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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
Plaintiff,
v.
LULU NYC LLC, et al.,
Defendants.

) Lead Case No. RG-09-459448
)
) (Consolidated with Case Nos. RG-10-
) 494289, RG-10-494513, RG-10-494517,
) RG-11-598595, RG-11-598596, and RG-
) 11-603764)
) **[PROPOSED] CONSENT**
) **JUDGMENT AS TO DEMAND**
) **SHOES, LLC AND DIBA IMPORTS,**
) **L.P.**

AND CONSOLIDATED CASES.

1. DEFINITIONS

1.1 “Accessible Component” means a component of a Covered Product that could be touched by a person during normal or reasonably foreseeable use.

1.2 “Covered Products” means Fashion Accessories that are Manufactured, distributed, sold or offered for sale by Settling Defendants.

1 1.3 “Effective Date” means the date on which this Consent Judgment is entered by
2 the Court.

3 1.4 “Fashion Accessories” means footwear.

4 1.5 “Lead Limits” means the maximum concentrations of lead and lead
5 compounds (“Lead”) by weight specified in Section 3.2.

6 1.6 “Manufactured” and “Manufactures” have the meaning defined in Section
7 3(a)(10) of the Consumer Product Safety Act (“CPSA”) [15 U.S.C. § 2052(a)(10)],¹ as amended
8 from time to time.

9 1.7 “Paint or other Surface Coatings” has the meaning defined in 16 C.F.R.
10 § 1303.2(b)², as amended from time to time.

11 1.8 “Vendor” means a person or entity that Manufactures, imports, distributes, or
12 supplies a Fashion Accessory to Settling Defendants.

13 **2. INTRODUCTION**

14 2.1 The parties to this Consent Judgment (“Parties”) are the Center for
15 Environmental Health (“CEH”) and defendants Demand Shoes, LLC and Diba Imports, L.P.
16 (collectively, the “Settling Defendants”).

17 2.2 On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,
18 Case No. RG 09-459448, and on January 19, 2010, CEH filed the action entitled *CEH v. Bag*
19 *Bazaar*, Case No. RG 10-494517, alleging Proposition 65 violations as to wallets, handbags,
20 purses and clutches. On March 3, 2010, the *Lulu* and *Bag Bazaar* cases were consolidated for
21 pre-trial purposes with the following related cases: (a) *CEH v. Ashley Stewart*, Case No. RG10-
22 494289; and (b) *CEH v. Zappos.com, Inc.*, Case No. RG 10-494513. On February 8, 2012, the
23 following cases were also consolidated for pre-trial purposes with the *Lulu* consolidated cases: (a)

24 ¹ As of May 1, 2011, the term “Manufactured” and “Manufactures” means to manufacture,
25 produce, or assemble.

26 ² As of May 1, 2011, “Paint or other Surface Coatings” means a fluid, semi-fluid, or other
27 material, with or without a suspension of finely divided coloring matter, which changes to a solid
28 film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other
surface. This term does not include printing inks or those materials which actually become a part
of the substrate, such as the pigment in a plastic article, or those materials which are actually
bonded to the substrate, such as by electroplating or ceramic glazing.

1 *CEH v. Bioworld Merchandising, Inc.*, Case No. RG 11-598596; (b) *CEH v. Yoki Shoes LLC*,
2 Case No. RG 11-598595; and (c) *CEH v. Armani Exchange, Inc.*, Case No. RG 11-603764.

3 2.3 On or about October 6, 2011, CEH served a 60-Day Notice of Violation under
4 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health
5 & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendants violated Proposition 65 by
6 exposing persons to Lead contained in footwear, without first providing a clear and reasonable
7 Proposition 65 warning.

8 2.4 On April 11, 2012, CEH filed the operative First Amended Complaint in *CEH*
9 *v. Yoki Shoes*, naming Settling Defendants as defendants in that action (the “Complaint”).

10 2.5 Settling Defendants manufacture, distribute or sell Fashion Accessories that
11 are offered for retail sale in the State of California or have done so in the past.

