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SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

COUNTY OF LOS ANGELES - CENTRAL DISTRICT

10

11 ALI ZARGARBASHI, an individual,

12 Plaintiff,

13 vs.

14 99 CENTS ONLY STORES LLC, a limited
liability company, and DOES 1-100, inclusive,

15 Defendant.

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Case No. BC565045

Assigned for All Purposes to Hon. Ernest M.
Hiroshige, Dept. 54

**STIPULATED CONSENT
JUDGMENT; [PROPOSED] ORDER**

Health & Safety Code S 25249.5 et seq.

Action Filed: November 26, 2014

Trial Date: None Set

1 **1. RECITALS**

2 **1.1 The Parties**

3 This Settlement Agreement (“Settlement”) is entered into by and between Ali Zargarbashi
4 (“Zargarbashi”) and 99 Cents Only Stores LLC. (“99 Cents”). Zargarbashi and 99 Cents shall
5 hereinafter collectively be referred to as the “Parties.”

6 Zargarbashi is a citizen of the State of California with an interest in protecting the
7 environment, improving human health and the health of ecosystems, and supporting
8 environmentally sound practices, which includes promoting awareness of exposure to toxic
9 chemicals and reducing exposure to hazardous substances found in consumer products. 99 Cents
10 employs ten (10) or more employees, and is a person in the course of doing business as the term is
11 defined in California *Health & Safety Code* Section 25249.6 et seq. (“Proposition 65”).

12 **1.2 Allegations**

13 Zargarbashi alleges that 99 Cents distributed, supplied and/or sold plastic fashion jewelry
14 that was manufactured, distributed, and/or sold by LA Double 7 Inc., a corporation organized
15 under the laws of the State of California, (“LA Double 7”) and/or LA Double 7’s affiliates
16 (hereinafter, the “Products”) in the State of California causing users in California to be exposed to
17 hazardous levels of Cadmium without providing “clear and reasonable warnings,” in violation of
18 Proposition 65. Cadmium is potentially subject to Proposition 65 warning requirements because it
19 is listed as known to the State of California to cause birth defects and reproductive harm.

20 On June 18, 2014, a sixty-day notice of violation (“60-Day Notice”), along with a
21 Certificate of Merit, was provided in the public interest by Zargarbashi pursuant to *Health and*
22 *Safety Code* Section 25249.7(d) to 99 Cents and various public enforcement agencies regarding
23 the alleged violation of Proposition 65 with respect to the cadmium in the Products. On
24 November 26, 2014, Zargarbashi filed a Complaint against 99 Cents alleging violation of
25 Proposition 65 with respect to the Products (Los Angeles Superior Court Case Number
26 BC565045) (the “Complaint”).

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1 **1.3 No Admissions**

2 99 Cents denies all allegations in Zargarbashi’s Notices and maintains that the Products
3 have been, and are, in compliance with all laws, and that 99 Cents has not violated Proposition 65.
4 Nothing in this Agreement shall be construed as an admission of any fact, finding, conclusion,
5 law, or violation of law nor shall compliance with the agreement constitute or be construed as an
6 admission by 99 Cents of any fact, finding, conclusion, issue or law, or violation of law. Instead,
7 the Parties enter into this agreement as a compromise of claims that are expressly contested and
8 denied. However, nothing in this section shall affect the Parties’ obligations, duties, and
9 responsibilities under this Agreement.

10 **1.4 Compromise**

11 The Parties enter into this Settlement in order to resolve the controversy described above in
12 a manner consistent with prior Proposition 65 consent judgments on the cadmium in the Products
13 that were entered on behalf of the public interest and to avoid prolonged and costly litigation
14 between them.

15 **1.5 Effective Date**

16 The “Effective Date” shall be sixty (60) days following the date upon which the Court
17 enters this consent judgment.

