

LITIGATION SETTLEMENT AGREEMENT AND RELEASE

This Litigation Settlement Agreement and Release ("Agreement") is entered into effective this 14th day of February, 2012 (the "Effective Date"), by and between Environmental Research Center (hereinafter "ERC"), on the one hand, and Rite Aid Corporation, Walgreen Co. and drugstore.com, a wholly owned subsidiary of Walgreen Co. ("Settling Defendants") on the other hand, with ERC and Settling Defendants hereinafter referred to as the "Parties."

WHEREAS, on May 9, 2011, ERC served by certified mail its California Health & Safety Code §§ 25249.5, *et seq.* (hereinafter referred to as "Proposition 65") 60-day notice to Rite Aid Corporation and Walgreen Co. and on June 14, 2011 served by certified mail its Proposition 65 60-day notice to drugstore.com alleging that a Proposition 65 warning was required due to lead and lead compounds exposure from two products: (1) Renew In Joint Care + Energy; and (2) Miralus Healthcare Renewin Joint Care Women's Formula + Energy.

WHEREAS, Renew In Joint Care + Energy and Miralus Healthcare Renewin Joint Care Women's Formula + Energy are hereinafter referred to as the "Products."

WHEREAS, ERC has obtained a default judgment against the supplier of the Products, Miralus, Inc. in Marin County Superior Court Case No. CIV-10-04706, based on the alleged violation of Proposition 65 due to lead and lead compounds exposures arising from the Products.

WHEREAS Settling Defendants allege that they require all of their vendors, including Miralus, Inc. to provide only those products that comply with state and federal laws, including Proposition 65 and based on those vendor requirements, reasonably believed that the Products complied with Proposition 65.

WHEREAS, Settling Defendants allege that upon receipt of ERC's May 9, 2011 and June 14, 2011 Proposition 65 60-day notices, respectively, Settling Defendants promptly and well within the 60-day notice period ceased sales of the Products in California, removed the Products from shelves in their retail stores located in California; and from their respective websites. This was after Settling Defendants and counsel for Settling Defendants tried repeatedly and without success, to obtain further information and assurances from their vendor and distributor of the Products about the Products and their compliance with Proposition 65.

NOW, THEREFORE, the Parties, in consideration of the following conditions, covenants, and promises, agree as follows:

A. No Admission Of Liability

Settling Defendants deny the material factual and legal allegations contained in ERC's May 9, 2011 and June 14, 2011 Proposition 65 60-day notices concerning the Products and maintain that all Products that Settling Defendants sold or distributed in California, to their knowledge, have been and are in compliance with all laws. Nothing in this Agreement shall be construed as an admission by any of the Settling Defendants of any fact, finding, issue of law, or violation of law; nor shall compliance with this Agreement constitute or be construed as an admission by any of the Settling Defendants of any fact, finding, conclusion, issue of law, or violation of law.

B. Settling Defendants' Agreement Not To Sell The Products In California

1. As of the Effective Date, Settling Defendants agree not to sell the Products in California without specific assurances from the supplier of the Products that the Products are in compliance with Proposition 65.

2. If it becomes necessary for an action to be filed and a consent judgment entered pursuant to Section D.4, *infra*, each of the Settling Defendants agree to injunctive relief precluding the sale of the Products in their respective stores located in California and to addresses located in California via their respective websites which injunctive relief may be enforced by ERC by motion if an issue arises following the entry of the consent judgment only if ERC has given written notice of the issue and the issue is not resolved by the Parties' prior good faith efforts to meet and confer to resolve any issues or disputes.

C. Monetary Consideration

1. Within fifteen business days of the mutual execution and exchange of this Agreement, and pursuant to the applicable provisions of Proposition 65 and California Code of Civil Procedure §1021.5, each Settling Defendant shall pay a total sum of Eight Thousand Five Hundred Dollars (\$8,500.00) as set forth in paragraph 4, below.

2. Out of the Eight Thousand Five Hundred Dollars (\$8,500.00) settlement payment, Four Thousand Two Hundred and Fifty Dollars (\$4,250.00) will be paid to ERC's counsel Andrew Packard for fees incurred as a result of investigating and bringing this matter to Rite Aid, Walgreen and drugstore.com's attention.

