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9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ALAMEDA

12 ANTHONY FERREIRO,  
13 Plaintiff,  
14 v.  
15 BEST BUY CO., INC.,  
16 Defendant.

Case No.: RG21088250  
**CONSENT JUDGMENT**  
Judge: Richard Seabolt  
Dept.: 521  
Hearing Date: March 9, 2022  
Hearing Time: 2:30 P.M.  
Reservation #: 603442460502

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1       **1. INTRODUCTION**

2           **1.1 The Parties.** This Consent Judgment is entered into by and between Anthony  
3 Ferreiro acting on behalf of the public interest (hereinafter “Ferreiro”) and Best Buy Stores, L.P.,  
4 the entity that operates the Best Buy retail stores (“Best Buy” or “Defendant”) which entity the  
5 complaint is deemed amended to be added as a Doe defendant instead and in place of Best Buy  
6 Co., Inc., and Best Buy Co., Inc. is dismissed with prejudice from this action, with Ferreiro and  
7 Defendant collectively referred to as the “Parties” and each of them as a “Party.” Ferreiro is an  
8 individual residing in California that seeks to promote awareness of exposures to toxic chemicals  
9 and improve human health by reducing or eliminating hazardous substances contained in consumer  
10 products. Best Buy is alleged to be a person in the course of doing business for purposes of  
11 Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

12           **1.2 Allegations and Representations.** Ferreiro alleges that Defendant has exposed  
13 individuals to Bisphenol A (BPA) from its sales of Sahara Crystal Series Cases for Samsung A20,  
14 SB-CL-S-GNA20-CL, that are manufactured by or distributed by Sahara Case, LLC and sold  
15 and/or offered for sale in California by Best Buy, without providing a clear and reasonable exposure  
16 warning pursuant to Proposition 65. BPA is listed under Proposition 65 as a chemical known to the  
17 State of California to cause reproductive toxicity.

18           **1.3 Notice of Violation/Complaint.** On or about October 22, 2020, Ferreiro served Best  
19 Buy Co., Inc., Sahara Case, LLC, and various public enforcement agencies with documents entitled  
20 “60-Day Notice of Violation” pursuant to Health & Safety Code §25249.7(d) (the “Notice”),  
21 alleging that Best Buy violated Proposition 65 for failing to warn consumers and customers that  
22 use of the Covered Products expose users in California to BPA. No public enforcer has brought and  
23 is diligently prosecuting the claims alleged in the Notice. January 22, 2021, Ferreiro filed a  
24 complaint (the “Complaint”) in the matter.

25           **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
26 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that  
27 venue is proper in the County of Alameda, and that this Court has jurisdiction to approve, enter,  
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1 and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all  
2 claims which were or could have been raised in the Complaint based on the facts alleged therein  
3 and/or in the Notice.

4 1.5 Defendant denies the material allegations contained in Ferreiro’s Notice and  
5 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment  
6 shall be construed as an admission by Defendant of any fact, finding, issue of law, or violation of  
7 law; nor shall compliance with this Consent Judgment constitute or be construed as an admission  
8 by Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being  
9 specifically denied by Defendant. However, this section shall not diminish or otherwise affect the  
10 obligations, responsibilities, and duties of Defendant under this Consent Judgment.

11 **2. DEFINITIONS**

12 2.1 **Covered Products.** The term “Covered Products” means Sahara Crystal Series  
13 Cases for Samsung A20, SB-CL-S-GNA20-CL, that are manufactured by or distributed by Sahara  
14 Case, LLC and sold and/or offered for sale in California by Best Buy, that expose users to BPA.

15 2.2 **Effective Date.** The term “Effective Date” means the date this Consent Judgment is  
16 entered as a Judgment of the Court.

17 **3. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS**

18 3.1 **Reformulation of Products.** As of the date this Consent Judgment is signed by both  
19 Parties, and continuing thereafter, Covered Products that Best Buy directly manufactures, imports,  
20 distributes, sells, or offers for sale in California shall either: (a) be Reformulated Products pursuant  
21 to § 3.2, below; or (b) be labeled with a clear and reasonable exposure warning pursuant to §§ 3.3  
22 and 3.4, below. For purposes of this Consent Judgment, a “Reformulated Product” is a Covered  
23 Product that is in compliance with the standard set forth in § 3.2 below. The warning requirement  
24 set forth in §§ 3.3 and 3.4 shall not apply to any Reformulated Product.

25 3.2 **Reformulation Standard.** “Reformulated Products” shall mean any Covered  
26 Products intended for retail sale in California that do not expose consumers to BPA on any  
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1 accessible component in excess of 3 micrograms per day of dermal exposure to BPA from solid  
2 materials.

