the applicable warning ("Designated Symbol") and shall provide the following
16 language on the inside of the front cover of the catalog or on the same page as any order form for
17 the Product(s):

18 **WARNING: The products identified with this symbol**
19 **∞ and offered for sale in this catalog**
20 **contain lead a chemical known to the State**
21 **of California to cause birth defects or other**
22 **reproductive harm.**

23 The Designated Symbol (shown on Exhibit B attached hereto) must appear on the same
24 page and in close proximity to the display and/or description of the Product. On each page where
25 the Designated Symbol appears, Fingerhut must provide a header or footer directing the consumer
26 to the warning language and definition of the Designated Symbol.

27 If Defendant elects to provide warnings in the mail order catalog, then the warnings must
28 be included in all catalogs offering to sell one or more Products printed after December 1, 2006.

1
2 (ii) **Internet Web Sites and Pages.** A warning may be given in
3 conjunction with the sale of the Product via the Internet, provided it appears either: (a) on the
4 same web page on which the Product is displayed; (b) on the same web page as the order form for
5 the Product; (c) on the same page as the price for any Product; or (d) on one or more web pages
6 displayed to a purchaser during the checkout process. The following warning statement shall be
7 used and shall appear in any of the above instances adjacent to or immediately following the
8 display, description, or price of the Product for which it is given in the same type size or larger as
9 the product description text:

10 **WARNING: This product contains lead a chemical**
11 **known the State of California to cause**
12 **birth defects or other reproductive harm.**

13
14 Alternatively, the Designated Symbol may appear adjacent to or immediately following the
15 display, description or price of the Product for which a warning is being given, provided that the
16 following warning statement also appears elsewhere on the same web page:

17 **WARNING: Products identified on this page with the**
18 **following symbol ∞ contain lead a**
19 **chemical known to the State of California**
20 **to cause birth defects or other**
21 **reproductive harm.**

22 (iii) **Package Insert or Label.** For all Products sold by catalog,
23 via the Internet, or any other means other than a retail store, a warning may be provided with the
24 Product when it is shipped to an individual in California, by either: (a) affixing the following
25 warning language to the packaging, labeling or directly to a specific Product; (b) inserting a
26 warning card measuring at least 4" x 6" in the shipping carton which contains the following
27 warning language; or (c) by placing the following warning statement on the packing slip or
28 customer invoice on the line directly below the description of the Product on the packing slip or

1 customer invoice:

2
3 **WARNING: This product contains lead a chemical**
4 **known to the State of California to cause**
5 **birth defects or other reproductive harm.**

6 Alternatively, where it is impracticable to provide the warning on the customer invoice or
7 packing slip on the line directly below the description of the Product, Fingerhut shall provide the
8 warning as close as is practicable to the Product description.

9 Alternatively, Fingerhut may place the following language on the packaging slip or invoice
10 and specifically identifying the Product in lettering of the same size or larger as the description of
11 the Product.

12 **WARNING: This product contains lead a chemical**
13 **known to the State of California to cause**
14 **birth defects or other reproductive harm.**
15 *[list products for which warning is given].*

16 The Defendant shall, in any of these instances, in conjunction with providing the warning,
17 also inform the consumer, in a conspicuous manner, that he or she may return the Product for a full
18 refund (including shipping costs for both the receipt and the return of the Product) within thirty
19 (30) days of his or her receipt of the Product.

20 **2.2.2 Exceptions**

21 The warning requirements set forth in Section 2.2 shall not apply to:

- 22 (i) Any Products shipped to a third party before the Effective Date; or
23 (ii) Reformulated Products (as defined in Section 2.3 below).

24 **2.3 Reformulation Standards**

25 Notwithstanding any other provision of this Consent Judgment, no warning pursuant to
26 section 2.0 above for exposure to lead shall or need be provided by Fingerhut for "Reformulated
27 Products." Products satisfying the conditions set forth below qualify as Reformulated Products.

1 (a) The following standard applies to the glass and metal Products not intended for
2 consumption of food or beverages:

3 (i) The Product must contain no more than one-tenth of one percent (0.1%) lead
4 or less by weight in each material used in the Products (such as solder and came).

