

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Ecological Alliance, LLC and Studio Ray LLC

This settlement and release agreement (“Settlement Agreement”) is entered into by and between Ecological Alliance, LLC (“Alliance”), on the one hand, and Studio Ray LLC (“Studio Ray”), on the other hand, with Alliance and Studio Ray collectively referred to as the “Parties.”

1.2. General Allegations

Alliance alleges that Studio Ray manufactured and/or distributed and/or offered for sale in the State of California Zeroxposur jackets, that allegedly contain perfluorooctanoic acid [“PFOA”] (the “Products”) and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* (“Proposition 65”). California has identified and listed PFOA under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as Zeroxposur jackets, including but not limited to Item #400257256746, that allegedly contain PFOA that Studio Ray, its subsidiaries, affiliates, related companies, or distributors have sold, offered for sale or distributed in California (“Products”).

1.4. Notice of Violation

On or about February 22, 2024, Alliance served Studio Ray, Ross Stores, Inc., and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with documents entitled “60-Day Notice of Violation”

(“Notice”) No. 2024-00724 that provided Studio Ray and such public enforcers with notice that Studio Ray was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Product exposed users in California to PFOA at a level that requires a Proposition 65 warning. To the best of the Parties’ knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5. No Admission

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Studio Ray’s compliance with Proposition 65. Specifically, Studio Ray denies the material factual and legal allegations contained in Alliance’s Notice and maintains that all Products that it has manufactured for sale and/or distribution in California have been and are in compliance with Proposition 65 and all other applicable statutory, regulatory, common law or equitable doctrines. Nothing in this Settlement Agreement shall be construed as an admission by Studio Ray or any of its officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, licensors, joint venture partners, customers, suppliers, distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Studio Ray of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Studio Ray. Neither the existence of nor the terms of this Settlement Agreement shall be offered or admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Studio Ray under this Settlement Agreement.

1.6. Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is fully executed.

2. INJUNCTIVE RELIEF: WARNING

2.1. Warning

As of the Effective Date, Studio Ray shall not “distribute into the State of California,” or directly sell in the State of California, any Product that contains (1) any intentionally added PFOA, or (2) any intentionally added fluorinated ingredient that causes PFOA to be in a Product, including but not limited to C9-15 fluoroalcohol phosphate, unless the Product bears a warning meeting the requirements set forth in Section 2.2 below. Further, notwithstanding the above, Studio Ray shall not be obligated to provide a warning for Products that are already in the stream of commerce as of the Effective Date or that enter the stream of commerce within 90 days after the Effective Date, which Products are expressly subject to the releases provided in Section 6 of this Settlement Agreement and shall be permitted to be sold through as previously manufactured, packaged, and/or labeled.

As used in this Settlement Agreement, the term “distribute into the State of California” shall mean to directly ship the Product into California for sale in California or to sell the Product to a distributor that Studio Ray reasonably knows will sell the Product in California. The term “distribute into the State of California” does not encompass sales of the Product by third parties.


2.2. Warning Language


As of the Effective Date and to the extent that Studio Ray is required to provide a warning pursuant to this Settlement Agreement, Studio Ray agrees to provide a “clear and reasonable” warning on the Product in compliance with the requirements of Proposition 65. This

provision shall only be applicable to Products that are manufactured, distributed, marketed, imported, sold, shipped for sale, and/or offered for sale to consumers by Studio Ray in the State of California.

Where required, Studio Ray shall provide Proposition 65 warnings as follows:

(a) Studio Ray may use any of the following warning statements in full compliance with this Section:

(1)  **WARNING:** This product can expose you to perfluorooctanoic acid [PFOA], 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.

(2)  **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

(b) Where a sign, label or shelf tag for the Product is not printed using the color yellow, the warning symbol may be printed in black and white. The warning symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word “**WARNING:**”.

(c) The requirements for warnings, set forth in subsection (a) above are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations and agree that other warnings that comply with Proposition 65 may be used.

(d) Foreign Languages. Additionally, if a Product’s “consumer information” is provided in a language other than English, the warning will be provided in that language in addition to English.

