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Attorneys for Plaintiffs
Chris Manthey and Benson Chiles

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CHRIS MANTHEY and BENSON CHILES, Plaintiffs, vs. CVS PHARMACY, INC.; GENERAL NUTRITION CORPORATION; NOW HEALTH GROUP, INC.; OMEGA PROTEIN, INC.; PHARMAVITE LLC; RITE AID CORPORATION; SOLGAR, INC.; and TWINLAB CORPORATION, Defendants.	Case No.: CGC-10-497334 **[PROPOSED] CONSENT JUDGMENT AS TO TWINLAB CORPORATION, ET AL.; ORDER**

I. INTRODUCTION

1.1 On March 2, 2010, Chris Manthey and Benson Chiles (collectively, "Plaintiffs"), acting in the public interest, filed a complaint for civil penalties and injunctive relief in San Francisco Superior Court, Case No. 497334 ("Complaint") against CVS Pharmacy, Inc., General Nutrition Corp., NOW Health Group, Inc., Omega Protein, Inc., Rite Aide Corp., Solgar, Inc., and Twinlab Corp. (collectively, "Defendants"). In their Complaint, Plaintiffs

allege that Defendants manufactured, packaged, distributed, marketed and/or sold dietary supplements made from fish oils, fish liver oils, shark oils, and/or shark liver oils ("Products") for human consumption containing the Proposition 65 listed chemical polychlorinated biphenyls ("PCBs") in an amount that violated the provisions of Health & Safety Code §§ 25249.5 *et seq.* ("Proposition 65") by knowingly and intentionally exposing persons to a chemical known to the State of California to cause reproductive toxicity and cancer, namely PCBs, without first providing a clear and reasonable warning to such individuals. This Consent Judgment resolves Plaintiffs claims against Twinlab Corporation, Twinlab Corporation d/b/a ISI Brands, Inc. and d/b/a Metabolife, Corp., Idea Sphere, Inc., and Natural 2U LLC (collectively, "Settling Defendants"). The Products covered by this Consent Judgment are described in Exhibit A attached hereto (the "Dietary Supplement Products"). If Plaintiff in the future inquires whether a Product is a Dietary Supplement Product subject to this Consent Judgment, Settling Defendants shall respond promptly (and in any event within fourteen (14) days of the inquiry) to Plaintiff's inquiry.

1.2 For purposes of this Consent Judgment only, Plaintiffs and Settling Defendants (hereafter referred to as the "Parties"), stipulate that this Court has jurisdiction over allegations of violations contained in the Complaint and personal jurisdiction over the Settling Defendants as to the acts alleged in the Complaint, that venue is proper in the County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a resolution of all claims which could have been raised in the Complaint based on the facts alleged therein. Each Settling Defendant employs ten (10) or more employees. More than sixty (60) days have lapsed since Plaintiff issued a notice of violation of Proposition 65 letter dated August 6, 2009, and no public prosecutor has commenced a legal action or intervened in Plaintiff's suit. A copy of the notice of violation letter and Complaint appear at Exhibit B.

1.3 Each Settling Defendant denies the allegations set forth in the Complaint.

1.4 For the purpose of avoiding prolonged and costly litigation, the Parties enter into this Consent Judgment as a full settlement of all claims that were raised in the Complaint based on the facts alleged therein, or which could have been raised in the Complaint arising out of the

facts alleged therein. By execution of this Consent Judgment, no Settling Defendant admits any violation of Proposition 65 or any other law and specifically denies that it has committed any such violations and maintains that all dietary supplement products that it has sold and distributed in California have been and are in compliance with all laws. Nothing in this Consent Judgment shall be construed as an admission by any Settling Defendant of any fact, finding, conclusion, issue of law, or violation of law, nor as an admission that any monitoring, testing, or labeling obligations herein have any applicability except with respect to compliance with Proposition 65 respecting products sold within the State of California to California consumers. However, this paragraph shall not diminish or affect the responsibilities and duties of the Parties under this Consent Judgment.

II. MONITORING

2.1 Settling Defendants shall monitor PCBs levels to which California consumers are exposed in the Dietary Supplement Products. In monitoring such levels, Settling Defendants shall be entitled to conduct, or have conducted on their behalf, laboratory testing for PCBs, rely on the test results their raw, intermediate or bulk material suppliers provide, rely on test results their contract manufacturers provide and rely on additional relevant information (such as whether oils have been subject to molecular distillation or other processing to reduce impurities) to establish PCB levels for purposes of this Consent Judgment in the Dietary Supplement Products. The laboratory testing for purposes of this Section 2.1 may be conducted pursuant to US EPA Method 8082A, US EPA Method 1668 or 1668A or any other laboratory test method routinely employed in the United States, Canada or European countries to document PCB levels (or specific PCB congeners) in Products. The data and information on which a Settling Defendant relies shall be maintained for at least two (2) years after a Dietary Supplement Product is manufactured, distributed or sold (whatever is the latest date) by a Settling Defendant.

