

Reuben Yeroushalmi (SBN 193981)
reuben@yeraushalmi.com
YEROUSHALMI & YEROUSHALMI*
9100 Wilshire Blvd., Suite 240W
Beverly Hills, CA 90212
Telephone: 310-623-1926
Facsimile: 310-623-1930

Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CONSUMER ADVOCACY GROUP, INC.,
in the public interest,

Plaintiff,

v.

WALMART, INC., a Delaware Corporation;
WAL-MART.COM USA, LLC, a Delaware
Corporation;
ROKFORM, LLC., a California Corporation;
and DOES 1-50,

Defendants.

CASE NO. 23CV047269

[PROPOSED] CONSENT JUDGMENT

Health & Safety Code § 25249.5 et seq.

Complaint Filed: October 11, 2023

Trial Date: Not Yet Set

1. INTRODUCTION

1.1 This Consent Judgment is entered into by and between Plaintiff, Consumer Advocacy Group, Inc. (referred to as “CAG”) acting on behalf of itself and in the public interest, and Defendant Rokform, LLC (“Rokform” or “Settling Defendant”), each a party to the action and collectively referred to as “Parties” or individually referred to as “Party.”

1.2 Defendants and Covered Products

1.2.1 CAG alleges that Rokform, LLC is a California Corporation which employs ten or more persons. CAG further alleges that Settling Defendant distributes and sells Suction Cup Phone Mounts with PVC Components (“Phone Mounts”).

Covered Products are limited to Phone Mounts manufactured and/or distributed for sale by Rokform, LLC.

1.2.2 Phone Mounts are sometimes referred to as the “Covered Products” in this Consent Judgment.

1.2.3 For purposes of this Consent Judgment only, Settling Defendant is deemed a person in the course of doing business in California subject to the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. (“Proposition 65”).

1.3 Chemicals of Concern

1.3.1 Di (2-ethylhexyl) Phthalate (“DEHP”), which has been listed by the State of California as a chemical known to cause cancer and birth defects or other reproductive harm.

1.4 Notices of Violation

1.4.1 On or about March 28, 2022, CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (AG# 2022-02465) (“Notice”) that provided Rokform with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP contained in Phone Mounts.

1.4.1 On or about October 13, 2022, CAG served an amended “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (AG# 2022-02465) (“Notice”) that provided Rokform with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP contained in Phone Mounts.

No public enforcer has commenced or diligently prosecuted the allegations set forth in the March 28, 2022 or October 13, 2022 Notice.

1.5 Complaint

1.5.1 On October 11, 2023, CAG filed a Complaint for civil penalties and

injunctive relief (“Complaint”) in Alameda County Superior Court, Case No. 23CV047269 against Defendants, Rokform, Walmart, Inc., and Wal-Mart.com USA, LLC. The Complaint alleges, among other things, that Defendant, Rokform, violated Proposition 65 by failing to give clear and reasonable warnings of exposure to Listed Chemicals from Covered Products.

1.6 Consent to Jurisdiction

1.6.1 For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaint, and personal jurisdiction over Rokform as to the acts alleged in the Complaint, that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter this Consent Judgment as a full settlement and resolution of the allegations against Rokform contained in the Complaint, and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or related thereto.

1.7 No Admission

1.7.1 This Consent Judgment resolves claims that are denied and disputed. The Parties enter into this Consent Judgment to effectuate a full and final settlement of any and all claims between the Parties and for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall be construed as an admission by the Parties of any allegation in the Notice or the Complaint, or of any fact, conclusion of law, issue of law or violation of law of any kind, including without limitation, any admission concerning any alleged or actual violation of Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, including but not limited to the meaning of the terms “knowingly and intentionally expose” or “clear and reasonable warning” as used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment, nor compliance with its terms, shall constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability by Settling Defendant, its officers, directors, managers, members, employees, or parent, subsidiary or affiliated corporations, or be offered or admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum.

1 **2. DEFINITIONS**

2 2.1 "Covered Products" means the products generally identified in Paragraph 1.2
3 sold or distributed for sale by Settling Defendant.

4 2.2 "Effective Date" means the date that this Consent Judgment is approved by the
5 Court.

6 2.3 "DEHP" means Di (2-ethylhexyl) Phthalate.

7 2.4 "Listed Chemicals" means DEHP

8 **3. INJUNCTIVE RELIEF/REFORMULATION**

9 3.1 After the Effective Date, Settling Defendant shall not sell in California, offer for
10 sale in California, or ship for sale in California any Covered Products unless the level of DEHP
11 does not exceed 0.1% (1,000 parts per million) by weight ("reformulation level"), unless
12 Proposition 65 compliant warnings are used as set forth in the following paragraphs.