3           **3.3 Clear and Reasonable Warning.** As of the Effective Date, Best Buy agrees to  
4 manufacture, import, or purchase for sale in California only Covered Products that are accompanied  
5 by either of the following warnings:

6           (a)     **Warning.** The “Warning” shall consist of the statement:

7           **⚠ WARNING:** This product can expose you to chemicals including Bisphenol A  
8 (BPA), which is known to the State of California to cause [cancer and] birth defects  
9 or other reproductive harm. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

10           (b)     **Alternative Warning:** Best Buy may, but is not required to, use the alternative  
11 short-form warning as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

12           **⚠ WARNING:** Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

13           The bracketed text may, but is not required to be used. Best Buy and its downstream retailers  
14 shall have no obligation to label Covered Products that entered the stream of commerce prior to the  
15 Effective Date.

16           **3.4 A Warning or Alternative Warning** provided pursuant to § 3.3 must print the word  
17 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to  
18 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral  
19 triangle with a black outline, except that if the sign or label for the Covered Product does not use  
20 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller  
21 than the height of the word “**WARNING:**”. The warning shall be affixed to or printed on the  
22 Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or electronic device or  
23 automatic process, providing that the warning is displayed with such conspicuousness, as compared  
24 with other words, statements, or designs as to render it likely to be read and understood by an  
25 ordinary individual under customary conditions of purchase or use. A warning may be contained  
26 in the same section of the packaging, labeling, or instruction booklet that states other safety  
27 warnings, if any, concerning the use of the Covered Product and shall be at least the same size as  
28 those other safety warnings.

1           If Best Buy sells Covered Products via an internet website to customers located in  
2 California, the warning requirements of this section shall be satisfied if the foregoing warning  
3 appears either: (a) on the same web page on which a Covered Product is displayed and/or described;  
4 (b) on the same page as the price for the Covered Product; or (c) on one or more web pages  
5 displayed to a purchaser prior to purchase during the checkout process. Alternatively, a symbol  
6 consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent  
7 to or immediately following the display, description, price, or checkout listing of the Covered  
8 Product, if the warning statement appears elsewhere on the same web page in a manner that clearly  
9 associates it with the product(s) to which the warning applies.

10           **3.5 Compliance with Warning Regulations.** Defendant shall be deemed to be in  
11 compliance with this Consent Judgment by (1) adhering to §§ 3.3 and 3.4 of this Consent Judgment;  
12 and (2) complying with warning requirements adopted by the State of California’s Office of  
13 Environmental Health Hazard Assessment (“OEHHA”) after the Effective Date.

14           **4. MONETARY TERMS**

15           **4.1 Civil Penalty.** Best Buy shall cause to be paid \$1,000.00 as a Civil Penalty pursuant  
16 to Health and Safety Code section 25249.7(b), to be apportioned in accordance with California  
17 Health & Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining  
18 25% of the Civil Penalty remitted to Ferreiro, as provided by California Health & Safety Code  
19 § 25249.12(d).

20           **4.1.1** Within ten (10) days of the Effective Date, Best Buy shall cause to be issued two  
21 separate checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$750.00; and to  
22 (b) “Brodsky Smith in Trust for Ferreiro” in the amount of \$250.00. Payment owed to Ferreiro  
23 pursuant to this Section shall be delivered to the following payment address:

24           Evan J. Smith, Esquire  
25           Brodsky Smith  
26           Two Bala Plaza, Suite 805  
27           Bala Cynwyd, PA 19004

28           Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly  
to OEHHA (Memo Line “Prop 65 Penalties”) at one of the following address(es):

1 For United States Postal Service Delivery:

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

7 For Non-United States Postal Service Delivery:

8 Mike Gyurics  
9 Fiscal Operations Branch Chief  
10 Office of Environmental Health Hazard Assessment  
11 1001 I Street  
12 Sacramento, CA 95814

13 A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth  
14 above as proof of payment to OEHHA.

15 4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Best Buy shall cause  
16 to be paid \$16,500.00 to Brodsky Smith ("Brodsky Smith") as complete reimbursement for  
17 Ferreiro's attorneys' fees and costs incurred as a result of investigating, bringing this matter to Best  
18 Buy attention, litigating and negotiating and obtaining judicial approval of a settlement in the public  
19 interest, pursuant to Code of Civil Procedure § 1021.5.

