

1 David R. Bush, State Bar No. 154511  
2 Christopher Martin, State Bar No. 186021  
3 HIRST & CHANLER LLP  
4 Parker Plaza  
5 2560 Ninth Street, Suite 214  
6 Berkeley, CA 94710  
7 Telephone: (510) 848-8880  
8 Facsimile: (510) 848-8118

9 Attorneys for Plaintiff  
10 RUSSELL BRIMER

11 Timothy Martin, State Bar No. 223174  
12 JEFFER, MANGLES, BUTLER & MAMARO LLP  
13 1900 Avenue of the Stars  
14 Seventh Floor  
15 Los Angeles, California 90067  
16 Telephone: (310) 712-6824  
17 Facsimile: (310) 712-3330

18 Attorneys for Defendants  
19 FIESTA FOOD WAREHOUSE, LLC;  
20 FIESTA MEXICANA MARKET, L.P.

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
22 IN AND FOR THE COUNTY OF FRESNO  
23 UNLIMITED CIVIL JURISDICTION

24 RUSSELL BRIMER ) Case No: 07 CECG 00997  
25 )  
26 Plaintiff, )  
27 )  
28 v. ) **STIPULATION AND [PROPOSED]**  
 ) **ORDER RE: CONSENT JUDGMENT**  
29 FIESTA FOOD WAREHOUSE, LLC; FIESTA )  
30 MEXICANA MARKET, L.P.; and DOES 1 )  
31 through 150, )  
32 Defendants. ) Assigned to Hon. Donald S. Black for all  
33 ) purposes  
34 )  
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**1. INTRODUCTION**

**1.1 Plaintiff and Settling Defendants.** This consent judgment is entered into by and between Plaintiff Russell Brimer, (hereafter “Plaintiff”) and Fiesta Food Warehouse, LLC; Fiesta Mexicana Market, L.P. (hereafter “Fiesta”), with Plaintiff and Fiesta collectively referred to as the “Parties” and each being a “Party.”

**1.2 Plaintiff.** Brimer is an individual residing in California whose complaint alleges that he seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

**1.3 General Allegations.** Plaintiff alleges that Fiesta has distributed and/or sold in the State of California ceramic mugs and other ceramic containers intended for the consumption of food or beverages with colored artwork or designs containing lead on the exterior surface. Lead is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.*, (“Proposition 65”), and known to cause birth defects and other reproductive harm. Lead is referred to herein as the “Listed Chemical.”

**1.4 Product Descriptions.** The products that are covered by this consent judgment are defined as follows: mugs and other ceramic containers intended for the consumption of food or beverages with colored artwork or designs containing lead on the exterior. These products include by are not limited to “*Porcelain Coffee Mug (#8 35148 00723 5)*”. Such products collectively are referred to herein as the “Products.”

**1.5 Notices of Violation.** Beginning on January 12, 2007, Brimer served Fiesta and various public enforcement agencies with documents, each entitled “60-Day Notice of Violation” (“Notice”), that provided Fiesta and such public enforcers with notice that alleged that Fiesta was in violation of Health & Safety Code § 25249.6 for failing to warn purchasers that the Products that it sold exposed users in California to lead.

**1.6 Complaint.** On April 2, 2007, Plaintiff, alleging that he was acting in the interest of the general public in California, filed a complaint (hereafter referred to as the “Complaint” or the “Action”) in the Superior Court for the County of Fresno against Fiesta and Does 1 through

1 150, alleging violations of Health & Safety Code § 25249.6 based on the alleged exposures to the  
2 Listed Chemical contained in the Products sold by Fiesta.

3 **1.7 No Admission.** Fiesta denies the material factual and legal allegations contained in  
4 Plaintiff's Notice and Complaint and maintains that all products that it has sold in California,  
5 including the Products, have been and are in compliance with all laws. Nothing in this Consent  
6 Judgment shall be construed as an admission by Fiesta of any fact, finding, issue of law, or  
7 violation of law, nor shall compliance with this agreement constitute or be construed as an  
8 admission by Fiesta of any fact, finding, conclusion, issue of law or violation of law. However,  
9 this Section shall not diminish or otherwise affect the obligations, responsibilities and duties of  
10 Fiesta under this consent judgment.

