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7 Attorney for Plaintiff, Elise Roskopf

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

10 ELISE ROSKOPF, an individual, )  
11 )  
12 Plaintiff, )  
13 v. )  
14 WILLIAMS-SONOMA, INC., a corporation, )  
15 and DOES 1 through 100, inclusive, )  
16 Defendants. )  
17 )

CASE NO. BC564533  
[PROPOSED] CONSENT JUDGMENT  
Judge: Hon. Yvette M. Palazuelos  
Dept.: 28  
Compl. Filed: November 21, 2014  
Unlimited Jurisdiction

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1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This Consent Judgment is entered into by and between Elise Roskopf (“Plaintiff”) and  
4 Williams-Sonoma, Inc. (“Williams-Sonoma”). Plaintiff and Williams-Sonoma are hereafter  
5 collectively referred to as the “Parties.” Plaintiff is a citizen of the State of California with an  
6 interest in protecting the environment, improving human health and the health of ecosystems,  
7 and supporting environmentally sound practices, which includes promoting awareness of  
8 exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer  
9 products. Plaintiff alleges that Williams-Sonoma employs ten (10) or more employees, and is a  
10 person in the course of doing business as the term is defined in California *Health & Safety Code*  
11 section 25249.6 *et seq.* (“Proposition 65”).

12 **1.2 Allegations**

13 On April 11, 2014, Plaintiff sent a Proposition 65 sixty-day notice (the “Notice”),  
14 pursuant to Health and Safety Code Section 25249.7(d), to Williams-Sonoma and various public  
15 enforcement agencies alleging that Williams-Sonoma manufactured, distributed, and/or sold in  
16 California certain ceramic mugs with exterior decorations containing lead and lead compounds,  
17 including but not limited to “Bntcl Wreathing” ceramic mug (UPC # 104-3569738-3784) (the  
18 “Products”), without providing “clear and reasonable warnings” in alleged violation of  
19 Proposition 65. Lead and lead compounds are chemicals listed under Proposition 65 (the “Listed  
20 Chemicals”). On November 21, 2014, Plaintiff filed a complaint in the captioned action making  
21 the same claims alleged in the Notice (the “Complaint”)

22 **1.3 No Admissions**

23 The Parties enter into this Consent Judgment as a full and final settlement of all claims  
24 that were raised in the Notice and the Complaint. Williams-Sonoma denies the material factual  
25 and legal allegations contained in Plaintiff’s Notice and Complaint, and maintains that all  
26 products that it has manufactured, imported, distributed, and/or sold in California, including the  
27 Products, have been and are in compliance with all laws including Proposition 65, and are  
28 completely safe for their intended use. Nothing in this Consent Judgment shall be construed as

1 an admission by Williams-Sonoma of any fact, finding, conclusion, issue of law, or violation of  
2 law, nor shall compliance with this Consent Judgment constitute or be construed as an admission  
3 by Williams-Sonoma of any fact, finding, conclusion, issue of law, or violation of law, such  
4 being specifically denied by Williams-Sonoma, who maintains that all products it has sold  
5 comply with all laws including but not limited to Proposition 65. However, this section shall not  
6 diminish or otherwise affect Williams-Sonoma's obligations, responsibilities, and duties under  
7 this Consent Judgment.

#### 8 **1.4 Compromise**

9 The Parties enter into this Consent Judgment in order to resolve Plaintiff's claims  
10 described above in a manner consistent with the prior Proposition 65 industry consent judgment  
11 entered in the public interest in *Brimer v. The Boelter Companies*, et al., San Francisco County  
12 Superior Court Case No. CGC-05-440811 concerning Listed Chemicals in the Products and to  
13 avoid prolonged and costly litigation between them.

#### 14 **1.5 Effective Date**

15 The "Effective Date" shall be the date upon which this Consent Judgment is approved  
16 and entered by the Court.

### 17 **2. REFORMULATION**

#### 18 **2.1 Reformulation Standards**

19 After the Effective Date, Williams-Sonoma shall not manufacture or distribute for sale in  
20 California, or sell in California, any Products containing the Listed Chemicals in their non-food  
21 contact (exterior) surfaces unless they meet the Reformulation Standards set forth below.  
22 Products that meet the Reformulation Standards below are "Reformulated Products" that do not  
23 require a Proposition 65 warning:

24 (a) For purposes of this Consent Judgment, the following definitions apply:

25 "Children's Product" means any Product that is primarily intended for use by  
26 children under twelve years of age, such as: Products with designs on their exterior surface  
27 which are affiliated with children's toys or entertainment (e.g., cartoon characters), Products of a  
28

1 reduced size so to be marketed primarily for children, or Products of a type or category which  
2 typically would be used by children.

