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13 Environmental Health Advocates, Inc.

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **IN AND FOR THE COUNTY OF ALAMEDA**

16 ENVIRONMENTAL HEALTH
17 ADVOCATES, INC.,

18 Plaintiff,

19 v.

20 JRD IMC, LLC, a Delaware limited liability
21 company; ATALANTA CORPORATION, a
22 Delaware corporation; RESTAURANT
23 DEPOT LLC, a Delaware limited liability
24 company; and DOES 1 through 100,
25 inclusive,

26 Defendants.

Case No. 22CV020981

[PROPOSED] CONSENT JUDGMENT

(Health & Safety Code § 25249.6 *et seq.* and
Code Civ. Proc. § 664.6)

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between Environmental Health Advocates, Inc.,
4 (“EHA” or “Plaintiff”) and Atalanta Corporation (“Atalanta” or “Settling Defendant”), with EHA and
5 Atalanta each individually referred to as a “Party” and collectively referred to as the “Parties.”

6 **1.2 Plaintiff**

7 EHA is a corporation organized in the state of California, acting in the interest of the general
8 public. It seeks to promote awareness of exposures to toxic chemicals and to improve human health
9 by reducing or eliminating hazardous substances contained in consumer products.

10 **1.3 Defendant**

11 For purposes of this Consent Judgment, the Parties agree that Defendant Atalanta is a New York
12 business corporation and was erroneously sued as Atalanta Corporation, a Delaware Corporation
13 (“Atalanta Delaware”). EHA shall dismiss Atalanta Delaware from this action with prejudice
14 immediately upon the Parties’ execution of this Consent Judgment regardless of whether the Consent
15 Judgment is approved or ordered by the Court. For purposes of this Consent Judgment, the Parties
16 agree that Settling Defendant employed ten or more individuals at all times relevant to this action, and,
17 qualifies as a “person in the course of doing business” for purposes of the Safe Drinking Water and
18 Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6 et seq. (“Proposition 65”).

19 **1.4 Product Description**

20 The products covered by this Consent Judgment are a shellfish product, Chef’s Quality Whole
21 Baby Clams (“Covered Products”).

22 **1.5 General Allegations**

23 On or around August 4, 2022, EHA served Atalanta, Restaurant Depot LLC (“Restaurant
24 Depot”), and JRD, IMC LLC (“JRD”), the California Attorney General, and all other required public
25 enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Notice”). The Notice
26 alleged that Atalanta, Restaurant Depot, and JRD violated Proposition 65 by failing to sufficiently warn
27 consumers in California of the health hazards associated with exposures to Lead, Cadmium, and
28 Arsenic alleged to be contained in the Products. On November 02, 2022, EHA initiated this action by

1 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant
2 to the provisions of Proposition 65, against Atalanta, Restaurant Depot, and JRD and Does 1-100. In
3 this action, EHA alleges that Defendants Atalanta, Restaurant Depot, and JRD manufactured, imported,
4 marketed, distributed, and/or sold the Covered Products alleged to contain lead, cadmium, and arsenic,
5 chemicals listed under Proposition 65 as carcinogens and reproductive toxins, and exposed consumers
6 to these chemicals at levels requiring a Proposition 65 warning. EHA has withdrawn its allegations in
7 the Notice and Complaint regarding arsenic and cadmium and is no longer alleging violations of
8 Proposition 65 against Atalanta, Restaurant Depot, or JRD with respect to arsenic and cadmium alleged
9 in the Covered Products.

10 The Complaint is based on allegations contained in EHA’s Notice. Over 60 days have passed
11 since the Notice was served on the Attorney General, public enforcers, and Settling Defendant, and
12 no designated governmental entity (including any public enforcer) has commenced or is otherwise
13 prosecuting an action to enforce the violations alleged in the Notice.

14 On December 08, 2022, Defendants Atalanta Delaware, Restaurant Depot, and JRD filed and
15 served their answer to the Complaint denying the allegations and asserting forty-six affirmative
16 defenses. On December 15, 2022, Defendant Atalanta, Restaurant Depot, and JRD filed an amended
17 answer to the Complaint to provide the answering Defendant as Atalanta, not Atalanta Delaware, and
18 providing that Defendants Atalanta, Restaurant Depot, and JRD deny the allegations in the Complaint
19 and assert forty-six affirmative defenses.

