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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 v.

14 MICHAELS STORES, INC., MICHAELS
15 STORES PROCUREMENT COMPANY, INC.,

16 Defendants.

Case No.: CGC-23-609813

CONSENT JUDGMENT

Judge: Christine Van Aken
Dept.: 301

Hearing Date: September 2, 2025

Hearing Time: 9:00 AM

Complaint Filed: October 17, 2023

1 **1. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Ema Bell acting
3 on behalf of the public interest (hereinafter “Bell”) on the one hand, and Michaels Stores, Inc. and
4 Michaels Stores Procurement Company, Inc. (collectively, “Michaels” or “Defendants” and each a
5 “Defendant”) on the other hand, with Bell and Defendants collectively referred to as the “Parties”
6 and each of them as a “Party.” Bell is an individual residing in California that seeks to promote
7 awareness of exposures to toxic chemicals and improve human health by reducing or eliminating
8 hazardous substances contained in consumer products. Michaels is alleged to be a person in the
9 course of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et
10 seq.

11 **1.2 Allegations and Representations.** Bell alleges that Defendants have exposed
12 individuals to lead from its sales of *Ashland*® happy harvest soap dispensers, UPC # 195158711073
13 without providing a clear and reasonable exposure warning pursuant to Proposition 65. Lead is
14 listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and
15 birth defects or other reproductive harm.

16 **1.3 Notice of Violation/Action.** On or about October 20, 2022, Bell served Michaels
17 and various public enforcement agencies with documents entitled “60-Day Notice of Violation”
18 pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendants violated
19 Proposition 65 for failing to warn consumers and customers that use of the *Ashland*® happy harvest
20 soap dispensers, UPC # 195158711073 expose users in California to lead. No public enforcer has
21 brought and is diligently prosecuting the claims alleged in the Notice. On October 17, 2023, Bell
22 filed a complaint (the “Complaint”).

23 **1.4**For purposes of this Consent Judgment only, the Parties stipulate that this Court has
24 jurisdiction over Defendants as to the allegations contained in the Action filed in this matter, that
25 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,
26 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution
27 of all claims which were or could have been raised in the Action based on the facts alleged therein
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1 and in the Notice.

2 1.5 Defendants deny the material allegations contained in Bell's Notice and Complaint
3 and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be
4 construed as an admission by Defendants of any fact, finding, issue of law, or violation of law; nor
5 shall compliance with this Consent Judgment constitute or be construed as an admission by
6 Defendants of any fact, finding, conclusion, issue of law, or violation of law, such being specifically
7 denied by Defendants. However, this section shall not diminish or otherwise affect the obligations,
8 responsibilities, and duties of Defendants under this Consent Judgment.

9 **2. DEFINITIONS**

10 2.1 **Covered Products.** The term "Covered Products" means *Ashland*® happy harvest
11 soap dispensers, UPC # 195158711073 that are manufactured, distributed, shipped into California
12 and offered for sale in California by Michaels.

13 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
14 entered as a Judgment of the Court.

15 **3. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**


16 3.1 **Reformulation of Products.** Commencing within sixty (60) days after the Effective
17 Date, and continuing thereafter, Products that Michaels directly manufactures, imports, distributes,
18 sells, or offers for sale in California shall either be: (a) reformulated Products pursuant to § 3.2,
19 below; or (b) labeled with a clear and reasonable exposure warning pursuant to §§ 3.3 - 3.4, below.
20 For purposes of this Settlement Agreement, a "Reformulated Product" is a Product that is in
21 compliance with the standard set forth in § 3.2, below. The warning requirement set forth in §§ 3.3
22 - 3.4 shall not apply to any Reformulated Product.

23 3.2 **Reformulation Standard.** "Reformulated Products" shall mean Products that
24 produce a wipe test result no higher than 1 microgram (µg) of lead when analyzed pursuant to
25 NIOSH method no. 9100.

26 3.3 **Clear and Reasonable Warning.** Commencing within 60 days after the Effective
27 Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 3.3
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1 and 3.4 must be provided for all Products that Michaels manufacturers, imports, distributes, sells,
2 or offers for sale in California that is not a Reformulated Product. There shall be no obligation for
3 Michaels to provide an exposure warning for Products that entered the stream of commerce prior
4 to or within 60 days after the Effective Date. The warning shall consist of either the **Warning** or
5 **Alternative Warning** described in §§ 3.3(a) or (b), respectively:

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

7  **WARNING:** This product can expose you to chemicals including lead, which
8 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.