11 **1.8 Consent to Jurisdiction.** For purposes of this consent judgment only, the parties  
12 stipulate that this Court has jurisdiction over the allegations of violations contained in the  
13 Complaint and personal jurisdiction over Fiesta as to the acts alleged in the Complaint, that  
14 venue is proper in the County of Fresno, that this Court has jurisdiction to enter this Consent  
15 Judgment as a full and final settlement and resolution of the allegations contained in the Complaint  
16 and of all claims which were or could have been raised based on the facts alleged therein or arising  
17 therefrom, and to enforce the provisions thereof.

18 **1.9 Effective Date.** For purposes of this consent judgment, the "Effective Date" shall  
19 be May 15, 2008.

20 **2. INJUNCTIVE RELIEF: PROPOSITION 65**

21 **2.1 Reformulation.** After June 15, Fiesta shall not utilize or sell Products unless they  
22 are covered by a Proposition 65-compliant warning as described in Section 2.2, or such Products  
23 comply with the Reformulation Standards set forth in Section 2.3.

24 **2.2 Product Warnings.** Any warning issued for Products pursuant to this Section 2.2  
25 shall be prominently placed with such conspicuousness as compared with words, statements,  
26 designs or devices as to render it likely to be read and understood by an ordinary individual under  
27 customary conditions before purchase. Any warning issued pursuant to this Section 2.1 shall be  
28

1 provided in a manner such that the consumer or user reasonably can discern to which *specific*  
2 Product the warning applies.

3 From the Effective Date, when required under this Consent Judgment, the following  
4 warning shall be given by Fiesta for all retail sales and other service-related transactions of or  
5 relating to the Products by: (i) affixing the language provided below to the packaging or label or,  
6 or directly on, each Product; or (ii) by prominently displaying this language at or near the display  
7 within each store where the Products are offered for sale:

8  
9 WARNING: This product contains lead, a chemical  
10 known to the State of California to cause  
11 birth defects and other reproductive harm.

12 Where more than one Product is sold in proximity to other like items or to those that do not  
13 require a warning (e.g., Reformulated Products as defined in section 2.3), the following statement  
14 must be used:<sup>1</sup>

15 WARNING: The following products contain lead, a  
16 chemical known to the State of California to  
17 cause birth defects or other reproductive  
18 harm:

19 ***[DISPLAY LIST OF EACH SPECIFIC PRODUCT FOR WHICH WARNING IS REQUIRED]***

### 20 **2.3 Reformulation Standards**

21 (a) For purposes of the exterior decoration standard set forth in the following  
22 subsections 2.3.(b) and (c), the following definitions apply:

23 “*Exterior Decorations*” is defined as all colored artwork, designs and/or markings  
24 on the exterior surface of the Product.

25 “*Lip and Rim Area*” is defined as the interior and exterior top 20 millimeters of a  
26 ceramic hollowware food/beverage Product, as defined by American Society of

27 <sup>1</sup> For purposes of this Consent Judgment, “sold in proximity” shall mean that the Product and another product are  
28 offered for sale close enough to each other so that the consumer, under customary conditions, could not reasonably  
determine which of the two products is subject to the warning sign.

1 Testing and Materials Standard Test Method C927-99.

2 “No Detectable Lead” shall mean that no lead is detected at a level above two one-  
3 hundredths of one percent (0.02%) by weight using a sample size of the decorating  
4 materials in question measuring approximately 50-100 mg and a test method of  
5 sufficient sensitivity to establish a limit of quantitation of less than 200 ppm.<sup>2</sup>

6 (b) Products shall be deemed to meet the requirements of Proposition 65  
7 without warnings with respect to the Listed Chemical in *Exterior Decorations* if it satisfies one of  
8 the standards outlined in subsections 2.3.(c)(1) or (2) or (3) below (collectively, these are referred  
9 to herein as the “Exterior Decoration Standard”), subject to the following: If a Product is  
10 decorated in the *Lip and Rim Area*, in addition to satisfying one of subsections 2.3.(c)(1) or (2) or  
11 (3) below, the additional Exterior Decoration Standard set forth in subsection 2.3.(c)(4) also must  
12 be satisfied.

