

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Martha Velarde, Gabriel Espinosa, and Dick's Sporting Goods, Inc.

This Settlement Agreement is entered into by and between Martha Velarde ("Velarde"), Gabriel Espinosa ("Espinosa"), and Dick's Sporting Goods, Inc. ("Dick's Sporting Goods"). Collectively, Velarde, Espinosa and Dick's Sporting Goods are referred to as the "Parties." Velarde and Espinosa are individuals that reside in the State of California, and seek to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products.

Dick's Sporting Goods employs ten or more persons and is considered a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code section 25249.6, et seq. ("Proposition 65").

1.2 General Allegations

Velarde alleges that Dick's Sporting Goods has imported, distributed and/or sold in the State of California a Maxfli Shoe Bag bearing the UPC 8 86081 74182 3 (the "Maxfli Bag") without requisite Proposition 65 warning that the product contains the chemical Diisononyl phthalate (DINP).

Espinosa alleges that Dick's Sporting Goods has imported, distributed and/or sold in the State of California a Top Flite Shoe Bag bearing the UPC 8 86081 49324 1 (the "Top Flite Bag") without requisite Proposition 65 warning that the product contains the chemicals DINP and Diisononyl phthalate (DINP). Collectively, the Maxfli Bag and the Top Flite Bag are referred to as the "Productss."

On December 20, 2013, the State of California listed DINP as a chemical known to cause cancer. On April 20, 2007, the State of California listed DIDP as a chemical known to the state of cause reproductive toxicity.

1.3 Notices of Violation(s)

Velarde, on June 1, 2015, and Espinosa, on August 10, 2015, served Dick's Sporting Goods, and various public enforcement agencies with a document entitled "Notices of Violation of California Health & Safety Code § 25249.5, *et seq.*" (the "Notices"). The Notices provided Dick's Sporting Goods and such others, including public enforcers, with notice that alleged that Dick's Sporting Goods was in violation of California Health & Safety Code § 25249.5, for failing to warn consumers and customers that the Products exposed users in California to DINP and DIDP. No public enforcer has diligently prosecuted the allegations set forth in the Notices.

1.4 No Admission

Dick's Sporting Goods denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Dick's Sporting Goods of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Dick's Sporting Goods of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Dick's Sporting Goods. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notices, Dick's Sporting Goods maintains that it has not knowingly manufactured, or caused to be manufactured or sold, the Products for sale in California which are in violation of Proposition 65.

1.5 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean November 20, 2015.

2. INJUNCTIVE RELIEF

2.1 Reformulation of, or Warning About, the Products

Commencing on the Effective Date, and continuing thereafter, Dick's Sporting Goods shall only ship, sell, or offer for sale in California, reformulated Products pursuant to Section 2.2 or Products for which a clear and reasonable warning is provided pursuant to Section 2.3. For purposes of this Settlement Agreement, "Reformulated Products" are Products that meet the standard set forth in Section 2.2 below.

2.2 Reformulation Standard

"Reformulated Products" shall mean Products that contain less than or equal to 1,000 parts per million ("ppm") of each of DINP and DIDP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C.

2.3 Clear and Reasonable Warnings

Commencing on the Effective Date, Dick's Sporting Goods shall, for all Products it sells or distributes or which are intended for sale in California that are not a Reformulated Products, or which Dick's Sporting Goods has reason to believe will be shipped or sold in California, provide, or ensure that the retailer to whom it distributes such Products for resale in California provides, a clear and reasonable warning in one of the forms set forth in subsections 2.3(a), (b), or (c) below. The warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before or at the time of the purchase transaction. Each warning shall be provided in a manner such that the consumer or user is reasonably likely to understand to which specific Products the warning applies, so as to minimize the risk of consumer confusion.

In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, Dick's Sporting Goods shall be

entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement.

(a) Retail Store Sales

(i) Products Labeling. Dick's Sporting Goods shall affix a warning to the packaging, labeling or directly on each Product in California that states:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used.

