

1 DONGELL LAWRENCE FINNEY LLP
2 RICHARD A. DONGELL (SBN 128083)
(rdongell@dflawyers.com)
3 THOMAS F. VANDENBURG (SBN 163446)
(tvandenberg@dflawyers.com)
4 RAFAEL CONTRERAS SWEET (SBN 257268)
(rsweet@dflawyers.com)
5 707 Wilshire Boulevard, 45th Floor
Los Angeles, CA 90017-3609
6 Telephone: (213) 943-6100
Facsimile: (213) 943-6101

7 Attorneys for SPECIALTY SURFACES
8 INTERNATIONAL, INC. DBA SPRINTURF

9
10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF LOS ANGELES
12 STANLEY MOSK COURTHOUSE-CENTRAL DISTRICT

13
14 LOS ANGELES UNIFIED SCHOOL
DISTRICT,

15 Plaintiff,

16
17 v.

18
19 SUN COUNTRY SYSTEMS, INC., A
CALIFORNIA CORPORATION.

20 Defendants.
21

22 SUN COUNTRY SYSTEMS, INC., A
23 CALIFORNIA CORPORATION

24 Cross-complainant,

25 v.

26 THE TURF AUTHORITY; AND ROES 1
THROUGH 50, INCLUSIVE,

27 Cross-defendants.
28

Case No.: BC418063

CONSENT JUDGMENT

ACTION FILED: July 17, 2009
TRIAL DATE: None Set

1 1. INTRODUCTION

2 1.1 On July 17, 2009, Plaintiff Los Angeles Unified School District
3 ("LAUSD"), filed a complaint against Sun Country Systems, Inc. ("SCS") entitled *Los Angeles*
4 *Unified School District v. Sun Country Systems, Inc.*, Los Angeles County Superior Court Case
5 Number BC418063 (the "Complaint"). In the Complaint, LAUSD alleges the following causes
6 of action against SCS: 1. Violation of the Safe Drinking Water and Toxic Enforcement Act of
7 1986 ("Proposition 65"); 2. Breach of Contract; 3. Products Liability; and 4. Negligence.

8 1.2 Specifically, the Complaint alleges that after LAUSD contracted with
9 SCS to install artificial turf at over twenty five (25) LAUSD schools (the "Affected Schools"),
10 SCS used a crumb rubber infill that contained materials officially listed by the State of California
11 as chemicals known to cause cancer, birth defects or other reproductive harm, namely lead and
12 carbon black (the "Listed Chemicals"). Although LAUSD only approved the use of these
13 materials to be used as "infill" that would not have direct human contact, the Complaint alleges
14 that SCS installed the infill in areas that would have direct contact with children. On or about
15 September 23, 2009, SCS filed a cross-complaint against The Turf Authority. SCS alleged that it
16 purchased the crumb rubber infill used for the installation of the artificial turf from The Turf
17 Authority. On or about November 12, 2009, SCS made an amendment to its Cross-Complaint
18 and added Specialty Surfaces International, Inc. dba Sprinturf ("Sprinturf") as a cross-defendant.

19 1.3 The first cause of action in the Complaint alleges that SCS exposed
20 students at the Affected Schools to the Listed Chemicals without first providing clear and
21 reasonable warning to LAUSD regarding their carcinogenicity and reproductive toxicity, and that
22 SCS's conduct constituted a violation of Proposition 65. Under its Breach of Contract claim,
23 LAUSD alleges that by failing to provide safe artificial products to LAUSD for use by children
24 at the Affected Schools, SCS breached both express and implied warranties of merchantability
25 and fitness for a particular purpose. LAUSD's Products Liability cause of action alleges that
26 SCS designed, manufactured, produced, distributed, and sold turf products containing and
27 utilizing crumb rubber to LAUSD, which SCS knew or should have known contained the Listed
28 Chemicals. Due to the presence of harmful carcinogens in the crumb rubber present in artificial

1 turf intended to be used by children, SCS designed, manufactured, produced, distributed, and
2 sold a defective product. Finally, under the Negligence cause of action, the Complaint alleges
3 that by purporting to provide an artificial turf product that would be safe for use on school
4 grounds by children, SCS bore a duty of care to LAUSD, and that SCS breached its duty of care
5 to LAUSD by providing a contaminated product with a high propensity to cause toxic harm to
6 children.