20 **1.6 No Admission**

21 Settling Defendant denies the material factual and legal allegations of the Notice and Complaint
22 and maintains that all of the products it has manufactured, imported, sold, and/or distributed for sale in
23 California, including the Covered Products, have been, and are, in compliance with all applicable laws,
24 rules and regulations.

25 The Parties have entered into this Consent Judgment in order to settle, compromise, and resolve
26 disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent Judgment shall
27 be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law,
28 nor shall compliance with this Consent Judgment be construed as an admission of any fact, finding,

1 conclusion of law, issue of law, or violation of law. This Section shall not, however, diminish or
2 otherwise affect Settling Defendant's obligations, responsibilities, and duties under this Consent
3 Judgment.

4 Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive,
5 or impair any right, claim, remedy, argument, or defense the Parties may have in any current or future
6 legal proceeding unrelated to these proceedings.

7 **1.7 Jurisdiction**

8 For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this
9 Court has subject matter jurisdiction over the allegations of violations contained in the Complaint,
10 personal jurisdiction over Settling Defendant as to the allegations in the Complaint, that venue is proper
11 in the County of Alameda, and that this Court has jurisdiction to enter and enforce the provisions of
12 this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

13 **1.10 Effective Date**

14 For purposes of this Consent Judgment, the term "Effective Date" means the date on which this
15 Consent Judgment is approved and entered as a Judgment by this Court, as provided in Section 5.

16 **1.10 Compliance Date**

17 For purposes of this Consent Judgment, the term "Compliance Date" means one-hundred (100)
18 days after the Effective Date.

19 **2. INJUNCTIVE RELIEF**

20 **2.1 Compliant Covered Products**

21 Beginning one hundred (100) days after the Effective Date, Settling Defendant shall be
22 permanently enjoined from manufacturing, distributing, or directly selling in the State of California,
23 any Covered Products unless the Covered Products have a warning in compliance with Section 2.3, or
24 are a Compliant Covered Product. A Compliant Covered Product is one for which the average daily
25 exposure level is no more than 0.5 micrograms of lead per day as determined by the formula, testing
26 and quality control methodology described in Section 2.2. As used in this Consent Judgment, "no more
27 than 0.5 micrograms of lead per day" means that the samples of the testing yield an average daily
28 exposure of no more than 0.5 micrograms of lead (with average daily exposure calculated pursuant to

1 Section 2.2 of this Consent Judgment). For any Covered Products that cause exposure in excess of 0.5
2 micrograms of lead per day, using the methodology described in Sections 2.1 and 2.2., Settling
3 Defendant shall provide the warnings set forth in Section 2.3. For purposes of determining which
4 warning (if any) is required, the average concentration will be based on the arithmetic mean of lead
5 detection results of three (3), randomly selected samples from four (4) lots of the Covered Products (or
6 the maximum number of lots available for testing if less than 4) during a testing period of at least one
7 year.

8 **2.2. Formula, Testing and Quality Control Methodology.**

9 **2.2.1.** For purposes of this Consent Judgment and for determining a Compliant Covered
10 Product, average daily exposure levels shall be measured in micrograms per day and shall be
11 calculated using the following formula: the average concentration of lead or cadmium in the product
12 in micrograms per gram (utilizing the arithmetic mean of lead detection results for three (3) randomly
13 selected samples from four (4) separate lots of the Covered Products), multiplied by 19.3 grams of
14 Covered Products per serving. There shall be a credit or allowance to this result equal to the naturally
15 occurring allowance of 0.103 ppm of lead concentration for each gram of serving size of the Covered
16 Products to reach the safe harbor of 0.5 micrograms per day. The testing requirements of Section
17 2.2.1 do not apply to any of the Covered Products for which Settling Defendant has provided a
18 warning as specified in Section 2.3.

19 **2.2.2.** All testing pursuant to this Consent Judgment shall be performed: (a) by an
20 independent third-party laboratory certified by the California Environmental Laboratory
21 Accreditation Program for the analysis of heavy metals; and, (b) using a laboratory method that
22 complies with the performance and quality control factors appropriate for the method used, including
23 limit of detection, limit of quantification, accuracy, and precision and meets the following criteria:
24 Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit of quantification of less
25 than or equal to 0.010 mg/kg or any other testing method subsequently agreed upon in writing by the
26 Parties and approved by the Court through entry of a modified consent judgment.