13 (c)(1) **Decorating Materials Content-Based Standard.** The *Exterior*  
14 *Decorations*, exclusive of the *Lip and Rim Area*, only utilize decorating materials  
15 that contain six one-hundredths of one percent (0.06%) lead by weight, as measured  
16 either before or after the material is fired onto (or otherwise affixed to) the Product,  
17 using EPA Test Method 3050B.<sup>3</sup>

18 (c)(2) **Wipe Test-Based Standard.** The Product produces a test result no higher  
19 than 1.0 microgram (ug) of lead, as applied to the *Exterior Decorations* and  
20 performed as outlined in NIOSH method no. 9100.

21 (c)(3) **Total Acetic Acid Immersion Test-Based Standard.** The Product  
22 achieves a result of 0.99 ppm or less for lead after correction for internal volume  
23 when tested under the protocol attached hereto as Exhibit 2 (the ASTM C927-99  
24 test method, modified for total immersion with results corrected for internal

25 <sup>2</sup> If the decoration is tested after it is affixed to the Product, the percentage of the Listed Chemical by weight must  
26 relate only to the decorating material and must not include any quantity attributable to the ceramic substrate.

27 <sup>3</sup> If the decoration is tested after it is affixed to the Product, the percentage of the Listed Chemical by weight must  
28 relate only to the decorating material and must not include any quantity attributable to the ceramic substrate.

1 volume).<sup>4</sup>

2 (c)(4) **Lip and Rim Area Decoration Standard.** If the Product contains *Exterior*  
3 *Decorations* in the *Lip and Rim Area*:

4 (i) Any *Exterior Decorations* that extend into the *Lip and Rim*  
5 *Area* only utilize decorating materials that contain *No Detectable Lead*, or

6 (ii) The Product yields a test result showing a concentration  
7 level of 0.5 ug/ml or less of lead using ASTM method C 927-99.<sup>5</sup>

8 **2.4 Reformulation Certification.** Fiesta can demonstrate that its Products comply  
9 with the Reformulation Standards set forth in Section 2.3, and thus, comply with the injunctive  
10 provisions of this Consent Judgment, through either of the following methods:

11 (a) Prior to offering for retail sale a particular manufacturer's line of mugs,  
12 bowls or other ceramic container(s) intended for the consumption of food or beverages with  
13 exterior colored artwork or designs, Fiesta will obtain, either directly or from its supplier, a  
14 laboratory report from a qualified, independent test laboratory in the United States showing that at  
15 least three (3) representative product samples from each manufacturer's line of mugs, bowls or  
16 other ceramic containers (being sold) meets all applicable requirements of the Reformulation  
17 Standards as set forth above in Section 2.3. Fiesta will retain such laboratory report for a minimum  
18 of one (1) calendar year after all items from the particular line of mugs, bowls and/or other ceramic  
19 containers have been sold or after such sales have been otherwise discontinued and (ii) make them  
20 available to plaintiff within thirty days of any reasonable request for such information.

21 (b) By undertaking to contact each of its distributors of the Products by certified  
22 mail quarterly for the next three (3) years seeking confirmation that the Products that Fiesta is  
23 utilizing or selling in its stores comply with the standards set forth in subsection 2.2 above. The  
24 letter shall require the distributor to specifically identify each Product sold as being Reformulated,  
25 and request supporting documentation for each such claim. In the event that the distributor cannot

26 <sup>4</sup> Because this method requires correction for internal volume, this method is only appropriate for ceramic  
27 hollowware.

28 <sup>5</sup> The result must be evaluated without correction for internal volume; this method is only appropriate for ceramic  
hollowware.

1 certify that a Product is Reformulated, or fails to respond within 30 days of Fiesta sending of the  
2 request, Fiesta will not sell such Products in its stores until certification is provided or unless it  
3 otherwise has obtained test results from an independent laboratory in the United States confirming  
4 that the Products are Reformulated, in conformance with subsection (a) above. Fiesta will provide  
5 a copy of each letter sent to its distributors to Brimer at the address required pursuant to section 10  
6 below, within seven (7) calendar days of it being sent. Fiesta shall also provide plaintiff with a  
7 copy of each distributor response (or, if a distributor fails to respond and Fiesta otherwise intends  
8 to continue to sell or offer for use the Product(s) in question, laboratory test results), quarterly  
9 within forty (40) days of the date the aforementioned copies of the letter to distributors is sent to  
10 Brimer.

