

SETTLEMENT AGREEMENT
BETWEEN
CONSUMER ADVOCACY GROUP, INC.
AND
BEST OF AS SEEN ON TV, INC.
RMF DISTRIBUTORS, LLC

Consumer Advocacy Group, Inc. (“CAG”) and Best of As Seen On TV, Inc. (“As Seen On TV”), and RMF Distributors, LLC (“RMF”) (As Seen On TV and RMF are collectively hereto referred to as “Defendants”), (CAG and Defendants collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that Defendants violated Proposition 65. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the “Effective Date”).

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 RMF and As Seen on TV previously sold, at various times, Video and Audio Recorders (“Video & Audio Recorders”), including but not limited to the product specifically bearing all of the following packaging information: “Portable

HD Video & Audio Recorder”; “DashCam Pro”; “Inventel Item: DCP-MC6/2; “UPC 8 58256 00337 1”; “Made in China”..

1.3 As Seen On TV previously sold, at various times, Electronic Abs Stimulator (“Abs Stimulators”), including but not limited to the product specifically bearing all of the following packaging information: “Blue Electronic Muscle Stimulator ; “Total Toner”; “TT-MO”; “Made in China” ; “156-319-1205-1A”. The Abs Stimulators are limited to those sold by As Seen On TV only.

1.4 The products named in Sections 1.2 to 1.3 are collectively referred to throughout as the “Covered Products”.

1.5 CAG alleges that Covered Products contain Di (2-ethylhexyl) phthalate (“DEHP”), also known as Diethyl Hexyl Phthalate or Bis (2-ethylhexyl) phthalate, and that Defendants did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code § 25249.5, et seq.* (“Proposition 65”)).

1.6 On January 1, 1988, the Governor of California added Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate (“DEHP”) to the list of chemicals known to the State to cause cancer, (*Cal. Code Regs. tit. 27, § 27001(b)*) and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity (*Cal. Code Regs. tit. 27, § 27001(c)*). Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of DEHP to the list of chemicals

known to the State to cause reproductive toxicity, DEHP became fully subject to Proposition 65 warning requirements and discharge prohibitions.

1.7 DEHP is referred to hereafter as the “Listed Chemical”.

1.8 On or about August 25, 2020 (Attorney General Notice #2020-02198), CAG served, Walmart, Inc., As Seen On TV and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Video & Audio Recorder containing the Listed Chemical.

1.9 On or about August 27, 2021 (Attorney General Notice #2021-02156), CAG served As Seen On TV, Walmart Inc., Wal-Mart Stores, Inc., Walmart.com USA, LLC, and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Abs Stimulators containing the Listed Chemical.

1.10 On or about October 22, 2021 (Attorney General Notice #2021-02673), CAG served RMF, and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Video & Audio Recorder containing the Listed Chemical.

1.11 The Sixty-Day Notices (referred to as “Notices”) alleged that Defendants and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemical.

1.12 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the Covered Products’ compliance with Proposition 65 (the “Dispute”).

1.13 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by Defendants, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Defendants may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

1.1.1 This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) Defendants, and their owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively "Releasees") and (b) all entities to whom or via whose online marketplace(s) and/or e-commerce platform(s) Releasees directly or indirectly provide, distribute, list, sell, or offer to sell the Covered Products, including but not limited to Ross Stores, Inc.; Wal-Mart.com USA, LLC; Walmart Inc.; Wal-Mart Stores East, Inc.; Wal-Mart Stores East; L.P.; Walmart Apollo, LLC; Amazon.com Inc.; Amazon.com Services, Inc; and their owners, parents, direct and indirect subsidiaries, affiliates, sister and related companies, as well as their past, present, and future owners, employees, agents, representatives, shareholders, members, managers, officers, directors, insurers, beneficiaries, attorneys, predecessors, successors, assigns, distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Downstream Releasees"), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against the Releasees and Downstream Releasees regarding allegedly exposing persons to the Listed Chemical and/or the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, sold, and/or otherwise distributed prior

to the Effective Date, even if sold by or via any online marketplace(s) of Downstream Releasees after the Effective Date. The Covered Products are limited to those sold by Defendants and Downstream Releasees at any point in the stream of commerce.

CAG, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives and releases with respect to the Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees) (collectively "Claims"), against Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in respect of any Covered Products sold up to the Effective Date, only to the extent that such Claims relate to Releasees' and/or Downstream Releasees' alleged exposure of persons to the Listed Chemical contained in the Covered Products or any failure by Releasees and/or Downstream Releasees to warn about exposures to the Listed Chemical contained in the Covered Products.

CAG acknowledges that it is familiar with Section 1542 of Civil Code, which provides 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.

CAG, its past and current agents, representatives, attorneys, successors, and assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

CAG understands and acknowledges that the significance and consequence of this waiver of California Civil Code section 1542 is that even if CAG suffers future damages arising out of or resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure to the Listed Chemicals from the Covered Products, including but not limited to any exposure to, or failure to warn with respect to exposure to the Listed Chemicals from the Covered Products, CAG will not be able to make any claim for those damages against Releasees and/or Downstream Releasees. Furthermore, CAG acknowledges that it intends these consequences for any such Claims arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure to the Listed Chemicals from Covered Products as may exist as of the date of this release but which CAG does not suspect to exist, and which, if known, would materially affect their decision to enter into this

Settlement Agreement, regardless of whether their lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

The release in this section shall have no force or effect until the full amount of payments set forth in Section 4.0 below are paid in full.

3.0 Defendants' Duties

3.1 Defendants agree, promise, and represent that Defendants shall order for sale reformulated Covered Products, from its suppliers, after the Effective Date that are offered for sale in California to a point where the level of DEHP in the Covered Products does not exceed 0.1% by weight.