12 2.6 For purposes of this Consent Judgment only, the Parties stipulate that this
13 Court has jurisdiction over the allegations of violations contained in the Complaint and personal
14 jurisdiction over Settling Defendants as to the acts alleged in the Complaint, that venue is proper
15 in the County of Alameda, and that this Court has jurisdiction to enter this Consent Judgment.

16 2.7 Nothing in this Consent Judgment is or shall be construed as an admission by
17 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance
18 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
19 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
20 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any
21 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and
22 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in
23 this action.

24 **3. INJUNCTIVE RELIEF**

25 3.1 **Specification Compliance Date.** To the extent it has not already done so, no
26 more than 30 days after the Effective Date, Settling Defendants shall provide the Lead Limits to
27 their Vendors of Fashion Accessories and shall instruct each Vendor to use reasonable efforts to
28 provide Fashion Accessories that comply with the Lead Limits on a nationwide basis.

1 3.2 **Lead Limits.**

2 As of the Effective Date, Settling Defendants shall not purchase, import,
3 Manufacture, supply to an unaffiliated third party, sell or offer for sale any Covered Product that
4 will be sold or offered for sale to California consumers that exceeds the following Lead Limits:

5 3.2.1 Paint or other Surface Coatings on Accessible Components: 90 parts per
6 million (“ppm”).

7 3.2.2 Polyvinyl chloride (“PVC”) Accessible Components: 200 ppm.

8 3.2.3 All other Accessible Components (including but not limited to leather and
9 non-PVC imitation leather) other than cubic zirconia (sometimes called cubic zirconium, CZ),
10 crystal, glass or rhinestones: 300 ppm.

11 3.3 **Final Retail Compliance Date.** When a Settling Defendant’s direct customer
12 sells or offers for sale to a California consumer a Covered Product after December 1, 2012 that
13 does not meet the Lead Limits, the Settling Defendant is deemed to “sell or offer for sale in
14 California” that Covered Product in violation of this Consent Judgment.

15 3.4 **Action Regarding Specific Products.**

16 3.4.1 On or before the Effective Date, Settling Defendants shall cease selling the
17 Luichiny An Dree A Platform Heels in Yellow, UPC No. 8-84437-36820-5; Style No.
18 LT10W94 (the “Recall Product”) in California. On or before the Effective Date, each
19 Settling Defendant shall also: (i) cease shipping the Recall Product to any of its customers
20 that resell the Recall Product in California, and (ii) send instructions to its customers that
21 resell the Recall Product in California instructing them to cease offering such Recall
22 Product for sale in California.

23 3.4.2 If a Settling Defendant has not complied with Section 3.4.1 prior to
24 executing this Consent Judgment, it shall instruct its California stores and/or customers
25 that resell the Recall Product either to (i) return the Recall Product to the Settling
26 Defendant for destruction; or (ii) directly destroy the Recall Product.

27 3.4.3 Any destruction of Recall Product shall be in compliance with all
28 applicable laws.

1 3.4.4 Within sixty days of the Effective Date, Settling Defendants shall provide
2 CEH with written certification from Settling Defendants confirming compliance with the
3 requirements of this Section 3.4.

4 **4. ENFORCEMENT**

5 4.1 Any Party may, after meeting and conferring, by motion or application for an
6 order to show cause before this Court, enforce the terms and conditions contained in this Consent
7 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent
8 Judgment shall be brought exclusively pursuant to Sections 4.3 through 4.4.

