

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 This Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into by and between Ecological Rights Foundation (“ERF”) and Print-Rite Imaging Technology, Inc. (“PRINT-RITE ITI”), collectively referred to as the “Parties.”

1.2 On April 24, 2019 ERF served Print-Rite, N.A. Inc. (“PRNA”)¹ and various public enforcement agencies with Notices of Violations of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Sections 25249.5, et seq. (“Proposition 65”) by PRNA by failing to give clear and reasonable warnings to those residents of California who use filaments incorporating a styrene monomer and 3D printers utilizing such filaments, and on January 8, 2020, ERF served PRINT-RITE ITI and various public enforcement agencies with Notices of Violations of Proposition 65 by PRINT-RITE ITI by failing to give clear and reasonable warnings to those residents of California who use filaments incorporating a styrene monomer and 3D printers utilizing such filaments which PRINT-RITE ITI has manufactured, imported, distributed, marketed, and/or sold (collectively, the “Notices”). No public enforcer has diligently prosecuted the allegations set forth in the Notices. Within 14 days notice to ERF of compliance with Sections 2 and 3 of this Agreement, ERF agrees to withdraw the Notices as to PRINT-RITE ITI and PRNA by filing the appropriate notices of withdrawal with the California Attorney General.

1.3 ERF alleges that PRNA and PRINT-RITE ITI have manufactured, imported, distributed, marketed, and/or sold in the State of California filaments incorporating a styrene monomer, including acrylonitrile-butadiene-styrene (ABS) filaments, polycarbonate ABS (PC-ABS) filaments, and high impact polystyrene (HIPS) filaments. ERF contends that when California residents use these filaments in the operation of 3D printers or 3D pens, they are

¹ PRINT-RITE ITI claims that for reasons totally unrelated to the claims brought herein, PRNA filed a Certificate of Dissolution with the California Secretary of State on April 30, 2019.

exposed to styrene, a chemical known to the State of California to cause cancer. ERF further alleges that PRINT-RITE ITI and PRNA have distributed, marketed, and/or sold in the State of California 3D printers utilizing filaments incorporating a styrene monomer. ERF contends that when California residents use these 3D printers and the above identified filaments, they are exposed to styrene, a chemical known to the State of California to cause cancer.

1.4 For purposes of this Settlement Agreement, “Covered Products” means Print-Rite brand (including Colido) (1) filaments incorporating a styrene monomer and (2) 3D printers utilizing such styrene-based filaments, solely where such filaments and 3D printers have been, are, or will be manufactured, imported, distributed, marketed, or sold for use in California by either PRINT-RITE ITI or PRNA, or their parents, subsidiaries, assigns, predecessors, successor, members, and affiliated corporate entities (collectively “the Upstream Entities”).

1.5 PRINT-RITE ITI denies all material allegations in the Notices, but enters into this Agreement for the purpose of resolving the claims set forth in the Notices and avoiding litigation. ERF alleges that Covered Products manufactured, imported, distributed, marketed or sold by PRINT-RITE ITI and PRNA release Styrene into the air. ERF further alleges that people using the Covered Products, and others standing in the same room, inhale styrene in the normal course of use. Pursuant to Health and Safety Code Section 25249.8, Styrene is a chemical known to the State of California to cause cancer. ERF alleges that Covered Products manufactured, distributed or sold by PRINT-RITE ITI and/or PRNA for use in California require a warning under Proposition 65, pursuant to Health and Safety Code Section 25249.6.

1.6 This Settlement Agreement resolves claims that are denied and disputed. ERF and PRINT-RITE ITI enter into this Settlement Agreement pursuant to a full and final settlement of any and all claims that were raised in the Notices, or which could have been raised against PRINT-RITE ITI and/or PRNA based on the Notices for failure to provide Proposition 65 warnings for alleged exposure to styrene from use of the Covered Products. PRINT-RITE ITI denies the material factual and legal allegations contained in the Notices. Nothing in this

Settlement Agreement shall be construed as an admission by PRINT-RITE ITI or any Releasee (defined *infra*) 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 PRINT-RITE ITI or any Releasee of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by PRINT-RITE ITI and the Releasees. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of any party or Releasee under this Agreement. Notwithstanding the allegations in the Notices, PRINT-RITE ITI and the Releasees maintain that they have not violated Proposition 65, knowingly, intentionally, or otherwise.

1.7 The term “Effective Date” means the date that this Agreement is fully executed by ERF and PRINT-RITE ITI.

2. INJUNCTIVE RELIEF

2.1 Warning Statements for Covered Products

(a) No later than sixty (60) days after the Effective Date, PRINT-RITE ITI and the Upstream Entities shall ensure that any Covered Products manufactured, imported, distributed, marketed or offered for sale in California shall include the following warning statements with the Covered Product as set forth below:

For 3D Printers

⚠ WARNING: This 3D Printer - when used with a styrene filament (ABS / HIPS / PC-ABS) - can expose you and others in the same room to styrene, a chemical known to the State of California to cause cancer. www.P65Warnings.ca.gov

ALWAYS OPERATE THIS PRODUCT IN A WELL-VENTILATED AREA.

