

1 Gregory M. Sheffer, State Bar No. 173124
SHEFFER LAW FIRM
2 81 Throckmorton Ave., Suite 202
Mill Valley, CA 94941
3 Telephone: 415.388.0911
Facsimile: 415.388.9911

4 Attorneys for Plaintiff
5 SUSAN DAVIA

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF MARIN
9 UNLIMITED CIVIL JURISDICTION
10

11 SUSAN DAVIA,
12 Plaintiff,
13 v.
14 THE LIGHTHOUSE FOR THE BLIND, INC.,
LHB INDUSTRIES, INC., THE CONTAINER
15 STORE, INC., THE CONTAINER STORE
GROUP, INC. AND DOES 1-150,
16 Defendants.
17

Case No. CIV 1602737

**CONSENT TO JUDGMENT AS TO
DEFENDANTS THE LIGHTHOUSE FOR
THE BLIND dba LHB INDUSTRIES, THE
CONTAINER STORE, INC. AND THE
CONTAINER STORE GROUP, INC.**

Action Filed: July 29, 2016
Trial Date: None Assigned

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This settlement agreement (“Agreement” or “Settlement Agreement”) is entered into by
4 and between Susan Davia, (“Davia”), The Lighthouse for the Blind, formerly The Lighthouse
5 for the Blind, Inc., dba LHB Industries (hereafter, collectively, “LHB”) and The Container Store,
6 Inc. and The Container Store Group, Inc. (hereafter, collectively, “TCS”) with Davia, LHB and
7 TCS collectively referred to as the “Parties.”

8 **1.2 Plaintiff**

9 Davia is an individual residing in the State of California who seeks to promote
10 awareness of exposure to toxic chemicals and improve human health by reducing or
11 eliminating hazardous substances contained in consumer products.

12 **1.3 Defendants**

13 The Lighthouse for the Blind and its dba LHB Industries is a person in the course of
14 doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986,
15 California Health & Safety Code §§ 25249.6 *et seq.* (“Proposition 65”). The Lighthouse for the
16 Blind dba LHB Industries, Inc. is alleged to have been responsible or liable for the manufacture
17 or distribution of the products subject to this Agreement.

18 Each The Container Store, Inc. and The Container Store Group, Inc. is a person in the
19 course of doing business for purposes of Proposition 65. Each The Container Store, Inc. and
20 The Container Store Group, Inc. is alleged to have been responsible for the distribution and
21 California sale of the products subject to this Agreement through California Container Store
22 retail stores.

23 **1.4 General Allegations**

24 Davia alleges that LHB and TCS participated in the manufacture (or other acquisition),
25 distribution and/or sale, in the State of California, vinyl coated utility hooks, which products
26 exposed users to DEHP without first providing “clear and reasonable warning” under
27 Proposition 65. DEHP is listed as a reproductive and developmental toxicant pursuant to
28

1 Proposition 65 and is referred to hereinafter as the "Listed Chemical" or "DEHP"

2 **1.5 Notice of Violation**

3 On February 2, 2016, Davia served The Container Store, Inc., The Container Store Group,
4 Inc. and various public enforcement agencies with a document entitled "60-Day Notice of
5 Violation" that provided public enforcers and the noticed entities with notice of alleged
6 violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of
7 DEHP, a toxic chemical found in Covered Products sold in California. The Container Store, Inc.
8 and The Container Store Group, Inc. received the February 2, 2016, 60-Day Notice of Violation.

9 On June 7, 2016, Davia served The Lighthouse for the Blind, LHB Industries, The
10 Container Store, Inc., The Container Store Group, Inc. and various public enforcement agencies
11 with a document entitled "Supplemental 60-Day Notice of Violation" that provided public
12 enforcers and the noticed entities with notice of alleged violations of Health & Safety Code §
13 25249.6 for failing to warn consumers of the presence of DEHP, a toxic chemical found in
14 Covered Products sold in California. The Lighthouse for the Blind, LHB Industries, The
15 Container Store, Inc. and The Container Store Group, Inc. received the June 7, 2016,
16 Supplemental 60-Day Notice of Violation.