9 4.2 Within 30 days after the Effective Date, Settling Defendants shall notify CEH
10 of a means sufficient to allow CEH to identify Covered Products supplied or offered by Settling
11 Defendants on or after that date, for example, a unique brand name or characteristic system of
12 product numbering or labeling. Upon written request by CEH, but no more than once in any
13 calendar year, Settling Defendants shall, within 30 days of receiving a request from CEH, update
14 the information provided to CEH pursuant to this Section 4.2 by notifying CEH of a means
15 sufficient to allow CEH to identify Covered Products currently supplied or offered by Settling
16 Defendants. If CEH is unable to determine whether a particular product is a Covered Product as
17 to Settling Defendants based on the information provided to CEH pursuant to this Section 4.2,
18 Settling Defendants shall cooperate in good faith with CEH in determining whether the product at
19 issue is a Covered Product and, if so, the identity of the Settling Defendant responsible for selling
20 the product. Information provided to CEH pursuant to this Section 4.2, including but not limited
21 to the identities of parties to contracts between Settling Defendants and third parties, may be
22 designated by Settling Defendants as competitively sensitive confidential business information,
23 and if so designated shall not be disclosed to any person without the written permission of
24 Settling Defendants. Any motions or pleadings or any other court filings that may reveal
25 information designated as competitively sensitive confidential business information pursuant to
26 this Section shall be submitted in accordance with California Rules of Court 8.46 and 2.550, *et*
27 *seq.*

1 4.3 **Notice of Violation.** CEH may seek to enforce the requirements of Sections
2 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.3.

3 4.3.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling
4 Defendants within 45 days of the date the alleged violation(s) was or were observed,
5 provided, however, that CEH may have up to an additional 45 days to provide Settling
6 Defendants with the test data required by Section 4.3.2(d) below if it has not yet obtained
7 it from its laboratory.

8 4.3.2 **Supporting Documentation.** The Notice of Violation shall, at a minimum,
9 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,
10 (b) the location at which the Covered Product was offered for sale, (c) a description of the
11 Covered Product giving rise to the alleged violation, and of each Accessible Component
12 that is alleged not to comply with the Lead Limits and/or each Accessible Component that
13 is alleged to contain Lead in excess of 300 ppm, including a picture of the Covered
14 Product and all identifying information on tags and labels, and (d) all test data obtained by
15 CEH regarding the Covered Product and related supporting documentation, including all
16 laboratory reports, quality assurance reports and quality control reports associated with
17 testing of the Covered Products. Such Notice of Violation shall be based at least in part
18 upon total acid digest testing performed by an independent accredited laboratory. Wipe,
19 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a
20 Notice of Violation, although any such testing may be used as additional support for a
21 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A
22 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section
23 4.3.2.

24 4.3.3 **Additional Documentation.** CEH shall promptly make available for
25 inspection and/or copying upon request by and at the expense of Settling Defendants, all
26 supporting documentation related to the testing of the Covered Products and associated
27 quality control samples, including chain of custody records, all laboratory logbook entries
28 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts

1 from all analytical instruments relating to the testing of Covered Product samples and any
2 and all calibration, quality assurance, and quality control tests performed or relied upon in
3 conjunction with the testing of the Covered Products, obtained by or available to CEH that
4 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,
5 any exemplars of Covered Products tested.

6 4.3.4 **Multiple Notices.** If a Settling Defendant has received more than four
7 Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever
8 fines, costs, penalties, or remedies are provided by law for failure to comply with the
9 Consent Judgment. For purposes of determining the number of Notices of Violation
10 pursuant to this Section 4.3.4, the following shall be excluded:

11 (a) Multiple notices identifying Covered Products Manufactured for or
12 sold to a Settling Defendant from the same Vendor; and

13 (b) A Notice of Violation that meets one or more of the conditions of
14 Section 4.4.3(b).

15 4.4 **Notice of Election.** Within 30 days of receiving a Notice of Violation
16 pursuant to Section 4.3, including the test data required pursuant to 4.3.2(d), a Settling Defendant
17 shall provide written notice to CEH stating whether it elects to contest the allegations contained in
18 the Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election shall be
19 deemed an election to contest the Notice of Violation.

20 4.4.1 **Contested Notices.** If the Notice of Violation is contested, the Notice of
21 Election shall include all then-available documentary evidence regarding the alleged
22 violation, including any test data. Within 30 days the parties shall meet and confer to
23 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,
24 CEH may file an enforcement motion or application pursuant to Section 4.1. If a Settling
25 Defendant withdraws its Notice of Election to contest the Notice of Violation before any
26 motion concerning the violations alleged in the Notice of Violation is filed pursuant to
27 Section 4.1, the Settling Defendant shall make a contribution to the Proposition 65
28 Fashion Accessory Testing Fund in the amount of \$12,500 and shall comply with all of

1 the non-monetary provisions of Section 4.4.2. If, at any time prior to reaching an
2 agreement or obtaining a decision from the Court, CEH or a Settling Defendant acquires
3 additional test or other data regarding the alleged violation, it shall promptly provide all
4 such data or information to the other Party.