11 **2.5 Reformulation Commitment.** Fiesta hereby commits that it will use its best  
12 efforts to ensure all Products that it offers for sale in its stores, in California after October 15,  
13 2008, shall qualify as Reformulated Products.

14 **3. MONETARY RELIEF**

15 **3.1 Payments Pursuant to Health & Safety Code §25249.7(b).** In settlement of all  
16 the claims referred to in this Consent Judgment against Fiesta, it shall pay \$4,500 in civil penalties  
17 to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these  
18 funds remitted to the State of California's Office of Environmental Health Hazard Assessment  
19 ("OEHHA") and the remaining 25% of the penalty remitted to Russell Brimer as provided by  
20 California Health & Safety Code §25249.12(d). Defendant shall issue two separate checks for the  
21 penalty payment: (a) one check made payable to "Hirst & Chanler LLP in Trust For OEHHA" in  
22 the amount of \$3,375 (three thousand three hundred and seventy five dollars), representing 75% of  
23 the total penalty; and (b) one check to ""Hirst & Chanler LLP in Trust for Russell Brimer" in the  
24 amount of \$1,125 (one thousand one hundred twenty five dollars), representing 25% of the total  
25 penalty. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010,  
26 Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Russell Brimer, whose information shall be  
27 provided five calendar days before the payment is due.  
28

1 Payment shall be delivered to Plaintiff's counsel within ten (10) days of the Effective Date  
2 at the following address:

3 HIRST & CHANLER LLP  
4 Attn: Proposition 65 Controller  
5 455 Capitol Mall, Suite 605  
6 Sacramento, CA 95814

7 **3.2 Attorney's Fees and Costs.** The Parties acknowledge that Brimer and his counsel  
8 offered to resolve this dispute without reaching terms on the amount of fees and costs to be  
9 reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the  
10 agreement had been settled. Fiesta then expressed a desire to resolve the fee and cost issue shortly  
11 after the other settlement terms had been finalized. The Parties then attempted to (and did) reach  
12 an accord on the compensation due to Brimer and his counsel under general contract principles and  
13 the private attorney general doctrine codified at California Code of Civil Procedure (CCP)  
14 §1021.5, for all work performed through the Court's approval of this agreement. Fiesta shall  
15 reimburse Brimer and his counsel for fees and costs incurred as a result of investigating, bringing  
16 this matter to Fiesta attention, litigating and negotiating a settlement in the public interest and  
17 seeking the Court's approval of the settlement agreement. Fiesta shall pay Brimer and his counsel  
18 \$31,500 (thirty one thousand five hundred dollars) for all attorneys' fees and costs. Defendant  
19 shall issue a separate 1099 for fees and costs (EIN: 20-3929984) and shall make the check payable  
20 to "HIRST & CHANLER LLP" and shall be delivered within ten (10) days of the Effective Date to  
21 the following address:

22 HIRST & CHANLER LLP  
23 Attn: Proposition 65 Controller  
24 455 Capitol Mall, Suite 605  
25 Sacramento, CA 95814

#### 26 **4. RELEASE OF ALL CLAIMS**

27 **4.1 Plaintiff's Release of Fiesta.** As to the Products, this consent judgment is a full,  
28 final and binding resolution between the Plaintiff, acting on behalf of the public interest pursuant



1 to Health and Safety Code § 25249.7(d), on the one hand, and Fiesta, on the other hand, of any  
2 violation of Proposition 65, of all claims made or which could have been made in the Notice and/or  
3 the Complaint, and of any other statutory, regulatory or common law claim that could have been  
4 asserted against Fiesta and/or its affiliates, subsidiaries, divisions, successors, assignees, and/or  
5 customers for failure to provide clear, reasonable, and lawful warnings of exposure to lead  
6 contained in or otherwise associated with Products manufactured, sold or distributed by, for, or on  
7 behalf of Fiesta. Compliance with the terms of this consent judgment resolves any issue, now and  
8 in the future, concerning compliance by Fiesta and/or its affiliates, subsidiaries, divisions,  
9 successors, and assigns with the requirements of Proposition 65 with respect to the Products.