20 **5. RELEASE OF ALL CLAIMS**

21 5.1 This Consent Judgment is a full, final, and binding resolution between Ferreiro  
22 acting on his own behalf, and on behalf of the public interest, and Best Buy, and its parents,  
23 shareholders, members, directors, officers, managers, employees, representatives, agents,  
24 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their  
25 predecessors, successors and assigns ("Defendant Releasees"), and all entities from whom they  
26 obtain and to whom they directly or indirectly distribute or sell Covered Products, including but  
27 not limited to manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees  
28 retailers, franchisees, and cooperative members ("Downstream Releasees"), of all claims for  
violations of Proposition 65 based on exposure to BPA from Covered Products as set forth in the  
Notice, with respect to any Covered Products manufactured, distributed, or sold by Best Buy prior  
to the Effective Date. It is the Parties' intention that this Consent Judgment shall have preclusive

1 effect such that no other actions by private enforcers, whether purporting to act in his, her, or its  
2 interests or the public interest shall be permitted to pursue and/or take any action with respect to  
3 any violation of Proposition 65 that was alleged in the Complaint, or that could have been brought  
4 pursuant to the Notice against Best Buy and/or the Downstream Releasees of the Covered Products  
5 (“Proposition 65 Claims”). Compliance with the terms of this Consent Judgment constitutes  
6 compliance with Proposition 65 with regard to the Covered Products.

7           5.2 In addition to the foregoing, Ferreiro, on behalf of himself, his past and current  
8 agents, representatives, attorneys, and successors and/or assignees, and *not* in his representative  
9 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of  
10 legal action and releases Best Buy, Defendant Releasees, and Downstream Releasees from any and  
11 all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts,  
12 agreements, promises, liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees, of  
13 any nature whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the  
14 future, with respect to any alleged violations of Proposition 65 related to or arising from Covered  
15 Products manufactured, distributed, or sold by Best Buy, Defendant Releasees or Downstream  
16 Releasees. With respect to the foregoing waivers and releases in this paragraph, Ferreiro hereby  
17 specifically waives any and all rights and benefits which he now has, or in the future may have,  
18 conferred by virtue of the provisions of § 1542 of the California Civil Code, which provides as  
19 follows:

20           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
21           CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
22           EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
23           RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE  
24           MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE  
25           DEBTOR OR RELEASED PARTY.

26           5.3 Best Buy waives any and all claims against Ferreiro, his attorneys and other  
27 representatives, for any and all actions taken or statements made (or those that could have been  
28 taken or made) by Ferreiro and his attorneys and other representatives, whether in the course of  
investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,  
and/or with respect to Covered Products.

1     **6. INTEGRATION**

2             6.1     This Consent Judgment contains the sole and entire agreement of the Parties and  
3 any and all prior negotiations and understandings related hereto shall be deemed to have been  
4 merged within it. No representations or terms of agreement other than those contained herein exist  
5 or have been made by any Party with respect to the other Party or the subject matter hereof.

6     **7. GOVERNING LAW**

7             7.1     The terms of this Consent Judgment shall be governed by the laws of the State of  
8 California and apply within the State of California. In the event that Proposition 65 is repealed or  
9 is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then  
10 Defendant shall have no further obligations pursuant to this Consent Judgment with respect to, and  
11 to the extent that, Covered Products are so affected.

12     **8. NOTICES**

13             8.1     Unless specified herein, all correspondence and notices required to be provided  
14 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-  
15 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party  
16 by the other party at the following addresses:

17 For Defendant:

18             Michael A. Geibelson  
19             Robins Kaplan LLP  
20             2049 Century Park East, Suite 3400  
21             Los Angeles, CA 90067

22 And

23 For Ferreiro:

24             Evan J. Smith, Esquire  
25             Brodsky Smith  
26             Two Bala Plaza, Suite 805  
27             Bala Cynwyd, PA 19004

28 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.



1 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

2 9.1 This Consent Judgment may be executed in counterparts and by facsimile, each of  
3 which shall be deemed an original, and all of which, when taken together, shall constitute one and  
4 the same document.

5 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**  
6 **APPROVAL**

7 10.1 Ferreiro agrees to comply with the requirements set forth in California Health &  
8 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.  
9 Defendant agrees it shall support approval of such Motion.

10 10.2 This Consent Judgment shall not be effective until it is approved and entered by the  
11 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the  
12 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30  
13 days, the case shall proceed on its normal course.

14 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an  
15 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent  
16 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on  
17 its normal course on the trial court's calendar.

18 **11. MODIFICATION**

19 11.1 This Consent Judgment may be modified only by further stipulation of the Parties  
20 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

21 **12. ATTORNEY'S FEES**

22 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent  
23 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

24 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions  
25 pursuant to law.

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**13. RETENTION OF JURISDICTION**

13.1 This Court shall retain jurisdiction of this matter to implement or modify the Consent Judgment.

**14. AUTHORIZATION**

14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this document and certify that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided herein each Party is to bear its own fees and costs.

**AGREED TO:**

**AGREED TO:**

Date: 1/6/22  
By: Anthony Ferreiro  
ANTHONY FERREIRO

11/4/2021 | 1:25 CDT  
Date: DocuSigned by:  
Ashley Pierson  
By: 00F2411C714C4A2  
BEST BUY STORES, L.P.

**IT IS SO ORDERED, ADJUDGED AND DECREED:**

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

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