5 4.4.2 **Non-Contested Notices.** If the Notice of Violation is not contested, the
6 Settling Defendant shall include in its Notice of Election a detailed description of
7 corrective action that it has undertaken or proposes to undertake to address the alleged
8 violation. Any such correction shall, at a minimum, provide reasonable assurance that the
9 Covered Product will no longer be offered by the Settling Defendant or its customers for
10 sale in California. If there is a dispute over the sufficiency of the proposed corrective
11 action or its implementation, CEH shall promptly notify the Settling Defendant and the
12 Parties shall meet and confer before seeking the intervention of the Court to resolve the
13 dispute. In addition to the corrective action, the Settling Defendant shall make a
14 contribution to the Fashion Accessory Testing Fund in the amount of \$10,000, unless one
15 of the provisions of Section 4.4.3 applies.

16 4.4.3 **Limitations in Non-Contested Matters.**

17 (a) If it elects not to contest a Notice of Violation before any motion
18 concerning the violation(s) at issue has been filed, the monetary liability of a Settling
19 Defendant shall be limited to the contributions required by this Section 4.4.3, if any.

20 (b) The contribution to the Fashion Accessory Testing Fund shall be:

21 (i) One thousand seven hundred fifty dollars (\$1750) if a Settling
22 Defendant, prior to receiving and accepting for distribution or sale the
23 Covered Product identified in the Notice of Violation, obtained test results
24 demonstrating that all of the Accessible Components in the Covered
25 Product identified in the Notice of Violation complied with the applicable
26 Lead Limits, and further provided that such test results meet the same
27 quality criteria to support a Notice of Violation as set forth in Section 4.3.2
28 and that the testing was performed within two years prior to the date of the

1 sales transaction on which the Notice of Violation is based. The Settling
2 Defendant shall provide copies of such test results and supporting
3 documentation to CEH with its Notice of Election; or

4 (ii) One thousand five hundred dollars (\$1500) if a Settling
5 Defendant is in violation of Section 3.3, provided however, that no
6 contribution is required or payable if the Settling Defendant has already
7 been required to pay a total of ten thousand dollars (\$10,000) pursuant to
8 this subsection. This subsection shall apply only to Covered Products that
9 the Settling Defendant demonstrates were shipped prior to the applicable
10 Shipping Compliance Date specified in Section 3.2; or

11 (iii) Not required or payable, if the Notice of Violation identifies
12 the same Covered Product or Covered Products, differing only in size or
13 color, that have been the subject of another Notice of Violation within the
14 preceding 12 months.

15 **5. PAYMENTS**

16 **5.1 Payments by Settling Defendants.** Within five (5) days of entry of this Consent
17 Judgment, Settling Defendants shall pay the total sum of \$30,000 as a settlement payment. The
18 total settlement amount for Settling Defendants shall be paid in three separate checks delivered to
19 the offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San
20 Francisco, California 94117, and made payable and allocated as follows:

21 5.1.1 Settling Defendants shall pay the sum of \$3,930 as a civil penalty pursuant
22 to Health & Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with
23 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of
24 Environmental Health Hazard Assessment). The civil penalty check shall be made payable to the
25 Center For Environmental Health.

26 5.1.2 Settling Defendants shall also pay the sum of \$5,900 as a payment in lieu
27 of civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of
28 Regulations, Title 11, § 3203(b). CEH will use such funds to continue its work educating and

1 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part
2 of its Community Environmental Action and Justice Fund, CEH will use four percent of such
3 funds to award grants to grassroots environmental justice groups working to educate and protect
4 people from exposures to toxic chemicals. The method of selection of such groups can be found
5 at the CEH web site at www.ceh.org/justicefund. The payment pursuant to this Section shall be
6 made payable to the Center For Environmental Health.