3. As additional consideration, out of the Eight Thousand Five Hundred Dollars (\$8,500.00), each Settling Defendant shall pay a monetary civil penalty in the amount of \$1,000.00, to be apportioned in accordance with California Health & Safety Code § 25249.12(c) & (d), with 75% of these funds remitted by ERC to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to ERC. Each Settling Defendant will remit to ERC one check which will include both the civil penalty payments and attorneys' fees and costs, for a total check payable to ERC in the sum of \$8,500.00. One 1099 shall be issued by each Settling Defendant for the above \$8,500.00 payment to ERC, whose taxpayer information shall be provided fifteen business days before the payment is due. Payment shall be delivered to ERC's counsel, Andrew L. Packard, within fifteen business days of the mutual execution and exchange of this Agreement, at the following address:

Andrew L. Packard, Esq.
The Law Offices of Andrew L. Packard
100 Petaluma Boulevard North, Suite 301
Petaluma, CA 94952

D. Release And Waiver Of All Claims

1. In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Section C, ERC on behalf of itself, its past and current agents, representatives, attorneys, employees, officers and directors, successors, and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims including, without limitation, all actions, and 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 (collectively "Claims"), that were brought or could have been brought against Rite Aid Corporation, Walgreen Co., drugstore.com or any of their respective parents, subsidiaries or affiliates, licensors, licensees, suppliers (other than Miralux, Inc.) or any other person or entity in the course of doing business, and the successors and assigns of any of them, who may use, maintain, manufacture, distribute, advertise, market or sell the Products, and the officers, directors, managers, employees, members, shareholders, agents, insurers and representatives of each of them (collectively "Releasees") arising out of ERC's May 9, 2011 and June 14, 2011 Proposition 65 60-day notices. This release is limited to, but is intended to be a full, final, and binding resolution of, all claims arising under ERC's May 9, 2011 and June 14, 2011 Proposition 65 60-day notices, as against Rite Aid Corporation, Walgreen Co. and drugstore.com and the other Releasees, as such Claims relate to the alleged failure to warn about lead and lead compounds exposures from the Products. Compliance with this Settlement Agreement shall constitute compliance with Proposition 65 for Rite Aid Corporation, Walgreen Co. and drugstore.com and their respective Releasees with respect to the Products after the Effective Date.

2. The Parties intend and agree that this Agreement shall be given full effect for purposes of precluding claims regarding the Products against Rite Aid Corporation, Walgreen Co. and drugstore.com or their respective Releasees under Proposition 65 as covered under this Release. If ERC is requested in writing by any of the Settling Defendants within twelve months of the Effective Date to file a complaint and seek approval of this Agreement through a court approved consent judgment incorporating the terms of this Settlement Agreement pursuant to California Health and Safety Code § 25249.7, or as may be otherwise allowed by law, ERC agrees to reasonably cooperate with any of the Settling Defendants and to use ERC's best efforts

(including, but not limited to ERC engaging counsel), to support the entry of a consent judgment incorporating the terms of this Agreement for approval by a superior court in California. Pursuant to California Code of Civil Procedure §§ 1021 and 1021.5, the requesting Settling Defendant(s) will reimburse ERC and its counsel for their reasonable fees and costs incurred in filing the complaint and seeking judicial approval of this Agreement in the form of a consent judgment, in an amount not to exceed a total of Five Thousand Dollars (\$5,000.00). No fees under this paragraph will be due and owing to ERC or its counsel unless a written request is made by one or more of the Settling Defendants to have ERC file a complaint and thereafter a motion for Court approval of the Parties' Proposition 65 Agreement and a "Stipulation And Proposed Order Re: Consent Judgment" to be drafted by ERC's counsel. Within fifteen days of entry of the resulting judgment, the requesting Settling Defendant(s) will remit payment to ERC and ERC's counsel via joint check in an amount not to exceed Five Thousand Dollars (\$5,000.00) for work reasonably and necessarily performed to effectuate the provisions of this paragraph.