5 (b) The following standards apply to the ceramicware Products used for the storage or
6 consumption of food or beverages:

7 (i) The materials for all colored artwork, designs or markings on the exterior
8 must contain by weight no more than six one-hundredths of one percent (0.06%) lead as measured
9 at Fingerhut's option, either before or after the material is fired onto (or otherwise affixed to) the
10 Product, using EPA Test Method 3050b or an equivalent test method of sufficient sensitivity to
11 establish a limit of quantitation (as distinguished from detection) of less than 600 ppm. In addition
12 any ceramic Product with decorations within the "Lip and Rim Area"¹ or on any food contact
13 surface must contain two one-hundredths of one percent (0.02%) of lead by weight or less using a
14 sample size of the material in question measuring approximately 50-100 mg and a test method of
15 sufficient sensitivity to establish a limit of quantitation of less than 200 ppm.
16

17 **2.4 Reformulation Commitment**

18 By entering into this Consent Judgment, Fingerhut hereby commits to undertake good faith
19 efforts to distribute the Products, in the future as Reformulated Products with the following
20 commitments:

21 (a) to reach eighty percent (80%) or more Reformulated Products for ceramicware
22 Products intended for consumption of food or beverages of those distributed, licensed, or offered
23 for sale by Fingerhut not more than ninety (90) days following the Effective Date, and the
24 commitment to make commercially reasonable efforts thereafter to reach one-hundred percent
25 (100%) Reformulated Products for Products intended for consumption of food or beverages; and
26

27 ¹ "Lip and Rim Area" is defined as the exterior top 20 millimeters of a hollowware food or beverage Product.

1 (b) to undertake all commercially feasible efforts to ensure that all of its glass and metal
2 Products not intended for consumption of food or beverages qualify as reformulated products.

3 **3. MONETARY PAYMENTS**

4 **3.1 Penalties Pursuant to Health & Safety Code §25249.7(b)**

5 The total civil penalty amount shall be \$3,000 which shall be paid by Fingerhut, pursuant to
6 Health & Safety Code §25249.7(b), within 30 days of the Effective Date. Said payment shall be
7 made payable to the "HIRST & CHANLER LLP in Trust For Russell Brimer" and shall be
8 delivered to plaintiff's counsel at the following address:

9 HIRST & CHANLER LLP
10 Attn: Proposition 65 Controller
11 2560 Ninth Street
12 Parker Plaza, Suite 214
13 Berkeley, CA 94710-2565

14 **3.2 Apportionment of Penalties Received**

15 All penalty monies received shall be apportioned by Brimer in accordance with Health &
16 Safety Code §25192, with 75% of these funds remitted by Brimer to the State of California's Office
17 of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies
18 retained by Brimer as provided by Health & Safety Code §25249.12(d). Brimer shall bear all
19 responsibility for apportioning and paying to the State of California the appropriate civil penalties
20 paid in accordance with this Section.

21 **4. REIMBURSEMENT OF FEES AND COSTS**

22 The Parties acknowledge that Brimer and his counsel offered to resolve this dispute without
23 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee
24 issue to be resolved after the material terms of the agreement had been settled. Fingerhut then
25 expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been
26 finalized. The Parties then attempted to (and did) reach an accord on the compensation due to
27 Brimer and his counsel under the private attorney general doctrine codified at California Code of
28 Civil Procedure §1021.5 for all work performed through the Court's approval of this agreement.
Under the private attorney general doctrine, Fingerhut shall reimburse Brimer and his counsel for

1 fees and costs incurred as a result of investigating, bringing this matter to Fingerhut's attention,
2 litigating and negotiating a settlement in the public interest and seeking the Court's approval of the
3 settlement agreement. Fingerhut shall pay Brimer and his counsel \$27,000 for all attorneys' fees,
4 expert and investigation fees, litigation and related costs within 30 days of the Effective Date. The
5 payment shall be made payable to HIRST & CHANLER LLP and shall be delivered to the
6 following address:

7 HIRST & CHANLER LLP
8 Attn: Proposition 65 Controller
9 2560 Ninth Street
10 Parker Plaza, Suite 214
11 Berkeley, CA 94710 2565

12 **5. RELEASE OF ALL CLAIMS**

13 **5.1 Release of Fingerhut and Downstream Customers**

14 In further consideration of the promises and agreements herein contained, and for the
15 payments to be made pursuant to Sections 3 and 4, Brimer, on behalf of himself, his past and
16 current agents, representatives, attorneys, successors and/or assignees, and in the interest of the
17 general public, hereby waives all rights to institute or participate in, directly or indirectly, any form
18 of legal action and releases all claims, including, without limitation, all actions, and causes of
19 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,
20 losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees)
21 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"),
22 against Fingerhut and each of its downstream distributors, wholesalers, licensors, licensees,
23 auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies,
24 corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives,
25 shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This
26 release is limited to those claims that arise under Proposition 65, as such claims relate to
27 Fingerhut's alleged failure to warn about exposures to or identification of the Listed Chemical
28 contained in the Products.

