

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

METZGER LAW GROUP  
A PROFESSIONAL LAW CORPORATION  
RAPHAEL METZGER, ESQ., SBN 116020  
KATHRYN A. SALDANA, ESQ., SBN 251364  
401 E. OCEAN BLVD., SUITE 800  
LONG BEACH, CA 90802-4966  
TELEPHONE: (562) 437-4499  
TELECOPIER: (562) 436-1561  
WEBSITE: www.toxictorts.com

ORIGINAL FILED  
RECEIVED  
JAN 07 2013  
Dept. 323  
MAY 14 2013

Attorneys for Plaintiff,  
Council for Education and  
Research on Toxics ("CERT")

LOS ANGELES  
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST

COUNCIL FOR EDUCATION AND )  
RESEARCH ON TOXICS, a California )  
corporation, acting as a private )  
attorney general in the public )  
interest; )

CASE NO. BC435759  
Related to Case No. BC461182  
Assigned to the Honorable Elihu  
Berle, Dept. 323

Plaintiff,

CONSENT JUDGMENT AS TO  
DEFENDANT KEAN COFFEE, LLC

vs.

STARBUCKS CORPORATION, a )  
Washington corporation; )  
STARBUCKS HOLDING COMPANY, a )  
Washington corporation; 7- )  
ELEVEN, INC., a Texas )  
corporation; BP AMERICA INC., a )  
Delaware corporation; BP )  
PRODUCTS NORTH AMERICA INC., a )  
Maryland corporation; BP WEST )  
COAST PRODUCTS LLC, a Delaware )  
corporation; GLORIA JEAN'S )  
GOURMET COFFEES CORP., an )  
Illinois corporation; et al., )

Defendants.

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

## 1. INTRODUCTION

1.1. On April 13, 2010, the Council for Education and Research on Toxics ("CERT") filed a complaint for civil penalties and injunctive relief for violations of Proposition 65 in the Superior Court for the County of Los Angeles. CERT's complaint alleges that the Defendants failed to provide clear and reasonable warnings that ingestion of the Covered Products (as defined in Paragraph 2.1), would result in exposure to acrylamide, a chemical known to the State of California to cause cancer. The complaint further alleges that under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6, also known as "Proposition 65," businesses must provide persons with a "clear and reasonable warning" before exposing individuals to these chemicals, and that the Defendants failed to do so.

1.2. Kean Coffee, LLC was named as a defendant in the related action of *CERT v. Brad Barry, et al.*, Case No. BC461182, and has voluntarily agreed to be bound by the terms of a consent judgment in this case. Kean Coffee, LLC is referred to below as "Settling Defendant."

1.3. Settling Defendant is a corporation that employs more than 10 persons, or employed 10 or more persons at some time relevant to the allegations of the complaint, and which manufactures, distributes and/or sells Covered Products in the State of California or has done so in the past.

1.4. For purposes of this Consent Judgment only, the parties stipulate that this Court has jurisdiction over the allegations of violations contained in CERT's complaint and personal jurisdiction over Settling Defendant as to the acts alleged in CERT's complaint, that venue is proper in the County of Los Angeles, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were raised in the complaint based on the facts alleged therein.

1.5. CERT and Settling Defendant enter into this Consent Judgment as a full and final settlement of all claims that were raised in the complaint (except as specified in Paragraphs 9.1), arising out of the facts or conduct alleged therein. Settling Defendant has expressly waived its statute of limitations defenses with respect to the claims alleged in CERT's complaint. By execution of this Consent Judgment and agreeing to provide the relief and remedies specified herein, Settling Defendant does not admit any violations of Proposition 65, or any other law or legal duty. Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy,

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4566

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

or defense that CERT and Settling Defendant may have in any other or in future legal proceedings unrelated to these proceedings. However, this paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of the parties under this Consent Judgment.

