

1 Manee Pazargad (State Bar No. 245136)
David Gharakhanian, Jr. (State Bar No. 251642)
2 GP LAW GROUP, A Professional Corporation
204 S. Beverly Drive, Suite 115
3 Beverly Hills, California 90212
Telephone: (310) 860-0600
4 Facsimile: (310) 861-0506

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 DAISO CALIFORNIA LLC, a limited liability
15 company, and DOES 1-100, inclusive,

16 Defendants.
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Case No.: BC581557

*[Assigned for all purposes to the Hon.
Michelle R. Rosenblatt, Dept. "40"]*

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

Health & Safety Code S 25249.5 et seq.

Action Filed: May 13, 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 Daiso California LLC ("Daiso"). Zargarbashi and Daiso shall hereinafter
5 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. Daiso
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 Daiso distributed, supplied and/or sold Large Mobile Phone Cases
14 with product code number 04549131115178, (hereinafter, the "Products") in the State of
15 California causing the potential for users in California to be exposed to hazardous levels of lead
16 without providing "clear and reasonable warnings," in violation of Proposition 65. Lead is
17 potentially subject to Proposition 65 warning requirements because it is listed as known to the
18 State of California to cause birth defects and reproductive harm.

19 On February 25, 2015, a sixty-day notice of violation ("60-Day Notice"), along with a
20 Certificate of Merit, was provided in the public interest by Zargarbashi pursuant to *Health and*
21 *Safety Code* Section 25249.7(d) to Daiso and various public enforcement agencies regarding the
22 alleged violation of Proposition 65 with respect to the lead in the Products. On May 13, 2015,
23 Zargarbashi filed a Complaint against Daiso alleging violation of Proposition 65 with respect to
24 the Products (Los Angeles Superior Court Case Number BC581557) (the "Complaint").

25 **1.3 No Admissions**

26 Daiso denies all allegations in Zargarbashi's Complaint and maintains that the Products
27 have been, and are, in compliance with all laws, and that Daiso has not violated Proposition 65.
28 Nothing in this Settlement shall be construed as an admission of any fact, finding, conclusion, law,

1 or violation of law nor shall compliance with the Settlement constitute or be construed as an
2 admission by Daiso of any fact, finding, conclusion, issue or law, or violation of law. Instead, the
3 Parties enter into this Settlement as a compromise of claims that are expressly contested and
4 denied. However, nothing in this section shall affect the Parties' obligations, duties, and
5 responsibilities under this Settlement.

6 **1.4 Compromise**

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

11 **1.5 Effective Date**

12 The "Effective Date" shall be sixty (60) days following the date upon which the Court
13 enters this consent judgment.

14 **2. INJUNCTIVE RELIEF AND REFORMULATION**

15 **2.1 Reformulation**

16 As of the Effective Date, Daiso shall not sell or offer the Products for sale in California if
17 they contain more than 90 parts per million ("ppm") of lead in their accessible surfaces when
18 analyzed pursuant to Environmental Protection Agency testing methodologies 3050B or
19 equivalent. As of the Effective Date, if the Products do not meet this Reformulation Standard,
20 then clear and reasonable Proposition 65 warnings must accompany the Products, as described in
21 subsection 2.2 below, if Daiso continues to sell the Products.

22 **2.2 Proposition 65 Warnings Obligations**

23 If the Products do not meet the Reformulation Standard described in subsection 2.1 above,
24 then Daiso shall not manufacture, distribute, supply, and/or sell for use or sale in California the
25 Products containing lead in their accessible surfaces unless clear and reasonable Proposition 65
26 warnings are provided with the Products with the following specific warning, or a similar warning
27 otherwise permitted pursuant to Proposition 65:

28 ///

1 **“WARNING:** This product contains lead, a chemical known to the State of
2 California to cause cancer, birth defects, and other reproductive harm.”

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

12
13 **“WARNING:** This product contains lead, a chemical known to the State of
14 California to cause cancer, birth defects, and other reproductive harm.”

15
16 **3. PAYMENTS**

17 **3.1 Civil Penalty Pursuant to Proposition 65**

18 In settlement of all claims referred to in this Settlement Agreement, Daiso shall pay a total
19 civil penalty of Three Thousand Dollars (\$3,000.00) to be apportioned in accordance with *Health*
20 *and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$2,250.00) paid to State of California
21 Office of Environmental Health Hazard Assessment, and the remaining 25% (\$750.00) paid to
22 Zargarbashi.