17 The Lighthouse for the Blind, its dba LHB Industries, The Container Store, Inc. and The
18 Container Store Group, Inc. each represents that, as of the date each executes this Agreement,
19 it is not aware of any public enforcer that is diligently prosecuting a Proposition 65 enforcement
20 action related to DEHP in the Covered Products, as identified in the 60-Day Notices.

21 **1.6 Complaint**

22 On July 29, 2016, Davia, acting in the interest of the general public in California, filed a
23 Complaint in the Superior Court of the State of California for the County of Marin, Case No.
24 CIV 1602737, alleging violations by LHB, TCS and Does 1-150 of Health & Safety Code § 25249.6
25 based, *inter alia*, on the alleged exposures to DEHP contained in certain hanger hooks with vinyl
26 coating.
27
28

1 **1.7 No Admission**

2 This Agreement resolves claims that are denied and disputed by LHB and TCS. The
3 Parties enter into this Agreement pursuant to a full and final settlement of any and all claims
4 between the Parties for the purpose of avoiding prolonged litigation. LHB and TCS deny the
5 material factual and legal allegations contained in the Notices, maintain that they did not
6 knowingly or intentionally expose California consumers to DEHP through the reasonably
7 foreseeable use of the Covered Products and otherwise contends that, all Covered Products
8 each has manufactured, distributed and/or sold in California have been and are in compliance
9 with all applicable laws. Nothing in this Agreement shall be construed as an admission by LHB
10 or TCS of any fact, finding, issue of law, or violation of law, nor shall compliance with this
11 Agreement constitute or be construed as an admission by LHB or TCS of any fact, finding,
12 conclusion, issue of law, or violation of law, such being specifically denied by LHB and TCS.
13 However, notwithstanding the foregoing, this section shall not diminish or otherwise affect
14 LHB's and TCS obligations, responsibilities, and duties under this Agreement.

15 **1.8 Consent to Jurisdiction**

16 For purposes of this Agreement only, the Parties stipulate that the Marin County
17 Superior Court has jurisdiction over LHB and TCS as to the allegations in the 60-Day Notices
18 received from Davia, and this Agreement, that venue is proper in County of Marin, and that
19 the Marin County Superior Court has jurisdiction to enforce the provisions of this Agreement.
20 As an express part of this Agreement, pursuant to Code of Civil Procedure Section 664.6 the
21 Marin County Superior Court has jurisdiction over the parties to enforce the settlement until
22 performance in full of the terms of the settlement.

23 **2. DEFINITIONS**

24 **2.1** The term "Complaint" shall mean the July 29, 2016, Complaint, Marin County
25 Superior Court Case No. CIV 1602737.
26
27
28

1 **2.2** The term “Products” or “Covered Products” shall mean all Lumb-R-Grip
2 Hanger Hooks covered, in whole or in part, with vinyl, including, but not be limited to, Hanger
3 Hook LRG-21240 (#14100304121).

4 **2.3** The term “DEHP Free” shall mean all components containing less than or
5 equal to 1,000 parts per million (“ppm”) of DEHP, DBP, DINP, DIDP, DnHP and DIBP as
6 determined by a minimum of duplicate quality controlled test results using Environmental
7 Protection Agency (“EPA”) testing methodologies 3580A and 8270C.

8 **2.4** “Effective Date” shall mean September 14, 2016.

9 **3. NON-MONETARY RELIEF**

10 **3.1 Discontinuation of California Sales**

11 As of the Effective Date, LHB shall permanently cease distribution and/or sale of any
12 currently existing inventory of Covered Product in California, or to any retailer LHB reasonably
13 understands maintains retail outlets in California, regardless of the inclusion of any clear and
14 reasonable Proposition 65 warnings.