13 3.2 For any Covered Products exceeding the reformulation level of Listed
14 Chemicals that are sold or distributed for sale into California after the Effective Date, that were
15 manufactured prior to the Effective Date that do not already contain a Proposition 65 compliant
16 warning, Settling Defendant must provide a Proposition 65 compliant warning for the Covered
17 Products as permitted by Proposition 65 and its implementing regulations. The warnings shall
18 be clear and reasonable and shall be provided for cancer and reproductive harm, in compliance
19 with 27 Cal. Code of Regulations Section 25600 *et seq.* and any subsequent changes to the law
20 or regulations, understanding that nothing in this Agreement is intended to impose a stricter
21 labeling requirement than required by law or regulation. Nothing in this Agreement shall be
22 deemed a waiver of Settling Party's rights to use the form prescribed in 27 Cal. Code of
23 Regulations Section 25603(c) for Covered Products in existing inventory manufactured and
24 labeled prior to January 1, 2028, unless such provision is repealed. The warning shall be
25 provided for cancer and reproductive harm. Any warning provided pursuant to this section
26 shall be affixed to the packaging of, or directly on, the Covered Products, and be prominently
27 placed with such conspicuousness as compared with other words, statements, designs, or
28 devices as to render it likely to be read and understood by an ordinary individual under

customary conditions before purchase or use. Where the packaging of the Covered Products in existing inventory 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 Settling Defendant sell or distribute any Covered Products in existing inventory through the Internet the warning will be posted in the manner provided for with respect to Internet sales, as provided for in 27 CCR sections 25601 and 25602, and in accordance with any applicable subsequent amendments thereto.

3.4 For any Covered Products still existing in Settling Defendant's physical custody as of the Effective Date, Settling Defendant shall place a Proposition 65 compliant warning on them, unless the Covered Products do not exceed the reformulation level. Any warning provided pursuant to this section shall comply with the warning requirements under Sections 3.2.

3.5 Changes in the law and regulations applicable to Proposition 65, including changes resulting from federal and/or state court rulings, occurring after this date may be incorporated into the terms of this Consent Judgment, pursuant to the modification provisions set forth in Section 7.

3.6 The requirements of Section 3 do not apply to any Covered Products manufactured, sold, or distributed for sale in California by Settling Defendant or Downstream Releasees prior to the Effective Date, as Covered such Products are expressly subject to the releases provided in Section 5 of this Consent Judgment. Such products may continue to be sold as is, unless in physical custody of the Defendant.

4. SETTLEMENT PAYMENT

4.1 **Payment and Due Date:** Within seven(7) business days of the Effective Date, Settling Defendant shall pay a total of One Hundred Eighty Thousand Dollars (\$180,000.00) in full and complete settlement of all monetary claims by CAG related to the Notice, as follows:

4.1.1 **Civil Penalty:** Settling Defendant shall issue two separate checks totaling sixteen thousand twenty dollars (\$16,020.00) as civil penalties pursuant to Health & Safety Code § 25249.12:

(a) Settling Defendant will issue one check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of twelve thousand fifteen dollars (\$12,015.00) representing 75% of the total civil penalty and Settling Defendant will issue a separate check to CAG in the amount of four thousand five dollars (\$4,005.00) representing 25% of the total civil penalty; and

(b) Separate 1099s shall be issued for each of the above payments: Settling Defendant will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95812-4010 (EIN: 68-0284486) in the amount of twelve thousand fifteen dollars (\$12,015.00). Settling Defendant will also issue a 1099 to CAG in the amount of four thousand five dollars (\$4,005.00) and deliver it to CAG c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

4.1.2 Additional Settlement Payments: Settling Defendant shall make a separate payment, in the amount of eleven thousand nine hundred eighty dollars (\$11,980.00) as an additional settlement payment to "Consumer Advocacy Group, Inc." pursuant to Health & Safety Code § 25249.7(b) and California Code of Regulations, Title 11 § 3203(d). Settling Defendant will issue a separate check to CAG for the Additional Settlement Payment. CAG will use this payment as follows, eighty percent (80%) for fees of investigation, purchasing and testing for Proposition 65 listed chemicals in various products, and for expert fees for evaluating exposures through various mediums, including but not limited to consumer product, occupational, and environmental exposures to Proposition 65 listed chemicals, and the cost of hiring consulting and retaining experts who assist with the extensive scientific analysis necessary for those files in litigation and to offset the costs of future litigation enforcing Proposition 65, but excluding attorney fees; twenty percent (20%) for administrative costs incurred during investigation and litigation to reduce the public's exposure to Proposition 65 listed chemicals by notifying those persons and/or entities believed to be responsible for such exposures and attempting to persuade those persons and/or entities to reformulate their products or the source of exposure to completely eliminate or lower the level of Proposition 65 listed chemicals, including