## 2. DEFINITIONS

2.1 "Covered Products" means all ready-to-drink coffee containing acrylamide, sold in restaurants, coffee houses, and retail speciality stores owned and/or operated by Settling Defendant ("Company Restaurants") or restaurants, coffee houses, and retail speciality stores, owned and operated by third parties pursuant to franchise or license agreements with Settling Defendant ("Franchise Restaurants"). "Covered Products" does not include coffee beans or grounds, flaked or instant coffee, or any other packaged coffee that is not sold as ready-to-drink and that is sold in any establishment in the State of California, including in Settling Defendant's Company Restaurants and Franchise Restaurants. "Covered Products" also does not include any claims that are the subject of *Council for Education and Research on Toxics v. Brad Berry Company, Ltd., et al.*, Los Angeles County Superior Court Case Number BC461182.

2.2 "Effective Date" means the date upon which this Court enters this Consent Judgment.

## 3. INJUNCTIVE RELIEF; CLEAR AND REASONABLE WARNINGS

3.1. Settling Defendant shall provide warnings in the manner required by this Consent Judgment for all Covered Products.

3.2. Warning message. The warning message provided, under the permitted warning methods, shall be the following:

### a. WARNING

"Chemicals known to the State of California to cause cancer and reproductive toxicity, including acrylamide, are present in coffee, baked goods, and other food or beverages sold here. Acrylamide is not added to our products, but results from cooking, such as when coffee beans are roasted or baked goods are baked. As a result, acrylamide is present in our brewed coffee, including coffee made at home or elsewhere from our beans, ground or instant coffee, baked goods or other foods sold here, in grocery stores or other retail locations. Your personal cancer risk is affected by a wide variety of factors. For more information regarding acrylamide see [www.fda.gov](http://www.fda.gov). For more information about acrylamide and Proposition 65, visit [www.oehha.ca.gov/prop65/acrylamide.html](http://www.oehha.ca.gov/prop65/acrylamide.html)."

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

b. Wherever the warning language in this Consent Judgment uses the phrase “chemical known to the State of California to cause cancer,” Settling Defendant, at its option, may use either the phrase “chemical known to cause cancer” or “chemical that causes cancer.”

3.3. Warning Method. The warning shall be provided on a warning sign at least 10 inches high by 10 inches wide, with the word “WARNING” centered three-quarters of an inch from the top of the sign in ITC Garamond bold condensed type face all in one-inch capital letters. Three-sixteenths of an inch from the base of the word “warning” shall be a line extending from left to right across the width of the sign one-sixteenth of an inch in thickness. Centered one-half inch below the line shall be the body of the warning message in ITC Garamond bold condensed type face. For the body of the warning message, left and right margins of at least one-half of an inch, and a bottom margin of at least one-half inch shall be observed. Larger signs shall bear substantially the same proportions of type size and spacing to sign dimension as the sign 10 inches high by 10 inches wide.

3.4. Warning Location. Any warning sign must be:

a. located at or on the counter where food and beverages are purchased, on a wall either adjacent and parallel to or clearly visible to (i.e., no more than two feet away from) consumers standing at the counter where food and beverages are purchased; or

b. located or at any other place that is reasonably likely to be seen and read by customers entering the restaurant to order food or beverages;

c. not located at any of the following locations: On an entrance or exit door, on a window, on a restroom door, in a restroom, in a hallway that leads only to restrooms, on a refuse container, or in a location where consumers cannot get within two feet of the sign.

3.5. Implementation of Warning.

3.5.1. Settling Defendant shall provide its own stores and all franchisees with sufficient supply of signs to meet the requirements of this Consent Judgment.

3.5.2. Company Restaurants. Within 60 days of the Effective Date, Settling Defendant shall send a letter, in substantially the form and content set forth in Exhibit “A”, to its Company Restaurants within the State of California, directing them to post the warning in the manner described above. In addition, Settling Defendant shall include inspection for compliance with these requirements in its

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

existing inspection programs. Settling Defendant currently maintains inspection, reporting and follow up programs that result in inspection of each of its Company Restaurants in California at least every 6 months. Where inspection shows that a Company Restaurant has not complied, Settling Defendant shall take all reasonably available steps to assure compliance within 75 days.