15 **3.2 Recall of Products No Longer in LHB’s Control**

16 No later than the Effective Date, LHB shall send a letter, electronic or otherwise
17 (“Notification Letter”) to (1) The Container Store Group, Inc., (2) The Container Store, Inc., (3)
18 each California customer and/or retailer to which LHB, after June 1, 2014, supplied any
19 Covered Products and (4) any California customer and/or retailer that LHB reasonably
20 understands or believes had any inventory for resale in California of Covered Products as of
21 January 1, 2016. The Notification Letter shall advise the recipient that the Covered Products
22 “contain DEHP, a chemical known to the State of California to cause birth defects or other
23 reproductive harm,” and demand such recipient return, at LHB’s sole expense, all units of the
24 Covered Product to LHB. LHB shall use reasonable best efforts to ensure that the product recall
25 result in the return to LHB of at least 80% of all outstanding units. LHB shall not sell such
26 recovered inventory to a California customer or to any national retailer LHB reasonably
27 understands maintains a retail outlet in California. LHB shall maintain records of all
28

1 correspondence or other communications generated pursuant to this Section for two years after
2 the Effective Date and shall promptly produce copies of such records upon Davia's written
3 request.

4 **3.3 Product Reformulation Commitment**

5 As of the Effective Date, LHB shall provide the DEHP Free phthalate concentration
6 standards of Section 2.3 to any manufacturer or vendors of any Covered Product and the vinyl
7 components thereof and instruct each such entity not to incorporate any raw or component
8 materials that do not meet or exceed the DEHP Free concentration standards of Section 2.3 into
9 any Covered Product. As of the Effective Date, LHB shall cease all manufacturing and
10 distribution of new Covered Product nationwide unless the Covered Product is manufactured
11 to be DEHP Free pursuant to Section 2.3. Prior to purchase or other acquisition of any Covered
12 Product from any manufacturer or vendor, LHB shall obtain a written confirmation and
13 accompanying laboratory test result from the new vendor demonstrating compliance with the
14 DEHP Free phthalate concentration standard in all materials comprising the Covered Product.
15 For every Covered Product LHB manufactures, causes to be manufactured, orders, causes to be
16 ordered or otherwise obtains from a new vendor after the Effective Date, LHB shall maintain
17 copies of all testing of such products demonstrating compliance with this section, shall maintain
18 copies of all vendor correspondence relating to the DEHP concentration standards and shall
19 produce such copies to Davia within fifteen (15) days of receipt of written request from Davia.

20 **3.4 Container Store Retail Outlets**

21 No later than the Effective Date, TCS shall send a letter or memorandum to all California
22 retail store managers requiring them to check their stock and inventory of each Covered
23 Product and pull any such Covered Product that does not have the Proposition 65 warning
24 printed or affixed *directly on its label*. Within one week of the Effective Date each California TCS
25 store manager shall provide a written confirmation of completion of this task and identification
26 of the number of each exemplar Covered Product pulled for lack of warning. No later than 30
27 days after the Effective Date each California TCS retail store shall return all pulled inventory of
28

1 exemplar Covered Products to LHB, at LHB's sole expense. After the Effective Date, TCS shall
2 not sell any Covered Product in California.

3 **4. MONETARY PAYMENTS**

4 **4.1 Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b)**

5 As a condition of settlement of all the claims referred to in this Consent to Judgment,
6 LHB shall pay a total of \$7,000 in civil penalties in accordance with California Health & Safety
7 Code § 25249.12(c)(1) & (d).

8 **4.2 Augmentation of Penalty Payments**

9 For purposes of the penalty assessment under this Agreement, Davia is relying entirely
10 upon LHB and its counsel for accurate, good faith reporting to Davia of the nature and amounts
11 of relevant sales activity. If within nine (9) months of the Effective Date, Davia discovers and
12 presents to LHB evidence that the Covered Products have been distributed by LHB in sales
13 volumes materially different than those identified by LHB prior to execution of this Agreement,
14 then LHB shall be liable for an additional penalty amount of \$10,000.00. LHB shall also be liable
15 for any reasonable, additional attorney fees expended by Davia in discovering such additional
16 retailers or sales. Davia agrees to provide LHB with a written demand for all such additional
17 penalties and attorney fees under this Section. After service of such demand, LHB shall have
18 thirty (30) days to agree to the amount of fees and penalties owing by LHB and submit such
19 payment to Davia in accordance with the method of payment of penalties and fees identified in
20 Section 4.1 and 4.4. Should this thirty (30) day period pass without any such resolution between
21 the parties and payment of such additional penalties and fees, Davia shall be entitled to file a
22 formal legal claim for damages for breach of this contract and the prevailing party shall be
23 entitled to all reasonable attorney fees and costs relating to such claim.