2.2 A determinative level of PCBs in any Dietary Supplement Product for purposes of this Consent Judgment shall be established if a Settling Defendant conducts, or has conducted on its behalf, testing of a minimum of three (3) and a maximum of ten (10) samples

(at a Settling Defendant's discretion) from different lots or bulks using US EPA Method 8082A. The determinative level shall be the arithmetic mean (average) of the samples so tested. The determinative level shall be the level evaluated to determine compliance with the obligations of this Consent Judgment, including Section 3.1 below. The determinative level for a given Dietary Supplement Product may be established at any time and the Parties expressly contemplate that in the event of a dispute regarding the determinative level, the Settling Defendant shall be afforded an opportunity prior to enforcement of this Consent Judgment to supplement the existing test data and information on hand pursuant to Section 2.1 as set forth in this Section 2.2.

2.3 All data generated in compliance with Sections 2.1 and 2.2 herein shall be available to Plaintiffs within thirty (30) days of request therefor by Settling Defendant's delivering the information to Laura Baughman at Baron & Budd, P.C., 3102 Oak Lawn Ave., Suite 1100, Dallas, TX 75219 (lbaughman@baronbudd.com). Plaintiffs shall not request such data more often than once per calendar year, unless good cause is shown to request data more frequently. No test data or other information need be maintained or delivered to Plaintiff corresponding to the time period a Dietary Supplement Product carries a warning as provided for in Section 3.1. Plaintiffs shall keep all such information and data confidential except as is necessary to contest whether the warning obligation of Section 3.1 below has been violated, and if such data or information is required to be presented to the Court, Plaintiff shall do so under seal or take alternative measures to preserve the confidentiality of the data or information.

III. CLEAR AND REASONABLE WARNINGS

3.1 Warning Standard

Beginning with the date that is ninety (90) days after the Effective Date of this Consent Judgment (the "Compliance Date"), each Settling Defendant shall not manufacture for sale in the State of California, distribute into the State of California, or sell directly to a consumer in the State of California any Dietary Supplement Product that exceeds an exposure limit for polychlorinated biphenyls ("PCBs") of 290 nanograms per day for birth defects and reproductive harm, or exceeds the exposure limit for PCBs of 350 nanograms per day for

cancer, based on the maximum daily dosage recommended on the Dietary Supplement Product label, unless a warning is placed on the packaging, labeling or directly to or on the Product that states:

> "[CALIFORNIA PROPOSITION 65] WARNING:
> This product contains polychlorinated biphenyls ("PCBs"), a chemical known [to the State of California] to cause cancer, birth defects, or other reproductive harm."

(hereinafter, "Product Label Warning"). The text in [brackets] is optional in a Settling Defendant's sole discretion. To ensure accuracy in the warning text, a Settling Defendant may omit either the word "cancer" or the phrase "birth defects, or other reproductive harm" depending on whether the level of PCBs in the Dietary Supplement Product exceed only the warning trigger level for cancer, or exceed only the warning trigger level for birth defects and reproductive harm, or exceed the warning trigger levels for both cancer and birth defects or other reproductive harm. The Parties acknowledge that the warning trigger levels for PCBs may change over time and a Settling Defendant accordingly may adjust the warning text for purposes of accuracy. Product Label Warnings shall be placed with such conspicuousness as compared with other words, statements, designs and/or devices on the labeling as to render it likely to be read and understood by an ordinary individual under customary conditions of use or purchase. If the warning is displayed on the Product's container or labeling, the warning shall be at least the same size as the largest of any other health or safety warnings on the Product's container or labeling, and the word "warning" shall be in all capital letters and in bold print. If printed on the labeling, the warning shall be contained in the same section of the labeling that states other safety warnings concerning the use of the Product. A Settling Defendant may affix a sticker or a hang tag on each unit of a Dietary Supplement Product packaged in final form for consumer purchase to deliver the warning, if required, provided the sticker is affixed in a location a consumer is likely to see prior to first use.

3.2 Mail Order Sales

For any mail order sales by a Settling Defendant, the warning language required under this Consent Judgment shall also be included in the mail order catalogue, either on the same

page as any order form, or on the same page upon which the Dietary Supplement Product's price is listed, in the same type size as the surrounding, non-heading text. Required warning text, if any, shall be added in the next print run of a catalogue which is scheduled in the ordinary course of business at least forty-five (45) days after entry of this Consent Judgment.

3.3 Internet Sales

For internet sales by a Settling Defendant of Dietary Supplement Products subject to the warning requirements of Section 3.1, the warning language required under this Consent Judgment shall be displayed in the same type size as the surrounding, non-heading text, either: (a) on the same page upon which the Dietary Supplement Product is displayed or referenced; (b) on the same page as the order form for the Dietary Supplement Product; (c) on the same page as the price for the Dietary Supplement Product is displayed; or (d) in a dialogue box which appears when a California address for delivery is provided by the consumer, so long as the dialogue box appears prior to the completion of the internet sale and requires the consumer to affirmatively accept receipt of the warning set forth in the dialogue box (which shall be displayed in the same type size as the surrounding, non-heading text on the screen at the time of the appearance of the dialogue box), as a condition precedent to completing the sale.