3 “*Exterior Decorations*” is defined as all colored artwork, designs and/or markings  
4 on the exterior surface of the Products.

5 “*Lip and Rim Area*” is defined as the exterior top 20 millimeters of the Products,  
6 as defined by the ASTM Method C927-99.

7 “*No Detectable Lead*” shall mean that no lead is detected at a level above 200  
8 parts per million (ppm) based on a sample of at least 50 milligrams of the decorating material in  
9 question`.

10 (b) A Product that is not a *Children’s Product* shall be deemed to be a  
11 Reformulated Product with respect to the Listed Chemicals in Exterior Decorations if Williams-  
12 Sonoma demonstrates that it satisfies any one of the alternative standards set forth in subsections  
13 2.1(c)(1), (2) or (3) below. However, if a Product is decorated in the *Lip and Rim Area*,  
14 subsection 2.1(c)(4) must also be satisfied.

15 (c)(1) **Wipe Test-Based Standard:** Under this Standard, the Product must  
16 produce a test result no higher than 1.0 micrograms (ug) of lead using EPA Test Method 3050(b)  
17 based on a wipe sample applied specifically to the area of the Product that contains the majority  
18 of the *Exterior Decorations* as outlined in NIOSH Method No. 9100.

19 (c)(2) **Total Acetic Acid Immersion Test-Based Standard:** Under this  
20 Standard, the Product must achieve a result of 0.99 ppm or less for lead when tested pursuant to  
21 ASTM Method C927-99 as modified for total immersion with results corrected for internal  
22 volume.<sup>1</sup>

23 (c)(3) **Content-Based Standard.** Under this standard, the *Exterior*  
24 *Decorations*, exclusive of the Lip and Rim Area, must only utilize decorating materials that  
25  
26  
27

28 <sup>1</sup> For this testing protocol, refer to Exhibit B of the Consent Judgment entered in Brimer v. The Boelter Companies,  
et al., San Francisco County Superior Court Case No. CGC-05-440811.

1 contain six one-hundredths of one percent (0.06%) of lead by weight or less, as measured either  
2 before or after the material is fired onto (or otherwise affixed to) the Product, using EPA Test  
3 Method 3050(b).

4 (c)(4) **Additional Lip and Rim Area Decoration Standard:** If the Product  
5 contains *Exterior Decorations* in the *Lip and Rim Area*:

6 (i) Any *Exterior Decorations* that extend into the *Lip and Rim Area*  
7 may only utilize decorating materials that contain *No Detectable Lead*, or

8 (ii) The Product must yield a test result showing a concentration level  
9 of 0.5 ug/ml or less of lead using ASTM Method C927-99 on the *Lip and Rim Area*.

10 (d) A Product that is a *Children's Product* shall be deemed to be a  
11 Reformulated Product with respect to Listed Chemicals provided the Product complies with the  
12 children's lead standards set forth in the federal Consumer Product Safety Improvement Act.

### 13 **3. PAYMENTS**

#### 14 **3.1 Civil Penalty Pursuant To Proposition 65**

15 In settlement of all claims made in the Notice and Complaint, and covered by this  
16 Consent Judgment, Williams-Sonoma shall pay a total civil penalty of three thousand five  
17 hundred dollars (\$3,500) to be apportioned in accordance with *Health and Safety Code* section  
18 25249.12(c)(1) and (d), with 75% (\$2,625.00) paid to State of California Office of  
19 Environmental Health Hazard Assessment, and the remaining 25% (\$875.00) paid to Roskopf.

20 Williams-Sonoma shall issue two (2) separate checks for the civil penalty: (1) a check or  
21 money order made payable to "Law Offices of Lucas T. Novak in Trust for Office of  
22 Environmental Health Hazard Assessment" in the amount of two thousand six hundred twenty  
23 five dollars (\$2,625.00); and (2) a check or money order made payable to "Law Offices of Lucas  
24 T. Novak in Trust for Elise Roskopf" in the amount of eight hundred seventy five dollars (\$875).  
25 Williams-Sonoma shall remit the payments within ten (10) business days of the Effective Date,  
26 to:

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

1 Plaintiff and her counsel shall be responsible for transmitting to OEHHA its portion of the civil  
2 penalty payment herein.

