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5 Attorneys for Plaintiff, ALI ZARGARBASHI

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8 **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 LOWE'S HOME CENTERS, LLC, a limited  
15 liability company, and DOES 1-100, inclusive,  
16 Defendants.

Case No.: BC572235

*[Assigned for All Purposes to Hon. Michael P.  
Linfield, Dept. 34]*

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

Health & Safety Code S 25249.5 et seq.

Action Filed: February 11, 2015  
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 Lowe’s Home Centers, LLC (“Lowe’s Home Centers”). Zargarbashi and  
5 Lowe’s shall 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. Lowe’s  
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 Plaintiff’s Allegations**

13 Zargarbashi alleges that Lowe’s Home Centers distributed, supplied and/or sold Lock Up  
14 Caps that were manufactured, distributed, and/or sold by Prime Home Impressions, LLC, a limited  
15 liability company organized under the laws of the State of Texas (“Prime Home Impressions”),  
16 and/or Prime Home Impression’s affiliate Litex Industries, Limited, a Texas limited partnership  
17 (“Litex”) (hereinafter, the “Products”) in the State of California causing users in California to be  
18 exposed to hazardous levels of lead without providing “clear and reasonable warnings,” in  
19 violation of Proposition 65. Lead is potentially subject to Proposition 65 warning requirements  
20 because it is listed as known to the State of California to cause birth defects and reproductive  
21 harm.

22 On October 13, 2014, a sixty-day notice of violation (“60-Day Notice”), along with a  
23 Certificate of Merit, was provided in the public interest by Zargarbashi pursuant to *Health and*  
24 *Safety Code* Section 25249.7(d) to Lowe’s Home Centers and various public enforcement agencies  
25 regarding the alleged violation of Proposition 65 with respect to the lead in the Products. On  
26 February 11, 2015, Zargarbashi filed a Complaint against Lowe’s Home Centers alleging violation  
27 of Proposition 65 with respect to the Products (Los Angeles Superior Court Case Number  
28 BC572235) (the “Complaint”).

1            Provided that no public enforcer has filed suit against Litex for the Proposition 65 claims  
2 addressed by this Consent Judgment, the Complaint Zargarbashi previously filed against Lowe’s  
3 Home Centers shall be deemed amended to include Litex as a defendant, so as to permit the  
4 concurrent entry of this Consent Judgment and bring the entire case to judgment.

5            **1.3 Defendant’s Denials and No Admissions**

6            Lowe’s Home Centers denies all allegations in Zargarbashi’s 60-Day Notice and the  
7 Complaint and maintains that the Products have been, and are, in compliance with all laws, and  
8 that Lowe’s Home Centers has not violated Proposition 65. Nothing in this Agreement shall be  
9 construed as an admission of any fact, finding, conclusion, law, or violation of law nor shall  
10 compliance with the Agreement constitute or be construed as an admission by Lowe’s Home  
11 Centers of any fact, finding, conclusion, issue or law, or violation of law. Instead, the Parties enter  
12 into this Agreement as a compromise of claims that are expressly contested and denied. However,  
13 nothing in this section shall affect the Parties’ obligations, duties, and responsibilities under this  
14 Agreement.

15            **1.4 Compromise**

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

20            **1.5 Effective Date**

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

23 **2. INJUNCTIVE RELIEF AND REFORMULATION**

24            **2.1 Reformulation**

25            As of the Effective Date, Lowe’s Home Centers shall not sell or offer the Products for sale  
26 in California if they contain more than 90 parts per million (“ppm”) of lead in their accessible  
27 surfaces when analyzed pursuant to Environmental Protection Agency testing methodologies  
28 3050B or equivalent. As of the Effective Date, if the Products do not meet this Reformulation

1 Standard, then clear and reasonable Proposition 65 warnings must accompany the Products, as  
2 described in subsection 2.2 below, if Lowe’s Home Centers continues to sell the Products.

3 **2.2 Proposition 65 Warnings Obligations**

4 If the Products do not meet the Reformulation Standard described in subsection 2.1 above,  
5 then Lowe’s Home Centers shall not manufacture, distribute, supply, and/or sell for use or sale in  
6 California the Products containing lead in their accessible surfaces unless clear and reasonable  
7 Proposition 65 warnings are provided with the Products with the following specific warning, or a  
8 similar warning otherwise permitted pursuant to Proposition 65:

9  
10 “**WARNING:** This product contains chemicals, including lead, known to the State  
11 of California to cause cancer, birth defects and other reproductive harm.”

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

21  
22 “**WARNING:** This product contains chemicals, including lead, known to the State  
23 of California to cause cancer, birth defects and other reproductive harm.”

24  
25 **3. PAYMENTS**

26 **3.1 Civil Penalty Pursuant to Proposition 65**

27 In settlement of all claims referred to in this Settlement Agreement, Litex Industries,  
28 Limited, a Texas limited partnership (“Litex”) on behalf of Lowe’s Home Centers shall pay a total

1 civil penalty of Five Thousand Dollars (\$5,000.00) to be apportioned in accordance with *Health*  
2 *and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$3,750.00) paid to State of California  
3 Office of Environmental Health Hazard Assessment, and the remaining 25% (\$1,250.00) paid to  
4 Zargarbashi.