27 **2.2.3.** Settling Defendant and the Releasees (as defined in Section 4.1 below) shall have no
28 obligation or liability with respect to any Covered Products that are sold and/or distributed in

California after the date of the Notice, or with respect to the allegations contained in the Notice and/or Complaint except as otherwise set forth in this Consent Judgment.

2.2.4. As used in this Section 2, “distributing, or directly selling in the State of California” means to directly ship Covered Products into California or to sell Covered Products to a distributor Settling Defendant knows will sell Covered Products in California.

2.3 Clear and Reasonable Warnings

Commencing on the Compliance Date, Settling Defendant agrees any Covered Product sold that was not reformulated pursuant to Sections 2.1 and 2.2 shall contain a Proposition 65 warning. Settling Defendant agrees that each warning shall be prominently placed with such conspicuousness, as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* Covered Products the warning applies, so as to minimize the risk of consumer confusion.

For purposes of this Consent Judgment, a clear and reasonable warning for the Covered Products shall consist of a warning affixed to the packaging, label, tag, directly to each Covered Products sold in California by Settling Defendant, or on a placard, shelf tag, sign or electronic device or automatic process that contains one of the following statements:

1) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”**: Consuming this product can expose you to lead, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

OR

2) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”** Risk of cancer and reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

SHORT FORM

OR

SHORT FORM

3) **“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”** Can expose you to lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov/food.

OR

SHORT FORM ON
A PRODUCT
MANUFACTURED/
LABELED PRIOR
TO 1/1/28,
REGARDLESS OF
DATE OF SALE

4) **WARNING: Cancer and Reproductive Harm –**
www.P65Warnings.ca.gov/food.

Pursuant to Section 25607.1, where the warning is provided on the food product label, it must be set off from other surrounding information and enclosed in a box with a black line outline. Where a specific food product sign, label, placard, or shelf tag is used to provide a warning, it must be displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale. In no case shall a warning statement appear in a type size smaller than 6-point type. Where a sign, labeling, or label as defined in Section 25600.1 is used to provide a warning that includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603 must be provided via one of the following methods: (1) A warning on the product display page; (2) A clearly marked hyperlink using the word “WARNING” or the words “CA WARNING” or “CALIFORNIA WARNING” on the product display page that links to the warning; or (3) An otherwise prominently displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the website may use the same content. For purposes of this section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. For internet purchases made prior to January 1, 2028, a retail seller is not responsible under Section 25600.2(e)(4) for conspicuously posting or displaying the new warning online until 60 calendar days after the retailer receives a warning or a

1 written notice under Section 25600.2(b) and (c) which updates a short-form warning compliant with
2 Section 25603(c) with content compliant with Section 25603(b). These requirements extend to any
3 websites under the exclusive control of Settling Defendant where Covered Products are sold into
4 California. In addition, Settling Defendant shall instruct any third-party website to which it directly
5 sells its Covered Products to include the same online warning, as set forth above, as a condition of
6 selling the Covered Products in California.

7 There shall be no obligation for Settling Defendant to provide a warning for Covered Products
8 that entered the stream of commerce prior to the Compliance Date, and the Section 4 release applies to
9 all such Covered Products.

10 (i) Changes in Warning Regulations or Statutes

11 In the event that the Office of Environmental Health Hazard Assessment promulgates one or
12 more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission
13 applicable to the Covered Products and the chemical at issue, which are different than those set forth
14 above, Settling Defendant shall be entitled to use, at its discretion, such other warning text and/or
15 method of transmission without being deemed in violation of this Consent Judgment. If regulations or
16 legislation are enacted providing that Proposition 65 warnings as to lead in this product are no longer
17 required, a lack of warning by Settling Defendant will not thereafter be in violation of this Consent
18 Judgment.