3.5.3. Franchise Restaurants. Within 60 days of entry of the Effective Date, Settling Defendant shall send a letter, in substantially the form and content set forth in Exhibit "B", to its Franchise Restaurants within the State of California, instructing them to post the warning in the manner described above. This letter shall state that the franchisee is released from liability for past violations and it is in compliance with future requirements with respect to sale of the Covered Products only if the franchisee complies with the warning requirements. In addition, Settling Defendant shall include inspection for compliance with these requirements in its existing inspection, reporting and follow-up programs.

3.6. Nothing in this Consent Judgment requires that warnings be given for Covered Products sold outside the State of California.

#### 4. CIVIL PENALTIES

##### 4.1. Calculation of Civil Penalties

4.1.1. A company who violates Proposition 65 shall be liable for civil penalties not to exceed two thousand five hundred dollars (\$2,500) per day *for each violation* in addition to any other penalty established by law pursuant to Health and Safety Code section 25249.7(b)(1).

4.1.2. In assessing the amount of civil penalties for violations of Proposition 65, all of the following factors must be considered pursuant to Health and Safety Code section 25249.7(b)(2):

- a. The nature and extent of the violation.
- b. The number of, and severity of, the violations.
- c. The economic effect of the penalty on the violator.
- d. Whether the violator took good faith measures to comply with this chapter and the time these measures were taken.
- e. The willfulness of the violator's misconduct.
- f. The deterrent effect that the imposition of the penalty would have on both the

1 violator and the regulated community as a whole.

2 g. Any other factor that justice may require.

3 4.2. Settling Defendant has voluntarily agreed to provide warnings for the Covered Products  
4 without any litigation. Further, based on financial statements provided by Settling Defendant, Settling  
5 Defendant is a small business and has limited financial resources, such that it cannot afford civil  
6 penalties. As a result, the parties have agreed that Settling Defendant will not have to pay civil  
7 penalties in this case. This agreement is based on consideration of all the penalty factors set forth in  
8 Health and Safety Code Section 25249.7(b)(2), and on 11 C.C.R. § 3203(a) which provides that a  
9 "settlement with little or no penalty may be entirely appropriate."

## 10 5. PAYMENTS

11 5.1. Settling Defendant shall pay the total amount identified below in settlement of both this  
12 case and the related case, *Council for Education and Research on Toxics v. Brad Barry Company*, Case  
13 No. BC461182.

14 Settling Defendant shall pay the total amount of \$2,500 ("Settlement Proceeds"), within thirty  
15 days of entry of this Consent Judgment. Settlement Proceeds shall be made payable to the Metzger  
16 Law Group Attorney-Client Trust Account, and to no other persons, and delivered to CERT's counsel,  
17 Metzger Law Group, 401 E. Ocean Blvd., Suite 800, Long Beach, California 90802-4966.

18 The Settlement Proceeds are to reimburse CERT for its attorneys' fees and costs incurred in  
19 investigating this matter, and negotiating this Consent Judgment on behalf of itself and in the public  
20 interest, and preparing the motion to approve the Consent Judgment.

## 21 6. MODIFICATION OF CONSENT JUDGMENT

22 6.1. This Consent Judgment may be modified by written agreement of CERT and Settling  
23 Defendant, after noticed motion, and upon entry of a modified consent judgment by the court thereon,  
24 or upon motion of CERT or Settling Defendant as provided by law and upon entry of a modified  
25 consent judgment by the court. Before filing an application with the court for a modification to this  
26 Consent Judgment, Settling Defendant may meet and confer with CERT to determine whether CERT  
27 will consent to the proposed modification. If a proposed modification is agreed, then Settling  
28 Defendant and CERT will present the modification to the court by means of a stipulated modification

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

to the Consent Judgment.