7 5.1.3 Settling Defendants shall also separately pay to the Lexington Law Group
8 the sum of \$20,170 as reimbursement of a portion of CEH's reasonable attorneys' fees and costs.
9 The attorneys' fees and cost reimbursement check shall be made payable to the Lexington Law
10 Group.

11 **6. MODIFICATION**

12 6.1 **Written Consent.** This Consent Judgment may be modified from time to
13 time by express written agreement of the Parties with the approval of the Court, or by an order of
14 this Court upon motion and in accordance with law.

15 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
16 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
17 modify the Consent Judgment.

18 **7. CLAIMS COVERED AND RELEASED**

19 7.1 This Consent Judgment is a full, final and binding resolution between CEH on
20 behalf of itself and the public interest and Settling Defendants, and their parents, subsidiaries,
21 affiliated entities that are under common ownership or common control, directors, officers,
22 employees, and attorneys ("Defendant Releasees"), and each entity to whom they directly or
23 indirectly distribute or sell Covered Products, including but not limited to distributors,
24 wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees
25 ("Downstream Defendant Releasees") of any violation of Proposition 65 that was or could have
26 been asserted in the Complaint against Settling Defendants, Defendant Releasees, and
27 Downstream Defendant Releasees, based on failure to warn about alleged exposure to Lead
28 contained in Fashion Accessories that were sold by Settling Defendants prior to the Effective

1 Date.

2 7.2 Compliance with the terms of this Consent Judgment by a Settling Defendant
3 constitutes compliance with Proposition 65 with respect to Lead in that Settling Defendant's
4 Covered Products.

5 7.3 Nothing in this Section 7 affects CEH's right to commence or prosecute an
6 action under Proposition 65 against any person other than a Settling Defendant, Defendant
7 Releasee, or Downstream Defendant Releasee.

8 7.4 Nothing in Section 7 affects CEH's right to commence or prosecute an action
9 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer
10 of a Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to
11 California consumers that does not comply with the Lead Limits after the applicable Final Retail
12 Compliance Date set forth in Section 3.3.

13 **8. NOTICE**

14 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the
15 notice shall be sent by first class and electronic mail to:

16 Eric S. Somers
17 Lexington Law Group
18 503 Divisadero Street
19 San Francisco, CA 94117
20 esomers@lexlawgroup.com

21 8.2 When a Settling Defendant is entitled to receive any notice under this Consent
22 Judgment, the notice shall be sent by first class and electronic mail to:

23 Melissa A. Jones
24 STOEL RIVES LLP
25 500 Capitol Mall, Suite 1600
26 Sacramento, CA 95814
27 majones@stoel.com

28 8.3 Any Party may modify the person and address to whom the notice is to be sent
by sending each other Party notice by first class and electronic mail.

29 **9. COURT APPROVAL**

30 9.1 This Consent Judgment shall become effective upon entry by the Court. CEH

1 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendants
2 shall support entry of this Consent Judgment.

3 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or
4 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
5 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

6 **10. ATTORNEYS' FEES**

7 10.1 Should CEH prevail on any motion, application for an order to show cause or
8 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its
9 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
10 Settling Defendants prevail on any motion, application for an order to show cause or other
11 proceeding, Settling Defendants may be awarded their reasonable attorneys' fees and costs as a
12 result of such motion or application upon a finding by the Court that CEH's prosecution of the
13 motion or application lacked substantial justification. For purposes of this Consent Judgment, the
14 term substantial justification shall carry the same meaning as used in the Civil Discovery Act of
15 1986, Code of Civil Procedure §§ 2016, *et seq.*

16 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear
17 its own attorneys' fees and costs.

18 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of
19 sanctions pursuant to law.

20 **11. TERMINATION**

21 11.1 This Consent Judgment shall be terminable by CEH or by Settling Defendants
22 at any time after September 1, 2017, upon the provision of 30 days advanced written notice; such
23 termination shall be effective upon the subsequent filing of a notice of termination with Superior
24 Court of Alameda County.