For Filaments

⚠ WARNING: This Filament (ABS / HIPS / PC-ABS) - when used in the operation of 3D Printers or 3D Pens - can expose you and others in the same room to styrene, a chemical known to the State of California to cause cancer. www.P65Warnings.ca.gov

ALWAYS USE THIS PRODUCT IN A WELL-VENTILATED AREA.

The warning statements shall be affixed to or printed on the packaging for the Covered Products.

(b) For any Covered Product that is sold by PRINT-RITE ITI or by the Upstream Entities on the internet to persons located in California, within 14 days of the Effective Date, PRINT-RITE ITI and the Upstream Entities shall include the applicable above warning statement, either on each Covered Product's display page or by otherwise prominently displaying the warning statement to the purchaser prior to completing the purchase.

(c) The warnings shall be displayed with such conspicuousness, as compared with other words, statements, designs, or devices as to render them likely to be read and understood by an ordinary individual under customary conditions of purchase or use. The type size of the warning must be legible, and no smaller than any other warning provided with the Covered Products and in no case less than twelve (12) point font. The words "WARNING" and "ALWAYS USE THIS PRODUCT IN A WELL-VENTILATED AREA" shall be in upper case letters and bold as in the above warnings in this paragraph. The warning symbol to the left of the word "WARNING" must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign, label, or booklet for the Products does not use the color yellow, the symbol may be in black and white.

(d) The Parties agree that PRINT-RITE ITI and Releasees shall be deemed to be in compliance with this Settlement Agreement by either adhering to section 2.1 of this Settlement Agreement, or by complying with the warning requirements adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") for styrene in 3D printing products after the Effective Date.

2.2. Sell-Through for Existing Inventory

The injunctive requirements of Section 2 shall not apply to any Covered Products in the inventory of PRINT-RITE ITI or the Upstream Entities on or before the Effective Date.

3. REIMBURSEMENT OF FEES AND COSTS

3.1 Attorneys' Fees and Litigation Costs

Pursuant to Health and Safety Code section 25249.7(b)(2), PRINT-RITE ITI shall reimburse ERF's counsel for \$18,500 in ERF's fees and costs incurred as a result of investigating and bringing this matter to PRINT-RITE ITI'S attention, and negotiating a settlement in the public interest. The payment shall be made payable to Brian Gaffney Attorney Client Trust Account and sent no later than fourteen (14) days after the Effective Date via USPS certified mail, return receipt requested, to the following address:

LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation
446 Old County Road, Suite 100-310
Pacifica, California 94044

3.2 Civil Penalties and Payments In Lieu of Penalties

Pursuant to Health and Safety Code section 25249.7(b)(2), PRINT-RITE ITI shall pay \$3,000 in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty amount paid to Ecological Rights Foundation. Defendant will provide these payments in two checks for the following amounts made payable to: 1) "OEHHA" in the amount of \$2,250 and 2) "Ecological Rights Foundation" in the amount of \$750. The payments to OEHHA and Ecological Rights Foundation shall be sent no later than fourteen (14) days after the Effective Date. All payments shall be sent via USPS certified mail, return receipt requested, to the following addresses: The payment to Ecological Rights Foundation shall be delivered to:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

The payment to OEHHA shall be delivered to:

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

The Parties will exchange completed IRS 1099, W-9, or other forms as required. Relevant information for ERF and its counsel are set forth below in Section 8 infra.

4. RELEASE OF ALL CLAIMS

4.1 Release of PRINT-RITE ITI and PRINT-RITE ITI RELEASEES

ERF acting on its own behalf releases PRINT-RITE ITI and PRNA and their respective parents, subsidiaries, assigns, predecessors, successors, affiliated entities, members, marketplaces, directors, officers, agents, employees, insurers, and attorneys, and each entity to whom PRINT-RITE ITI or PRNA directly or indirectly distributes or sells, or have distributed or sold, the Covered Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, including but not limited to Staples, Inc., franchisees, cooperative members and licensees, and all other downstream entities in the distribution chain, and the predecessors, successors, affiliates, and assigns of any of the foregoing in this paragraph (collectively, the “Releasees”), from all claims raised in the Notices through the Effective Date based on alleged failure to provide Proposition 65 warnings for alleged exposures to styrene from use of the Covered Products. This settlement is a full, final, and binding resolution of all claims that were or could have been asserted against PRINT-RITE ITI, PRNA, and/or the Releasees based on the Notices alleging failure to provide Proposition 65 warnings in connection with alleged exposures to styrene from use of the Covered Products.