6.2 If Proposition 65 or its implementing regulations are changed from their terms as they exist on the date of entry of judgment, the parties may seek modifications in the Consent Judgment as follows:

a. If the change establishes that warnings for acrylamide in the Covered Products are not required, Settling Defendant may seek a modification of this Consent Judgment to conform to the judgment to the change in law.

b. If the change establishes that the warnings provided by this Consent Judgment would not comply with the law, either party may seek a modification of the Consent Judgment to conform the judgment to the change in law.

c. If the change would provide a new form or manner of an optional or safe-harbor warning, Settling Defendant may seek a modification to provide a warning in the newly permitted form, but the modification shall not be granted unless the court finds that the new warning would not be materially less informative or likely to be seen, read, and understood than the warnings provided under this Consent Judgment.

6.3 If Settling Defendant corresponds in writing to an agency or branch of the United States Government in connection with the application of Proposition 65 to Acrylamide in ready-to-drink coffee, then, so long as such correspondence is not confidential and would be retrievable by CERT under the Freedom of Information Act, Settling Defendant originating such communication shall provide CERT with a copy of such communication as soon as practicable, but not more than 10 days after sending or receiving the correspondence; provided, however, that this section shall not apply to correspondence to or from trade associations or other groups of which Settling Defendant is a member.

## 7. ENFORCEMENT

7.1. CERT may, by motion or application for an order to show cause before this Court, enforce the terms and conditions contained in this Consent Judgment. In any such proceeding, CERT may seek whatever fines, costs, penalties, or remedies are provided by law for failure to comply with the Consent Judgment and where said violations of this Consent Judgment constitute subsequent violations of Proposition 65 or other laws independent of the Consent Judgment and/or those alleged

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

in the complaint, CERT is not limited to enforcement of the Consent Judgment, but may seek in another action, whatever fines, costs, penalties, or remedies are provided for by law for failure to comply with Proposition 65 or other laws. In any action brought by CERT alleging subsequent violations of Proposition 65 or other laws, Settling Defendant may assert all available defenses.

## 8. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT

8.1. 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 to bind that party.

## 9. CLAIMS COVERED

9.1. This Consent Judgment is a full, final, and binding resolution between CERT and Settling Defendant, of any violation of Proposition 65 that has been asserted in the Complaint dated April 13, 2010, up through the Effective Date, for failure to provide clear and reasonable warnings of exposure to acrylamide from the use of the Covered Products, whether based on actions committed by Settling Defendant or by an entity to whom it distributes or sells coffee products, and for any franchisee who sells or has sold Covered Products in the State of California. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to acrylamide from Covered Products as set forth in the Complaint dated April 13, 2010.

## 10. RETENTION OF JURISDICTION

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

## 11. PROVISION OF NOTICE

11.1. When any party is entitled to receive any notice under this Consent Judgment, the notice shall be sent by overnight courier service to the person and address set forth in this Paragraph. Any party may modify the person and address to whom the notice is to be sent by sending each other party notice by certified mail, return receipt requested. Said change shall take effect for any notice mailed at least five days after the date the return receipt is signed by the party receiving the change.

//

//

//



TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

11.2. Notices shall be sent to the following when required:

For CERT:

Raphael Metzger  
Metzger Law Group  
401 E. Ocean Boulevard, Suite 800  
Long Beach, CA 90802  
Telephone: (562) 437-4499  
Facsimile: (562) 436-1561

For Settling Defendant:

Elizabeth J. Stevens, Esq.  
Parrvano Witten PC  
198 Bonifacio Place  
Monterey, CA 93940  
Telephone: (831) 373-0486  
Facsimile: (831) 373-4207

**12. COURT APPROVAL**

12.1. This Consent Judgment shall be submitted to the Court for entry by noticed motion.  
If this Consent Judgment is not approved by the Court, it shall be of no force or effect and may not be used by CERT or Settling Defendant for any purpose.

**13. ENTIRE AGREEMENT**

13.1 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.

//

//

//

//

//

//

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

**14. EXECUTION IN COUNTERPARTS**

14.1. The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile, which taken together shall be deemed to constitute one document.