(e) Online Sales. If Studio Ray sells Products via an internet website it controls to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Products; (c) on one or more web pages displayed to a California purchaser prior to purchase during the checkout process; or (d) via a hyperlink taking the customer to a separate page containing the warning language, provided that the hyperlink appears on the same page as either the product description or product price are displayed, or appears prior to completion of the sale at checkout. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Products, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

(f) If Proposition 65 warnings for PFOA should no longer be required, Studio Ray shall have no further obligations pursuant to this Settlement Agreement.

(g) In the event that (a) the Office of Environmental Health Hazard Assessment (“OEHHA”) or another authorized agency promulgates one or more regulations, (b) legislation is enacted by the California legislature, United States Congress or the voters, or (c) a published opinion is issued by a court of competent jurisdiction in the State of California, requiring, permitting or establishing warning text and/or methods of transmission different than those set forth above or an alternative means of calculating exposure for purposes of

Proposition 65 other than that set forth herein, Studio Ray shall be entitled to use, at its discretion, such other warning text, method of transmission, or means of calculating exposure, without being deemed in breach of this Settlement Agreement. Should OEHHA or a court modify the current safe harbor regulations, Studio Ray is and will be considered to be in compliance with Proposition 65 if the warning meets the provisions of Section 2 of this Settlement Agreement. If regulations, legislation, or judicial rulings are enacted or issued providing that a Proposition 65 warning for the product is no longer required, a lack of warning will not thereafter be a breach of this Settlement Agreement.

3. **PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)**

In settlement of all the claims referred to in this Settlement Agreement, Studio Ray shall pay a total of Three Hundred Dollars (\$300.00) in civil penalties in accordance with this Section. The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds (\$225.00) remitted to OEHHA and the remaining 25% (\$75.00) of the penalty remitted to Alliance. Alliance's counsel shall be responsible for delivering OEHHA's portion of any penalty payment made under this Settlement Agreement and shall provide Studio Ray counsel with confirmation of such delivery at the time it is made pursuant to Section 8 below.

4. **REIMBURSEMENT OF FEES AND COSTS**

The Parties reached an accord on the compensation due to Alliance and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Studio Ray shall reimburse Alliance's counsel for fees and costs, incurred because of investigating and bringing this matter to Studio Ray's attention. Studio Ray shall pay Alliance's

counsel \$13,000.00 for all attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

Within ten (10) days of the Effective Date (assuming Studio Ray's timely receipt of required tax documentation from Alliance), Studio Ray shall make a total payment of Thirteen Thousand Three Hundred Dollars (\$13,300.00) for the civil penalties and attorneys' fees / costs by wire transfer to Plaintiff's counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325149324377

Beneficiary: Custodio & Dubey LLP

Other than this payment, each side is to bear its own attorneys' fees and costs. Nothing in this Settlement Agreement shall alter the Parties' obligations to be liable for their own taxes or impose any obligations relating to taxes due on the payments made under this Settlement Agreement. Alliance and its attorneys shall remain responsible for any taxes due or owing by them on any payments received under this Settlement Agreement.

Alliance and Custodio & Dubey LLP agree to provide an IRS W-9 form under this Settlement Agreement. The Parties acknowledge that Studio Ray cannot issue any settlement payments pursuant to Sections 3 and 4 until after Studio Ray receives the requisite W-9 forms.

6. RELEASE OF ALL CLAIMS

6.1. Alliance's Release of Studio Ray, Downstream Customers and Upstream Vendors

This Settlement Agreement is a full, final, and binding resolution of all claims under Proposition 65 between Alliance, on its own behalf and not on behalf of the public, and Studio Ray of any violation of Proposition 65 that was or could have been asserted by Alliance, on its own behalf, on behalf of its past and current agents, representatives, attorneys, successors and/or assignees (collectively, "Releasers"), against Studio Ray and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, attorneys, and each entity to whom Studio Ray directly or indirectly distributes, offers for sale or sells the Product, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees including, but not limited to, Ross Stores, Inc. (collectively, "Releasees") based on the failure or alleged failure to warn about exposures under Proposition 65 in the Product manufactured, imported, distributed, sold or offered for sale in California by Studio Ray before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, Alliance on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and/or assignees, hereby provides a release to Studio Ray and Releasees and waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against Studio Ray and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively,

investigation fees, expert and attorneys' fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures required under Proposition 65 in the Product manufactured, imported, distributed, sold or offered for sale by Studio Ray, before the Effective Date.