In further consideration of the promises and agreements herein contained, and for the payment to be made pursuant to Section 3, above, ERF acting on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees (all of whom, collectively, are defined as the “ERF Releasers”) provide 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 against PRINT-RITE ITI, PRNA, and/or any of the Releasees of any nature, character, or kind, limited to and arising out claims that were or could have been asserted against PRINT-RITE ITI, PRNA, and/or any of the Releasees based on the Notices for failure to provide Proposition 65 warnings for the alleged exposure to styrene from use of the Covered Products.

4.2 PRINT-RITE ITI'S Release of ERF and ERF Releasors

PRINT-RITE ITI, on behalf of itself, and its Releasees hereby waives any and all claims against ERF and the ERF Releasors, for any and all actions taken or statements made by ERF and/or the ERF Releasors, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65, against PRINT-RITE ITI in this matter with respect to the Covered Products.

4.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Covered Products will develop or be discovered. ERF on behalf of itself only, on one hand, and PRINT-RITE ITI, 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 4.1 and 4.2 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 THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

ERF and PRINT-RITE ITI each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

4.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by PRINT-RITE ITI and/or the Releasees with this Agreement constitutes compliance with Proposition 65 with respect to exposure to styrene from use of the Covered Products.

4.5 Public Benefit. It is the understanding of PRINT-RITE ITI and Releasees that the commitments they have agreed to herein, and actions to be taken under this Settlement Agreement, will confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of PRINT-RITE ITI and the Releasees that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to their alleged failure to provide a warning concerning exposure to styrene from use of the Covered Products manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Covered Products addressed in this Settlement Agreement, provided that PRINT-RITE ITI and the Releasees are in compliance with this Agreement.

5. SEVERABILITY

If, subsequent to the execution of this Agreement, any of the provisions of this Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

6. GOVERNING LAW

The terms of this 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

Covered Products, or in the event there is a Safe Use Determination or other demonstrated or recognized exemption to/from the Proposition 65 warning requirements for styrene as to the Covered Products, and PRINT-RITE ITI and/or the Releasees cease to provide a Proposition 65 warning statement or equivalent on a Covered Product as a result of this change in the law, PRINT-RITE ITI or the Releasees shall provide written notice to ERF of any asserted change in the law or their warning obligation, and shall have no further obligations pursuant to this Agreement with respect to, and to the extent that, a Covered Product is so affected.

7. AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties. **That Consent Judgment entered into between ERF and STAPLES, INC. in San Francisco Superior Court Case No. CGC-20-584232_regarding filaments incorporating a styrene monomer and 3D printers utilizing such filaments, distributed, marketed, or sold by STAPLES in California, shall not release PRINT-RITE ITI and/or “the Upstream Entities” from their obligations and duties under this Settlement Agreement.**

8. NOTICES

8.1 Notice of Alleged Violation of this Agreement

In the event that a dispute arises with respect to any of the provisions of this Agreement, the Parties shall meet and confer within 14 days after either Party receives written notice of an alleged violation of this Agreement.

8.2 Notices Provided Pursuant to this Agreement

Unless specified herein, all correspondence and notices required to be provided pursuant to this Agreement shall be in writing and personally delivered or sent by: (i) USPS Priority Mail; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For PRINT-RITE ITI:

c/o The Corporation Trust Company
1999 Bryan Street, Suite 900
Dallas, TX 75201

With a copy to:

Merton Howard
HANSON BRIDGETT LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

For Ecological Rights Foundation:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

With a copy to:

LAW OFFICES OF BRIAN GAFFNEY, A Professional Corporation
446 Old County Road, Suite 100-310
Pacifica, California 94044

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 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)

ERF 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 all the Parties.

12. CONTINUED COURT JURISDICTION

This Agreement is enforceable and binding, and may be enforced by a motion under Code of Civil Procedure section 664.6 or by any other procedure permitted by law. The terms and conditions of this Agreement are admissible and subject to disclosure for purposes of enforcing this Agreement pursuant to Code of Civil Procedure section 664.6 or any other proceeding permitted by law. The terms of this paragraph prevail over any contrary provisions in this Agreement.

13. AUTHORIZATION

Each signatory to this Settlement Agreement certifies that he or she is fully authorized by the party he or she represents to enter into this Settlement Agreement, that they have read, understood and agree to all the terms and conditions contained in this Settlement Agreement, and are authorized to execute it on behalf of the party represented and legally to bind that party. PRINT-RITE ITI, by signing below, so certifies for itself and the Upstream Entities.

AGREED TO:

Date: March 10, 2021 _____

By:  _____
Bonita Luk
Director
PRINT-RITE ITI

AGREED TO:

Date: March 11, 2021

ECOLOGICAL RIGHTS FOUNDATION

Ecological Rights Foundation

BY:  _____, EXEC. DIR.
JAMES LAMPORT, EXECUTIVE DIRECTOR