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10 Attorneys for Plaintiff  
11 CENTER FOR ENVIRONMENTAL HEALTH

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF ALAMEDA

14 CENTER FOR ENVIRONMENTAL HEALTH,  
15 a non-profit corporation,

16 Plaintiff,

17 v.

18 PERRIGO COMPANY, *et al.*,

19 Defendants.

Case No. RG 20-054985

ASSIGNED FOR ALL PURPOSES TO:  
Hon. Noël Wise, Department 21

**[PROPOSED] CONSENT JUDGMENT  
AS TO DEFENDANTS CHATTEM,  
INC. AND SANOFI-AVENTIS U.S.  
LLC**

1       **1.       INTRODUCTION**

2               1.1           The parties to this Consent Judgment (“Parties”) are the Center for  
3       Environmental Health (“CEH” or “Plaintiff”) and Defendants Sanofi-Aventis U.S. LLC and  
4       Chattem, Inc. (“Settling Defendants”). CEH and Settling Defendants are referred to collectively  
5       as the “Parties.”

6               1.2           From January 2, 2017 to October 2019, Settling Defendants manufactured,  
7       distributed, and/or sold over-the-counter acid reducing medications containing ranitidine (the  
8       “Products”), which were previously sold under the Zantac brand name.

9               1.3           On November 19, 2019, CEH served 60-Day Notice of Violation under  
10      Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
11      & Safety Code §§ 25249.5, *et seq.*) (“Notice”) to Settling Defendants, the California Attorney  
12      General, the District Attorneys of every County in the State of California, and the City Attorneys  
13      for every City in the State of California with a population greater than 750,000. The Notice  
14      alleges that individuals who consume the Products are exposed to n-nitrosodimethylamine  
15      (“NDMA”), a chemical listed as a carcinogen by the State of California on October 1, 1987, and  
16      that Settling Defendants failed to provide them with a clear and reasonable warning about the  
17      presence of NDMA as required under Proposition 65.

18              1.4           On October 18, 2019, prior to CEH serving the Notice, Settling Defendants  
19      issued a voluntary recall of the Products as a precautionary measure after the U.S. Food and Drug  
20      Administration announced it had detected NDMA in some ranitidine products, including those of  
21      Settling Defendants. Settling Defendants have not reintroduced the Products for sale and have no  
22      present intent to do so.

23              1.5           On February 19, 2020, CEH filed the original Complaint in the above-  
24      captioned matter. On January 4, 2021, CEH filed an amendment to the Complaint naming  
25      Settling Defendants as defendants. On June 4, 2021, filed its operative Complaint.

26              1.6           For purposes of this Consent Judgment only, the Parties stipulate that: (i) this  
27      Court has jurisdiction over the allegations of violations contained in the operative Complaint  
28      applicable to Settling Defendants and personal jurisdiction over Settling Defendants as to the acts

1 alleged in the Complaint; (ii) venue is proper in the County of Alameda; and (iii) this Court has  
2 jurisdiction to enter this Consent Judgment.

3 1.7 Nothing in this Consent Judgment is or shall be construed as an admission by  
4 the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance  
5 with the Consent Judgment be so construed. Nothing in this Consent Judgment shall prejudice,  
6 waive, or impair any right, remedy, argument, or defense the Parties may have in any other legal  
7 proceeding. This Consent Judgment is the product of negotiation and compromise and is  
8 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in  
9 this action.

## 10 **2. DEFINITIONS**

11 2.1 “Covered Products” means Products that are introduced for sale in California  
12 after the Effective Date.

13 2.2 “Effective Date” means the date on which this Consent Judgment is entered by  
14 the Court.

## 15 **3. INJUNCTIVE RELIEF**

16 3.1 After the Effective Date, Settling Defendants shall not manufacture, distribute,  
17 sell and/or offer for sale Covered Products in California.

## 18 **4. ENFORCEMENT**

19 4.1 Plaintiff may, by motion or application for an order to show cause before the  
20 Superior Court of Alameda County, enforce the terms and conditions contained in this Consent  
21 Judgment. The Parties shall meet and confer regarding the basis for any such anticipated motion  
22 or application in an attempt to resolve it informally, including providing Settling Defendants with  
23 a reasonable opportunity of at least thirty (30) days to cure any alleged violation. Should such  
24 attempts at informal resolution fail, Plaintiff may file an enforcement motion or application. This  
25 Consent Judgment may only be enforced by the Parties and the public agencies authorized to  
26 bring actions under California Health & Safety Code section 25249.7(c).