5 On behalf of Lowe’s Home Centers, Litex shall issue two (2) checks for the civil penalty:  
6 (1) a check or money order made payable to “GP Law Group, APC in Trust for Office of  
7 Environmental Health Hazard Assessment” in the amount of \$3,750.00; and (2) a check or money  
8 order made payable to “GP Law Group, APC in Trust for Ali Zargarbashi” in the amount of  
9 \$1,250.00. On behalf of Lowe’s Home Centers, Litex shall remit the payments within five (5)  
10 business days of the Court approving the Settlement entered into between the Parties, to:

11 Manee Pazargad, Esq.  
12 GP LAW GROUP, APC  
13 204 South Beverly Drive, Suite 115  
14 Beverly Hills, CA 90212

15 **3.2 Reimbursement of Zargarbahsi’s Fees and Costs**

16 On behalf of Lowe’s Home Centers, Litex shall pay an agreed sum in reimbursement of  
17 Zargarbashi’s reasonable experts’ and attorney’s fees and costs incurred in prosecuting the instant  
18 action, for work performed through execution of this Settlement. Accordingly, on behalf of  
19 Lowe’s Home Centers, Litex shall issue a check or money order payable to “GP Law Group APC”  
20 in the amount of Fifteen Thousand Dollars (\$15,000.00). On behalf of Lowe’s Home Centers,  
21 Litex shall remit the payments within five (5) business days of the Court approving the Settlement  
22 entered into between the Parties, to:

23 Manee Pazargad, Esq.  
24 GP LAW GROUP, APC  
25 204 South Beverly Drive, Suite 115  
26 Beverly Hills, CA 90212

27 Except as so provided for herein, Plaintiff shall not be entitled to any additional attorney’s fees or  
28 Costs.

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1 **4. RELEASES**

2 **4.1 Zargarbashi’s Public Release of Proposition 65 Claims**

3 This Settlement is a full, final, and binding resolution between Zargarbashi, on behalf of  
4 himself and in the public interest, and Lowe’s Home Centers, of any alleged violation of  
5 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
6 exposure to lead from the handling, use, or consumption of the Products and fully resolves all  
7 claims that have been, could have been, or could be asserted in this action up to and including the  
8 Effective Date for failure to provide Proposition 65 warnings for the Products, including without  
9 limitation equitable, statutory or other claims, including causes of action for violation of Business  
10 & Professions Code §17200. Zargarbashi, on behalf of himself and in the public interest, hereby  
11 discharges Litex, Lowe’s Home Centers and their respective officers, directors, shareholders,  
12 employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates, suppliers,  
13 vendors, manufacturers, franchisees, licensees, customers, distributors, wholesalers, retailers, and  
14 all other upstream and downstream entities in the distribution chain of any Product, and the  
15 predecessors, successors and assigns of any of them (collectively, “Released Parties”), from any  
16 and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs  
17 and expenses asserted, or that could have been asserted, as to any alleged violation of Proposition  
18 65 arising from the failure to provide Proposition 65 warnings on the Products regarding lead.

19 **4.2 Zargarbashi’s Individual Release of Litex and Lowe’s Home Centers**

20 Zargarbashi, in his individual capacity only and not in his representative capacity, also  
21 provides a release to Released Parties, who include but are not limited to Litex and Lowe’s Home  
22 Centers which shall be effective as a full and final accord and satisfaction, as a bar to all actions,  
23 causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses, claims, liabilities  
24 and demands of Zargarbashi of any nature, character or kind, whether known or unknown,  
25 suspected or unsuspected, arising out of alleged or actual exposures to any Proposition 65  
26 chemicals in the Products sold or distributed for sale by Litex and/or Lowe’s Home Centers before  
27 the Effective Date.

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1           **4.3     Litex and Lowe’s Home Centers’ Release of Zargarbashi**

2           Litex and Lowe’s Home Centers, their parents, subsidiaries, shareholders, directors,  
3 members, officers, employees, and attorneys, by this Settlement, waive all rights to institute any  
4 form of legal action against Zargarbashi, his past and current agents, representatives, attorneys,  
5 experts, successors, and/or assignees, for actions or statements made or undertaken, whether in the  
6 course of investigating claims relating to Zagarbashi’s 60-Day Notice dated October 13, 2014 or  
7 seeking enforcement of Proposition 65 against Lowe’s Home Centers relating to Zargarbashi’s 60-  
8 Day Notice dated October 13, 2014 in this matter.