24 **4.3 Reimbursement of Davia's Fees and Costs**

25 The Parties acknowledge that Davia and her counsel offered to resolve this dispute
26 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby
27 leaving this fee issue to be resolved after the material terms of the agreement had been settled.
28

1 LHB then expressed a desire to resolve the fee and cost issue shortly after the other settlement
2 terms had been finalized. The Parties then attempted to (and did) reach an accord on the
3 compensation due to Davia and her counsel under general contract principles and the private
4 attorney general doctrine codified at California Code of Civil Procedure section 1021.5, for all
5 work performed in this matter, except fees that may be incurred on appeal. Under these legal
6 principles, LHB shall pay Davia's counsel, the amount of \$35,000 for fees and costs incurred
7 investigating, litigating and enforcing this matter.

8 **4.4 Payment Procedures**

9 LHB shall deliver all settlement payment funds required by this Consent Judgment to
10 its counsel within one week of the date that this Agreement is fully executed by the Parties.
11 Settling Defendant's counsel shall confirm receipt of settlement funds in writing to plaintiff's
12 counsel and, thereafter, hold the amounts paid in trust until such time as the Court approves
13 this settlement contemplated by Section 7.

14 Within two days of the date the Court approves the settlement, defendant's counsel
15 shall deliver the settlement payments it has held in trust to plaintiff's counsel as follows:

- 16 1. a civil penalty check in the amount of \$5,250.00 payable to "OEHHA" (EIN: 68-
17 0284486, Memo line "Prop 65 Penalties, 2016-00541");
- 18 2. a civil penalty check in the amount of \$1,750.00 payable to "Susan Davia" (Tax
19 ID to be supplied on request, Memo line "Prop 65 Penalties, 2016-00541"); and
- 20 3. an attorney fee and cost reimbursement check, pursuant to Section 4.3, in the
21 amount of \$35,000.00 payable to "Sheffer Law Firm" (EIN 55-08-58910, Memo line
22 "2016-00541")

23 All Section 4.1 and Section 4.3 penalty and attorney fee/cost payments shall be delivered
24 to the Sheffer Law Firm at the following address:

25 Sheffer Law Firm
26 Attn: Proposition 65 Controller
27 81 Throckmorton Ave., Suite 202
28 Mill Valley, CA 94941

1 All Section 4.2 civil penalty and attorney fee/cost payments shall be delivered to
2 plaintiff's counsel at the following address on or before the date agreed upon pursuant to that
3 section:

4 Sheffer Law Firm
5 Attn: Proposition 65 Controller
6 81 Throckmorton Ave., Suite 202
7 Mill Valley, CA 94941

8 LHB shall be liable for payment of interest, at a rate of 10% simple interest, for all
9 amounts due and owing from it under this Section that are not received by Sheffer Law Firm
10 within two business days of the due date for such payment.

11 **4.5 Issuance of 1099 Forms**

12 After this agreement has been executed and the settlement funds have been transmitted
13 to Davia's counsel, LHB shall issue three separate 1099 forms, as follows:

14 (a) The first 1099 shall be issued to the Office of Environmental Health
15 Hazard Assessment, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in
16 the amount paid pursuant to Sections 4.1 and 4.2;

17 (b) The second 1099 shall be issued to Davia in the amount paid pursuant to
18 Sections 4.1 and 4.2, whose address and tax identification number shall be
19 furnished upon request; and

20 (c) The third 1099 shall be issued to the Sheffer Law Firm (EIN: 55-08-58910)
21 in the amount paid pursuant to Section 4.2 and Section 4.3.