3.4 Any non-discretionary changes to the language or format of the warnings required herein shall be made only after Court approval or obtaining Plaintiffs' and the California Attorney General's approval. If any Settling Defendant requests a non-discretionary change in language or format of the warnings and neither Plaintiffs nor the Attorney General respond to that request within forty-five (45) days, then that Settling Defendant may move the Court via a noticed motion to modify this Consent Agreement. The Parties agree that adjustments to the warning text for accuracy if warning trigger levels for PCBs change due to either Plaintiff or the Office of Environmental Health Hazard Assessment adopting (as set forth in Section 3.6) final "safe harbor" figures which are higher than 290 ~~ug~~/day shall be deemed a discretionary change.

3.5 Each Settling Defendant's compliance with Sections 3.1 through 3.4 of this Consent Judgment shall fully and completely satisfy such Settling Defendant's obligations

page as any order form, or on the same page upon which the Dietary Supplement Product's price is listed, in the same type size as the surrounding, non-heading text. Required warning text, if any, shall be added in the next print run of a catalogue which is scheduled in the ordinary course of business at least forty-five (45) days after entry of this Consent Judgment.

3.3 Internet Sales

For internet sales by a Settling Defendant of Dietary Supplement Products subject to the warning requirements of Section 3.1, the warning language required under this Consent Judgment shall be displayed in the same type size as the surrounding, non-heading text, either: (a) on the same page upon which the Dietary Supplement Product is displayed or referenced; (b) on the same page as the order form for the Dietary Supplement Product; (c) on the same page as the price for the Dietary Supplement Product is displayed; or (d) in a dialogue box which appears when a California address for delivery is provided by the consumer, so long as the dialogue box appears prior to the completion of the internet sale and requires the consumer to affirmatively accept receipt of the warning set forth in the dialogue box (which shall be displayed in the same type size as the surrounding, non-heading text on the screen at the time of the appearance of the dialogue box), as a condition precedent to completing the sale.

3.4 Any non-discretionary changes to the language or format of the warnings required herein shall be made only after Court approval or obtaining Plaintiffs' and the California Attorney General's approval. If any Settling Defendant requests a non-discretionary change in language or format of the warnings and neither Plaintiffs nor the Attorney General respond to that request within forty-five (45) days, then that Settling Defendant may move the Court via a noticed motion to modify this Consent Agreement. The Parties agree that adjustments to the warning text for accuracy if warning trigger levels for PCBs change due to either Plaintiff or the Office of Environmental Health Hazard Assessment adopting (as set forth in Section 3.6) final "safe harbor" figures which are higher than 290 ~~ug~~ ng/day shall be deemed a discretionary change.

3.5 Each Settling Defendant's compliance with Sections 3.1 through 3.4 of this Consent Judgment shall fully and completely satisfy such Settling Defendant's obligations

under Proposition 65 with respect to PCBs in the Dietary Supplement Products and, additionally, all sales to California consumers of such Dietary Supplement Products by any person shall be deemed to be in compliance with Proposition 65 with respect to PCBs. For the avoidance of doubt, the Parties expressly agree sales of any Dietary Supplement Products any Settling Defendant already has manufactured, or distributed or sold prior to the Compliance Date shall not constitute a violation of this Consent Judgment, even if sales to, or use by, California consumers of such Dietary Supplement Products occur after the Compliance Date.

3.6 In the event that either a) one or both of the Plaintiffs subsequently agree in a settlement or judicially-entered injunction or consent judgment pursuant to Proposition 65 to a less stringent standard for PCBs in Products than set forth in Paragraph 3.1 above, or b) the California Office of Environmental Health Hazard Assessment ("OEHHA") subsequently establishes "safe harbor" warning trigger levels for PCBs in Products (including the Dietary Supplement Products) that are higher than the level set forth in Paragraph 3.1 above, Settling Defendants shall automatically, with no further action needed on Settling Defendants' part, be entitled to adopt such higher warning trigger level with respect to sales to California consumers of the Dietary Supplement Products by Settling Defendants or any other person.

IV. MONETARY RELIEF

4.1 Settling Defendants shall pay Plaintiffs a total of $137,500.00 ("Settlement Proceeds") in two equal installments. The first installment amount of $68,750.00 shall be paid within thirty (30) days of the Effective Date and the second installment shall be paid within sixty (60) days of the Effective Date. The Settlement Proceeds shall be made payable to Baron & Budd, P.C. and delivered to Laura Baughman at Baron & Budd, P.C., 3102 Oak Lawn Ave., Suite 1100, Dallas, Texas 75219. Of the Settlement Proceeds, $3,000.00 shall be deemed a Civil Penalty. The Civil Penalty shall be deemed paid in the first installment. Plaintiffs shall bear all responsibility for apportioning and paying to the State of California any portion of the Settlement Proceeds as required by California Health & Safety Code § 25249.12(d), and no Settling Defendant shall have any liability if payments to the State of California are not made by Plaintiffs.