**IT IS SO STIPULATED:**

DATED: January 4, 2013

METZGER LAW GROUP  
A Professional Law Corporation



RAPHAEL METZGER, ESQ.  
Attorneys for Plaintiff  
COUNCIL ON EDUCATION AND RESEARCH ON  
TOXICS ("CERT")

DATED: January \_\_, 2013

PARRAVANO WITTEN PC

ELIZABETH J. STEVENS, ESQ.  
Attorneys for Settling Defendant  
KEAN COFFEE, LLC

**IT IS SO ORDERED, ADJUDGED, AND DECREED:**

DATED: **MAY 14 2013**

**ELIHU M. BERLE**

HON. ELIHU M. BERLE  
Judge of the Superior Court

14. EXECUTION IN COUNTERPARTS

14.1. The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile, which taken together shall be deemed to constitute one document.

IT IS SO STIPULATED:


DATED: January \_\_, 2013

METZGER LAW GROUP  
A Professional Law Corporation

RAPHAEL METZGER, ESQ.  
Attorneys for Plaintiff  
COUNCIL ON EDUCATION AND RESEARCH ON  
TOXICS ("CERT")

DATED: January 7, 2013

PARRAVANO WITTEN PC

  
ELIZABETH J. STEVENS, ESQ.  
Attorneys for Settling Defendant  
KEAN COFFEE, LLC

IT IS SO ORDERED, ADJUDGED, AND DECREED:

DATED:

HON. ELIHU M. BERLE  
Judge of the Superior Court

TELEPHONE (562) 437-4299  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

## **EXHIBIT A**

### **ACTION REQUIRED: THIS COMMUNICATION APPLIES ONLY TO RESTAURANTS LOCATED IN CALIFORNIA**

Kean Coffee, LLC has entered into a consent judgment with the Council for Education and Research on Toxics regarding the presence of acrylamide in ready-to-drink coffee sold at Kean Coffee restaurants in California.

**Under the terms of this consent judgment, all Kean Coffee's restaurants in California are required to post the enclosed warning sign. If you already have a warning sign up in the restaurant, you must immediately replace it with the updated version enclosed.**

The warning sign must be located as follows:

- at or on the counter where food and beverages are purchased, OR
- on a wall either adjacent and parallel to the counter or clearly visible to consumers standing at the counter to order food and beverages; OR
- on a wall reasonably likely to be seen and read by customers entering the restaurant to order food and beverages.

The poster may not be located at any of the following locations:

- on an entrance or exit door;
- on a window;
- on a restroom door;
- in a restroom;
- in a hallway that leads only to restrooms; or
- on a refuse container.

Your compliance with this instruction is mandatory, and you must continue to post the enclosed warning sign unless and until you receive written instructions from Kean Coffee, LLC to the contrary. If you need new warning signs or have any questions, such as appropriate sign locations for your specific restaurant, please contact \_\_\_\_\_.

## **EXHIBIT B**

### **ACTION REQUIRED: THIS COMMUNICATION APPLIES ONLY TO RESTAURANTS LOCATED IN CALIFORNIA**

Kean Coffee, LLC has entered into a consent judgment with the Council for Education and Research on Toxics regarding the presence of acrylamide in ready-to-drink coffee sold at Kean Coffee restaurants in California.

**Under the terms of this consent judgment, all Kean Coffee's restaurants in California are required to post the enclosed warning sign. If you already have a warning sign up in the restaurant, you must immediately replace it with the updated version enclosed.**

The warning sign must be located as follows:

- at or on the counter where food and beverages are purchased, OR
- on a wall either adjacent and parallel to the counter or clearly visible to consumers standing at the counter to order food and beverages; OR
- on a wall reasonably likely to be seen and read by customers entering the restaurant to order food and beverages.

The poster may not be located at any of the following locations:

- on an entrance or exit door;
- on a window;
- on a restroom door;
- in a restroom;
- in a hallway that leads only to restrooms; or
- on a refuse container.

