

SETTLEMENT AGREEMENT

BETWEEN ISABEL NOVAK AND PIER 1 IMPORTS (U.S.), INC.

1. **RECITALS**

1.1 **The Parties**

This Settlement Agreement (“Settlement”) is entered into by and between Isabel Novak (“Ms. Novak”) and Pier 1 Imports (U.S.), Inc. (“Pier 1”). Ms. Novak and Pier 1 shall hereinafter collectively be referred to as the “Parties.”

Ms. Novak is a citizen of the State of California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products. Pier 1 employs ten (10) or more employees, and is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 **Allegations**

Ms. Novak alleges that Pier 1 manufactured, distributed, supplied, and/or sold ceramic mugs with exterior decorations, commonly known as “hand-painted Spain 440/4401” (SKU 2657190) (hereinafter, the “Products”) in the State of California causing users in California to be exposed to hazardous levels of lead without providing “clear and reasonable warnings,” in violation of Proposition 65. Lead (the “Listed Chemical”) is subject to Proposition 65 warning requirements because it is listed as known to cause cancer, birth defects and other reproductive harm.

On December 16, 2013, a sixty-day notice of violation (“60-Day Notice”), along with a Certificate of Merit, was provided by Ms. Novak to Pier 1 and various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Products.

1.3 **No Admissions**

Pier 1 denies all allegations in Ms. Novak’s 60-Day Notice and maintains that the Products have been, and are, in compliance with all laws, and that Pier 1 has not violated Proposition 65. This Settlement shall not be construed as an admission of liability by Pier 1 but,

to the contrary, as a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Settlement.

1.4 Compromise

The Parties enter into this Settlement in order to resolve the controversy described above and avoid prolonged and costly litigation between them.

1.5 Effective Date

The "Effective Date" shall be the date upon which this Settlement is signed by both Parties and delivered to each Party.

2. INJUNCTIVE RELIEF AND REFORMULATION

2.1 Warning Obligations for Products

After the Effective Date, Pier 1 shall not manufacture, decorate, import, distribute or offer for use or sale any Products containing the Listed Chemical in their non-food contact (exterior) surfaces (or supply any Products containing the Listed Chemical in such surfaces to any entity) for distribution, sale or use in California, unless clear and reasonable warnings are given in a manner consistent with the method and language set forth in Section 2 of the *People v. Wedgwood* judgment.¹

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

In settlement of all claims referred to in this Settlement, Pier 1 shall pay a total civil penalty of four thousand dollars (\$4,000.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$3,000.00) paid to State of California Office of Environmental Health Hazard Assessment, and the remaining 25% (\$1,000.00) paid to Ms. Novak.

Pier 1 shall issue two (2) checks for the civil penalty: (1) a check or money order made

¹ The *People v. Wedgwood* judgment refers to the consent judgment stemming from settlement in the lawsuit filed by the California Attorney General for civil penalties and injunctive relief against a number of defendants that manufacture, distribute, supply, and/or sell ceramic tableware, *People v. Wedgwood USA, Inc., et al.*, No. 938430. The warning provisions of the *People v. Wedgwood* judgment are attached hereto as Exhibit "1".

payable to "Law Offices of Lucas T. Novak in Trust for Office of Environmental Health Hazard Assessment" in the amount of \$3,000.00; and (2) a check or money order made payable to "Law Offices of Lucas T. Novak in Trust for Isabel Novak" in the amount of \$1,000.00. Pier 1 shall remit the payments within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

3.2 Reimbursement Of Ms. Novak's Fees And Costs

Pier 1 shall reimburse Ms. Novak's reasonable experts' and attorney's fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Settlement. Accordingly, Pier 1 shall issue a check or money order made payable to "Law Offices of Lucas T. Novak" in the amount of sixteen thousand dollars (\$16,000.00). Pier 1 shall remit the payment within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

4. RELEASES

4.1 Ms. Novak's Release Of Pier 1

Ms. Novak, acting in her individual capacity, her past and current agents, representatives, attorneys, successors, and/or assignees, in consideration of the promises and monetary payments contained herein, hereby releases Pier 1, its parents, subsidiaries, shareholders, directors, members, officers, employees, agents and attorneys, from the claims asserted in Ms. Novak's 60-Day Notice dated December 16, 2013 regarding violation of Proposition 65 with respect to the Products.

4.2 Pier 1's Release Of Ms. Novak

Pier 1, by this Settlement, waives all rights to institute any form of legal action against

Ms. Novak, her past and current agents, representatives, attorneys, experts, successors, and/or assignees, for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Pier 1 in this matter.

4.3 Waiver Of Unknown Claims

Each of the Parties acknowledges that it is familiar with Section 1542 of California *Civil Code* which 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.”

Each of the parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California *Civil Code* or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the claims in this Settlement. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Settlement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

5. SEVERABILITY

Should any non-material part or provision of this Settlement for any reason be declared by a Court to be invalid, void, unenforceable, or against law or public policy, the remaining portions and provisions shall continue in full force and effect.

6. GOVERNING LAW

The terms of this Settlement shall be governed by the laws of the State of California.

7. NOTICES

All correspondence and notices required to be provided under this Settlement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows:

<p>TO PIER 1:</p> <p>Kevin C. Mayer, Esq. CROWELL & MORING LLP 515 South Flower Street, 40th Floor Los Angeles, California 90071</p> <p>with a copy to: Pier 1 Imports Attn: General Counsel 100 Pier 1 Place Fort Worth, Texas 76102</p>	<p>TO MS. NOVAK:</p> <p>Lucas T. Novak, Esq. LAW OFFICES OF LUCAS T. NOVAK 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069</p>
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8. INTEGRATION

This Settlement constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be amended or modified except in writing executed by both Parties.

9. COUNTERPARTS

This Settlement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Settlement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Settlement shall have the same force and effect as the originals.

10. AUTHORIZATION

The undersigned are authorized to execute this Settlement on behalf of their respective Party. Each Party has read, understood, and agrees to all of the terms and conditions of this Settlement. Each Party warrants to the other that it is free to enter into this Settlement and not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Settlement by said Party.

AGREED TO: Pier 1 Imports (U.S.), Inc.

Date: 10-29-2014

By: 

Name: Michael A. Carter

Title: SR VP Compliance and General Counsel



AGREED TO:

Date: 6/27/14

By: Isabel Novak

Isabel Novak