4.2 The payment made pursuant to Section 4.1 shall be the only monetary obligation of the Settling Defendants with respect to this Consent Judgment, including as to any fees, costs, or expenses Plaintiffs have incurred in relation to this action and Plaintiffs hereby jointly and severally expressly release claims, if any, for any additional sums from Settling Defendants.

V. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Plaintiffs agree to comply with the reporting requirements referenced in California Health & Safety Code § 25249.7(f). Pursuant to the regulations promulgated under that section, Plaintiffs shall present this Settlement to the California Attorney General's Office within five (5) days after receipt of all necessary signatures. The Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed motion must be filed to obtain judicial approval of the Consent Judgment. Accordingly, a motion for approval of the settlement shall be prepared and filed by Plaintiffs within a reasonable period of time after the date this Consent judgment is signed by all Parties. Plaintiffs agree to serve a copy of the noticed motion to approve and enter the Consent Judgment on the Attorney General's Office at least forty-five (45) days prior to the date set for hearing of the motion in the Superior Court of the City and County of San Francisco.

VI. MODIFICATION OF SETTLEMENT

This Settlement may be modified by: (1) written agreement among the Parties and upon entry of a modified Consent Judgment by the Court thereon, or (2) motion of Plaintiffs or any of the Settling Defendants as provided by law and upon entry of a modified Consent Judgment by the Court thereon. All Parties and the California Attorney General's Office shall be served with notice of any proposed modification to this Consent Judgment at least fifteen (15) days in advance of its consideration by the Court.

VII. APPLICATION OF CONSENT JUDGMENT

7.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party that he or she represents to enter into and execute the Consent Judgment on behalf of the Party represented and legally bind that Party.

7.2 This Consent Judgment shall apply to and be binding upon Plaintiffs and each of the Settling Defendants, their officers, directors, and shareholders, divisions, subdivisions, parent entities or subsidiaries, and successors or assigns of each of them.

VIII. CLAIMS COVERED

8.1 This Consent Judgment is a final and binding resolution between Plaintiffs, including Plaintiffs in their representative capacity in the interest of the general public, and the Settling Defendants, of any violation of Proposition 65 or any other statutory or common law claim that could have been asserted against the Settling Defendants for failure to provide clear, reasonable and lawful warnings of exposures to PCBs that result from ingestion of the Dietary Supplement Products. No claim is reserved as between the Parties hereto, and Plaintiffs in their individual capacities and Settling Defendants expressly waive any and all rights which they may have under Section 1542 of the Civil Code of the State of California, which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

8.2 Plaintiffs' Release of Settling Defendants

In further consideration of the promises and agreements herein contained, and for the payment to be made pursuant to Section 4.1, Plaintiffs, on behalf of themselves, their past and current agents, representatives, attorneys, successors and/or assignees, and Plaintiffs, in their representative capacity in the interest of the general public, hereby release and waive all rights to institute or participate in, directly or indirectly, any form of legal action addressing any and all claims occurring on or before the entry of this Consent Judgment, and release all claims occurring on or before the entry of this Consent Judgment, including, without limitation, all actions, causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses, including, but not limited to, investigation fees, expert fees and attorneys' fees of any nature whatsoever, whether known or unknown, fixed or contingent against each of the Settling Defendants and each of their suppliers, contract manufacturers, owners, parent companies, corporate affiliates, subsidiaries, distributors,

retailers and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees arising under Proposition 65 related to each Settling Defendant's alleged failure to warn about exposures to or identification of PCBs contained in the Dietary Supplement Products.

Plaintiffs, on behalf of themselves, their past and current agents, representatives, attorneys, successors and/or assignees, and Plaintiffs, in their representative capacity in the interest of the general public, and the Settling Defendants further agree and acknowledge that this Consent Judgment is a full, final, and binding resolution of any violations occurring on or before the entry of this Consent Judgment by each of the Settling Defendants and each of their suppliers, contract manufacturers, owners, parent companies, corporate affiliates, subsidiaries, distributors, retailers and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, of Proposition 65 that have been or could have been asserted for the failure to provide clear and reasonable warnings of exposure to or identification of PCBs contained in the Dietary Supplement Products manufactured, or distributed or sold by a Settling Defendant.

In addition, Plaintiffs, on behalf of themselves, their attorneys and agents, release and waive all rights to institute or participate in, directly or indirectly, any form of legal action addressing any and all claims occurring on or before the entry of this Consent Judgment, and release all claims occurring on or before the entry of this Consent Judgment against the Settling Defendants arising under Proposition 65 related to each of the Settling Defendants' alleged failure to warn about exposures to or identification of PCBs contained in the Dietary Supplement Products and for all actions or statements regarding the alleged failures to warn about exposures to or identification of PCBs contained in the Dietary Supplement Products made by each of the Settling Defendants or its attorneys or representatives in the course of responding to those alleged violations of Proposition 65 as alleged in the Complaint. For the avoidance of doubt, Plaintiffs expressly agree that all of the foregoing releases, waivers, agreements and acknowledgments in Sections 8.1 and 8.2, including those made by Plaintiffs in their representative capacity in the interest of the general public, apply to sales of any Dietary

Supplement Products any Settling Defendant already has manufactured, or distributed or sold prior to the Compliance Date, even if sale to, or use by, California consumers of such Dietary Supplement Products occur after the Compliance Date.