3 **3.2 Reimbursement Of Roskopf's Fees And Costs**

4 Williams-Sonoma shall reimburse Roskopf's reasonable experts' and attorney's fees and  
5 costs incurred in prosecuting the Notice and Complaint, and for all work performed through  
6 execution of this Consent Judgment in the total amount of nineteen thousand dollars (\$19,000).  
7 Accordingly, Williams-Sonoma shall issue a check or money order made payable to "Law  
8 Offices of Lucas T. Novak" in the amount of nineteen thousand dollars (\$19,000). Williams-  
9 Sonoma shall remit the payment within ten (10) business days of the Effective Date, to:

10 Lucas T. Novak, Esq.  
11 LAW OFFICES OF LUCAS T. NOVAK  
12 8335 W Sunset Blvd., Suite 217  
Los Angeles, CA 90069

13 Williams-Sonoma's payment of this amount shall completely resolve Plaintiff's claim for any  
14 and all expert and attorney's fees and costs related to the claims made in the Notice and  
15 Complaint and settled herein, exclusive of fees and costs that may be incurred on appeal.

16 **4. RELEASES**

17 **4.1 Roskopf's Release Of Williams-Sonoma**

18 This Consent Judgment is a full, final and binding resolution between Plaintiff, and  
19 Williams-Sonoma, of any violation of Proposition 65 with respect to alleged Listed Chemicals in  
20 the Exterior Decorations of the Products that was asserted by Plaintiff in the public interest, and  
21 on behalf of Plaintiff herself, her past and current agents, representatives, attorneys, successors,  
22 and/or assignees, against Williams-Sonoma, its parents, subsidiaries, affiliated entities under  
23 common ownership, directors, officers, employees, attorneys, and each entity to whom Williams-  
24 Sonoma directly or indirectly distributes or sells the Products, including, but not limited to, its  
25 downstream distributors, customers, retailers, franchisees, cooperative members, and licensees  
26 (collectively, "Releasees"), based on Products that were manufactured, distributed, shipped, sold  
27 and/or offered for sale or shipment by Williams-Sonoma in California prior to the Effective  
28 Date. Williams-Sonoma's compliance with the terms of this Consent Judgment shall be deemed

1 compliance with Proposition 65 with respect to any actual or alleged exposures to Listed  
2 Chemicals in the Exterior Decorations of the Products.

3 Plaintiff further acknowledges that she is familiar with Civil Code section 1542, which  
4 provides as follows:

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

10 Plaintiff, on behalf of herself, her past and current agents, representatives, attorneys,  
11 successors, and/or assignees, hereby waives and relinquishes any right or benefit she has or may  
12 have under Section 1542 of the California Civil Code, or any similar provision under the  
13 statutory or non-statutory law of any other jurisdiction, to the full extent that she may lawfully  
14 waive all such rights and benefits, with respect to any violation or alleged violation of  
15 Proposition 65 regarding the Products that were manufactured, distributed, shipped, sold and/or  
16 offered for sale or shipment by Williams-Sonoma in California prior to the Effective Date.  
17 Plaintiff acknowledges that she may subsequently discover facts in addition to, or different from,  
18 those that she believes to be true with respect to the claims released herein. Plaintiff agrees that  
19 this Consent Judgment and the releases contained herein shall remain effective in all respects  
20 notwithstanding the discovery of such additional or different facts.

#### 21 **4.2 Williams-Sonoma's Release Of Roskopf**

22 Williams-Sonoma, its parents, subsidiaries, affiliated entities under common ownership,  
23 shareholders, directors, members, officers, employees, attorneys, and on behalf of each entity to  
24 whom Williams-Sonoma directly or indirectly distributes or sells Products, by this Consent  
25 Judgment, waives all rights to institute any form of legal action against Roskopf, her past and  
26 current agents, representatives, attorneys, experts, successors, and/or assignees, for actions or  
27 statements made or undertaken, whether in the course of investigating claims or seeking  
28 enforcement of Proposition 65 against Williams-Sonoma in this matter.