7 1.4 SCS denies that it is subject to the requirements of Proposition 65 on the
8 grounds that it is not a “person in the course of doing business” as defined under Health and
9 Safety Code Section 25249.11(b) since it employed fewer than ten (10) employees in its business
10 during the relevant time period. SCS further contends that, in the event that it is found to come
11 within the definition of “person in the course of doing business,” the levels of lead and/or carbon
12 black found in the crumb rubber infill pose no significant risk and are within “Safe Harbor”
13 levels.

14 1.5 The Turf Authority denies that it is subject to the requirements of
15 Proposition 65 on the grounds that it is not a “person in the course of doing business” as defined
16 under Health and Safety Code Section 25249.11(b) since it employed fewer than ten (10)
17 employees in its business during the relevant time period. The Turf Authority further contends
18 that, in the event that it is found to come within the definition of “person in the course of doing
19 business,” the levels of lead and/or carbon black found in the crumb rubber infill pose no
20 significant risk and are within “Safe Harbor” levels.

21 1.6 LAUSD, SCS, The Turf Authority, and Sprinturf (collectively, “Parties”)
22 agree that this Court has jurisdiction over the subject matter of the violations alleged in the
23 Complaint and personal jurisdiction over the Parties as to the acts alleged in the Complaint, that
24 venue is proper in the County of Los Angeles, and that this Court has jurisdiction to enter this
25 Consent Judgment as a full and final resolution of all claims which were or could have been
26 raised in the Complaint and Cross-Complaint based on the facts alleged therein.

27 1.7 In order to resolve this dispute without further expenditures of time and
28 resources by all Parties, the Parties have agreed to enter into this Consent Judgment. The Parties

1 enter into this Consent Judgment pursuant to a settlement of certain disputed claims between the
2 Parties as alleged in the Complaint. By executing this Consent Judgment, the Parties do not
3 admit any facts or conclusions of law. It is the Parties' intent that nothing in this Consent
4 Judgment shall be construed as an admission by the Parties of any fact, conclusion of law, issue
5 of law or violation of law, nor shall compliance with the Consent Judgment constitute or be
6 construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation
7 of law. Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy,
8 argument or defense SCS, The Turf Authority, or Sprinturf (collectively, "Defendants") may
9 have in this or any other or future legal proceedings.

10 2. SETTLEMENT PAYMENTS

11 2.1 Monetary Payment in Lieu of Penalty. Defendants shall pay to LAUSD
12 \$250,000.00 in lieu of any penalties pursuant to Health and Safety Code § 25249.7(b). LAUSD
13 shall use such funds to reimburse the costs it incurred in sampling, removing, replacing, and
14 remediating the artificial turf installed at the Affected Schools. The payment required under this
15 section shall be made payable to LAUSD.

16 2.2 Sprinturf shall provide LAUSD with funds in the amount of \$237,500.00.

17 2.3 SCS shall provide LAUSD with funds in the amount of \$12,500.00.

18 2.4 Delivery of payments. All payments made pursuant to this Section 2 shall
19 be delivered to LAUSD's counsel, Musick Peeler & Garrett LLP, at the address set forth in
20 Section 10.1 and shall be delivered within 30 days of entry of this Consent Judgment.

21 2.5 LAUSD will dismiss its Complaint with prejudice, and SCS will dismiss
22 its Cross-Complaint with prejudice once all monies have been remitted to Plaintiff.

23 3. MODIFICATION OF CONSENT JUDGMENT

24 3.1 This Consent Judgment may be modified by written agreement of the
25 Parties or by motion as provided by law.

26 4. ENFORCEMENT OF CONSENT JUDGMENT

27 4.1 The Parties may, by motion or application for an order to show cause,
28 enforce the terms and conditions contained in this Consent Judgment. The prevailing party in any

1 such motion shall be entitled to recover its reasonable attorneys' fees and costs associated with
2 enforcing the Consent Judgment.

3 5. APPLICATION OF CONSENT JUDGMENT

4 5.1 This Consent Judgment shall apply to and be binding upon the Parties
5 hereto, their divisions, subdivisions, parents and subsidiaries, and the predecessors, successors or
6 assigns of any of them.