Your compliance with this instruction is mandatory and will be checked as part of routine evaluations. Additionally, if you are to benefit from the protection in the consent judgment described above, including being released from liability for past violations and in compliance with future requirements, you must continue to post the enclosed warning sign unless and until you receive written instructions from Kean Coffee, LLC to the contrary. If you need new warning signs or have any questions, such as appropriate sign locations for your specific restaurant, please contact

---

## ELECTRONIC PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 E. Ocean Blvd., 8<sup>th</sup> Floor, Long Beach, CA 90802.

On January 7, 2013, I served the foregoing document, described as: **CONSENT JUDGMENT AS TO DEFENDANT KEAN COFFEE, LLC** on the interested parties to this action by submitting an electronic version of the document via FTP upload to LexisNexis/FileAndServe pursuant to the Court's Order.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 7, 2013, at Long Beach, California.

Susan M. Simpson, Declarant

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

SERVICE LIST

(CERT vs. Starbucks, Case No. BC435759)

-oOo-

Richard W. Lasater II, Esq.  
Foley & Lardner  
555 S. Flower St., Suite 3500  
Los Angeles, CA 90071-2411  
(Gloria Jean's Gourmet Coffees Corp.,  
Gloria Jean's Gourmet Coffees Franchising  
Corp., It's a Grind Inc., Praise  
International North America, Inc.)

Trenton H. Norris, Esq.  
Rachel L. Chanin, Esq.  
Arnold & Porter  
Three Embarcadero Center, 7<sup>th</sup> Floor  
San Francisco, CA 94111  
(7-Eleven, Inc. BP America Inc., BP  
Products North America Inc., BP West Coast  
Products LLC, Winchell's Franchising, LLC,  
Yum Yum Donut Shops, Inc.)

Gabriel J. Padilla, Esq.  
Arnold & Porter  
777 S. Figueroa St., 44<sup>th</sup> Floor  
Los Angeles, CA 90017-5844  
(7-Eleven, Inc. BP America Inc., BP  
Products North America Inc., BP West Coast  
Products LLC, Winchell's Franchising, LLC,  
Yum Yum Donut Shops, Inc.)

Michele B. Corash, Esq.  
Robin S. Stafford, Esq.  
Morrison & Foerster  
425 Market Street  
San Francisco, CA 94105-2482  
(Starbucks Corporation, Starbucks Holding  
Company, Seattle Coffee Company, Peet's  
Operating Company, Inc. (incorrectly sued  
herein as Peet's Coffee and Tea, Inc.);  
International Coffee & Tea, LLC)

(Updated June 25, 2012 jlp)

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

SERVICE LIST

(CERT v. Brad Berry, Case No. BC461182)

-o0o-

Lisa A. Cole, Esq.  
Nixon Peabody  
2 Palo Alto Square  
3000 El Camino Real, Suite 500  
Palo Alto, CA 94306  
(The Kroger Co., Ralphs Grocery Company,  
Food For Less of Southern California, Food  
4 Less Holdings, Inc., Food For Less  
Merchandising, Inc., Food For Less of  
California, Inc.)

Jeffrey B. Margulies, Esq.  
Tambry L. Bradford, Esq.  
Fulbright & Jaworski  
555 S. Flower St., 41<sup>st</sup> Floor  
Los Angeles, CA 90071  
(Target Corporation, Safeway, Inc. Sprouts  
Farmers Markets, LLC; Reilly Foods Company;  
H.N. Fernandez, Inc.)

Renee D. Wasserman, Esq.  
Lauren B. Kramer, Esq.  
Rogers Joseph O'Donnell  
311 California Street  
San Francisco, CA 94104  
(Bristol Farms, Costco Wholesale, Inc. and  
Supervalu Inc.)

Carla Christofferson, Esq.  
Margaret A. Moeser, Esq.  
Kate Ides, Esq.  
O'Melveny & Myers  
400 S. Hope Street  
Los Angeles, CA 90071-2899  
(Trader Joe's Company; Mountanos Brothers  
Coffee Company)

Michael D. Abraham, Esq.  
Robert H. Bunzel, Esq.  
Kerry L. Duffy, Esq.  
Bartko, Zankel, Tarrant & Miller  
900 Front St., Suite 300  
San Francisco, CA 94111  
(Wal-Mart Stores, Inc. and Sam's West,  
Inc.)