18 **2. INJUNCTIVE RELIEF AND REFORMULATION**

19 **2.1 Reformulation**

20 As of the Effective Date, 99 Cents shall not sell or offer the Products for sale in California
21 if they contain more than 300 parts per million (“ppm”) of cadmium in their accessible surfaces
22 when analyzed pursuant to Environmental Protection Agency testing methodologies 3050B or
23 equivalent. As of the Effective Date, if the Products do not meet this Reformulation Standard,
24 then clear and reasonable Proposition 65 warnings must accompany the Products, as described in
25 subsection 2.2 below, if 99 Cents continues to sell the Products.

26 **2.2 Proposition 65 Warnings Obligations**

27 If the Products do not meet the Reformulation Standard described in subsection 2.1 above,
28 then 99 Cents shall not manufacture, distribute, supply, and/or sell for use or sale in California the

1 Products containing cadmium in their accessible surfaces unless clear and reasonable Proposition
2 65 warnings are provided with the Products with the following specific warning, or a similar
3 warning otherwise permitted pursuant to Proposition 65:

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5 “**WARNING:** This product contains chemicals, including cadmium, known to the
6 State of California to cause cancer, birth defects and other reproductive harm.”

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8 Each unit shall carry said warning directly on each unit or its label or package, near the
9 product name, price, or UPC code, in a sufficiently conspicuous manner reasonably calculated to
10 be seen by the ordinary consumer. Alternatively, where products are offered for sale on a display
11 rack, the warning obligation may be fulfilled by means of an Identifying Sign affixed to each
12 display rack in a sufficiently conspicuous manner reasonably calculated to be seen by the ordinary
13 consumer. Each Identifying Sign shall not be covered or obscured, and shall be at least 3” by 5”
14 in size on white card stock, at least 14 point font in black print, with the capitalized and
15 emboldened warning:

16
17 “**WARNING:** This product contains chemicals, including cadmium, known to the
18 State of California to cause cancer, birth defects and other reproductive harm.”

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20 **3. PAYMENTS**

21 **3.1 Civil Penalty Pursuant to Proposition 65**

22 In settlement of all claims referred to in this Settlement Agreement, 99 Cents shall pay a
23 total civil penalty of Four Thousand Three Hundred Seventy Five Dollars (\$4,375.00) to be
24 apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75%
25 (\$3,281.25) paid to State of California Office of Environmental Health Hazard Assessment, and
26 the remaining 25% (\$1,093.75) paid to Zargarbashi.

27 99 Cents shall issue two (2) checks for the civil penalty: (1) a check or money order made
28 payable to “GP Law Group, APC in Trust for Office of Environmental Health Hazard

1 Assessment” in the amount of \$3,281.25; and (2) a check or money order made payable to “GP
2 Law Group, APC in Trust for Ali Zargarbashi” in the amount of \$1,093.75. 99 Cents shall remit
3 the payments within five (5) business days of the Court approving the Settlement entered into
4 between the Parties, to:

5 Manee Pazargad, Esq.
6 GP LAW GROUP, APC
7 204 South Beverly Drive, Suite 115
8 Beverly Hills, CA 90212

3.2 Reimbursement of Zargarbahsi’s Fees and Costs

9 99 Cents shall pay an agreed sum in reimbursement of Zargarbashi’s reasonable experts’
10 and attorney’s fees and costs incurred in prosecuting the instant action, for work performed
11 through execution of this Settlement. Accordingly, 99 Cents shall issue a check or money order
12 payable to “GP Law Group APC” in the amount of Thirteen Thousand One Hundred Twenty Five
13 Dollars (\$13,125.00). 99 Cents shall remit the payments within five (5) business days of the
14 Court approving the Settlement entered into between the Parties, to:

15 Manee Pazargad, Esq.
16 GP LAW GROUP, APC
17 204 South Beverly Drive, Suite 115
18 Beverly Hills, CA 90212

4. RELEASES

4.1 Zargarbashi’s Public Release of Proposition 65 Claims

19 This Settlement is a full, final, and binding resolution between Zargarbashi, on behalf of
20 himself and in the public interest, and 99 Cents, of any alleged violation of Proposition 65 or its
21 implementing regulations for failure to provide Proposition 65 warnings of exposure to cadmium
22 from the handling, use, or consumption of the Products and fully resolves all claims that have
23 been, could have been, or could be asserted in this action up to and including the Effective Date
24 for failure to provide Proposition 65 warnings for the Products. Zargarbashi, on behalf of himself
25 and in the public interest, hereby discharges 99 Cents and its respective officers, directors,
26 shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers,
27 vendors, manufacturers, franchisees, licensees, customers, distributors, wholesalers, retailers, and
28 all other upstream and downstream entities in the distribution chain of any Product, and the

1 predecessors, successors and assigns of any of them (collectively, "Released Parties"), from any
2 and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs
3 and expenses asserted, or that could have been asserted, as to any alleged violation of Proposition
4 65 arising from the failure to provide Proposition 65 warnings on the Products regarding
5 cadmium.

6 **4.2 Zargarbashi's Individual Release of 99 Cents**

7 Zargarbashi, in his individual capacity only and not in his representative capacity, also
8 provides a release to 99 Cents, Releasees, and Downstream Releasees which shall be effective as a
9 full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs,
10 expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Zargarbashi of any
11 nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of
12 alleged or actual exposures to any Proposition 65 chemicals in the Products sold or distributed for
13 sale by 99 Cents before the Effective Date.

14 **4.3 99 Cents' Release of Zargarbashi**

15 99 Cents, its parents, subsidiaries, shareholders, directors, members, officers, employees,
16 and attorneys, by this Settlement, waive all rights to institute any form of legal action against
17 Zargarbashi, his past and current agents, representatives, attorneys, experts, successors, and/or
18 assignees, for actions or statements made or undertaken, whether in the court of investigating
19 claims or seeking enforcement of Proposition 65 against 99 Cents relating to Zargarbashi's 60-
20 Day Notice dated June 18, 2014 in this matter.

21 **4.4 Waiver of Unknown Claims**

22 Each of the Parties acknowledges that it is familiar with Section 1542 of California *Civil*
23 *Code* which provides as follows:

24 A general release does not extend to claims which the creditor does not know or
25 suspect to exist in his or her favor at the time of executing the release, which if
26 known by him or her must have materially affected his or her settlement with the
27 debtor.

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

8 **4.5 Application**

9 Compliance with the terms of this Settlement shall be deemed to constitute compliance
10 with Proposition 65 by any Released Parties regarding alleged exposures to cadmium in the
11 Products as set forth in the 60-Day Notice and the Complaint, whether such exposures occur
12 before or after the Effective Date.

13 **5. COURT APPROVAL**

14 Upon execution of this Settlement by all Parties, Zargarbashi shall file a noticed Motion
15 for Approval in the above-entitled Court. This Agreement is not effective until it is approved and
16 entered by the Court and shall be null and void if, for any reason, it is not approved and entered by
17 the Court within one (1) year after its full execution by all Parties. Zargarbashi and 99 Cents agree
18 to support the entry of this agreement as a judgment, and to obtain the Court's approval of their
19 settlement in a timely manner. The Parties acknowledge that, pursuant to California Health and
20 Safety Code section 25249.7(f), a noticed motion is required for judicial approval of this Consent
21 Judgment, which motion Zargarbashi shall draft and file and 99 Cents shall support, appearing at
22 the hearing if so requested. If any third-party objection to the motion is filed, Zargarbashi and 99
23 Cents agree to work together to file a reply and appear at any hearing. If the California Attorney
24 General objects to any term in this Consent Judgment, the Parties shall seek to resolve the concern
25 in a timely manner, and if possible, prior to the hearing on the motion.

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1 **6. MODIFICATION**

2 This Consent Judgment may be modified only by: (i) a written agreement of the Parties
3 and entry of a modified consent judgment by the Court; or (ii) a successful motion or application
4 of any Party, and the entry of a modified consent judgment by the Court.