19 **2.4 Sell-Through Period**

20 Notwithstanding anything else in this Consent Judgment, Covered Products that are
21 manufactured, packaged, or put into commerce on or after the date this Consent Judgment is executed
22 shall be subject to the release of liability pursuant to this Consent Judgment, without regard to when
23 such Covered Products were, or are in the future, distributed or sold to customers. As a result, the
24 obligations of Settling Defendant, or any Releasees (if applicable), stated in this Section 2 do not apply
25 to Covered Products manufactured, packaged, or put into commerce between the date this Consent
26 Judgment is executed and one hundred (100) days after the Effective Date.

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2.5 Public Benefit

The Parties have entered this Consent Judgment with the good faith belief that it provides a public benefit. It is the Settling Defendant's understanding and belief that the commitments it has agreed to herein, and actions to be taken by Settling Defendant under this Consent Judgment 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 Settling Defendant that to the extent any other private party serves a notice and/or initiates an action alleging a violation of Proposition 65 with respect to Settling Defendant's alleged failure to provide a warning concerning actual or alleged exposure to lead prior to use of the Covered Products it has 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 Consent Judgment, provided that Settling Defendant is in material compliance with this Consent Judgment.

This Consent Judgment utilizes averaging of test results over multiple lots consistent with the law. The Parties investigated and retained expert consultants to determine laboratory testing sample lead concentration results for the Covered Products. Settling Defendant has retained expert consultants to provide average serving size reports and toxicology reports and opinions relative to the Covered Products, including averaging of multiple test results over multiple lots, naturally occurring conditions at point of ocean harvesting, and procurement of certifications for the canning plant, including FSMA compliance and plant testing information.

Based on the foregoing comprehensive and exhaustive investigation, research, and reporting, a safe harbor standard has been created in this Consent Judgment to ensure that the Covered Products must be improved in the future with a 3 to 7 times reduction of lead concentration levels in the Covered Products in order to meet safe harbor under Section 2.2. Otherwise, the Covered Products must have warnings in compliance with the current law.

There is currently a further public benefit. Proposition 65 warnings have been on the labeling for the Covered Products in commerce in California since September 2023. Those warnings must

1 remain on the labels for the Covered Products until the Covered Products have been improved to be a
2 Compliant Covered Product under Sections 2.1 and 2.2 herein.

3 **3. MONETARY SETTLEMENT TERMS**

4 **3.1 Settlement Amount**

5 Settling Defendant shall pay seventy thousand dollars (\$70,000.00) in settlement and total
6 satisfaction of all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment.
7 This includes civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to Health and
8 Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of sixty-five thousand
9 dollars (\$65,000.00) pursuant to Code of Civil Procedure section 1021.5.

10 **3.2 Civil Penalty**

11 The portion of the settlement attributable to civil penalties shall be allocated according to Health
12 and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid
13 to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining
14 twenty-five percent (25%) of the penalty paid to EHA individually. The five thousand dollars
15 (\$5,000.00) in civil penalties shall be paid as follows:

- 16 • One payment of \$3,750.00 to OEHHA, due 14 days after the Effective Date.
- 17 • One payment of \$1,250.00 to EHA, due 14 days after the Effective Date.

18 All payments owed to EHA shall be delivered to the following address:

19
20 Isaac Fayman
21 Environmental Health Advocates
22 225 Broadway, Suite 2100
23 San Diego, CA 92101

24 All payments owed to OEHHA (EIN: 68-0284486) shall be delivered directly to OEHHA
25 (Memo Line "Prop 65 Penalties") at the following addresses:

26 **For United States Postal Service Delivery:**

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

For Federal Express 2-Day Delivery:
Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

Settling Defendant agrees to provide EHA's counsel with a copy of the check payable to OEHHHA, simultaneous with its penalty payment to EHA.

Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as required.

Relevant information is set out below:

- “Environmental Health Advocates, Inc.” (EIN: 84-2322975) at the address provided above.
- “Office of Environmental Health Hazard Assessment” 1001 I Street, Sacramento, CA 95814.

3.3 Attorney's Fees and Costs

The portion of the settlement attributable to attorneys' fees and costs shall be paid to EHA's counsel, who are entitled to attorneys' fees and costs incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to Settling Defendant's attention, litigating and negotiating a settlement in the public interest, and preparing, filing and presenting a motion to the Court for approval of this Consent Judgment.