Michele B. Corash, Esq.  
Robert Falk, Esq.  
Robin Stafford, Esq.  
Travis Brandon, Esq.  
Morrison & Foerster  
425 Market Street  
San Francisco, CA 94105-2482  
(Brad Barry Company, Ltd., Caribou Coffee  
Company, Inc., F. Gavina & Sons, Inc.,  
Green Mountain Coffee Roasters, Inc., Illy  
Caffe North America, Inc., International  
Coffee & Tea, LLC, the J.M. Smucker  
Company, Kraft Foods Inc., Massimo Zanetti  
Beverage USA, Inc., Melitta U.S.A., Inc.,  
Nestle USA, Inc., Peet's Coffee & Tea,  
Inc., Rowland Coffee Roasters, Inc., Sara  
Lee Corporation, Seattle's Best Coffee LLC,  
Smucker Foodservice, Inc., Starbucks  
Corporation, TC Global, Inc., Vilore Foods  
Company, Inc., DD IP Holder LLC, Dunkin'  
Brands, Inc., The Folgers Coffee Company,  
Godiva Chocolatier, Inc., Newman's Own  
Organics - the Second Generation, Inc.,  
Starbucks Holding Company; Kraft Foods  
Global, Inc.; Apffels Coffee, Inc., Coffee  
Bean International, Inc., Dona Mireya,  
Inc., dba Jones Coffee Roasters; Equator  
Coffee & Teas; Boyer Coffee Company; Caffe  
Ibis, Inc.; The Coca-Cola Company;  
Community Coffee Company, Inc.; Copper Moon  
Coffee, LLC; JBR, Inc., dba Rogers Family  
Company; Lavazza Premium Coffees Corp.;  
Cascade Coffee, Inc.; Coffee Roasters of  
Arizona, Inc.; Gold Medal Products Co.;  
Millstone Coffee, Inc.; Mother Parkers Tea  
& Coffee, Inc.; Southern Wine and Spirits  
of America, Inc.; Central Coast Coffee  
Roasting Co., Inc.; Eight O'Clock Coffee  
Company; James c. Cannell Coffees, Inc. Db  
Jim's Organic Coffee; Pacific Coffee, Inc.  
dba Maui Coffee Company; Paradise  
Beverages, Inc. dba Hawaii Coffee Company;  
Regal Commodities; Steep & Brew, Inc.;  
Victor Allen's Coffee, LLC; Napa Valley  
Coffee Roasting Company; Kauai Coffee  
Company LLC; Peerless Coffee Co., Inc., dba  
Adam's Organic Coffees; Montana Coffee  
Traders, Inc.; Falcon Trading Company,  
Inc.; Intelligentsia Coffee & Tea, Inc.;  
Mayorga Coffee, LLC)