The Parties further understand and agree that this release shall not extend upstream to any

1 entities that manufactured the Products or any component parts thereof, or any distributors or
2 suppliers who sold the Products or any component parts thereof to Fingerhut.

3 **5.2 Fingerhut's Release of Brimer**

4 Fingerhut waives any and all claims against Brimer, his attorneys and other representatives,
5 for any and all actions taken or statements made (or those that could have been taken or made) by
6 Brimer and his attorneys and other representatives, whether in the course of investigating claims or
7 otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the
8 Products.

9 **6. COURT APPROVAL**

10 This Consent Judgment is not effective until it is approved and entered by the Court and
11 shall be null and void if, for any reason, it is not approved and entered by the Court within one
12 year after it has been fully executed by all Parties, in which event any monies that have been
13 provided to Plaintiff, or his counsel pursuant to Section 3 and/or Section 4 above, shall be refunded
14 within fifteen (15) days after receiving written notice from Fingerhut that the one year period has
15 expired. Defendant shall be entitled to recover interest accrued at a rate of 10% per annum on the
16 principle amount, which shall begin to accrue either fifteen (15) days following the date the Court
17 denies approval of the Consent Judgment or one year after the Consent Judgment has been signed
18 (assuming no motion to approve the consent judgment has been filed), whichever event occurs
19 first. Said interest will continue to accrue through any appeal process initiated by Brimer.

20 **7. SEVERABILITY**

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

24 **8. SALES DATA**

25 Fingerhut understands that the sales data that it respectively provided to counsel for Brimer
26 was a material factor upon which Brimer has relied to determine the amount of civil penalties
27 made pursuant to Health & Safety Code Section 25249.7(b) in this Consent Judgment. To the best
28

1 of Fingerhut's knowledge, the sales data provided by Fingerhut to counsel for Brimer is a true and
2 accurate reflection of any and all sales of the Products in California during the relevant period.
3 Furthermore, Brimer agrees to keep confidential all sales data provided to him.

4 **9. ATTORNEYS' FEES**

5 In the event that, after Court approval, Brimer takes reasonable and necessary steps to
6 enforce the terms of this Consent Judgment, Brimer shall be entitled to seek his reasonable
7 attorneys' fees and costs pursuant to CCP §1021.5. Fingerhut shall retain the right to oppose the
8 amount sought in any such fee or cost application.

9 **10. GOVERNING LAW**

10 The terms of this Consent Judgment shall be governed by the laws of the State of California
11 and apply within the State of California. In the event that Proposition 65 is repealed or is
12 otherwise rendered inapplicable by reason of law generally, or as to the Products, then Fingerhut
13 shall provide written notice to Brimer of any asserted change in the law, and shall have no further
14 obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Products
15 are so affected.

16 **11. NOTICES**

17 Unless specified herein, all correspondence and notices required to be provided pursuant to
18 this Consent Judgment shall be in writing and personally delivered or sent by: (i) first class,
19 (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by the
20 other Party at the following addresses:

21 **To Fingerhut:**

22 Karleen M. O'Connor
23 STOEL RIVES, LLP
24 111 Sutter Street, Suite 700
25 San Francisco, CA 94104

26 Fingerhut Direct Marketing, Inc.,
27 Attention General Counsel,
28 7777 Golden Triangle Drive,
Minneapolis, MN 55343

1
2 **To Brimer:**

3 Proposition 65 Controller
4 HIRST & CHANLER, LLP
5 2560 Ninth Street
6 Parker Plaza, Suite 214
7 Berkeley, CA 94710-2565