Alliance and its attorneys represent and warrant that they have not filed and are not contemplating filing, that they are not aware of any other person who has filed or is contemplating filing, and that they have not engaged and do not intend to engage in any advertising or solicitation to locate additional persons to file, any form of complaint against the Releasees.

6.2. Alliance's California Civil Code Section 1542 Waiver

Alliance, on behalf of itself and all other Releasees, acknowledges that it is familiar with California Civil Code section 1542, 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.

Alliance, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and all other Releasees, expressly waives and relinquishes any and all rights and benefits which Releasees may have under, or which may be conferred on it by the provisions of California Civil Code section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that Releasees may lawfully waive such rights or benefits pertaining to the released matters. The Parties agree that compliance with the terms of this Settlement Agreement shall constitute compliance by any Releasee with Proposition 65.

6.3. Studio Ray's Release of Alliance

Studio Ray waives any and all claims against Alliance, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Alliance and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

6.4. Binding Settlement Agreement

This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of Alliance and the Releasees.

6.5. Public Benefit

It is the Parties' belief that the terms of this Settlement Agreement confer a significant benefit to the general public as set forth in California Code of Civil Procedure section 1021.5 and California Administrative Code title 11, section 3201. As such, it is the intent of the Parties that to the extent any other private party initiates an action alleging that the Product is somehow in violation of Proposition 65, such private party action would not confer a significant benefit on the general public, so long as Studio Ray is in material compliance with the terms of this Settlement Agreement.

7. ENFORCEMENT

If Alliance alleges that Studio Ray has failed to comply with this Settlement Agreement, prior to filing an action or a notice of violation as to any Releasee, Alliance shall first provide Studio Ray sixty (60) days' advance written notice of the alleged violation(s). Alliance shall provide testing results, lot numbers, and photographs of the Product packaging for the Product at issue. The Parties shall meet and confer during such sixty (60) day period in an effort to resolve

the matter informally without the need for litigation. If the matter is not resolved within sixty (60) days, Alliance can file a litigation and the prevailing party can recover applicable costs and attorneys' fees, if any.

8. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. If Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Studio Ray shall have no further obligations pursuant to this Settlement Agreement.

9. NOTICES

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

For Studio Ray: Malcolm Weiss, Esq.
Jennifer MikoLevine, Esq.
Hunton Andrews Kurth LLP
550 South Hope Street, Suite 2000
Los Angeles, CA 90071

mweiss@huntonak.com
jmikolevine@huntonak.com

For Alliance: Vineet Dubey, Esq.
Custodio & Dubey LLP
445 S. Figueroa St., Suite 2520
Los Angeles, CA 90071

dubey@cd-lawyers.com

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

10. COUNTERPARTS; FACSIMILE/E-SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

11. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)

Alliance agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

12. ENTIRE AGREEMENT

This Settlement Agreement 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 either of the Parties.

13. SEVERABILITY AND MODIFICATION

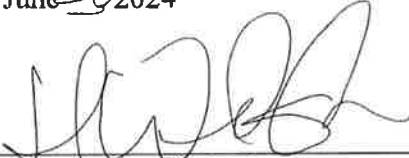
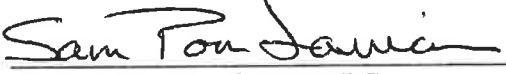
If after execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected. This Settlement Agreement may be modified only by a written agreement signed by the Parties.

14. INTERPRETATION

No inference, assumption, or presumption shall be drawn, and no provision of this Settlement Agreement shall be construed against any Party, based upon the fact that one of the Parties or their counsel prepared or drafted any portion of this Agreement. The Parties waive the provisions of California Civil Code section 1654. It is conclusively presumed that the Parties participated equally in drafting this Settlement Agreement.

15. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

<p style="text-align: center;">AGREED TO:</p> <p>Date: June <u>20</u> 2024</p> <p>By:  On Behalf of Ecological Alliance, LLC</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: June <u>19</u>, 2024</p> <p>By:  On Behalf of Studio Ray LLC</p>
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