22 **5. CLAIMS COVERED AND RELEASED**

23 **5.1 Davia's Release of LHB and TCS**

24 **5.1.1** This settlement agreement is a full, final and binding resolution between
25 Davia, LHB AND TCS, of any violation of proposition 65 that was or could have been asserted
26 by Davia on behalf of herself, her representatives or attorneys, against LHB, TCS, Val-A-
27 Chicago, and each of their directors, officers, employees, attorneys, and each entity to whom
28 LHB directly or indirectly distributes or sells Covered Products, including, but not limited, to

1 retailers, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative
2 members, and licensees ("Releasees"), based on their failure to warn about alleged exposures
3 to DEHP contained in the Covered Products that were manufactured, distributed, sold and/or
4 offered for sale by LHB in California before the eEffective Date.

5 **5.1.2** In further consideration of the promises and agreements herein
6 contained, Davia on behalf of herself, her past and current representatives and attorneys, and
7 in the public interest, hereby waives all Davia's rights to institute or participate in, directly or
8 indirectly, any form of legal action and releases all claims that Davia may have, including,
9 without limitation, all actions, and causes of action, in law or in equity, suits, liabilities,
10 demands, obligations, damages, costs, fines, penalties, losses, or expenses -- including, but not
11 limited to, investigation fees, expert fees, and attorneys' fees, but exclusive of fees and costs on
12 appeal -- limited to and arising under Proposition 65 with respect to the DEHP in the Covered
13 Products manufactured, distributed, sold and/or offered for sale by LHB, TCS and Val-A-
14 Chicago before the Effective Date (collectively "claims"), against LHB, TCS, Val-A-Chicago and
15 Releasees.

16 **5.1.3** Davia also, in her individual capacity, provides a general release herein
17 which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes
18 of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and
19 demands of Davia, of any nature, character or kind, known or unknown, suspected or
20 unsuspected, arising out of the subject matter of the notice as to covered products
21 manufactured, distributed or sold by LHB, TCS, Val-A-Chicago, or Releasees. Davia
22 acknowledges that she is familiar with section 1542 of the California Civil Code, which provides
23 as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
25 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
26 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
27 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
28 OR HER SETTLEMENT WITH THE DEBTOR.

1 Davia, in her individual capacity expressly waives and relinquishes any and all rights
2 and benefits that she may have under, or which may be conferred on her by the provisions of
3 Section 1542 of the California Civil Code as well as under any other state or federal statute or
4 common law principle of similar effect, to the fullest extent that he may lawfully waive such
5 rights or benefits pertaining to the released matters. In furtherance of such intention, excepting
6 Section 4.2, the release hereby given shall be and remain in effect as a full and complete release
7 notwithstanding the discovery or existence of any such additional or different claims or facts
8 arising out of the released matters.

9 **5.1.4** This Section 5.1 release is expressly limited to those claims that arise under
10 Proposition 65, as such claims relate to LHB's, TCS', and Val-A-Chicago's alleged failure to
11 warn about exposures to or identification of the DEHP contained in the Covered Products and
12 as such claims are identified in Ms. Davia's Proposition 65 60-Day Notices to TCS, LHB, and
13 Val-A-Chicago.

14 **5.1.5** This Section 5.1 release is expressly limited to any alleged violations that occur
15 prior to the Effective Date and does not release any Releasee, entity or individual besides LHB,
16 TCS, and Val-A-Chicago from any liability for any violation of Proposition 65 regarding the
17 Covered Products that occurs after the Effective Date.

18 **5.1.6** The Parties further understand and agree that this Section 5.1 release shall not
19 extend upstream to any entities, other than LHB and Val-A-Chicago that manufactured the
20 Covered Products or any component parts thereof, or any distributors or suppliers who sold
21 the Covered Products or any component parts thereof to LHB.