8.3 Release of Plaintiffs

Each Settling Defendant waives all rights to institute any form of legal action against Plaintiffs or their officers, employees, agents, attorneys or representatives, for all actions taken or statements made or undertaken by Plaintiffs and their officers, employees, agents, attorneys or representatives, in the course of seeking enforcement of Proposition 65 in this action.

IX. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

X. COURT APPROVAL AND EFFECTIVE DATE

If this Consent Judgment is not approved by this Court, it shall be of no force or effect and cannot be used in any proceeding for any purpose. This Consent Judgment shall become effective on the date entered by the Court (the "Effective Date").

XI. ENFORCEMENT

In the event that a dispute arises with respect to any provisions of this Consent Judgment, the Parties shall meet and confer within thirty (30) days of receiving written notice of the alleged violation from another party. In the event that the Parties are unable to resolve their dispute through the meet and confer process, this Consent Judgment may be enforced using any available provision of law.

XII. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Dietary Supplement Products specifically, then the Settling Defendants shall have no further obligations pursuant to this Consent Judgment with respect to those Products that are so affected.

XIII. EXCHANGE IN COUNTERPARTS

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

XIV. NOTICES

All correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (a) first-class, registered, certified return receipt requested, or (b) by overnight courier on Plaintiffs or a Settling Defendant by the others at the addresses set forth below. Either Plaintiffs or a Settling Defendant may specify in writing to the other Parties a change of address to which all notices and other communications shall be sent.

Whenever notice or a document is required to be sent to Plaintiffs, it shall be sent to:

Laura J. Baughman, Esq.
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219

Whenever notice or a document is required to be sent to a Settling Defendant, it shall be sent to:

Judith M. Praitis, Esq.
Sidley Austin, LLP
555 West Fifth St., Suite 4000
Los Angeles, CA 90013

Richard H. Neuwirth, Esq.
General Counsel
IdeaSphere, Inc.
632 Broadway, Suite 201
New York, New York 10012

XV. 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.

XVI. ENTIRE AGREEMENT

This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,

negotiations, commitments, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

XVII. ASSIGNMENT

A Settling Defendant may assign its obligations under this Consent Judgment, subject to approval by the Court on a noticed motion. Notice of a request for assignment shall be served on Plaintiffs and the Attorney General of the State of California.

APPROVED AS TO SUBSTANCE:

Dated: 8/21/12

Idea Sphere, Inc.

Dated: 8/21/12

Twinlab Corporation
Twinlab Corporation d/b/a ISI Brands, Inc.
Twinlab Corporation d/b/a Metabolife Corp.

Dated: 8/21/12

Natural 2U LLC

Dated: _____

Chris Manthey

Dated: _____

Benson Chiles

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APPROVED AS TO SUBSTANCE:

Dated: _____

_____
Idea Sphere, Inc.

Dated: _____

_____
Twinlab Corporation
Twinlab Corporation d/b/a ISI Brands, Inc.
Twinlab Corporation d/b/a Metabolife Corp.

Dated: _____

_____
Natural 2U LLC

Dated: 8/23/12

_____
Chris Manthey

Dated: _____

_____
Benson Chiles

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Dated: _____

_____
Idea Sphere, Inc.

Dated: _____

_____
Twinlab Corporation
Twinlab Corporation d/b/a ISI Brands, Inc.
Twinlab Corporation d/b/a Metabolife Corp.

Dated: _____

_____
Natural 2U LLC

Dated: _____

_____
Chris Manthey

Dated: 8/22/12

_____
Benson Chiles

APPROVED AS TO FORM:

Dated: 8/24/2012

BARON & BUDD, P.C.
LAW OFFICE OF APRIL STRAUSS

By: _____
Laura Baughman
Attorneys for Plaintiffs

Dated: _____

Sidley Austin, LLP

By: _____
Judith M. Praitis
Attorneys for Defendants

APPROVED AND ORDERED:

Dated: _____

_____
Honorable Richard A. Kramer
Judge of the Superior Court
Department 304

APPROVED AS TO FORM:

Dated:_____

BARON & BUDD, P.C.
LAW OFFICE OF APRIL STRAUSS

By:_____
Laura Baughman
Attorneys for Plaintiffs

Dated:_____

Sidley Austin, LLP

By:_____
Judith M. Praitis
Attorneys for Defendants

APPROVED AND ORDERED:

Dated:_____

_____
Honorable Richard A. Kramer
Judge of the Superior Court
Department 304

EXHIBIT A – "DIETARY SUPPLEMENT PRODUCTS"

The Dietary Supplement Products shall be all fish oils, fish, shark or cod liver oils, shark or squid oils, krill oil, algae oils and other oils containing eicosapentaenoic acid ("EPA") and/or docosahexaenoic acid ("DHA") for human consumption containing the Proposition 65 listed chemical polychlorinated biphenyls ("PCBs") which are manufactured, or distributed or sold by or on behalf of a Settling Defendant, whether manufactured, or distributed or sold prior to, or subsequent to entry of, this Consent Judgment.