but not limited to costs of documentation and tracking of products investigated, storage of products, website enhancement and maintenance, computer and software maintenance, investigative equipment, CAG's member's time for work done on investigations, office supplies, mailing supplies and postage. Within 30 days of a request from the Attorney General or Settling Defendant, CAG shall provide to the Attorney General copies of documentation demonstrating how the above funds have been spent. CAG shall be solely responsible for ensuring the proper expenditure of such additional settlement payment.

4.1.3 Reimbursement of Attorney Fees and Costs: Settling Defendant shall issue a check in the amount of one hundred fifty-two thousand dollars (\$152,000.00) payable to "Yeroushalmi & Yeroushalmi" as complete reimbursement for any and all reasonable investigation fees and costs, attorneys' fees, expert fees, and any and all other costs and expenses incurred as a result of investigating, bringing this matter to the Settling Defendant's attention, litigating, negotiating a settlement in the public interest, and seeking and obtaining court approval of this Consent Judgment.

4.2 Other than the payment to OEHHA described above, all payments referenced in paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The payment to OEHHA shall be delivered directly to Office of Environmental Health Hazard Assessment, OEHHA, 1001 I Street, Mail Stop 12-B Sacramento, California 95812, Attn: Mike Gyurics. Rokform shall provide written confirmation to CAG of the payment to OEHHA.

5. MATTERS COVERED BY THIS CONSENT JUDGMENT

5.1 This Consent Judgment is a full, final, and binding resolution between CAG on behalf of itself and in the public interest and Settling Defendant for the alleged failure to provide Proposition 65 warning of exposure to Listed Chemicals from the Covered Products as set forth in the Notices, and Complaint, and it fully resolves all claims that have been or could have been asserted against Settling Defendant in this action up through the Effective Date for failure to

provide Proposition 65 warnings for the Covered Products regarding Listed Chemicals. CAG, on behalf of itself and in the public interest, hereby discharges Settling Defendant, and their respective officers, directors, members, managers, insurers, employees, parents, shareholders, divisions, subdivisions, subsidiaries, and their successors and assigns (“Defendant Releasees”) and all customers, retailers, distributors, and other downstream entities in the distribution chain for the Covered Products to whom Settling Defendant distributed, provided or sold Covered Products, including but not limited to Walmart, Inc. and Wal-Mart.com USA, LLC, and each of their respective parents, subsidiaries, and affiliated entities, and the predecessors, successors and assigns of any of them, and all of their respective officers, directors, shareholders, members, managers, employees, and agents as to Covered Products distributed, provided or sold by Settling Defendant (collectively, “Downstream Releasees”), for all Covered Products placed into the stream of commerce up through the Effective Date for alleged violations of Proposition 65 based on exposure to Listed Chemicals from the Covered Products. Defendant Releasees and Downstream Releasees are sometimes collectively referred to herein as the “Released Parties.” Settling Defendant’s compliance with the terms of this Consent Judgment shall be deemed to constitute compliance with Proposition 65 regarding alleged exposures to Listed Chemicals from the Covered Products. Nothing in this Section affects CAG’s right to commence or prosecute an action under Proposition 65 against any person other than Defendant Releasees or Downstream Releasees after the Effective Date. The Settlement Agreement shall inure to the benefit of Downstream Releasees identified in this section, but is not binding on them.

5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, 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) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively “Claims”), against Defendant Releasees and/or Downstream

Releasees arising from any violation of Proposition 65 or any other statutory or common law regarding the alleged exposure of persons to the Listed Chemicals contained in Covered Products or any failure to warn about exposure to Listed Chemicals from Covered Products. In furtherance of the foregoing, as to alleged exposures to Listed Chemicals from Covered Products, CAG on behalf of itself only, hereby waives any and all rights and benefits which it now has, or in the future may have, conferred upon it with respect to Claims arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure and any alleged exposure of persons to Listed Chemicals from the Covered Products by virtue of the provisions of section 1542 of the California Civil Code, which provides 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.

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 loss or 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 Listed Chemicals from the Covered Products, including but not limited to any exposure to, or failure to warn with respect to exposure to Listed Chemicals from the Covered Products, CAG will not be able to make any claim for those losses or damages against Defendant Releasees 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 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 its decision to enter into this Consent

Judgment, regardless of whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause

6. ENTRY OF CONSENT JUDGMENT

6.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG and Settling Defendant waive their respective rights to a hearing or trial on the allegations of the Complaint. Upon entry of an order approving this Consent Judgment, the Complaint in this action shall be deemed amended to include all the claims raised in the Notices.