5 Subsequent Legislation. If, subsequent to the Effective Date, legislation or regulation is
6 adopted that addresses the DEHP content of Covered Products sold in California hereunder, any
7 Party shall be entitled to request that the Court modify the reformulation standard in Section 3.1 of
8 this Consent Judgment for good cause shown.

9 Notice: Meet and Confer. Any party seeking to modify this Consent Judgment or to allege
10 a violation thereof shall first attempt in good faith to meet and confer with the other Party prior to
11 filing a motion to modify the Consent Judgment.

12 **7. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

13 This Court shall retain jurisdiction of this matter to enforce, modify or terminate this
14 Consent Judgment. If Zargarbashi alleges that any Product fails to comply with this Settlement,
15 then Zargarbashi shall inform 99 Cents in a reasonably prompt manner of its test results. 99 Cents
16 shall, within thirty days following such notice, provide Zargarbashi with testing information, from
17 an independent third-party laboratory demonstrating Defendant's compliance with this Settlement,
18 if warranted. The Parties shall first attempt to resolve the matter prior to Zargarbashi taking any
19 further legal action.

20 **8. APPLICATION OF CONSENT JUDGMENT**

21 This Settlement may apply to, be binding upon, and benefit the Parties and their respective
22 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
23 affiliates, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,
24 retailers, predecessors, successors, and assigns. This Agreement shall have no application to
25 Products which are distributed or sold exclusively outside the State of California and which are
26 not used by California consumers.

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1 **9. SEVERABILITY**

2 Should any part or provision of this Settlement for any reason be declared by a Court to be
3 invalid, void, or unenforceable, the remaining portions and provisions shall continue in full force
4 and effect.

5 **10. GOVERNING LAW**

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

7 **11. NOTICES**

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

<p>To 99 Cents:</p> <p>Patrick J. Cafferty, Esq. MUNGER, TOLLES & OLSON LLP 560 Mission Street, 27th Floor San Francisco, CA 94105</p>	<p>To Zargarbashi:</p> <p>Manee Pazargad, Esq. GP LAW GROUP, PAC 204 South Beverly Drive, Suite 115 Beverly Hills, CA 90212</p>
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15 **12. INTEGRATION**

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

18 **13. EXECUTION IN COUNTERPARTS**

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

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1 **14. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(F) REPORTING**
2 **REQUIREMENTS**

3 Zargarbashi agrees to comply with the reporting form requirements referenced in Health
4 and Safety Code § 25249.7(f).

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6 **STIPULATED TO:**

7 Date: _____

8 By: _____
9 Authorized Officer of 99 Cents Only Stores LLC

10 **STIPULATED TO:**

11 Date: _____

12 By: _____
13 Ali Zargarbashi

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1 **14. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(F) REPORTING**
2 **REQUIREMENTS**

3 Zargarbashi agrees to comply with the reporting form requirements referenced in Health
4 and Safety Code § 25249.7(f).

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6 **STIPULATED TO:**

7 Date: March 10, 2015

8 By: 
9 Authorized Officer of 99 Cents Only Stores LLC

10 **STIPULATED TO:**

11 Date: _____

12 By: _____
13 Ali Zargarbashi

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1 **14. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(F) REPORTING**

2 **REQUIREMENTS**

3 Zargarbashi agrees to comply with the reporting form requirements referenced in Health
4 and Safety Code § 25249.7(f).

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6 **STIPULATED TO:**

7 Date: _____

8 By: _____
Authorized Officer of 99 Cents Only Stores LLC

9 **STIPULATED TO:**

10 Date: 3/16/15 _____

11 By: Ali Zargarbashi _____
Ali Zargarbashi

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ORDER AND JUDGMENT

Based upon the Parties' Settlement, and good cause appearing, this Consent Judgment is approved and Judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2015

Judge of the Superior Court