23 Daiso shall issue two (2) checks for the civil penalty: (1) a check or money order made
24 payable to “GP Law Group, APC in Trust for Office of Environmental Health Hazard
25 Assessment” in the amount of \$2,250.00; and (2) a check or money order made payable to “GP
26 Law Group, APC in Trust for Ali Zargarbashi” in the amount of \$750.00. Daiso shall remit the
27 payments within twenty-one (21) calendar days of the Court approving the Settlement entered into
28 between the Parties, to:

1 Manee Pazargad, Esq.
2 GP LAW GROUP, APC
204 South Beverly Drive, Suite 115
3 Beverly Hills, CA 90212

4 **3.2 Reimbursement of Zargarbashi's Fees and Costs**

5 Daiso shall pay an agreed sum in reimbursement of Zargarbashi's reasonable experts' and
6 attorney's fees and costs incurred in prosecuting the instant action, for work performed through
7 execution of this Settlement. Accordingly, Daiso shall issue a check or money order payable to
8 "GP Law Group APC" in the amount of Nine Thousand Dollars (\$9,000.00). Daiso shall remit the
9 payments within twenty-one (21) calendar days of the Court approving the Settlement entered into
10 between the Parties, to:

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

13 **4. RELEASES**

14 **4.1 Zargarbashi's Public Release of Proposition 65 Claims**

15 This Settlement is a full, final, and binding resolution between Zargarbashi, on behalf of
16 himself and in the public interest, and Daiso, of any alleged violation of Proposition 65 or its
17 implementing regulations for failure to provide Proposition 65 warnings of exposure to lead from
18 the handling, use, or consumption of the Products and fully resolves all claims that have been,
19 could have been, or could be asserted in this action up to and including the Effective Date for
20 failure to provide Proposition 65 warnings for the Products. Zargarbashi, on behalf of himself and
21 in the public interest, hereby discharges Daiso and its respective officers, directors, shareholders,
22 employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers, vendors,
23 manufacturers, franchisees, licensees, customers, distributors, wholesalers, retailers, and all other
24 upstream and downstream entities in the distribution chain of any Products, and the predecessors,
25 successors and assigns of any of them (collectively, "Released Parties"), from any and all claims,
26 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses
27 asserted, or that could have been asserted, as to any alleged violation of Proposition 65 arising
28 from the failure to provide Proposition 65 warnings on the Products regarding lead.

1 **4.2 Zargarbashi's Individual Release of Daiso**

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

9 **4.3 Daiso's Release of Zargarbashi**

10 Daiso, its parents, subsidiaries, shareholders, directors, members, officers, employees, and
11 attorneys, by this Settlement, waive all rights to institute any form of legal action against
12 Zargarbashi, his past and current agents, representatives, attorneys, experts, successors, and/or
13 assignees, for actions or statements made or undertaken, whether in the court of investigating
14 claims or seeking enforcement of Proposition 65 against Daiso relating to Zargarbashi's 60-Day
15 Notice dated February 25, 2015 in this matter.

16 **4.4 Waiver of Unknown Claims**

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

19
20 A general release does not extend to claims which the creditor does not know or
21 suspect to exist in his or her favor at the time of executing the release, which if
22 known by him or her must have materially affected his or her settlement with the
23 debtor.

24
25 Each of the Parties waives and relinquishes any right or benefit it has or may have under
26 Section 1542 of California *Civil Code* or any similar provision under the statutory or non-statutory
27 law of any other jurisdiction to the full extent that it may lawfully waive all such rights and
28 benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or

1 different from, those that it believes to be true with respect to the claims released herein. The
2 Parties agree that this Settlement and the releases contained herein shall be and remain effective in
3 all respects notwithstanding the discovery of such additional or different facts.

4 **4.5 Application**

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

9 **5. COURT APPROVAL**

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

22 **6. MODIFICATION**

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

26 Subsequent Legislation. If, subsequent to the Effective Date, legislation or regulation is
27 adopted that addresses the lead content of the Products sold in California hereunder, any Party
28 shall be entitled to request that the Court modify the reformulation standard in Section 3.1 of this

1 Consent Judgment for good cause shown.

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

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

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

13 **8. APPLICATION OF CONSENT JUDGMENT**

14 This Settlement may apply to, be binding upon, and benefit the Parties and their respective
15 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
16 affiliates, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,
17 retailers, predecessors, successors, and assigns. This Settlement shall have no application to
18 Products which are distributed or sold exclusively outside the State of California.

19 **9. SEVERABILITY**

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

23 **10. GOVERNING LAW**

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

25 **11. NOTICES**

26 All correspondence and notices required to be provided under this Settlement shall be in
27 writing and delivered personally or sent by first class or certified mail addressed as follows:
28

To Daiso: Elizabeth P. Shoemaker, Esq. TERAOKA & PARTNERS LLP One Embarcadero Center, Ste. 1020 San Francisco, CA 94111	To Zargarbashi: Manee Pazargad, Esq. GP LAW GROUP, PAC 204 South Beverly Drive, Suite 115 Beverly Hills, CA 90212
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12. **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.

13. **EXECUTION IN 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.

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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 Daiso California 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).

5
6 **STIPULATED TO:**

7 Date: 10/19/2015

8 By: 
9 Authorized Officer of Daiso California LLC *YOSHIHIDE MURATA*

10 **STIPULATED TO:**

11 Date: _____

12 By: _____
13 Ali Zargarbashi

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 Daiso California LLC

10 **STIPULATED TO:**

11 Date: 10-19-15

12 By: 
13 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