Settling Defendant shall provide its payment for civil penalty to EHA by physical check or by electronic means, including wire transfer, as described in Section 3.2 above, and for attorneys' fees and costs to EHA's counsel by physical check or by electronic means, including wire transfers, at Settling Defendant's discretion, as follows: sixty-five thousand dollars (\$65,000.00) in Attorney's Fees and Costs shall be due fourteen (14) days after the Effective Date.

The attorney fee payments shall be made payable to Entorno Law, LLP. The address for this entity is:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

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1 **4. CLAIMS COVERED AND RELEASE**

2 **4.1 EHA's Public Release of Proposition 65 Claims**

3 Plaintiff, acting on its own behalf and in the public interest, releases Settling Defendant, and its
4 parents, subsidiaries, affiliated entities (including Atalanta Delaware) under common ownership or
5 control, its directors, officers, principals, agents, employees, attorneys, insurers, accountants,
6 predecessors, successors, and assigns ("Defendant Entities"), each entity to whom Settling Defendant
7 directly or indirectly distributes, ships, or sells the Covered Products, including but not limited to
8 downstream distributors, wholesalers, customers, and retailers including, but not limited to, Restaurant
9 Depot and JRD, and marketplaces franchisees, franchisors, cooperative members, suppliers, licensees,
10 and licensors, and all of the foregoing entities' owners, directors, officers, agents, principals,
11 employees, attorneys, insurers, accountants, representatives, predecessors, successors, and assigns
12 (collectively referred to as the "Releasees") from all claims for violations of Proposition 65 up through
13 the Effective Date based on exposure to Lead from Covered Products as set forth in the Notice and
14 Complaint. Compliance with the terms of this Consent Judgment constitutes compliance with
15 Proposition 65 with respect to exposures to Lead from Covered Products as set forth in the Notice and
16 Complaint. This Consent Judgment is a full, final, and binding resolution of all claims under
17 Proposition 65 that were or could have been asserted against Settling Defendant and/or Releasees for
18 failure to comply with Proposition 65 for alleged exposure to Lead from Covered Products. This
19 release does not extend to any third-party retailers selling any non-Compliant Covered Products on a
20 website who, after receiving instruction from Settling Defendant to include a warning as set forth above
21 in section 2.3, do not include such a warning.

22 Immediately upon execution of this Consent Judgment, EHA shall file a dismissal of the
23 Complaint with prejudice as to Atalanta Delaware as to the entire action including all causes of action.
24 The Settling Defendant's release as provided at Sections 4.3 and waiver provided at Section 4.5 herein
25 shall not be effective unless and until this dismissal is filed and entered by the Court.

26 **4.2 EHA's Individual Release of Claims**

27 EHA, in its individual capacity, also provides a release to Settling Defendant and/or Releasees,
28 which shall be a full and final accord and satisfaction of, as well as a bar to, all actions, causes of action,

1 claims, obligations, costs, expenses, attorneys' fees, damages, losses, liabilities, and demands of every
2 nature, character, and kind, whether known or unknown, suspected or unsuspected, arising out of
3 alleged or actual exposures to Lead in Covered Products manufactured, imported, sold, or distributed
4 by Settling Defendant before the Effective Date and through the end of the Section 2.4 Sell-Through
5 Period.

6 **4.3 Settling Defendant's Release of EHA**

7 Settling Defendant on its own behalf, and on behalf of Releasees as well as its past and current
8 agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against
9 EHA and its attorneys and other representatives, for any and all actions taken or statements made by
10 EHA and its attorneys and other representatives, whether in the course of investigating claims,
11 otherwise seeking to enforce Proposition 65 against them, in this matter or with respect to the Covered
12 Products.

13 **4.4 No Other Known Claims or Violations**

14 EHA and EHA's counsel affirm that they are not presently aware of any actual or alleged
15 violations of Proposition 65 by Settling Defendant and Releasees or for which Settling Defendant and
16 Releasees bear legal responsibility other than those that are fully resolved by this Consent Judgment.

17 **4.5 Waiver of Unknown Claims**

18 EHA on behalf of itself only, on the one hand, and Atalanta on behalf of itself only, on the
19 other hand, acknowledge that this Consent Judgment is expressly intended to cover and include all
20 such claims up through the Effective Date, including all rights of action therefor. Each of the Parties
21 acknowledges that it is familiar with Section 1542 of California Civil Code which provides as
22 follows:

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

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Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or nonstatutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Consent Judgment and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

5. COURT APPROVAL

This Consent Judgment is not effective until it is approved by the Court and shall be null and void if it is not approved by the Court within one year after it has been fully executed by the Parties, or by such additional time as the Parties may agree to in writing.