6.2 The Parties shall make all reasonable efforts to have the Consent Judgment approved by the Court.

6.3 If this Consent Judgment is not approved in full by the Court, (a) this Consent Judgment and any and all prior agreements between the Parties merged herein shall terminate and become null and void, and the actions shall revert to the status that existed prior to the execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

7. MODIFICATION OF JUDGMENT

7.1 This Consent Judgment may be modified only upon written agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any Party as provided by law and upon entry of a modified Consent Judgment by the Court.

7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

RETENTION OF JURISDICTION

8.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms of this Consent Judgment under Code of Civil Procedure § 664.6. The parties also agree

1 that Downstream Releases are intended third-party beneficiaries of this Consent Judgment and
2 may enforce its terms.

3 8.2 In any proceeding brought by either Party to enforce this Consent Judgment, the
4 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

5 **10. DUTIES LIMITED TO CALIFORNIA**

6 9.1 This Consent Judgment shall have no effect on Covered Products sold by Settling
7 Defendant outside the State of California.

8 **10. SERVICE ON THE ATTORNEY GENERAL**

9 10.1 CAG shall serve a copy of this Consent Judgment, signed by the Parties, on the
10 California Attorney General so that the Attorney General may review this Consent Judgment
11 prior to its approval by the Court. No sooner than forty-five (45) days after the Attorney General
12 has received the aforementioned copy of this Consent Judgment, and in the absence of any
13 written objection by the Attorney General to the terms of this Consent Judgment, may the Court
14 approve this Consent Judgment.

15 **11. ATTORNEY FEES**

16 11.1 Except as specifically provided in Section 4.1.3 and 8.2, each Party shall bear its
17 own costs and attorney fees in connection with this action.

18 **12. GOVERNING LAW**

19 12.1 The validity, construction and performance of this Consent Judgment shall be
20 governed by the laws of the State of California, without reference to any conflicts of law
21 provisions of California law.

22 12.2 The terms of this Consent Judgment shall be governed by the laws of the State of
23 California. In the event that Proposition 65 is amended, repealed, preempted, or is otherwise
24 rendered inapplicable by reason of law generally, or if any of the provisions of this Consent
25 Judgment are rendered inapplicable or are no longer required as a result of any such amendment,
26 repeal or preemption, or rendered inapplicable by reason of law generally as to the Covered
27
28

Products, then Settling Defendant may modify the Consent Judgment in accordance with the requirements of Section 7 with respect to, and to the extent that, Covered Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve a Defendant from any obligation to comply with any pertinent state or federal law or regulation.

12.3 The Parties, including their counsel, have participated in the preparation of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This Consent Judgment was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

13. EXECUTION AND COUNTERPARTS

13.1 This Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document and have the same force and effect as original signatures. Signatures by scanned and emailed image or facsimile transmission shall have the same force and effect as original signature and as an electronic record adopted and executed by a Party with the intent to sign the electronic record pursuant to Civil Code §§ 1633.1 *et seq.*

14. ENTIRE AGREEMENT

This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

NOTICES

15.1 Any notice under this Consent Judgment shall be by First-Class Mail or E-mail.

If to CAG:

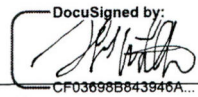
Reuben Yeroushalmi, Esq.
YEROUSHALMI & YEROUSHALMI
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212
(310) 623-1926
Email: lawfirm@yeroushalmi.com

If to Settling Defendant:

Matt J. Fletcher
matt.fletcher@tuckerellis.com
Matthew I. Kaplan
matthew.kaplan@tuckerellis.com
Anna-Sophie Tirre
anna-sophie.tirre@tuckerellis.com
TUCKER ELLIS LLP
515 South Flower Street, 42nd Fl
Los Angeles, CA 90071
Tel: 213) 430-3400
Fax: 213) 430-3409

16. AUTHORITY TO STIPULATE

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

AGREED TO:	AGREED TO:
Date: <u>9-25</u> , 2025	Date: <u>9/25/2025 8:09 AM PDT</u> , 2025
	
Name: <u>Willard Bayer</u>	Name: <u>Jeff Whitten</u>
Title: <u>President</u>	Title: <u>CEO</u>

1	CONSUMER ADVOCACY GROUP, INC.	ROKFORM, LLC
2		

3 **IT IS SO ORDERED.**

4
5 Date: _____

6 JUDGE OF THE SUPERIOR COURT