3.2 Defendants agree, promise, and represent that, as of the Effective Date, to the extent they ship or sell any Covered Products in existing inventory that were not ordered as reformulated from Defendants suppliers, , Defendants will provide a clear and reasonable warning, consistent with 27 CCR section 25600 *et seq.*, for cancer and reproductive harm unless it contains no more than 0.1% by weight (1,000 ppm) of the Listed Chemical(s).

This shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products for any Covered Products in existing inventory that had not been reformulated and were distributed and/or sold by Releasees or by or via any online marketplace(s) of Downstream Releasees after the Effective Date. Where a label used for the Covered Products in existing inventory, that exceeds 0.1% of DEHP includes consumer information as defined by California

Code of Regulations title 27 §25600.1(c) in a language other than English, the warning must also be provided in that language in addition to English. Should Defendants sell or distribute any Covered Products in existing inventory, that exceeds 0.1% of DEHP, through the internet the Defendants shall comply with 27 CCR sections 25601 and 25602, as they may be subsequently amended. To avoid any doubt, and for clarity, it is agreed that Defendants' downstream vendors will not be obligated to perform any of the duties described herein, nor will Defendants be required to recall or otherwise retake possession of any Covered Products from any of their downstream vendors or place warning labels on them. The duties contained herein apply only with regard to Covered Products in Defendants' actual inventory or sold by Defendants after the Effective Date, not the inventory of any downstream vendors, including Downstream Releasees.

4.0 Payments

4.1 Defendants agree, to pay a total of sixty-five thousand dollars (\$65,000.00) by separate checks apportioned as follows:

4.1.1 Penalty: Defendants shall issue two separate checks for a total amount of five thousand dollars (\$5,000.00) as follows: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of three thousand and seven hundred fifty dollars, (\$3,750.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of one thousand and two hundred fifty dollars (\$1,250.00), representing 25%

of the total penalty. OEHHA's check shall be delivered to Office of Environmental Health Hazard Assessment P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics. CAG's check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. Additionally, two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics (EIN: 68-0284486) in the amount of \$3,750.00. The second 1099 shall be issued in the amount of \$1,250.00 to CAG and delivered to Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212.

4.1.2 Attorneys' Fees and Costs: Sixty thousand dollars (\$60,000.00) of such payment shall be paid to Yeroushalmi & Yeroushalmi, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Defendants' attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Yeroushalmi shall provide Defendants with its Employer Identification Number.

4.2 In exchange for payment, CAG shall dismiss without prejudice (1) the entire civil action, *Consumer Advocacy Group, Inc. v. Walmart Inc., et*

al., Case No. 21STCV14395, Superior Court of California, County of Los Angeles, against defendants Walmart Inc. and Wal-Mart.com Inc., within 15 days of execution of this agreement and (2) the Third Cause of Action in the civil action, *Consumer Advocacy Group, Inc. v. Walmart Inc., et al.*, Case No. 22STCV21493, Superior Court of California, County of Los Angeles, against defendant Walmart Inc. If, for some reason, the request for dismissal is rejected in Case No. 22STCV21493 because the case is already dismissed and on appeal, CAG agrees to promptly re-file the request for dismissal if the Court of Appeal (or other appellate court) reverses the judgment of the trial court and remands the case for further proceedings. CAG shall file the dismissal in the *Consumer Advocacy Group, Inc. v. Walmart Inc., et al.*, Case No. 22STCV21493 matter within five (5) business days after the settlement payments have cleared, or within five (5) business days if the judgment of the trial court is reversed and the case remanded for further proceedings, whichever occurs first.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Defendants represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Defendants to this Settlement Agreement.

6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Modification of Settlement Agreement

8.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

9.0 Application of Settlement Agreement

9.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and the Releasees. . The Settlement Agreement shall also inure to the benefit of Downstream Releasees identified in Section 2 above, but is not binding on them.

10.0 Enforcement of Settlement Agreement

10.1 Any party may file suit before the Superior Court of the County of Los Angeles, to enforce the terms and conditions contained in this Settlement Agreement. The parties also agree that Downstream Releasees are intended third-party beneficiaries of this Settlement Agreement and may enforce its terms. The

prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement. In the event that Defendants are late on the payments outlined in Section 4.0 of this agreement, by more than 10 calendar days, CAG shall be entitled to bring an action to enter a judgment against them."

11.0 Notification Requirements

11.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi, Esq.
YEROUSHALMI & YEROUSHALMI
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For Defendants:

Ryan S. Landis, Esq.
GORDON REES SCULLY MANSUKHANI, LLP
5 Park Plaza, Suite 1100
Irvine, CA 92614

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13.0 SEVERABILITY

13.1 If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely

affected.

14.0 GOVERNING LAW

14.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Defendants shall provide written notice to CAG 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 Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 9-10-2024

By: Willard T. Bayer

Printed Name: Willard T. Bayer

Title: President

BEST OF AS SEEN ON TV, INC.

Dated: _____

By: _____

Printed Name: _____

Title: _____

affected.

14.0 GOVERNING LAW

14.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Defendants shall provide written notice to CAG 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 Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: _____

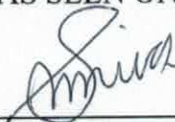
By: _____

Printed Name: _____

Title: _____

BEST OF AS SEEN ON TV, INC.

Dated: 09/11/2024

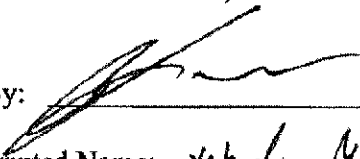
By: 

Printed Name: SRINIVAS R UPPALA

Title: Managing Director

RMF DISTRIBUTORS, LLC

Dated: 9/10/24

By:  _____

Printed Name: Lehoda Magalos _____

Title: Managing Member _____