25 11.2 Should this Consent Judgment be terminated pursuant to this Section, it shall
26 be of no further force or effect as to the terminated parties; provided, however, that if CEH is the
27 terminating Party, the provisions of Sections 5, 7, and 12.1 shall survive any termination and
28 provided further that if a Settling Defendant is the terminating Party, the provisions of Sections 5,

1 7.1 and 12.1 shall survive any termination.

2 **12. OTHER TERMS**

3 12.1 The terms of this Consent Judgment shall be governed by the laws of the State
4 of California.

5 12.2 This Consent Judgment shall apply to and be binding upon CEH and Settling
6 Defendants, and their respective divisions, subdivisions, and subsidiaries, and the successors or
7 assigns of any of them.

8 12.3 This Consent Judgment contains the sole and entire agreement and
9 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
10 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
11 merged herein and therein. There are no warranties, representations, or other agreements between
12 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
13 implied, other than those specifically referred to in this Consent Judgment have been made by any
14 Party hereto. No other agreements not specifically contained or referenced herein, oral or
15 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,
16 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in
17 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent
18 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
19 whether or not similar, nor shall such waiver constitute a continuing waiver.

20 12.4 Nothing in this Consent Judgment shall release, or in any way affect any rights
21 that any Settling Defendant might have against any other party, whether or not that party is a
22 Settling Defendant.

23 12.5 This Court shall retain jurisdiction of this matter to implement or modify the
24 Consent Judgment.

25 12.6 The stipulations to this Consent Judgment may be executed in counterparts
26 and by means of facsimile or portable document format (pdf), which taken together shall be
27 deemed to constitute one document.

28 12.7 Each signatory to this Consent Judgment certifies that he or she is fully

1 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into
2 and execute the Consent Judgment on behalf of the Party represented and legally to bind that
3 Party.

4 12.8 The Parties, including their counsel, have participated in the preparation of
5 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.
6 This Consent Judgment was subject to revision and modification by the Parties and has been
7 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any
8 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any
9 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this
10 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to
11 be resolved against the drafting Party should not be employed in the interpretation of this Consent
12 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

13 **IT IS SO ORDERED:**

14 15 Dated: _____, 2012	16 17 18 19 20 21 22 23 24 25 26 27 28 The Honorable Steven A. Brick Judge of the Superior Court
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19 **IT IS SO STIPULATED:**