## 27 **5. PAYMENTS**

28 5.1 **Payments by Settling Defendants.** Within thirty (30) days of the Effective

1 Date, Settling Defendants shall jointly and severally pay the total sum of \$712,500 as a settlement  
2 payment as further set forth in this Section. This payment shall be paid in one check and  
3 delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117. Any  
4 payment by Settling Defendants shall be deemed to be timely and not subject to a late charge  
5 and/or other penalty if (1) postmarked (if sent by the United States Postal Service) or (2)  
6 delivered to an overnight carrier (*e.g.*, Fed Ex), on or before the deadline set forth in this  
7 paragraph.

8           **5.2 Allocation of Payments.** The total settlement amount for Settling Defendants  
9 shall be allocated by CEH in the amounts specified below. Any failure by Settling Defendants to  
10 comply with the payment terms herein shall be subject to a joint and several stipulated late fee to  
11 be paid by Settling Defendants in the amount of \$100 for each day the full payment is not  
12 received after the applicable payment due date set forth in Section 5.1. The late fees required  
13 under this Section shall be recoverable, together with reasonable attorneys' fees, in an  
14 enforcement proceeding brought pursuant to Section 4 of this Consent Judgment. The funds paid  
15 by Settling Defendants shall be allocated by CEH as set forth below between the following  
16 categories:

17                   **5.2.1**       \$113,372 as a civil penalty pursuant to Health & Safety Code §  
18 25249.7(b). The civil penalty payment shall be apportioned in accordance with Health & Safety  
19 Code § 25249.12 (25% to CEH and 75% to the State of California's Office of Environmental  
20 Health Hazard Assessment ("OEHHA")). The OEHHA portion of the civil penalty payment for  
21 \$85,029 shall be associated with taxpayer identification number 68-0284486. The CEH portion  
22 of the civil penalty payment for \$28,343 shall be associated with taxpayer identification number  
23 94-3251981.

24                   **5.2.2**       \$85,028 as an Additional Settlement Payment ("ASP") to CEH  
25 pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, §  
26 3204. CEH intends to place these funds in CEH's Toxics and Healthcare Fund and use them to  
27 support CEH programs and activities that seek to educate the public about toxic chemicals in  
28 healthcare, to work with the healthcare industry to reduce exposure to toxic chemicals used in

1 healthcare products and facilities, and to thereby reduce the public health impacts and risks of  
2 exposure to nitrosamines and other toxic chemicals in healthcare products and facilities in  
3 California. CEH shall obtain and maintain adequate records to document that ASPs are spent on  
4 these activities and CEH agrees to provide such documentation to the Attorney General within  
5 thirty (30) days of any request from the Attorney General. The payment pursuant to this Section  
6 shall be associated with taxpayer identification number 94-3251981.

7                   5.2.3       \$514,100 as a reimbursement of a portion of CEH's reasonable  
8 attorneys' fees and costs (including but not limited to expert and investigative costs). The  
9 attorneys' fees and cost reimbursement shall be allocated as follows: (a) \$495,552 to the  
10 Lexington Law Group, LLP, which shall be associated with taxpayer identification number 88-  
11 4399775; and (b) \$18,548 to the Center for Environmental Health, which shall be associated with  
12 taxpayer identification number 94-3251981.

## 13       **6.       MODIFICATION**

14           6.1       **Written Consent.** This Consent Judgment may be modified from time to  
15 time by express written agreement of the Parties with the approval of the Court, or by an order of  
16 this Court upon motion and in accordance with law.

17           6.2       **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
18 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
19 modify the Consent Judgment.

## 20       **7.       CLAIMS COVERED AND RELEASED**

21           7.1       This Consent Judgment is a full, final, and binding resolution between CEH on  
22 behalf of itself and the public interest and Settling Defendants and their parents, subsidiaries,  
23 affiliated entities that are under common ownership or control, directors, officers, employees,  
24 agents, shareholders, members, successors, assigns, and attorneys ("Defendant Releasees"), and  
25 all entities to which Settling Defendants distributed or sold Covered Products, such as  
26 distributors, wholesalers, customers, and retailers ("Downstream Defendant Releasees"), of any  
27 violation of Proposition 65 based on failure to warn about alleged exposures to NDMA contained  
28 in Products prior to the Effective Date.

1           7.2           CEH, for itself and its agents, successors, and assigns, releases, waives, and  
2 forever discharges any and all claims against Settling Defendants, Defendant Releasees, and  
3 Downstream Defendant Releasees arising from any violation of Proposition 65 or any other  
4 statutory or common law claims that have been or could have been asserted by CEH individually  
5 regarding the failure to warn about alleged exposures to NDMA contained in Products prior to the  
6 Effective Date.