10 In further consideration of the promises and agreements herein contained, and for the  
11 payments to be made pursuant to Sections 3 and 4, Plaintiff, on behalf of himself, his past and  
12 current agents, representatives, attorneys, successors and/or assignees, and in the interest of the  
13 general public, hereby waive all rights to institute or participate in, directly or indirectly, any form  
14 of legal action and releases all claims, including, without limitation, all actions, causes of action, in  
15 law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or  
16 expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any  
17 nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"),  
18 against Fiesta and each of its customers, owners, purchasers, users, parent companies, corporate  
19 affiliates, subsidiaries and their respective officers, directors, attorneys, representatives,  
20 shareholders, agents, and employees (collectively "Fiesta Releasees") arising under Proposition 65,  
21 related to Fiesta or Fiesta Releasees' alleged failure to warn about exposures to or identification of  
22 the Listed Chemical contained in or on the Products.

23 The Parties further agree and acknowledge that this Consent Judgment is a full, final, and  
24 binding resolution of any violation of Proposition 65 that has been or could have been asserted in  
25 the Complaint against Fiesta for its alleged failure to provide clear and reasonable warnings of  
26 exposure to or identification of the Listed Chemical in or on the Products.

27 In addition, Plaintiff, on behalf of himself, his attorneys, and his agents, waive all rights to  
28 institute or participate in, directly or indirectly, any form of legal action and release all Claims

1 against the Fiesta Releasees arising under Proposition 65, related to each of the Fiesta Releasees'  
2 alleged failures to warn about exposures to or identification of the Listed Chemical contained in or  
3 on the Products and for all actions or statements made by Fiesta or its attorneys or representatives,  
4 in the course of responding to alleged violations of Proposition 65 by Fiesta. It is agreed, however,  
5 that Plaintiff shall remain free to institute any form of legal action to enforce the provisions of this  
6 Consent Judgment. It is specifically understood and agreed that the Parties intend that Fiesta  
7 compliance with the terms of this consent judgment resolves all issues and liability, now and in the  
8 future (so long as Fiesta complies with the terms of the consent judgment) concerning Fiesta and  
9 the Fiesta Releasees' compliance with the requirements of Proposition 65 as to the Products.

10 The Parties understand and agree that the release provided by Plaintiff herein shall not  
11 extend upstream to the Product manufacturers or to any distributor or supplier from whom Fiesta  
12 purchased directly or indirectly any of the Products.

13 **4.2 Fiesta Release of Plaintiff.** Fiesta waives all rights to institute any form of legal  
14 action and all claims against Plaintiff, and his attorneys or representatives, for all actions taken or  
15 statements made by Plaintiff and his attorneys or representatives, in the course of seeking  
16 enforcement of Proposition 65.

## 17 **5. COURT APPROVAL**

18 This Consent Judgment is not effective until it is approved and entered by the Court and  
19 shall be null and void if, for any reason, it is not approved and entered by the Court within one year  
20 after it has been fully executed by all Parties, in which event any monies that have been provided  
21 to Plaintiff or his counsel pursuant to Section 3 and/or Section 4 above, shall be refunded within  
22 fifteen days of their receipt of any such demand from Fiesta.

## 23 **6. SEVERABILITY**

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

## 27 **7. GOVERNING LAW**

28 The terms of this Consent Judgment shall be governed by the laws of the State of California

1 and apply within the State of California. In the event that Proposition 65 is repealed or is  
2 otherwise rendered inapplicable by reason of law generally, or as to the Products specifically, then  
3 Fiesta shall have no further injunctive obligations pursuant to this Consent Judgment with respect  
4 to, and to the extent that, those Products are so affected.

5 **8. NOTICES**

6 All correspondence and notices required to be provided pursuant to this consent judgment  
7 shall be in writing and personally delivered or sent by: (1) first-class, registered, certified mail,  
8 return receipt requested or (ii) overnight courier on either Party by the other at the following  
9 addresses. (Either Party, from time to time, may, pursuant to the methods prescribed above,  
10 specify a change of address to which all future notices and other communications shall be sent.)