Dietary Supplement Products include those sold under a brand or trademark owned or licensed for use by a Settling Defendant, and those "private label" products which a Settling Defendant manufactures, distributes or sells to third parties; provided, however, that for products sold to third parties the Settling Defendant prepares or approves the dose, serving size or consumer use instructions on the label which appear on the containers sold for direct consumer use of such products.

EXHIBIT B—NOTICE LETTER and COMPLAINT

August 6, 2009

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Re: Notice of Violation of Cal. Health & Safety Code § 25249.6 (PCB Exposure)

Greetings:

The Mateel Environmental Justice Foundation ("Mateel"), Chris Manthey and Benson Chiles give you notice that the private businesses listed on the attached Service List have been, are, will be and threaten to be in violation of Cal. Health & Safety Code §25249.6. Mateel, Mr. Manthey and Mr. Chiles are private enforcers of Proposition 65, all may be contacted at the below listed address and telephone number. I am a responsible individual at Mateel. The Noticing Parties are also represented by David Roe. Mr. Roe may be reached at: Law Offices of David Roe, 1061 Walker Ave, Oakland, CA 94610, (510) 465-5860. The above referenced violations occur and have occurred when people ingest dietary supplements that are made wholly, or partly, from fish oil ("fish oil dietary supplements"). Some examples of these types of products are: cod liver oil, Omega -3 oils, supplements made from fish body oils, EPA fish oil concentrates, fish oil concentrates, and DHA fish oil supplements. Specific examples of these types of products are listed in the enclosed Product List. Though a specific variety or brand is mentioned, or an item, SKU or product number is provided as an example, this notice pertains to all kinds, and all variations, of the specific type of fish oil supplement of which the named variety is an example. These fish oil dietary supplements come in caplet form or are spooned out of a bottle. Each and every one of these fish oil dietary supplements exposes the people who take them to polychlorinated biphenyls ("PCBs") via the ingestion, dermal absorption and absorption through mucous membrane routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to PCBs. The above referenced violations have occurred every day since at least August 6, 2006 and will continue every day until the PCBs are taken out of these products or until warnings are given.

Cordially,

William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
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CITY OF SAN DIEGO CONSUMER &
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COUNTY OF MENDOCINO
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MERCED, CA 95340

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STOCKTON, CA 95202

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COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
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HALL OF JUSTICE AND RECORDS
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MODESTO, CA 95354

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SONORA, CA 95370

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VENTURA, CA 93009

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COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

THOMAS M RYAN, CEO
CVS PHARMACY, INC.
ONE CVS DRIVE
WOONSOCKET, RI 02895

THOMAS M RYAN, CEO
LONGS DRUG STORES, L.L.C.
C/O CVS PHARMACY, INC.
ONE CVS DRIVE
WOONSOCKET, RI 02895

JOSEPH FORTUNATO, CEO
GENERAL NUTRITION CORPORATION
300 SIXTH AVE
PITTSBURGH, PA 15222

ALBERT P POWERS, PRESIDENT
NOW HEALTH GROUP, INC.
395 S GLEN ELLYN RD
BLOOMINGDALE, IL 60108

JOSEPH L. VON ROSENBERG III,
PRESIDENT OMEGA PROTEIN, INC.
2101 CITY WEST BLVD, BLDG 3, STE 500
HOUSTON, TX 77042

SHUN UCHIDA, CEO
PHARMAVITE LLC
8510 BALBOA BLVD STE 100
NORTHRIDGE, CA 91325

CONNIE BARRY, CEO
PHARMAVITE LLC
8510 BALBOA BLVD STE 100
NORTHRIDGE, CA 91325

MARY SAMMONS, CEO
RITE AID CORPORATION
30 HUNTER LANE
CAMP HILL, PA 17011

KARL RIEDEL PRESIDENT
SOLVAR, INC.
2100 SMITHTOWN AVENUE
RONKONKOMA, NY 11779

WILLIAM W NICHOLSON, CEO
TWINLAB CORPORATION
632 BROADWAY 11TH FL
NEW YORK, NY 10012

PRODUCT LIST

CVS PHARMACY, INC.
NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200 MG 60 SOFTGELS UPC CODE: 031604 014162 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

GENERAL NUTRITION CORPORATION
GNC CHOLESTEROL FREE FISH BODY OILS WITH GLA UPC CODE: 048107 073312; GNC LIQUID COD LIVER OIL 16 FL OZ UPC CODE: 049107 057657; GNC CHOLESTEROL FREE FISH BODY OILS WITH GLA 1000 MG 180 SOFTGELS UPC CODE: 048107 073305;GNC LIQUID NORWEGIAN COD LIVER OIL 16 FL OZ UPC CODE: 048107 057657 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