20 **CENTER FOR ENVIRONMENTAL HEALTH**

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22 
23 _____
Signature

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26 _____
Printed Name

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DEMAND SHOES, LLC

Diane M Butrus
Signature

DIANE M BUTRUS
Printed Name

COO
Title

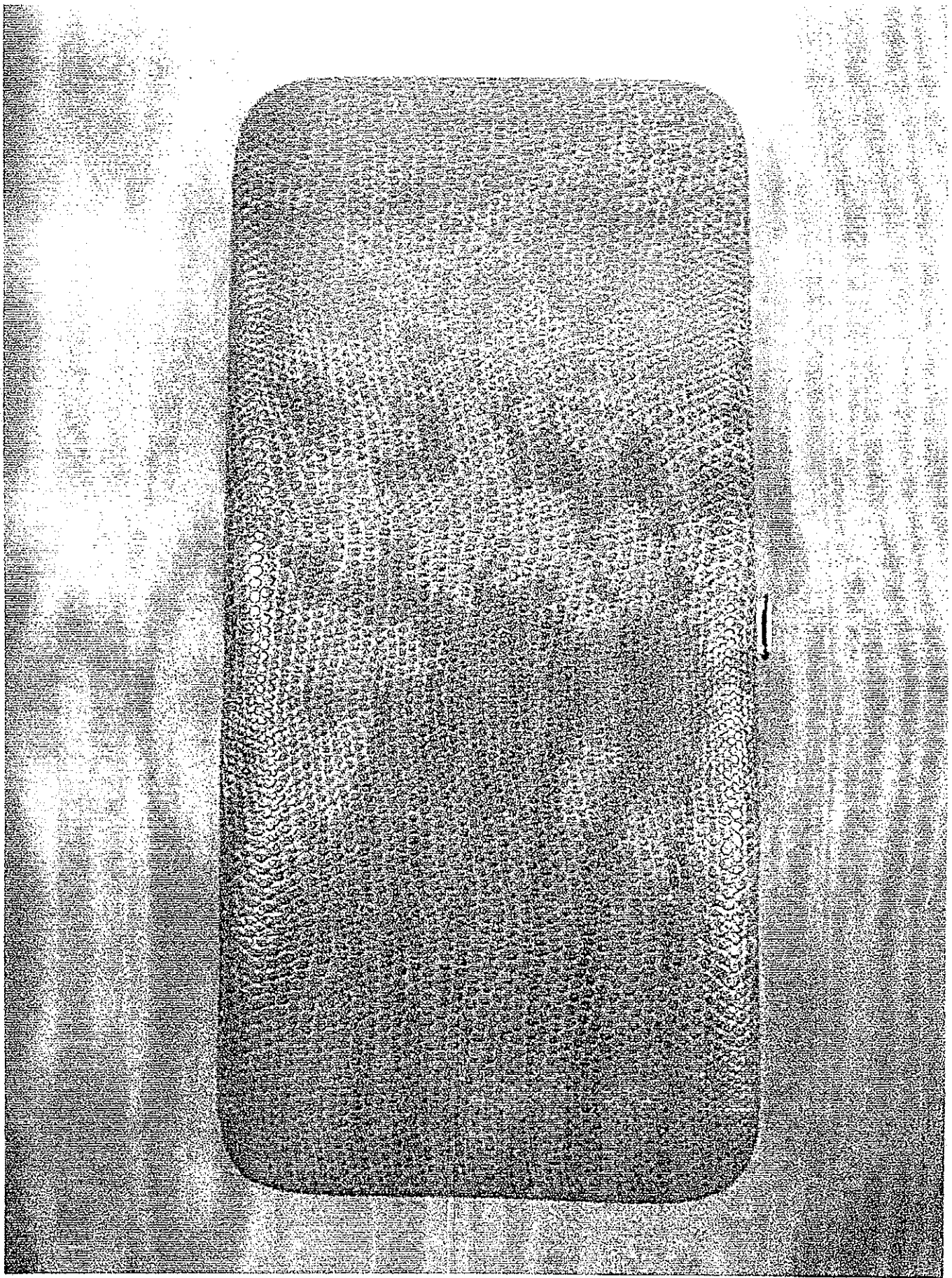
DIBA IMPORTS, L.P.

Diane M Butrus
Signature

DIANE M BUTRUS
Printed Name

COO
Title

Exhibit A



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ORANGE

365 North Canyons Parkway, Suite 201
Tech Center: 2441 Constitution Drive
Livermore CA 94551



925-828-1440
www.TheNFL.com

Analytical Report

August 03, 2011

Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

Analytical Report No.: CL3573-33
Analysis Dates: 07/26/11 - 08/03/11

Listed below are the results of our analyses for sample(s) received on July 26, 2011.

CEH ID#AB789L, [REDACTED] Wallet (Orange Surface Material On Main Part Of W
NFL ID AF02363

Analyte	Result	Units	Method Ref.
Lead	67500	ppm	NIOSH 7082

A portion of the sample was digested in a microwave oven with concentrated nitric acid and analyzed by ICP-MS.

Sample(s) were received in good condition unless and results are reported based on the sample(s) as received, unless otherwise noted. Please note that these results apply only to the sample(s) submitted for this report. Samples from a different portion of the same lot may produce different results.

The National Food Lab services are provided subject to our standard terms and conditions, which can be found on our website, www.TheNFL.com. Should you have any questions concerning these results, please do not hesitate to contact us. Thank you for using the services of the National Food Lab.

Sincerely,

Grace Bandong, Division Manager, Food Contaminants -Chemistry

cc: The NFL's Accounts Receivable