6. SEVERABILITY

Subsequent to the Court's approval and entry of this Consent Judgment, if any provision is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

7. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the state of California as applied within the state of California.

8. ENFORCEMENT

In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

9. NOTICE

Unless otherwise specified herein, all correspondence and notice required by this Consent Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified mail, return receipt requested; or (iii) a recognized overnight courier; and (iv) with a copy by email; to the following addresses:

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If to Settling Defendant:

Robert J. Parks
Parks & Solar, LLP
600 West Broadway, Suite 1200
San Diego, CA 92101
rparks@parksandsolar.com

If to EHA:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 2100
San Diego, CA 92101
noam@entornolaw.com

Any Party may, from time to time, specify in writing to the other, a change of address to which notices and other communications shall be sent.

10. COUNTERPARTS; DIGITAL SIGNATURES

This Consent Judgment may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

11. POST EXECUTION ACTIVITIES

EHA agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually employ their reasonable best efforts, including those of their counsel, to support the entry of this agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For purposes of this Section, “best efforts” shall include, at a minimum, supporting the motion for approval, responding to any objection that any third-party may make, and appearing at the hearing before the Court if so requested to obtain the Court’s approval of this Consent Judgment.

12. MODIFICATION

This Consent Judgment may be modified by: (i) a written agreement of the Parties and entry of a modified Consent Judgment thereon by the Court; or (ii) a successful motion or application of any Party, and the entry of a modified Consent Judgment thereon by the Court. In the event the California Office of Health Hazard Assessment adopts a regulation or safe use determination, or issues an interpretive guideline that exempts Covered Products from meeting the requirements of Proposition 65; or if Lead cases are permanently enjoined by a court of competent jurisdiction; or if Proposition 65 is repealed, rendered inapplicable for reasons including a change in the law, or otherwise determined

1 to be preempted by federal law or a burden on First Amendment rights or is otherwise unconstitutional
2 with respect to Lead in Covered Products or Covered Products substantially similar to Covered
3 Products, then Settling Defendant shall have the right to file a motion with the Court to be relieved of
4 its obligations to comply with Section 2 herein, effective the effective date of the law, regulation, safe
5 use determination, interpretive guideline, injunction, preemption or First Amendment rights
6 determination, and EHA shall not oppose the motion unless it believes a granting of the motion is not
7 justified under the law. Any party seeking to modify this Consent Judgment shall attempt in good faith
8 to meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

9 **13. AUTHORIZATION**

10 The undersigned are authorized to execute this Consent Judgment and acknowledge that they
11 have read, understand, and agree to all of the terms and conditions contained herein.

12 **14. RETENTION OF JURISDICTION**

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

14 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

15 If a dispute arises with respect to either Party's compliance with the terms of this Consent
16 Judgment entered by the Court, the Parties shall meet and confer in person, or by telephone, and/or in
17 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed
18 in the absence of such a good faith attempt to resolve the dispute beforehand.

19 **16. ENTIRE AGREEMENT**

20 This Consent Judgment contains the sole and entire agreement and understanding of the Parties
21 with respect to the entire subject matter herein, and any and all prior discussions, negotiations,
22 commitments, and understandings related hereto. No representations, oral or otherwise, express or
23 implied, other than those contained herein have been made by any Party. No other agreements, oral or
24 otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party. Any
25 agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or
26 to bind any of the Parties hereto only to the extent that they are expressly incorporated herein. No
27 supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless
28 executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this

1 Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
2 whether or not similar, nor shall such waiver constitute a continuing waiver.

3 **AGREED TO:**

AGREED TO:

4
5 Date: June 3, 2025

Date: 6/2/25

6
7 By: 
8 ENVIRONMENTAL HEALTH
ADVOCATES, INC.

By: 
ATALANTA CORPORATION

9
10 **IT IS SO ORDERED.**

11
12 Date: _____

JUDGE OF THE SUPERIOR COURT