NOW HEALTH GROUP, INC.
DOUBLE STRENGTH COD LIVER OIL 650 MG / 100 SOFTGELS UPC CODE: 733739 017406; NOW FOODS SALMON OIL 100 SOFTGELS UPC CODE: 733739 016706; SHARK LIVER OIL 400 MG 120 SOFTGELS UPC CODE: 733739 003256; NOW FOOD MOLECULARLY DISTILLED OMEGA-3 100 SOFTGELS UPC CODE: 733739 016508 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

OMEGA PROTEIN, INC.
OMEGAPURE OMEGA-3 DIETARY SUPPLEMENT 1000MG 90 CAPSULES These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

PHARMAVITE LLC
NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200 MG 60 SOFTGELS UPC CODE: 031604 014162;NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

RITE AID CORPORATION
NATURE MADE COD LIVER OIL 100 SOFTGELS UPC CODE: 031604 013257; NATURE MADE ODORLESS FISH OIL 1200MG 60 SOFTGELS UPC CODE: 031604 014162 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

SOLGAR, INC.
SOLGAR 100% PURE NORWEGIAN SHARK LIVER OIL COMPLEX 500 MG 60 SOFTGELS UPC CODE: 033984 025660; SOLGAR NORWEGIAN COD LIVER OIL 100 SOFTGELS UPC CODE: 033984 009400 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

TWINLAB CORPORATION
TWINLAB EMULSIFIED NORWEGIAN COD LIVER OIL 12 FL OZ UPC CODE: 027434 012102; TWINLAB NORWEGIAN COD LIVER OIL 12 FL OZ UPC CODE: 027434 012249 These product descriptions pertain not only to the specific types of the products listed, but also for all units of all types of similar products made out of fish oils.

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 6, 2009

William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65 , including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On August 6, 2009, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 6, 2009, at Eureka, California.

Nicole Frank

COPY

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Attorneys for Plaintiffs,
CHRIS MANTHEY, BENSON CHILES and MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

ENDORSED
FILED
San Francisco County Superior Court
MAR 02 2010
CLERK OF THE COURT
BY: DEBORAH STEPPE
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

JUL 30 2010 9:00 AM

DEPARTMENT 212

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO
(Unlimited Jurisdiction)

CHRIS MANTHEY; BENSON CHILES and MATEEL ENVIRONMENTAL JUSTICE FOUNDATION,

Plaintiffs,

v.

CVS PHARMACY, INC.; GENERAL NUTRITION CORPORATION; NOW HEALTH GROUP, INC.;OMEGA PROTEIN, INC.; PHARMAVITE LLC; RITE AID CORPORATION; SOLGAR, INC.; and TWINLAB CORPORATION

Defendants,

/

CASE NO
CGC-10-497334

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

CHRIS MANTHEY, BENSON CHILES and MATEEL ENVIRONMENTAL JUSTICE

FOUNDATION allege as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants CVS PHARMACY, INC.; GENERAL NUTRITION CORPORATION; NOW HEALTH GROUP, INC.;OMEGA PROTEIN, INC.;.PHARMAVITE LLC; RITE AID CORPORATION; SOLGAR, INC,; and TWINLAB CORPORATION, (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle, ingest and use dietary supplements that are, or that are made from, fish oil, fish liver oil, shark oil or shark liver oil (hereinafter "fish oil supplements"), that ingestion of these products causes those residents to be exposed to polychlorinated biphenyls (hereinafter, collectively, "PCBs"). PCBs are known to the State of California to cause cancer and birth defects. Defendants manufacture, distribute, and/or market fish oil supplements. Defendants' products cause exposures to PCBs, which are chemicals known to the State of California to cause cancer, birth defects and other reproductive harm.

2. Defendants are businesses that manufacture, market, and/or distribute fish oil supplements. Defendants intend that residents of California ingest fish oil supplements that Defendants manufacture, market, and/or distribute. When these products are ingested in their normally intended manner, they expose people to PCBs. In spite of knowing that residents of California were and are being exposed to PCBs when they ingest Defendants' fish oil supplements, Defendants did not and do not provide clear and reasonable warnings that these products cause exposure to chemicals known to cause cancer, birth defects and other reproductive harm. The fish oil supplements to which this Complaint pertains are those

referenced in the Products List that accompanied the 60 Day Notice Letter, which is appended to and incorporated by reference in this Complaint.

3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel Defendants to bring their business practices into compliance with section 25249.5 et seq. by providing a clear and reasonable warning to each individual who has been and who in the future may be exposed to the above mentioned toxic chemicals from the reasonably anticipated and intended use of Defendants' products.

4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that Defendants identify and locate each individual person who in the past has purchased Defendants' fish oil supplements and to provide to each such purchaser a clear and reasonable warning that those fish oil supplements cause exposures to chemicals known to cause cancer and birth defects.

PARTIES

5. Plaintiffs Christopher Manthey and Benson Chiles are individuals concerned about human health and environmental protection. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") is a non-profit corporation dedicated to, among other causes, the protection of the environment, promotion of human health, environmental education, and consumer rights. Mateel is based in Eureka, California, and is incorporated under the laws of the State of California. All plaintiffs are "persons" pursuant to Health & Safety Code Section 25118. Plaintiffs bring this enforcement action in the public interest pursuant to Health & Safety

Code §25249.7(d). Residents of California are regularly exposed to PCBs from fish oil supplements manufactured, distributed or marketed by Defendants and are intentionally so exposed without a clear and reasonable Proposition 65 warning.