9 (b) **Alternative Warning:** Michaels may, but is not required to, use the
10 alternative short-form warning¹ as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

11  **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

12 **3.4 A Warning or Alternative Warning** provided pursuant to § 3.3 must print the word
13 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to
14 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral
15 triangle with a black outline, except that if the sign or label for the Products does not use the color
16 yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the
17 height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed to or
18 printed on the Products’ packaging or labeling, or on a placard, shelf tag, sign or electronic device
19 or automatic process only if such electronic device or automatic process provides the **Warning** or
20 **Alternative Warning** without the purchaser having to seek it out, provided that the **Warning** or
21 **Alternative Warning** is displayed with such conspicuousness, as compared with other words,
22 statements, or designs as to render it likely to be read and understood by an ordinary individual
23 under customary conditions of purchase or use. The **Warning** or **Alternative Warning** may be
24 contained in the same section of the packaging, labeling, or instruction booklet that states other
25 safety warnings, if any, concerning the use of the Product and shall be at least the same size as

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27 ¹ An **Alternative Warning** on a Covered Product manufactured and labeled after January 1, 2028 shall be provided
28 in accordance with Title 27, California Code of Regulations, § 25603(b).

1 those other safety warnings. If “consumer information,” as that term is defined in Title 27,
2 California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is
3 provided in a foreign language, Michaels shall provide the **Warning or Alternative Warning** in
4 the foreign language in accordance with applicable warning regulations adopted by the State of
5 California’s Office of Environmental Health Hazard Assessment (“OEHHA”).

6 In addition to affixing the **Warning or Alternative Warning** to the Product’s packaging or
7 labeling, the **Warning or Alternative Warning** shall be posted on websites where Michaels offers
8 Products for sale to consumers in California. The requirements of this Section shall be satisfied if
9 the **Warning or Alternative Warning**, or a clearly marked hyperlink using the word
10 “**WARNING**,” appears on the product display page, or by otherwise prominently displaying the
11 warning to the purchaser prior to completing the purchase. To comply with this Section, Michaels
12 shall (a) post the **Warning or Alternative Warning** on its own website and, if it has the ability to
13 do so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post
14 the **Warning or Alternative Warning** on the websites of its third-party internet sellers, provide
15 such sellers with written notice in accordance with Title 27, California Code of Regulations, Section
16 25600.2. Third-party internet sellers of the Product that have been provided with written notice in
17 accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in
18 Section 5 of this Agreement if they fail to meet the warning requirements of this Section.

19 **3.5 Compliance with Warning Regulations.** The Parties agree that Michaels shall be
20 deemed to be in compliance with this Settlement Agreement by either adhering to § 3 of this
21 Settlement Agreement or by complying with warning regulations adopted by the State of
22 California’s OEHHA applicable to the Product and the exposure at issue within 60 days after the
23 Effective Date.

24 **4. MONETARY TERMS**

25 **4.1 Civil Penalty.** Michaels shall pay \$2,000.00 as a Civil Penalty pursuant to Health
26 and Safety Code section 25249.7(b), to be apportioned in accordance with California Health &
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1 Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the
2 Civil Penalty remitted to Bell, as provided by California Health & Safety Code § 25249.12(d).

3 4.1.1 Within thirty (30) days of the Effective Date, Michaels shall issue two
4 separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$1,500.00; and
5 to (b) "Ema Bell" in the amount of \$500.00. Payment owed to Bell pursuant to this Section shall
6 be delivered to the following payment address:

7 Evan J. Smith, Esquire
8 Brodsky Smith
9 Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

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

12 For United States Postal Service Delivery:

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

16 For Non-United States Postal Service Delivery:

17 Mike Gyurics
18 Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
19 1001 I Street
Sacramento, CA 95814

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

22 4.2 **Attorneys' Fees.** Within thirty (30) days of the Effective Date, Michaels shall pay
23 \$23,000.00 to Brodsky Smith as complete reimbursement for Bell's attorneys' fees and costs
24 incurred as a result of investigating, bringing this matter to the attention of Michaels, litigating and
25 negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code
26 of Civil Procedure § 1021.5.

1 **5. RELEASE OF ALL CLAIMS**

2 5.1 This Consent Judgment is a full, final, and binding resolution between Bell acting
3 on her own behalf, and on behalf of the public interest, and Michaels, and its parents, shareholders,
4 members, directors, officers, managers, employees, representatives, agents, attorneys, divisions,
5 subdivisions, subsidiaries, partners, sister companies, and affiliates, and their predecessors,
6 successors and assigns (“Defendants Releasees”), and all entities from whom they obtain and to
7 whom they directly or indirectly distribute or sell Covered Products, including but not limited to
8 manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees retailers,
9 including but not limited to Michaels, and its parents, subsidiaries, and affiliates, franchisees, and
10 cooperative members (“Downstream Releasees”), of all claims for violations of Proposition 65
11 based on exposure to lead from use of the Covered Products manufactured, distributed, or sold by
12 Michaels within 60 days after the Effective Date, as set forth in the Notice. It is the Parties’ intention
13 that this Consent Judgment shall have preclusive effect such that no other actions by private
14 enforcers, whether purporting to act in his, her, or its interests or the public interest shall be
15 permitted to pursue and take any action with respect to any violation of Proposition 65 based on
16 exposure to lead from use of the Covered Products that was alleged in the Complaint, or that could
17 have been brought pursuant to the Notice against Michaels and the Downstream Releasees
18 (“Proposition 65 Claims”). Michaels’s compliance with the terms of this Consent Judgment
19 constitutes compliance with Proposition 65 by Michaels with regard to exposure to lead from use
20 of the Covered Products.