22 **5.2 LHB and TCS's Release of Davia**

23 The Release by Davia is mutual. LHB and TCS, each on behalf of itself, its past and
24 current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and
25 all claims against Davia and her attorneys and other representatives, for any and all actions
26 taken or statements made (or those that could have been taken or made) by Davia and her
27 attorneys and other representatives, whether in the course of investigating claims, otherwise
28

1 seeking to enforce Proposition 65 against it in this matter, or with respect to the Products. Each
2 LHB and TCS acknowledges that it is familiar with Section 1542 of the California Civil Code,
3 which provides as follows:

4
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 Each LHB and TCS expressly waives and relinquishes any and all rights and benefits
11 which it may have under, or which may be conferred on him by the provisions of Section 1542
12 of the California Civil Code as well as under any other state or federal statute or common law
13 principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits
14 pertaining to the released matters. In furtherance of such intention, the release hereby given
15 shall be and remain in effect as a full and complete release notwithstanding the discovery or
16 existence of any such additional or different claims or facts arising out of the released matters.

17 **6. SEVERABILITY**

18 If any of the provisions of this Agreement are found by a court to be unenforceable, the validity
19 of the enforceable provisions remaining shall not be adversely affected, unless the Court finds
20 that any unenforceable provision is not severable from the remainder of the Agreement.

21 **7. COURT APPROVAL**

22 This Agreement is effective upon execution but must also be approved by the Court. If this
23 Agreement is not approved by the Court in its entirety, the Parties shall meet and confer to
24 determine whether to modify the terms of the Agreement and to resubmit it for approval. In
25 meeting and conferring, the Parties agree to undertake any actions reasonably necessary to
26 amend and/or modify this Agreement in order to further the mutual intention of the Parties in
27 entering into this Agreement.

28 The Agreement shall become null and void if, for any reason, it is not approved and
entered by the Court, as it is executed, or as modified upon agreement of the Parties, within one

1 year after it has been fully executed by all Parties.

2 If this Agreement is not entered by the Court, and the Parties have exhausted their meet
3 and confer efforts pursuant to this Section 7, upon 15 days written notice, the law firm holding
4 Settling Defendant's funds in trust shall refund any and all payments made into its trust account
5 by Settling Defendant as requested.

6 **8. GOVERNING LAW**

7 The terms of this Agreement shall be governed by the laws of the State of California.

8 **9. NOTICES**

9 When any Party is entitled to receive any notice under this Agreement, the notice shall
10 be sent by certified mail and electronic mail to the following:

11 For The Lighthouse for the Blind, Inc. and its dba LHB Industries, to:

12 John Thompson, President
13 The Lighthouse for the Blind
14 LHB Industries
15 10440 Trenton Ave.
16 Saint Louis, MO 63132

17 With a copy to their counsel:

18 Brian Bergman
19 Bergman Dacy Goldsmith
20 10880 Wilshire Blvd., Suite 900
21 Los Angeles, CA 90024

22 For The Container Store, Inc. and The Container Store Group, Inc., to:

23 Melissa Reiff, CEO
24 The Container Store Group, Inc.
25 The Container Store Inc.
26 500 Freeport Parkway
27 Coppell, TX 75019-3863

28 For Davia to:

 Proposition 65 Coordinator
 Sheffer Law Firm
 81 Throckmorton Ave., Suite 202
 Mill Valley, CA 94941

1 Any Party may modify the person and address to whom the notice is to be sent by
2 sending each other Party notice by certified mail and/or other verifiable form of written
3 communication.

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

5 Davia agrees to comply with the reporting form requirements referenced, in California
6 Health & Safety Code §25249.7(f).