(ii) Point of Display Warnings. Alternatively, Dick's Sporting Goods may provide warning signs in the form below to the retailer selling the Products in California with instructions to post the warnings in close proximity to the point of display of the Products. Such instruction sent to Dick's Sporting Goods shall be sent by certified mail, return receipt requested or such other form of transmission as to ensure its acknowledged receipt unless the retailer is Dick's Sporting Goods or a subsidiary retail operation of Dick's Sporting Goods, in which case, the instructions shall be sent via the normal channels of communications.

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used.

(iii) Point of Sale Warnings. Alternatively, Dick's Sporting Goods may ensure that the retailers who sell or resell the Products provide a warning sign and/or receipt at the point of sale

informing customers that the Products contain one or more chemicals known to the State of California to cause cancer and birth defects or other reproductive harm in the following form.

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used.

(b) Mail Order Catalog Warning. In the event that Dick's Sporting Goods sells Products via mail order catalog directly to consumers located in California after the Effective Date that are not Reformulated Products, Dick's Sporting Goods shall provide a warning for such Products sold via mail order catalog to such California residents. A warning that is given in a mail order catalog shall be in the same type size or larger than the Products description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Products:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used. Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Products, Dick's Sporting Goods may utilize a designated symbol (such as but not limited to "▼") to cross reference the applicable warning and shall define the term "designated symbol" with the following language on the inside of the front cover of the catalog or on the same page as any order form for the Products:

[PROPOSITION 65] WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used. The designated symbol must appear on the same page and in close proximity to the display and/or description of the Products. On each page where the designated symbol appears, Dick's Sporting Goods must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

(c) **Internet Sales Warning.** In the event that Dick's Sporting Goods sells Products via the internet directly to consumers located in California after the Effective Date that are not Reformulated Products, Dick's Sporting Goods shall provide a warning for such Products sold via the internet to such California residents. A warning that is given on the internet shall be in the same type size or larger than the Products description text and shall be given in conjunction with the direct sale of the Products. The warning shall appear either: (a) on the same web page on which the Products is displayed; (b) on the same web page as the order form for the Products; (c) on the same page as the price for the Products; or (d) on one or more web pages displayed to a purchaser during the checkout process. One of the following warnings shall be provided, with the latter being a hyperlink to an internet page with the text set forth below:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

or

California Proposition 65

The latter form of warning shall be a hyperlink to an Internet page which reads:

WARNING: This item contains a chemical known to the state of California to cause cancer, birth defects or other reproductive harm. Please call 1-877-846-9997 and reference California Proposition 65 to address any questions or concerns.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, Dick's Sporting Goods shall pay a total of \$2,000.00 in civil penalties in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Velarde. Each penalty payment shall be delivered to the addresses listed in Section 3.2 below. Dick's Sporting Goods shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts due and owing that are not received within two business days of the Effective Date.

3.1 Civil Penalty

On or before the Effective Date, Dick's Sporting Goods shall issue three separate checks for the initial civil penalty payment to (a) "OEHHA" in the amount of \$1,500.00; (b) "Brodsky & Smith, LLC in Trust for Velarde" in the amount of \$250.00; and (b) "Brodsky & Smith, LLC in Trust for Espinosa" in the amount of \$250.00. All penalty payments shall be delivered to the addresses listed in Section 3.2 below.

3.2 Payment Procedures

(a) **Issuance of Payments.** Payments shall be delivered as follows:

(i) All payments owed to Velarde and/or Espinosa, pursuant to Section 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section 3.1 shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

(b) Copy of Payments to OEHHA. Dick's Sporting Goods agrees to provide Velarde and Espinosa's counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments to Velarde and Espinosa, to be delivered to the address provided in Section 3.2(a)(i), as proof of payment to OEHHA.