21 5.2 In addition to the foregoing, Bell, on behalf of herself, her past and current agents,
22 representatives, attorneys, and successors and assignees, and not in her representative capacity,
23 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action
24 and releases Michaels, Defendants Releasees, and Downstream Releasees from any and all manner
25 of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements,
26 promises, liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees, of any nature
27 whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the future, with
28

1 respect to any alleged violations of Proposition 65 related to or arising from Covered Products
2 manufactured, distributed, or sold by Michaels, Defendants Releasees or Downstream Releasees.
3 With respect to the foregoing waivers and releases in this paragraph, Bell hereby specifically
4 waives any and all rights and benefits which she now has, or in the future may have, conferred by
5 virtue of the provisions of § 1542 of the California Civil Code, which provides as follows:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
8 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
9 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
10 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
11 DEBTOR OR RELEASED PARTY.

12 5.3 Michaels waives any and all claims against Bell, her attorneys and other
13 representatives, for any and all actions taken, or statements made (or those that could have been
14 taken or made) by Bell and her attorneys and other representatives, whether in the course of
15 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
16 and with respect to Covered Products.

17 6. INTEGRATION

18 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
19 any and all prior negotiations and understandings related hereto shall be deemed to have been
20 merged within it. No representations or terms of agreement other than those contained herein exist
21 or have been made by any Party with respect to the other Party or the subject matter hereof.

22 7. NOTICES

23 7.1 Unless specified herein, all correspondence and notices required to be provided
24 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
25 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
26 by the other party at the following addresses:

27 For Defendants:

28 William F. Tarantino
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

And

1 For Bell:

2 Evan Smith
3 Brodsky Smith
4 9465 Wilshire Blvd., Ste. 300
Beverly Hills, CA 90212

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

7 **8. COUNTERPARTS; FACSIMILE SIGNATURES**

8 8.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
9 which shall be deemed an original, and all of which, when taken together, shall constitute one and
10 the same document.

11 **9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
12 **APPROVAL**

13 9.1 Bell agrees to comply with the requirements set forth in California Health & Safety
14 Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
15 Defendants agree it shall support approval of such Motion.

16 9.2 This Consent Judgment shall not be effective until it is approved and entered by the
17 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
18 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
19 days, the case shall proceed on its normal course.

20 9.3 If the Court approves this Consent Judgment and is reversed or vacated by an
21 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
22 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
23 its normal course on the trial court's calendar.

24 **10. MODIFICATION**

25 10.1 This Consent Judgment may be modified only by further stipulation of the Parties
26 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.
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1 **11. ATTORNEY'S FEES**

2 11.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
3 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

4 11.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
5 pursuant to law.

6 **12. RETENTION OF JURISDICTION**

7 12.1 This Court shall retain jurisdiction of this matter to implement or modify the
8 Consent Judgment.

9 **13. AUTHORIZATION**

10 13.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
11 respective Parties and have read, understood, and agree to all of the terms and conditions of this
12 document and certify that he or she is fully authorized by the Party he or she represents to execute
13 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
14 explicitly provided herein each Party is to bear its own fees and costs.

15 **AGREED TO:**

16
17 Date: _____

18 By: _____
19 EMA BELL

AGREED TO:

Date: 6/23/25 _____

By: [Signature]
MICHAELS STORES, INC.

AGREED TO:

Date: 6/23/25 _____

By: [Signature]
MICHAELS STORES PROCUREMENT
COMPANY, INC.

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

26
27 Dated: _____

Judge of Superior Court

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13 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
14 explicitly provided herein each Party is to bear its own fees and costs.

15 **AGREED TO:**

16
17 Date: 7 / 15 / 25

18 By: 

19 EMMA BELLE

AGREED TO:

17 Date: _____

18 By: _____

19 MICHAELS STORES, INC.

AGREED TO:

20
21 Date: _____

22 By: _____

23 MICHAELS STORES PROCUREMENT
24 COMPANY, INC.

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

26
27 Dated: _____

28 _____
Judge of Superior Court