3. Additionally, with regard to ERC's personal release, it is expressly understood by ERC that the releases given by ERC pursuant to this Agreement include the release of all Claims, known or unknown, which ERC may now or in the future have against Rite Aid Corporation, Walgreen Co. and drugstore.com or any of their respective Releasees arising out of or related to the circumstances underlying ERC's May 9, 2011 and June 14, 2011 Proposition 65 60-day notices concerning the Products. ERC expressly declares that it has read, understood and knowingly waived any and all rights it and Release may have under the provisions of the California Civil Code §1542 and any comparable federal or state statute or rule of law. California Civil Code §1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4. In connection with regard to ERC's personal release, ERC hereby agrees, represents and warrants that it realizes and acknowledges that factual matters now unknown may have given or hereafter may give rise to causes of action, claims, demands, debts, damages, costs, losses and expenses which are now unknown, unanticipated and unsuspected and ERC agrees and represents that this Release has been negotiated and agreed upon in light of this realization, and that it nevertheless, hereby intends to release, discharge and acquit Rite Aid Corporation, Walgreen Co. and drugstore.com and their respective Releasees from any such known or unknown claims, causes of action, demands, debts, controversies, damages, costs, losses and expenses which are in any way related to the Claims described hereinabove.

5. Nothing in the releases or waivers given in this Agreement by ERC is intended to nor shall it be construed as impacting ERC's rights to enforce its default judgment against Miralus, Inc.

E. Recitals

The Recitals contained in this Agreement are hereby made a part of the terms and provisions of this Agreement, and shall be binding on the Parties as if fully set forth herein.

F. Entire Agreement

This Agreement constitutes the entire agreement between the Parties with reference to the subject matter contained herein, and all prior negotiations and understandings between the Parties are merged into this Agreement.

G. Modifications or Amendments

This Agreement may not be altered, modified, amended or changed in any respect or particular whatsoever, except by a writing duly executed by all of the Parties hereto.

H. Representation by Counsel and Explanation by Counsel

ERC represents and warrants that (a) ERC has had the opportunity to consult with ERC's counsel concerning the content and legal effect of this Agreement; (b) ERC has had the same explained to ERC by ERC's counsel; (c) ERC is fully aware of, understands, and agrees with the Agreement's contents and legal effect; and (d) ERC has had the opportunity to ask any question(s) regarding this Agreement to ERC's counsel, including to have any desired interpretation explained, and has had the same answered to ERC's satisfaction.

I. Interpretation of the Agreement

1. The validity, interpretation and performance of this Agreement shall be controlled by, and construed under the laws of the State of California.

2. The paragraph headings hereof are for the convenience of the Parties only and shall be given no substantive or interpretive effect whatsoever.

3. Each of the Parties hereto acknowledges that the Agreement has been jointly drafted by the Parties, and that they have reviewed and revised, or have had the opportunity to revise, this Agreement. Accordingly, any ambiguity contained herein shall not be construed either for or against any Party.

J. Binding Agreement

This Agreement is binding as a contract.

K. Notices

All notices given under the Agreement are to be in writing, sent by a method that confirms delivery, and should be sent as specified below:

For Rite Aid Corporation:

Ron S. Chima, Esq.
Rite Aid Corporation
30 Hunter Lane
Camp Hill, PA 17011

For Walgreen Co.

Andrew Marks, Esq.
Walgreen Co.
104 Wilmot Road, M/S #1447
Deerfield, IL 60015

For drugstore.com

Cabrelle Abel, Esq.
drugstore.com
41110 8th Ave. NE
Suite 1400
Bellevue, WA 98004

With a copy to:

Renee D. Wasserman, Esq.
Rogers Joseph O'Donnell
311 California St.
San Francisco, CA 94104

For ERC :

Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108

With a copy to:

Andrew L. Packard, Esq.
LAW OFFICES OF ANDREW L. PACKARD
100 Petaluma Boulevard, Suite 301
Petaluma, CA 94952

L. Severability

If any provision or part of a provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable for any reason whatsoever, the remaining provisions and parts of provisions hereof shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

M. No Waiver

The waiver by any Party of the performance of any covenant, condition, promise or representation shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, promise or representation.