7 **11. MODIFICATION**

8 This Agreement may be modified only by written agreement of the Parties or court
9 order.

10 **12. ADDITIONAL POST-EXECUTION ACTIVITIES**

11 The parties acknowledge that, pursuant to Health & Safety Code §25249.7, a noticed
12 motion is required to obtain judicial approval of this Agreement. In furtherance of obtaining
13 such approval, Davia and each Settling Defendant, and their respective counsel, agree to
14 mutually employ their best efforts to support the entry of this Agreement as a settlement
15 agreement and obtain approval of the Agreement - sufficient to render an order approving this
16 agreement - by the Court in a timely manner. Any effort by any Settling Defendant to impede
17 judicial approval of this Agreement shall subject such impeding party to liability for attorney
18 fees and costs incurred by plaintiff or her counsel in their efforts to meet or oppose such Settling
19 Defendant's impeding conduct.

20 **13. ENTIRE AGREEMENT**

21 This Agreement contains the sole and entire agreement and understanding of the Parties
22 with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
23 commitments, and understandings related hereto. No representations, oral or otherwise,
24 express or implied, other than those contained herein have been made by any Party hereto. No
25 other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist
26 or to bind any of the Parties. No supplementation, modification, waiver, or termination of this
27 Agreement shall be binding unless executed in writing by the Party to be bound. No waiver of
28

1 any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any of
2 the other provisions whether or not similar, nor shall such waiver constitute a continuing
3 waiver

4 **14. ATTORNEY'S FEES**

5 **14.1** Should any party prevail on any motion, application for order to show cause
6 or other proceeding to enforce a violation of this Agreement, that party shall be entitled to
7 their reasonable attorney fees and costs incurred as a result of such motion, order or
8 application, consistent with C.C.P. § 1021.5.

9 **14.2** Except as otherwise specifically provided herein, each Party shall bear its own
10 costs and attorney's fees in connection with the Notice.

11 **14.3** Nothing in this Section shall preclude a Party from seeking an award of
12 sanctions pursuant to law.

13 **15. NEUTRAL CONSTRUCTION**

14 All Parties and their counsel have participated in the preparation of this Agreement
15 and this Agreement is the result of the joint efforts of the Parties. This Agreement was subject
16 to revision and modification by the Parties and has been accepted and approved as to its final
17 form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in
18 this Agreement shall not be interpreted against any Party as a result of the manner of the
19 preparation of this Agreement. Each Party to this Agreement agrees that any statute or rule of
20 construction providing that ambiguities are to be resolved against the drafting Party should
21 not be employed in the interpretation of this Agreement and, in this regard, the Parties hereby
22 waive California Civil Code Section 1654.

23 **16. COUNTERPARTS, FACSIMILE SIGNATURES**


24 This Agreement may be executed in counterparts and by facsimile or portable document
25 format (PDF), each of which shall be deemed an original, and all of which, when taken together,
26 shall constitute one and the same document.
27
28

1 17. AUTHORIZATION


2 The undersigned parties and their counsel are authorized to execute this Agreement on
3 behalf of their respective Parties and have read, understood, and agree to all of the terms and
4 conditions of this Agreement.

5 IT IS SO AGREED


6
7 Dated: August 31, 2016

8
9 
10 John Thompson, President
11 The Lighthouse for the Blind
LHB Industries, Inc.

8
9 *September*
10 Dated: August 2, 2016

11
12 
13 Melissa Reiff, CEO
14 The Container Store Group, Inc.
15 The Container Store Inc.

12 Dated: August 24, 2016


13
14 
15 Susan Davia

16
17
18
19
20
21
22
23
24
25
26
27
28
CONSENT TO JUDGMENT

1 17. AUTHORIZATION

2 The undersigned parties and their counsel are authorized to execute this Agreement on
3 behalf of their respective Parties and have read, understood, and agree to all of the terms and
4 conditions of this Agreement.

5 IT IS SO AGREED

<p>7 Dated: August __, 2016</p> <p>8</p> <p>9 _____</p> <p>10 John Thompson, President The Lighthouse for the Blind LHB Industries, Inc.</p>	<p>Dated: August __, 2016</p> <p>_____</p> <p>Melissa Reiff, CEO The Container Store Group, Inc. The Container Store Inc.</p>
<p>12 Dated: August <u>24</u>, 2016</p> <p>13</p> <p>14 </p> <p>15 _____</p> <p>Susan Davia</p>	