6. Each Defendant is a person doing business within the meaning of Health & Safety Code Section 25249.11. Each defendant is a business that manufactures, distributes, and/or markets fish oil supplements in California, including in the City and County of San Francisco. Manufacture, distribution and/or marketing of these products in the City and County of San Francisco, and/or to people who live in San Francisco, causes people to be intentionally exposed to PCBs while they are physically present in the City and County of San Francisco.

7. Plaintiffs bring this enforcement action against Defendants pursuant to Health & Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of the 60-day Notice letter, dated August 6, 2009, which Plaintiffs sent to California's Attorney General. Letters identical in substance were sent to every District Attorney in the state, and to the City Attorneys of every California city with a population greater than 750,000. On the same date, Plaintiffs sent an identical 60 Day Notice letter to Defendants. Attached to the 60-Day Notice Letter sent to the Defendants was a summary of Proposition 65 that was prepared by California's Office of Environmental Health Hazard Assessment. In addition, the 60-Day Notice Letter Plaintiffs sent was accompanied by a Certificate of Service attesting to the service of the 60-Day Notice Letter on each entity which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the action was also sent with the 60-Day Notice Letter. Factual information sufficient to establish the basis of the Certificate of Merit was enclosed with the 60-Day Notice letter

Plaintiffs sent to the Attorney General.

8. Each Defendant is a business that employs more than ten people.

JURISDICTION

9. The Court has jurisdiction over this action pursuant to California Health & Safety Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought, does not grant jurisdiction to any other trial court.

10. This Court also has jurisdiction over Defendants because they are businesses that have sufficient minimum contacts in California and within the City and County of San Francisco. Defendants intentionally availed themselves of the California and San Francisco County markets for fish oil supplements. It is thus consistent with traditional notions of fair play and substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

11. Venue is proper in this Court because Defendants market their products in and around San Francisco and thus intentionally cause people to ingest PCBs while those people are physically present in San Francisco. Liability for Plaintiffs' causes of action, or some parts thereof, has accordingly arisen in San Francisco during the times relevant to this Complaint and Plaintiffs accordingly seek civil penalties and forfeitures imposed by statutes.

FIRST CAUSE OF ACTION
(Claim for Injunctive Relief)

12. Plaintiff s reallege and incorporate by reference into this First Cause of Action, as if specifically set forth herein, paragraphs 1 through 11, inclusive.

13. The People of the State of California have declared by referendum under

Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates that persons who, in the course of doing business, knowingly and intentionally expose any individual to a chemical known to the State of California to cause cancer or birth defects, must first provide a clear and reasonable warning to such individual prior to the exposure.

15. Since at least August 6, 2006, Defendants have engaged in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and intentionally exposing to PCBs, those California residents who ingest fish oil supplements. The normally intended use of fish oil supplements causes people to ingest PCBs, which are chemicals known to the State of California to cause cancer, birth defects and other reproductive harm. Defendants have not provided clear and reasonable warnings within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

16. At all times relevant to this action, Defendants knew that the fish oil supplements they manufactured, distributed or marketed were causing exposures to PCBs. Defendants intended that residents of California ingest fish oil supplements thereby causing significant exposures to these chemicals.

17. By the above described acts, Defendants have violated Cal. Health & Safety Code § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition 65, to provide warnings to all present and future customers, and to provide warnings to their past customers who purchased Defendants' products without receiving a clear and reasonable warning.

SECOND CAUSE OF ACTION
(Claim for Civil Penalties)

18. Plaintiff realleges and incorporates by reference into this Second Cause of Action, as if specifically set forth herein, paragraphs 1 through 17, inclusive.

19. By the above described acts, Defendants and each of them are liable, pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of up to $2,500.00 per day for each exposure of an individual to PCBs without proper warning from the use of Defendants' fish oil supplements.

PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

A. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety Code;

B. Pursuant to the Second Cause of Action, that Defendants be assessed a civil penalty in an amount equal to $2,500.00 per individual knowingly and intentionally exposed per day, in violation of Section 25249.6 of the California Health & Safety Code, to PCBs as the result of Defendants' manufacturing, distributing or marketing of fish oil supplements;

C. That Defendants be ordered to identify and locate each individual who purchased their fish oil supplements and to provide a warning to each such person that the purchased fish oil supplements have exposed, or will expose, that person to chemicals known to cause cancer and birth defects.

D. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to Plaintiffs the attorneys fees and costs it incurred in bringing this enforcement action.

5. For such other relief as this court deems just and proper.

Dated: February 24, 2010

KLAMATH ENVIRONMENTAL LAW CENTER

By: William Verick

William Verick
Attorney for Plaintiffs Christopher Manthey, Benson Chiles and the Mateel Environmental Justice Foundation