11 To Fiesta:

12 Ben Bequer, Partner  
13 FIESTA FOOD WAREHOUSE; FIESTA MEXICANA MARKET, L.P.  
14 1950 S. Sterling  
Ontario, CA 91761

15 With a copy to:

16 Timothy Martin, Esq.  
17 JEFFER, MANGLES, BUTLER & MAMARO LLP  
1900 Avenue of the Stars, 7th Floor  
Los Angeles, California 90067

18 To Plaintiff:

19 HIRST & CHANLER LLP  
20 Attn: David R. Bush, Esq.  
2560 Ninth Street, Suite 214  
Berkeley, CA 94710

21 **9. NO ADMISSIONS**

22 Nothing in this Consent Judgment shall constitute or be construed as an admission by  
23 Fiesta of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with  
24 this consent judgment constitute or be construed as an admission by Fiesta of any fact, finding,  
25 conclusion, issue of law, or violation of law, such being specifically denied by Fiesta. Fiesta  
26 reserves all of its rights and defenses with regard to any claim by any party under Proposition 65 or  
27 otherwise. However, this Section shall not diminish or otherwise affect Fiesta obligations,  
28 responsibilities and duties under this consent judgment.

1       **10. COUNTERPARTS; FACSIMILE SIGNATURES**

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

5       **11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

6           Plaintiff agrees to comply with the reporting form requirements referenced in Health &  
7 Safety Code § 25249.7(f). Pursuant to regulations promulgated under that section, Plaintiff  
8 shall present this Consent Judgment to the California Attorney General’s Office within five (5)  
9 days after receiving all of the necessary signatures. A noticed motion to enter the Consent  
10 Judgment will then be served on the Attorney General’s Office at least forty-five (45) days prior to  
11 the date a hearing is scheduled on such motion in the Superior Court for the City and County of  
12 Fresno unless the Court allows a shorter period of time.

13       **12. ADDITIONAL POST EXECUTION ACTIVITIES**

14           The Parties shall mutually employ their best efforts to support the entry of this Agreement  
15 as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely  
16 manner. The Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed  
17 motion is required to obtain judicial approval of this Consent Judgment. Accordingly, plaintiff  
18 agrees to file a Motion to Approve the Agreement (“Motion”), within a reasonable period of time  
19 after the execution date (*i.e.*, not to exceed thirty days unless otherwise agreed to by the Parties’  
20 counsel based on unanticipated circumstances). Fiesta shall have no additional responsibility to  
21 Plaintiff’s counsel pursuant to CCP § 1021.5 or otherwise with regard to reimbursement of any  
22 fees and costs incurred with respect to preparing and filing of the Motion and its supporting  
23 declaration or with regard to Plaintiff’s counsel appearing for the hearing on the motion to approve  
24 before the trial court.

25       **13. MODIFICATION**

26           This Consent Judgment may be modified only: (1) by written agreement of the Parties and  
27 upon entry of a modified consent judgment by the Court thereon; or (2) upon a successful motion  
28 of any Party and entry of a modified consent judgment by the Court. The Attorney General shall be

1 served with notice of any proposed modification to this consent judgment at least fifteen days in  
2 advance of its consideration by the Court.

3 **14. AUTHORIZATION**

4 The undersigned are authorized to execute this consent judgment on behalf of their  
5 respective Parties and have read, understood and agree to all of the terms and conditions of this  
6 consent judgment.

8 AGREED TO:

AGREED TO:

9  
10 Date: 4-25-08

Date: \_\_\_\_\_

11  
12 By:   
Plaintiff RUSSELL BRIMER

By: \_\_\_\_\_  
Defendants FIESTA FOOD  
WAREHOUSE, LLC; FIESTA MEXICANA  
MARKET, L.P.

13  
14  
15 APPROVED AS TO FORM:

APPROVED AS TO FORM:

16  
17  
18 Date: \_\_\_\_\_

Date: \_\_\_\_\_

19 HIRST & CHANLER LLP

JEFFER, MANGLES, BUTLER  
& MAMARO LLP

20  
21 By: \_\_\_\_\_  
22 David R. Bush  
23 Attorney for Plaintiff  
RUSSELL BRIMER

By: \_\_\_\_\_  
Timothy Martin, Esq.  
Attorney for Defendants  
FIESTA FOOD WAREHOUSE, LLC;  
FIESTA MEXICANA MARKET, L.P.