7 6. CLAIMS COVERED AND RELEASE OF CLAIMS

8 6.1 This Consent Judgment is a full, final and binding resolution between
9 LAUSD, both on its own behalf and on behalf of the public interest pursuant to Health & Safety
10 Code § 25249.7(d), and Defendants of any Violation of Proposition 65, Breach of Contract,
11 Products Liability, Negligence, and any other statutory or common law claims that were or could
12 have been asserted in the Complaint against Defendants (including any claims that could be
13 asserted in connection with any of the products mentioned in this Consent Judgment) or their
14 parents, subsidiaries, affiliates, insurers, directors, officers, employees, agents, attorneys,
15 suppliers, distributors, customers or retailers (collectively, "Defendant Releasees") regarding any
16 past, present, or future exposures to any hazardous chemicals or conditions, including but not
17 limited to those listed in Proposition 65, resulting from products manufactured, distributed or
18 sold by Defendants ("Covered Claims") on or prior to the date of entry of this Consent Judgment.
19 LAUSD, its Board of Education, its directors, officers, employees and attorneys, both on its own
20 behalf and on behalf of the public interest pursuant to Health & Safety Code § 25249.7(d),
21 hereby release all Covered Claims against Defendant Releasees. Compliance with the terms of
22 this Consent Judgment constitutes compliance with Proposition 65 for purposes of any exposure
23 to hazardous chemicals or conditions from the artificial turf.

24 6.2 Each party understands that it is waiving the provisions of California Civil
25 Code §1542 which provides as follows: "A general release does not extend to the claims which
26 the creditor does not know or suspect to exist in his favor at the time of executing a release,
27 which if known by him must have materially affected his settlement with the debtor." The
28

1 Parties hereby release, waive and relinquish all rights and benefits which each may acquire under
2 California Civil Code §1542 pertaining to the subject matter of this Consent Judgment.

3 7. SEVERABILITY

4 7.1 In the event that any of the provisions of this Consent Judgment or part
5 thereof are held by a court to be unenforceable, the validity of the enforceable provisions or part
6 thereof shall not be adversely affected.

7 8. GOVERNING LAW

8 8.1 The terms of this Consent Judgment shall be governed by the laws of the
9 State of California.

10 9. RETENTION OF JURISDICTION

11 9.1 This Court shall retain jurisdiction of this matter to implement and enforce
12 the terms this Consent Judgment.

13 10. PROVISION OF NOTICE

14 10.1 All notices required pursuant to this Consent Judgment and
15 correspondence shall be sent to the following:

16 For LAUSD:

17 Jay F. Golida
18 Associate General Counsel
19 Office of the General Counsel
20 Los Angeles Unified School District
21 333 South Beaudry Avenue, 23rd Floor
22 Los Angeles, California 90017

23 AND

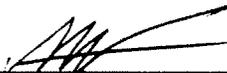
24 Barry C. Groveman
25 Musick, Peeler & Garrett LLP
26 1 Wilshire Boulevard, Suite 2000
27 Los Angeles, California 90017

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the party represented and legally bind that party. The undersigned have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and costs.

DATED: March 29, 2010 MUSICK PEELER & GARRETT LLP

By: 
Barry C. Groveman
K. Ryan Hiete
Adam D. Wieder
Attorneys for LOS ANGELES UNIFIED SCHOOL DISTRICT

DATED: March 29, 2010 LAW OFFICE OF DENNIS M. WALSH

By: _____
Dennis M. Walsh
Attorney for SUN COUNTRY SYSTEMS, INC.

DATED: March 29, 2010 HEWITT WOLENSKY LLP

By: _____
Elizabeth V. McNulty
Attorney for THE TURF AUTHORITY

DATED: March 29, 2010 DONGELL LAWRENCE FINNEY LLP

By: _____
Thomas F. Vandenburg
Rafael Contreras Sweet
Attorneys for SPECIALTY SURFACES INTERNATIONAL, INC. DBA SPRINTURF

1 13.1 Each signatory to this Consent Judgment certifies that he or she is fully
2 authorized by the party he or she represents to stipulate to this Consent Judgment and to enter
3 into and execute the Consent Judgment on behalf of the party represented and legally bind that
4 party. The undersigned have read, understand and agree to all of the terms and conditions of this
5 Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
6 costs.