(C) Tax Documentation. Dick's Sporting Goods agrees to provide a completed IRS 1099 for its payments to each of the following payees under this Settlement Agreement:

(i) "Martha Velarde" whose address and tax identification number shall be provided via an IRS Form W-9 after this Settlement Agreement is fully executed by the Parties;

(ii) "Gabriel Espinosa" whose address and tax identification number shall be provided via an IRS Form W-9 after this Settlement Agreement is fully executed by the Parties;

(iii) "Brodsky & Smith, LLC" (EIN: 23-2971061) at the address provided in Section 3.2(a)(i) and listed on IRS Form W-9 submitted to Dick's Sporting Goods at execution of this Settlement Agreement; and

(iv) “Office of Environmental Health Hazard Assessment” 1001
I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Velarde, Espinosa and their counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Velarde and Espinosa then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties reached an accord on the compensation due to Velarde, Espinosa and their counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Dick's Sporting Goods shall reimburse Velarde and Espinosa’s counsel for reasonable fees and costs incurred as a result of investigating and bringing this matter to Dick's Sporting Goods attention, and negotiating a settlement in the public interest. On or before the Effective Date, Dick's Sporting Goods shall issue a check payable to “Brodsky & Smith, LLC” in the amount of \$8,000.00 for delivery to the following address:

Evan Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Ste. 510
Bala Cynwyd, PA 19004

5. RELEASE OF ALL CLAIMS

5.1 Release of Dick’s Sporting Goods, and Downstream Customers and Entities

Velarde and Espinosa, each acting on their own behalf, release Dick’s Sporting Goods, and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents, employees, attorneys and each entity to whom Dick's Sporting

Goods directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees (collectively, the “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on their failure to warn about alleged exposures to the chemicals DIDP and DINP that are contained in the Products, and were distributed, sold and/or offered for sale by Dick’s Sporting Goods to customers and consumers in the State of California. This settlement is a full, final and binding resolution of all claims that were or could have been asserted against Dick’s Sporting Goods and/or the Releasees for failure to provide warnings for alleged exposures to DINP and DIDP contained in the Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Section(s) 3 and 4 above, Velarde and Espinosa, on behalf of themselves, their past and current agents, representatives, attorneys, successors and/or assignees, provides a release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses, claims, liabilities and demands of Dick’s Sporting Goods, or the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemicals DIDP and DINP in the Products.

5.2 Dick's Sporting Goods Release of Velarde and Espinosa

Dick’s Sporting Goods, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waive any and all claims against Velarde, Espinosa, their attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Velarde, Espinosa and/or their attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

5.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notices and relating to the Products will develop or be discovered. Velarde and Espinosa, each on behalf of themselves only, on one hand, and Dick's Sporting Goods, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in Sections 5.1 and 5.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads 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.

Velarde, Espinosa and Dick's Sporting Goods each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement (other than the provisions relating to the release of claims in Section 5) are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is

repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, Dick's Sporting Goods may provide written notice to Velarde and Espinosa of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products is so affected.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Dick's Sporting Goods:

Mary Tortorice
VP Deputy General Counsel & Chief Compliance Officer
Dick's Sporting Goods, Inc.
345 Court Street
Coraopolis, PA 15108
T: 724-273-3688

with a courtesy copy to:

Michael A. Geibelson
Robins Kaplan LLP
2049 Century Park East, Suite 3400
Los Angeles, CA 90067
T: 310-229-5823

For Velarde and Espinosa:

Evan J. Smith
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004
877-534-2590

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. **COUNTERPARTS: SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or .pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

Velarde agrees to comply with the reporting requirements referenced in Health & Safety Code section 25249.7(f).

Espinosa agrees to comply with the reporting requirements referenced in Health & Safety Code section 25249.7(f).

11. **MODIFICATION**

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. **AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

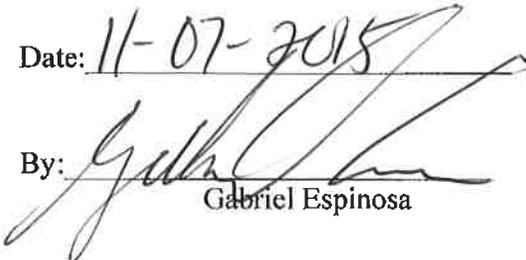
Date: 11-07-2015

Date: November 26, 2015

By: 
Martha Velarde

By: MARY TOSTERILLE
Dick's Sporting Goods, Inc.

Date: 11-07-2015

By: 
Gabriel Espinosa