24  
25 **IT IS SO ORDERED.**

26  
27 Date: \_\_\_\_\_

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

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**14. AUTHORIZATION**

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 consent judgment.

AGREED TO:

AGREED TO:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Plaintiff RUSSELL BRIMER

By: \_\_\_\_\_  
Defendants FIESTA FOOD  
WAREHOUSE, LLC; FIESTA MEXICANA  
MARKET, L.P.

APPROVED AS TO FORM:

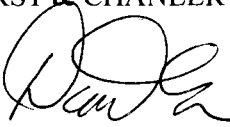
APPROVED AS TO FORM:

Date: April 25, 2008

Date: \_\_\_\_\_

HIRST & CHANLER LLP

JEFFER, MANGLES, BUTLER  
& MAMARO LLP

By:  \_\_\_\_\_  
David R. Bush  
Attorney for Plaintiff  
RUSSELL BRIMER

By: \_\_\_\_\_  
Timothy Martin, Esq.  
Attorney for Defendants  
FIESTA FOOD WAREHOUSE, LLC;  
FIESTA MEXICANA MARKET, L.P.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

1 served with notice of any proposed modification to this consent judgment at least fifteen days in  
2 advance of its consideration by the Court.

3 **14. AUTHORIZATION**

4 The undersigned are authorized to execute this consent judgment on behalf of their  
5 respective Parties and have read, understood and agree to all of the terms and conditions of this  
6 consent judgment.

7  
8 **AGREED TO:**

**AGREED TO:**

9  
10 Date: \_\_\_\_\_

Date: 4-25-08

11  
12 By: \_\_\_\_\_  
13 Plaintiff RUSSELL BRIMER

By: James Hoffman, CFO  
Defendants FIESTA FOOD  
WAREHOUSE, LLC; FIESTA MEXICANA  
MARKET, L.P.

14  
15 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

16  
17 Date: \_\_\_\_\_

Date: \_\_\_\_\_

18  
19 **HIRST & CHANLER LLP**

**JEFFER, MANGLES, BUTLER  
& MAMARO LLP**

20  
21 By: \_\_\_\_\_  
22 David R. Bush  
23 Attorney for Plaintiff  
24 RUSSELL BRIMER

By: \_\_\_\_\_  
Timothy Martin, Esq.  
Attorney for Defendants  
FIESTA FOOD WAREHOUSE, LLC;  
FIESTA MEXICANA MARKET, L.P.

25 **IT IS SO ORDERED.**

26  
27 Date: \_\_\_\_\_

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

28

1 served with notice of any proposed modification to this consent judgment at least fifteen days in  
2 advance of its consideration by the Court.

3 **14. AUTHORIZATION**

4 The undersigned are authorized to execute this consent judgment on behalf of their  
5 respective Parties and have read, understood and agree to all of the terms and conditions of this  
6 consent judgment.

7  
8 **AGREED TO:**

**AGREED TO:**

9  
10 Date: \_\_\_\_\_

Date: \_\_\_\_\_

11  
12 By: \_\_\_\_\_  
13 Plaintiff RUSSELL BRIMER

By: \_\_\_\_\_  
14 Defendants FIESTA FOOD  
WAREHOUSE, LLC; FIESTA MEXICANA  
MARKET, L.P.

15  
16 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

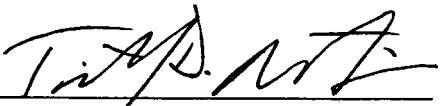
17  
18 Date: \_\_\_\_\_

Date: 4/25/09

19 HIRST & CHANLER LLP

JEFFER, MANGLES, BUTLER  
& MAMARO LLP

20  
21 By: \_\_\_\_\_

By:   
22 Timothy Martin, Esq.  
23 Attorney for Defendants  
24 FIESTA FOOD WAREHOUSE, LLC;  
FIESTA MEXICANA MARKET, L.P.

22 David R. Bush  
23 Attorney for Plaintiff  
24 RUSSELL BRIMER

25 **IT IS SO ORDERED.**

26  
27 Date: \_\_\_\_\_

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