1	Brendan W. Brandt, Esq.	Stoel Rives LLP
2	Andrew Ross	500 Capitol Mall, Suite 1600
3	Varner & Brandt	Sacramento, CA 95814
4	3750 University Ave., Suite 610	(Land O'Lakes, Inc.)
5	Riverside, CA 92501	
6	(Stater Bros. Markets)	
7	J.T. Wells Blaxter, Esq.	Douglas D. Wirth, Esq.
8	Blaxter Law	Law Offices of Steven C. Sabbadini
9	One Bush St., Suite 650	823 North Street
10	San Francisco, CA 94104	Woodland, CA 95695
11	(Whole Foods Market California, Inc.;	(Puroast Coffee Company, Inc.)
12	Allegro Coffee Company)	
13	Joshua A. Bloom, Esq.	Thomas M. Brown, Esq.
14	Samir J. Abdelnour, Esq.	Brown White & Newhouse LLP
15	Barg Coffin Lewis & Trapp, LLP	333 South Hope Street, 40 <sup>th</sup> Floor
16	350 California St., 22 <sup>nd</sup> Flr.	Los Angeles, CA 90071
17	San Francisco, CA 94104-1435	(Comfort Foods, Inc.)
18	(BYB Brands, Inc.; Snyder's-Lance, Inc.)	
19	Henry Ben-Zvi, Esq.	Ian K. Boyd, Esq.
20	Ben-Zvi & Associates	Matthew A. Stratton, Esq.
21	3231 Ocean Park Blvd., Suite 212	Harvey Siskind LLP
22	Santa Monica, CA 90405	Four Embarcadero Center, 39 <sup>th</sup> Floor
23	(Cameron's Coffee and Distribution Company)	San Francisco, CA 94111
24	Duane R. Menting, Esq.	(Rockstar, Inc.)
25	705 Magnolia Avenue	
26	Larkspur, CA 94939	Tara Sky Woodward, Esq.
27	(Big River Coffee Company, Inc.)	Womble Carlyle Sandridge & Rice LLP
28	Lawrence Y. Wong, Esq.	10050 N. Wolfe Road, Suite 260
	Darryl J. Horowitz, Esq.	Cupertino, CA 95014
	Coleman & Horowitz, LLP	(Specially Appearing for S&D Coffee, Inc.)
	1880 Century Park East, Suite 404	
	Los Angeles, CA 90067	Michele B. Corash, Esq.
	(Luberski, Inc., dba Hidden Villa Ranch)	Robin S. Stafford, Esq.
		Susan L. Landsittel, Esq.
	Trevor J. Allen, Esq.	Morrison & Foerster
	Bryan Cave LLP	425 Market Street
	3161 Michelson Dr., Suite 1500	San Francisco, CA 94105-2482
	Irvine, CA 92612-4414	(New England Tea and Coffee Co., Inc.;
	(Kerry Inc., dba Kerry Ingredients, Inc.)	Zavida Coffee Company, Inc.)
	Megan I. Lennox, Esq.	Jeannette K. Witten, Esq.
	Bryan Cave LLP	Elizabeth J. Stevens, Esq.
	Two N. Central Avenue, Suite 2200	Parravano Witten PC
	Phoenix, AZ 85004	198 Bonifacio Place
	(Co-counsel for Kerry Inc., dba Kerry	Monterey, CA 93940
	Ingredients, Inc.)	(Carmel Roasters, Inc.; Kean Coffee, LLC;
		Monterey Coffee Company, Inc.; Santa
	Melissa A. Jones, Esq.	Barbara Coffee & Tea, Inc. dba Santa
	Carissa M. Beecham, Esq.	Barbara Roasting Company; Santa Cruz Coffee
		Roasting Company)
		Charles F. Gorla, Esq.
		Gorla, Weber & Jarvis

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
**RAPHAEL METZGER**  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

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

1011 Camino del Rio South, Suite 210  
San Diego, CA 92108  
(Café Calabria Coffee Roasting Company)

(Updated 01/02/13 nsv)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 East Ocean Blvd., #800, Long Beach, CA 90802.

On January 7, 2013, I served the foregoing document, described as: **CONSENT JUDGMENT AS TO DEFENDANT KEAN COFFEE, LLC** as follows:

  X   (BY MAIL) I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Long Beach, California with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit to:

Office of the Attorney General  
1515 Clay Street, 20th Floor  
Oakland, CA 94612-0550

  X   (BY E-MAIL) I delivered such document by electronic mail to: Laura J. Zuckerman, Deputy Attorney General, 1515 Clay Street, 20th Floor, Oakland, California 94612 at [Laura.Zuckerman@doj.ca.gov](mailto:Laura.Zuckerman@doj.ca.gov), and Dennis A. Ragen, Deputy Attorney General, 110 West A Street, Suite 1100, San Diego, California 92186-5266 at [Dennis.Ragen@doj.ca.gov](mailto:Dennis.Ragen@doj.ca.gov). Said document was transmitted by email transmission, which was reported complete and without error.

  X   (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

       (FEDERAL) I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on January 7, 2013, at Long Beach, California.

\_\_\_\_\_  
Susan M. Simpson, Declarant