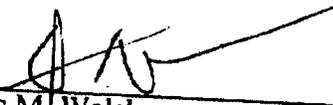
7
8 DATED: March 29, 2010

MUSICK PEELER & GARRETT LLP

9
10 By: _____
11 Barry C. Groveman
12 K. Ryan Hiete
13 Adam D. Wieder
14 Attorneys for LOS ANGELES UNIFIED SCHOOL
15 DISTRICT

16
17 DATED: March 29, 2010

LAW OFFICE OF DENNIS M. WALSH

18 By: 
19 Dennis M. Walsh
20 Attorney for SUN COUNTRY SYSTEMS, INC.

21
22 DATED: March 29, 2010

HEWITT WOLENSKY LLP

23 By: _____
24 Elizabeth V. McNulty
25 Attorney for THE TURF AUTHORITY

26
27 DATED: March 29, 2010

DONGELL LAWRENCE FINNEY LLP

28 By: _____
Thomas F. Vandenburg
Rafael Contreras Sweet
Attorneys for SPECIALTY SURFACES
INTERNATIONAL, INC. DBA SPRINTURF

1 13.1 Each signatory to this Consent Judgment certifies that he or she is fully
2 authorized by the party he or she represents to stipulate to this Consent Judgment and to enter
3 into and execute the Consent Judgment on behalf of the party represented and legally bind that
4 party. The undersigned have read, understand and agree to all of the terms and conditions of this
5 Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
6 costs.

7
8 DATED: March 29, 2010

MUSICK PEELER & GARRETT LLP

9 By: _____

Barry C. Groveman

K. Ryan Hiete

Adam D. Wieder

10 Attorneys for LOS ANGELES UNIFIED SCHOOL
11 DISTRICT
12

13 DATED: March 29, 2010

LAW OFFICE OF DENNIS M. WALSH

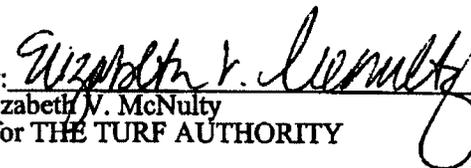
14
15 By: _____

Dennis M. Walsh

16 Attorney for SUN COUNTRY SYSTEMS, INC.
17

18 DATED: March 29, 2010

HEWITT WOLENSKY LLP

19
20 By:  _____

Elizabeth V. McNulty

21 Attorney for THE TURF AUTHORITY
22

23 DATED: March 29, 2010

DONGELL LAWRENCE FINNEY LLP

24
25 By: _____

Thomas F. Vandenburg

Rafael Contreras Sweet

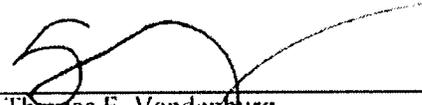
26 Attorneys for SPECIALTY SURFACES
27 INTERNATIONAL, INC. DBA SPRINTURF
28

1 13.1 Each signatory to this Consent Judgment certifies that he or she is fully
2 authorized by the party he or she represents to stipulate to this Consent Judgment and to enter
3 into and execute the Consent Judgment on behalf of the party represented and legally bind that
4 party. The undersigned have read, understand and agree to all of the terms and conditions of this
5 Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
6 costs.

7
8 DATED: March 29, 2010 MUSICK PEELER & GARRETT LLP
9
10 By: _____
11 Barry C. Groveman
12 K. Ryan Hiete
13 Adam D. Wieder
14 Attorneys for LOS ANGELES UNIFIED SCHOOL
15 DISTRICT

16 DATED: March 29, 2010 LAW OFFICE OF DENNIS M. WALSH
17
18 By: _____
19 Dennis M. Walsh
20 Attorney for SUN COUNTRY SYSTEMS, INC.

21 DATED: March 29, 2010 HEWITT WOLENSKY LLP
22
23 By: _____
24 Elizabeth V. McNulty
25 Attorney for THE TURF AUTHORITY

26 DATED: March 29, 2010 DONGELL LAWRENCE FINNEY LLP
27
28 By: _____
29 
30 Thomas F. Vandenburg
31 Rafael Contreras Sycet
32 Attorneys for SPECIALTY SURFACES
33 INTERNATIONAL, INC. DBA SPRINTURF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between Los Angeles Unified School District, Sun Country Systems, Inc., The Turf Authority, and Specialty Services International, Inc. dba Sprinturf, the settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.

Date: _____

Hon. Michelle R. Rosenblatt
Judge of the Superior Court