9           **4.4     Waiver of Unknown Claims**

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

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

17          Each of the parties waives and relinquishes any right or benefit it has or may have under  
18 Section 1542 of California *Civil Code* or any similar provision under the statutory or non-statutory  
19 law of any other jurisdiction.. The Parties understand the significance and consequences of a  
20 California *Civil Code* Section 1542 waiver, and hereby assume full responsibility for any damages  
21 or losses caused by this waiver. The Parties acknowledge that each may subsequently discover  
22 facts in addition to, or different from, those that it believes to be true with respect to the claims  
23 released herein. The Parties agree that this Settlement and the releases contained herein shall be  
24 and remain effective in all respects notwithstanding the discovery of such additional or different  
25 facts. It is the intention of the Parties to fully and forever settle and release any and all of such  
26 matters, claims and dispute, whether known or unknown, suspected or unsuspected, anticipated or  
27 unanticipated, as it relates to the Products.

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2 **4.5 Application**

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

7 **5. COURT APPROVAL**

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

23 **6. MODIFICATION**

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

27 Subsequent Legislation. If, subsequent to the Effective Date, legislation or regulation is  
28 adopted that addresses the DEHP content of Covered Products sold in California hereunder, any



1 Party shall be entitled to request that the Court modify the reformulation standard in Section 3.1 of  
2 this Consent Judgment for good cause shown.

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

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

7 This Court shall retain jurisdiction of this matter to enforce, modify or terminate this  
8 Consent Judgment. If Zargarbashi alleges that any Product fails to comply with this Settlement,  
9 then Zargarbashi shall inform Lowe’s Home Centers and Litex in a reasonably prompt manner of  
10 its test results, and provide a copy of any testing. Litex shall, within thirty days following such  
11 notice, provide Zargarbashi with testing information, from an independent third-party laboratory  
12 demonstrating compliance with this Settlement, if warranted. The Parties shall first attempt to  
13 resolve the matter prior to Zargarbashi taking any further legal action.

14 **8. APPLICATION OF CONSENT JUDGMENT**

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

21 **9. SEVERABILITY**

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

25 **10. GOVERNING LAW**

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

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1 **11. NOTICES**

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

4 To Lowe's Home Centers: 5 6 Lawrence C. Ecoff, Esq. 7 ECOFF LANDSBERG, LLP 8 280 South Beverly Drive, Suite 504 9 Beverly Hills, CA 90212	10 To Zargarbashi: 11 12 Manee Pazargad, Esq. 13 GP LAW GROUP, PAC 14 204 South Beverly Drive, Suite 115 15 Beverly Hills, CA 90212
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8 **12. INTEGRATION**

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

11 **13. BINDING ON SUCCESSORS.** The provisions of the agreement shall be binding upon,  
12 and shall inure to the benefit of all heirs, executors, administrators, legal representatives, attorneys,  
13 subrogees, successors, assigns, predecessors in interest, insurance companies, adjusters, insurance  
14 agents and brokers, investigators, appraisers, directors, officers, owners, stockholders, partners,  
15 employees, agents, representatives and all parent, subsidiary, allied or affiliated corporations or  
16 survivors by merger of the respective Parties.

17 **14. HEADINGS.** Headings and titles to paragraphs and sections within this agreement are  
18 for reference and convenience only, shall not enter into the interpretation hereof, and shall not be  
19 construed to modify or effect the written language contained within the paragraphs and sections of  
20 the agreement.

21 **15. CONSTRUCTION.** The Parties acknowledge that their respective attorneys have  
22 reviewed and revised this agreement, and that the normal rule of construction to the effect that any  
23 ambiguities are to be resolved against the drafting party shall not be employed in the interpretation  
24 of this agreement.

25 **16. EXECUTION IN COUNTERPARTS**

26 This Settlement may be executed in counterparts, each of which shall be deemed an  
27 original, and all of which, when taken together, shall constitute the same document. Execution  
28 and delivery of this Settlement by e-mail, facsimile, or other electronic means shall constitute legal

1 and binding execution and delivery. Any photocopy of the executed Settlement shall have the  
2 same force and effect as the originals.

3 **17. COMPLIANCE WITH HEALTH AND SAFETY CODE § 25249.7(F) REPORTING**  
4 **REQUIREMENTS**

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

7  
8 **STIPULATED TO:**

9 Date: \_\_\_\_\_

10 By: \_\_\_\_\_  
On behalf of Lowe's Home Centers, LLC

11 **STIPULATED TO:**

12 Date: \_\_\_\_\_

13 By: \_\_\_\_\_  
14 Ali Zargarbashi

15  
16 **STIPULATED TO:**

17 Date: 05/13/15

18 By: John Maus  
On behalf of Litex Industries, Limited, a Texas limited partnership

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4 REQUIREMENTS

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

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8 **STIPULATED TO:**

9 Date: 05/15/2015  
10 By: [Signature]  
11 On behalf of Lowe's Home Centers, LLC

12 **STIPULATED TO:**

13 Date: 5-15-2015  
14 By: [Signature]  
15 Ali Zargarbashi

16 **STIPULATED TO:**

17 Date: 05/13/15  
18 By: [Signature]  
19 On behalf of Litex Industries, Limited, a Texas limited partnership  
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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