7       **8.     NOTICE**

8           8.1           When CEH is entitled to receive any notice under this Consent Judgment, the  
9 notice shall be sent by first class and electronic mail to:

10                               Mark N. Todzo  
11                               Lexington Law Group  
12                               503 Divisadero Street  
13                               San Francisco, CA 94117  
14                               mtodzo@lexlawgroup.com

15           8.2           When Settling Defendants are entitled to receive any notice under this Consent  
16 Judgment, the notice shall be sent by first class and electronic mail to:

17                               George Gigounas  
18                               Gregory Sperla  
19                               DLA Piper LLP  
20                               555 Mission Street, Ste. 2400  
21                               San Francisco, CA 94105-2933  
22                               george.gigounas@us.dlapiper.com  
23                               greg.sperla@us.dlapiper.com

24           8.3           Any Party may modify the person and address to whom the notice is to be sent  
25 by sending the other Party notice by first class and electronic mail.

26       **9.     COURT APPROVAL**

27           9.1           This Consent Judgment shall become effective upon entry by the Court.  
28 Plaintiff shall prepare and file a Motion for Approval of this Consent Judgment and Settling  
Defendants shall support entry of this Consent Judgment.

1           9.2           If this Consent Judgment is not entered by the Court, it shall be of no force or  
2 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
3 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

4       **10.   GOVERNING LAW AND CONSTRUCTION**

5           10.1          The terms of this Consent Judgment shall be governed by the laws of the State  
6 of California.

7       **11.   ATTORNEYS' FEES**

8           11.1          Should Plaintiff prevail on any motion, application for an order to show cause,  
9 or other proceeding to enforce a violation of this Consent Judgment, Plaintiff shall be entitled to  
10 its reasonable attorneys' fees and costs incurred as a result of such motion or application. Should  
11 a Settling Defendant prevail on any motion, application for an order to show cause, or other  
12 proceeding, that Settling Defendant may be awarded its reasonable attorneys' fees and costs  
13 against Plaintiff as a result of such motion or application upon a finding by the Court that  
14 Plaintiff's prosecution of the motion or application lacked substantial justification. For purposes  
15 of this Consent Judgment, the term substantial justification shall carry the same meaning as used  
16 in the Civil Discovery Act of 1986, Code of Civil Procedure §§ 2016, *et seq.*

17          11.2          Except as otherwise provided in this Consent Judgment, each Party shall bear  
18 its own attorneys' fees and costs.

19          11.3          Nothing in this Section 10 shall preclude a Party from seeking an award of  
20 sanctions pursuant to law.

21       **12.   ENTIRE AGREEMENT**

22          12.1          This Consent Judgment contains the sole and entire agreement and  
23 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
24 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
25 merged herein and therein. There are no warranties, representations, or other agreements between  
26 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
27 implied, other than those specifically referred to in this Consent Judgment have been made by any  
28 Party hereto. No other agreements not specifically contained or referenced herein, oral or

otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are expressly incorporated herein. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

**13. SUCCESSORS AND ASSIGNS**

13.1 This Consent Judgment shall apply to and be binding upon CEH and Settling Defendants, and their respective divisions, subdivisions, and subsidiaries, and the successors or assigns of any of them.

**14. RETENTION OF JURISDICTION**

14.1 This Court shall retain jurisdiction over this matter to implement or modify the Consent Judgment.

**15. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

**IT IS SO ORDERED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court

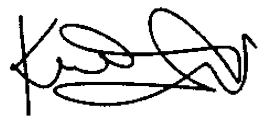


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**IT IS SO STIPULATED:**

Dated: November 14, 2024

**CENTER FOR ENVIRONMENTAL HEALTH**



Signature

Kizzy Charles-Guzman

Printed Name

CEO

Title

Dated: \_\_\_\_\_, 2024

**SANOFI-AVENTIS U.S. LLC**

Signature

Printed Name

Title

Dated: \_\_\_\_\_, 2024

**CHATTEM, INC.**

Signature

Printed Name

Title

1 **IT IS SO STIPULATED:**

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3 Dated: \_\_\_\_\_, 2024

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12 Dated: November 7, 2024

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**CENTER FOR ENVIRONMENTAL HEALTH**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**SANOFI-AVENTIS U.S. LLC**

Signed by:  
Susan Manardo  
\_\_\_\_\_  
Signature

Susan Manardo  
\_\_\_\_\_  
Printed Name

Vice President, Associate General Counsel & Head, N.A.  
Litigation & Investigations

\_\_\_\_\_  
Title

**CHATTEM, INC.**

DocuSigned by:  
Chris Liwski  
\_\_\_\_\_  
Signature

Chris Liwski  
\_\_\_\_\_  
Printed Name

Head of NA Legal & Global Head of Litigation  
\_\_\_\_\_  
Title