N. Counterparts and Execution

This Agreement may be executed in one or more counterparts. All counterparts of any such documents together shall constitute one and the same instrument. This Agreement may be executed and transmitted by facsimile or electronically as a PDF, which facsimile or PDF signature shall have the same force and effect as the original signature.

O. Successors and Heirs

The Parties expressly covenant and agree that this Agreement shall inure to the benefit of, and be binding upon their respective parents, subsidiaries, administrators, representatives, successors, trustees, affiliates and assigns.

P. Compliance With Health & Safety Code § 25249.7(f)

ERC agrees to comply with the reporting form and requirements referenced in California Health & Safety Code § 25249.7(f).

Q. No Other Prop. 65 Claims As To Either Of The Products

ERC represents and warrants that it has no information to support and does not intend to bring any other Proposition 65 claim concerning either of the Products against any of the Settling Defendants or any of the other Releasees.

R. Additional Performance

The Parties agree to execute and deliver such other and further documents and perform such other acts as shall be reasonably necessary to effectuate the purpose of this Agreement.

IN WITNESS WHEREOF, Environmental Research Center, Rite Aid Corporation, Walgreen Co. and drugstore.com respectively have executed this Agreement, effective as of the date first above written.

Dated: 2/2/, 2012

Environmental Research Center

By: 

Dated: _____, 2012

Rite Aid Corporation

By: _____

Dated: _____, 2012

Walgreen Co.

By: _____

Dated: _____, 2012

drugstore.com

By: _____

IN WITNESS WHEREOF, Environmental Research Center, Rite Aid Corporation, Walgreen Co. and drugstore.com respectively have executed this Agreement, effective as of the date first above written.

Dated: _____, 2012

Environmental Research Center

By: _____

Dated: 2/14, 2012

Rite Aid Corporation

By:  _____

Dated: _____, 2012

Walgreen Co.

By: _____

Dated: _____, 2012

drugstore.com

By: _____

IN WITNESS WHEREOF, Environmental Research Center, Rite Aid Corporation, Walgreen Co. and drugstore.com respectively have executed this Agreement, effective as of the date first above written.

Dated: _____, 2012

Environmental Research Center

By: _____

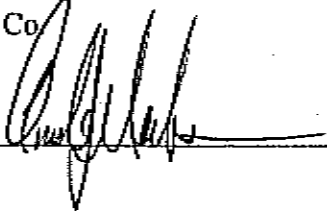
Dated: _____, 2012

Rite Aid Corporation

By: _____

Dated: 2/2, 2012

Walgreen Co

By:  _____

Dated: _____, 2012

drugstore.com

By: _____

IN WITNESS WHEREOF, Environmental Research Center, Rite Aid Corporation, Walgreen Co. and drugstore.com respectively have executed this Agreement, effective as of the date first above written.

Dated: _____, 2012

Environmental Research Center

By: _____

Dated: _____, 2012

Rite Aid Corporation

By: _____

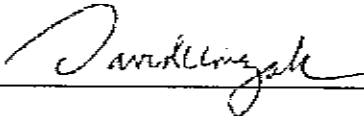
Dated: _____, 2012

Walgreen Co.

By: _____

Dated: February 2, 2012


drugstore.com

By: 

APPROVED AS TO FORM

Dated: February 2, 2012

LAW OFFICES OF ANDREW L. PACKARD

By: 
Andrew L. Packard
Counsel for Environmental Research Center

Dated: _____, 2012

ROGERS JOSEPH O'DONNELL

By: _____
Renee D. Wasserman
Counsel for Rite Aid Corporation, Walgreen Co.

APPROVED AS TO FORM


Dated: _____, 2012

LAW OFFICES OF ANDREW L. PACKARD

By: _____
Andrew L. Packard
Counsel for Environmental Research Center

Dated: FEB 2, 2012

ROGERS JOSEPH O'DONNELL

By: 
Renee D. Wasserman
Counsel for Rite Aid Corporation, Walgreen Co.