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

10 **12. COUNTERPARTS; FACSIMILE SIGNATURES**

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

14 **13. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

15 Brimer agrees to comply with the reporting form requirements referenced in Health &
16 Safety Code §25249.7(f).

17 **14. ADDITIONAL POST EXECUTION ACTIVITIES**

18 Brimer and Fingerhut agree to mutually employ their best efforts to support the entry of this
19 agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a
20 timely manner. The Parties acknowledge that, pursuant to Health & Safety Code §25249.7, a
21 noticed motion is required to obtain judicial approval of this Consent Judgment. Accordingly, the
22 Parties agree to file a Joint Motion to Approve the Consent Judgment ("Joint Motion").
23 Accordingly, the Parties agree that Plaintiff will draft and file a Joint Motion to Approve the
24 Consent Judgment ("Motion") within a reasonable period of time after the Execution Date, subject
25 to Fingerhut's approval (i.e., not to exceed thirty (30) days unless otherwise agreed to by the
26 Parties' counsel based on unanticipated circumstances). Plaintiff's counsel shall prepare a
27 declaration in support of the Motion which shall, inter alia, set forth support for the fees and costs
28 to be reimbursed pursuant to Section 4. Fingerhut shall have no additional responsibility to
Plaintiff's counsel pursuant to Code of Civil Procedure §1021.5 or otherwise with regard to

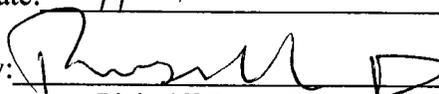
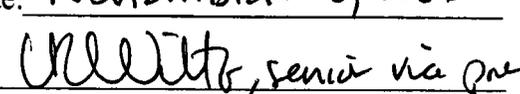
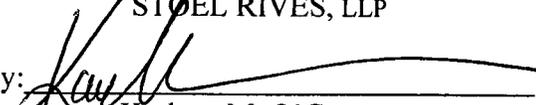
1 reimbursement of any fees and costs incurred with respect to the preparation and filing of the Joint
2 Motion and its supporting declaration or with regard to Plaintiff's counsel appearing for a hearing
3 thereon.

4 **15. MODIFICATION**

5 This Consent Judgment may be modified only: (1) by written agreement of the Parties and
6 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
7 of any Party and entry of a modified Consent Judgment by the Court. The Attorney General shall
8 be served with notice of any proposed modification to this Consent Judgment at least fifteen (15)
9 days in advance of its consideration by the Court.

10 **16. AUTHORIZATION**

11 The undersigned are authorized to execute this Consent Judgment on behalf of their
12 respective Parties and have read, understood and agree to all of the terms and conditions of this
13 Consent Judgment.

| | |
|---|---|
| <p>14</p> <p>15 AGREED TO:</p> <p>16 Date: <u>11-9-06</u></p> <p>17 By: <u></u></p> <p>18 Plaintiff Russell Brimer</p> | <p>15 AGREED TO:</p> <p>16 Date: <u>NOVEMBER 6, 2006</u></p> <p>17 By: <u></u>, senior vice president</p> <p>18 Defendant Fingerhut Direct Marketing, Inc.</p> |
| <p>19</p> <p>20 APPROVED AS TO FORM:</p> <p>21 Date: <u>11/9/06</u></p> <p>22 HIRST & CHANLER, LLP</p> <p>23 By: <u></u></p> <p>24 D. Joshua Voorhees Attorneys for Plaintiff 25 RUSSELL BRIMER</p> | <p>20 APPROVED AS TO FORM:</p> <p>21 Date: <u>November 8, 2006</u></p> <p>22 STOEL RIVES, LLP</p> <p>23 By: <u></u></p> <p>24 Karleen M. O'Connor Attorneys for Defendant 25 FINGERHUT DIRECT MARKETING, 26 INC.</p> |

1 **IT IS SO ORDERED.**

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3 Date: _____

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JUDGE OF THE SUPERIOR COURT

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EXHIBIT A

The Products that are covered by this Consent Judgment include, but are not limited to the following glass and metal lamps and suncatchers and ceramicware products that Plaintiff alleges contain lead:

- 1. Glass Fish Lamp, #LW-7004-TF-X (#8 45202 03473 2);
- 2. Tiffany Style Butterfly Lamp, #4355 (#8 45202 04355 0);
- 3. Snow Pals 32pc Dinnerware Set, #DD247 (#7 45574 01489 2); and
- 4. Pepsi Cola Salt & Pepper Shaker Set, #55500 (#1 82816 00039 6).

EXHIBIT B

The Designated Symbol that Defendant will use to identify Products containing the Listed Chemical which are sold through its catalogs or on its website is:



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