Williams-Sonoma acknowledges that it is familiar with Section 1542 of the California  
Civil Code which provides as follows:

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

6 Williams-Sonoma, on behalf of itself and its parents, subsidiaries, affiliated entities under  
7 common ownership, shareholders, directors, members, officers, employees, attorneys, and each  
8 entity to whom Williams-Sonoma directly or indirectly distributes or sells Products, waives and  
9 relinquishes any right or benefit it has or may have under Section 1542 of the California Civil  
10 Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to  
11 the full extent that it may lawfully waive all such rights and benefits. Williams-Sonoma  
12 acknowledges that it may subsequently discover facts in addition to, or different from, those that  
13 it believes to be true with respect to the claims released herein. Williams-Sonoma agrees that this  
14 Consent Judgment and the releases contained herein shall remain effective in all respects  
15 notwithstanding the discovery of such additional or different facts.

16 **5. SEVERABILITY**

17 Should any part or provision of this Consent Judgment for any reason be declared by a  
18 Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue  
19 in full force and effect.

20 **6. GOVERNING LAW**

21 The terms of this Consent Judgment shall be governed by the laws of the State of  
22 California.

23 **7. NOTICES**

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

26 TO WILLIAMS-SONOMA:

27 Danielle Hohos  
28 Associate General Counsel  
Williams-Sonoma, Inc.  
3250 Van Ness Avenue  
San Francisco, CA 94109

TO ROSKOPF:

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



1  
2 With Copy to:

3 Robert C. Goodman, Esq.  
4 James Robert Maxwell, Esq.  
5 Rogers Joseph O'Donnell  
6 311 California Street, 10th  
7 Floor  
8 San Francisco, California  
9 94104

8  
9 **8. INTEGRATION**

10 This Consent Judgment constitutes the entire agreement between the parties with respect  
11 to the subject matter hereof and may not be amended or modified except in writing.

12 **9. COURT APPROVAL**

13 Upon execution of this Consent Judgment by all Parties, Plaintiff shall file a noticed  
14 Motion for Approval & Entry of Consent Judgment in the above-entitled Court. This Consent  
15 Judgment is not effective until it is approved by the Court and shall be null and void if, for any  
16 reason, it is not approved by the Court within one (1) year after its full execution by all Parties. It  
17 is the intention of the Parties that the Court approve this Consent Judgment, and in furtherance of  
18 obtaining such approval, the Parties and their respective counsel agree to mutually employ their  
19 best efforts to support the entry of this agreement in a timely manner, including cooperating on  
20 drafting and filing any papers in support of the required motion for judicial approval.

21 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

22 Roskopf and her attorneys agree to comply with the reporting requirements referenced in  
23 Health & Safety Code § 25249.7(f).

24 **11. COUNTERPARTS**


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

1 **12. AUTHORIZATION**

2 The undersigned are authorized to execute this Consent Judgment on behalf of their  
3 respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions  
4 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this  
5 Consent Judgment and not subject to any conflicting obligation which will or might prevent or  
6 interfere with the execution or performance of this Consent Judgment by said party.  
7

8 **AGREED TO:**

9 Date: 12/29/14

10  
11 By: 

12 Authorized Officer of Williams-Sonoma, Inc.  
13

14 **AGREED TO:**

15 Date: \_\_\_\_\_

16  
17 By: \_\_\_\_\_

18 Elise Roskopf  
19

20 **IT IS SO ORDERED.**

21  
22 Dated: \_\_\_\_\_

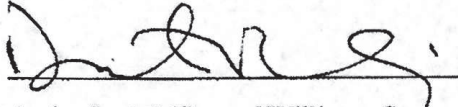
\_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
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27  
28

1 **12. AUTHORIZATION**

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5 Consent Judgment and not subject to any conflicting obligation which will or might prevent or  
6 interfere with the execution or performance of this Consent Judgment by said party.  
7

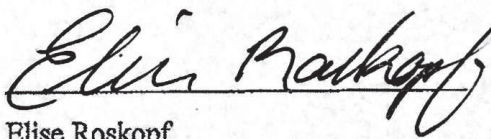
8 **AGREED TO:**

9 Date: 12/29/14  
10

11 By:   
12 Authorized Officer of Williams-Sonoma, Inc.  
13

14 **AGREED TO:**

15 Date: 12/30/14  
16

17 By:   
18 Elise Roskopf  
19

20 **IT IS SO ORDERED.**

21 Dated: \_\_\_\_\_  
22

\_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27  
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